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VIA ECF

October 22, 2026

The Honorable Michael E. Farbiarz
United States District Judge
U.S. District Court for the District of New Jersey
Martin Luther King Jr. Building &
U.S. Courthouse
50 Walnut St., Room 4015
Newark, NJ 07101

Re: *Palazzi v. Nat'l Ct. Reps. Ass'n*
Case No.: 2:25-cv-00077-MEF-JSA (D.N.J.): *Product Markets Alleged*

Dear Judge Farbiarz:

Plaintiffs respectfully submit this reply to Defendant NCRA's October 19, 2026 letter (ECF 43) ("NCRA Ltr.").

A. NCRA's "Single, Unified Product" Premise Is Incorrect

NCRA reasserts that certification and membership are "a single, unified product." NCRA Ltr. at 1-2. That issue is fully briefed, *see* ECF 34 at 17-20, and is distinct from the question the Court posed. Plaintiffs note that NCRA's own letter describes its product as "a membership package." NCRA Ltr. at 1. That "package" is precisely what Plaintiffs challenge. The Amended Complaint ("FAC") (ECF 28)[1] alleges that certification and membership meet different demands: "certification and its maintenance is essential for work, while membership benefits purport to enhance professional engagement but are wholly unrelated to professional competency." ¶8. It further alleges that rival associations sell membership without any certification at all. ¶¶53-55, 58, 124-125.

B. Plaintiffs Answered the Court's Question: The Tying Market Is the Multi-Product Stenographic Certification Market

[1] Citations to "¶__" refer to paragraphs in the FAC.

NCRA contends that Plaintiffs "[did] not directly answer the Court's question," yet acknowledges that Plaintiffs' description of the certification market "suggests Plaintiffs intend to pursue the Court's second, multi-product definition." NCRA Ltr. at 2. NCRA's understanding is correct. To remove any doubt: the ***tying*** product market is the Stenographic Certification Market that "encompasses state licensing and certification boards, as well as national organizations such as NCRA, NVRA, and AAERT." ECF 39 at 1 (citing ¶¶40, 121); *accord* ECF 34 at 21. Plaintiffs do not allege a market limited to NCRA's certification alone. Plaintiffs' reference to "two separate and independent product markets," ECF 39 at 1, was aimed at distinguishing the ***tying*** market (certification) from the ***tied*** market (membership)—not at offering competing definitions of the certification market.

The FAC's allegations that the Court read as supporting a single-product market (¶¶9, 72) concern NCRA's position ***within*** the broader certification market, not a separate market definition. As alleged in the FAC: "Within the Stenographic Certification Market there are no reasonable substitutes for NCRA certification and, thus, NCRA faces no meaningful competition." ¶72. A statement that a product has no reasonable substitutes "within" a market accepts that the market contains other products.

C. NCRA's Circularity Argument Rests on an Abridged Quotation

Plaintiffs do not pursue a single-brand market, so NCRA's argument that such a market "is circular," NCRA Ltr. at 3, is a red herring. The argument also misreads the FAC. NCRA quotes the FAC as alleging "no reasonable substitutes for NCRA certification," *id.* (citing ¶¶149, 160), but omits the qualification that follows: "available to CCRs who have completed NCRA certification programs." ¶¶149, 160. That qualification is not a definitional trick; it is moored to specific facts pled about interchangeability. A CCR cannot transfer NCRA certification to a competing organization. ¶¶96-97. Switching to NVRA would require the CCR "to effectively surrender the certification they already obtained and to start a second certification from scratch." ¶98. This "is not a viable or reasonable alternative," ¶99, and NVRA certification "is recognized in a limited number of states" and "is not as

widely recognized by employers and courts." ¶101.

"[I]n most cases, proper market definition can be determined only after a factual inquiry into the commercial realities faced by consumers." *Hanover 3201 Realty, LLC v. Vill. Supermarkets, Inc.*, 806 F.3d 162, 183 (3d Cir. 2015) (cleaned up). "[A]bsent such obvious oversights, courts are cautious before dismissing for failure to define a relevant market." *LifeWatch Servs. Inc. v. Highmark Inc.*, 902 F.3d 323, 337 (3d Cir. 2018). The FAC's Multi-Product Market includes competing certification entities, and explains why they do not constrain NCRA's dominance.

D. The FAC Pleads NCRA's Market Power in the Multi-Product Market

NCRA asserts that Plaintiffs identify "no facts establishing NCRA's share of this broader market or otherwise demonstrating market power." NCRA Ltr. at 3. Not so. The FAC alleges that of the 39 states that require licensing or certification, "only California and Texas" require an exam not administered by NCRA, and ***the other 37*** "all accept NCRA certification"—that is, "95% of states requiring licensing or certification either require or accept NCRA certification." ¶¶41-42. It alleges—and Plaintiffs argued (ECF 34 at 24)—that: (i) "[t]his dominance, coupled with NCRA's 60% share of stenographers nationwide," enables NCRA to force membership on CCRs; (ii) NCRA certification allows a CCR "to satisfy the requirement of 37 states with a single certification"; (iii) "[n]o other certification besides NCRA's offers Stenographers the ability to expand their work across as many state lines"; (iv) ***twelve*** states "will only accept NCRA certification"; (v) "most employers require that Stenographers maintain their 'certification' with the NCRA"; and (vi) NCRA therefore "has dominant market power in the Stenographic Certification Market." ¶¶42-46, 71, 103. The FAC plausibly alleges dominance.

NCRA's reliance on the FAC's state-by-state chart proves Plaintiffs' point. The chart shows that NCRA certification is accepted in every listed jurisdiction ***except*** two, while NVRA certification is ***not*** accepted in numerous jurisdictions, and AAERT and state credentials are accepted sparingly. ¶40. Credentials accepted in only some jurisdictions are not reasonable substitutes for a credential accepted

nearly everywhere, particularly as remote proceedings require reporters to satisfy the requirements of multiple states. ¶¶44, 75.

NCRA's assertion that "only two states require NCRA certification," NCRA Ltr. at 3, contradicts the FAC, which alleges twelve, ¶46 & n.17, as NCRA's own brief acknowledges. ECF 36 at 10 ("Plaintiffs allege 12."). In any event, the number of states that mandate NCRA certification to the exclusion of others is not the measure of market power; the FAC pleads power from the breadth of NCRA's acceptance, employer requirements, and the absence of comparable alternatives. ¶¶42-44, 71, 74-76, 101-103.

E. There Is No "Equally Fatal" Dilemma

NCRA's final contention—that one definition is circular and the other lacks market-power facts (NCRA Ltr. at 3)—doubly fails. Plaintiffs allege only the broader Multi-Product Market, which accounts for competing certifications, and the FAC pleads NCRA's dominance within it. Whether NCRA's rivals are reasonably interchangeable with NCRA certification is a fact-bound question of "the commercial realities faced by consumers." *Hanover 3201*, 806 F.3d at 183.

F. The Stenographic Membership Market (NCRA Ltr. at 4 n.1)

Plaintiffs agree that the Court's order concerned the tying market, and that the market-power inquiry for the *per se* claim focuses on that market. Plaintiffs' prior discussion of the Stenographic Membership Market explains its relationship to the tying market, and that conditioning continued use of NCRA certification on NCRA membership forecloses competition in the membership market. ¶¶124-134, 153, 166; ECF 34 at 20-21.

Respectfully submitted,
/s/ Christopher A. Seeger
Christopher A. Seeger
Plaintiffs' Counsel

cc: Counsel of Record (via ECF)