

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ICC EVALUATION SERVICE, LLC

Plaintiff

v.

**INTERNATIONAL ASSOCIATION OF
PLUMBING AND MECHANICAL
OFFICIALS, INC. and IAPMO
EVALUATION SERVICE, LLC**

Defendants.

Case No. 1:16-cv-00054

Judge Emmet G. Sullivan

ORAL HEARING REQUESTED

**DEFENDANTS INTERNATIONAL ASSOCIATION OF PLUMBING AND
MECHANICAL OFFICIALS, INC. AND IAPMO EVALUATION SERVICE, LLC'S
MOTION TO DISMISS THE AMENDED COMPLAINT**

Defendants International Association of Plumbing and Mechanical Officials, Inc. ("IAPMO") and IAPMO Evaluation Service, LLC ("IAPMO-ES") (collectively "Defendants"), by and through their undersigned counsel and pursuant to Fed R. Civ. P. 12(b)(6) and 17 U.S.C. § 301, hereby file this Motion to Dismiss Plaintiff ICC Evaluation Service, LLC's ("Plaintiff" or "ICC-ES") Amended Complaint, and state as follows:

1. In its Amended Complaint, Plaintiff seeks to recover from Defendants for copyright infringement (Count I), breach of contract (Count II), tortious interference with contract (Count III) and tortious interference with prospective business advantage (Count IV).

2. Plaintiff's cause of action under the Copyright Act fails to state a claim for which relief can be granted because it fails to sufficiently allege that unlawful copying took place.

Plaintiff's allegations are vague and conclusory and do not allege what parts, if any, of their

documents are protected by Copyright Law or whether any of the copyright-protected portions were copied. Accordingly, this claim fails and must be dismissed, with prejudice, pursuant to Fed. R. Civ. P. 12(b)(6).

5. Counts II, III and IV of Plaintiff's Amended Complaint are preempted by the Copyright Act. 17 U.S.C. § 301. These Counts purport to set forth causes of action under District of Columbia law for breach of contract, tortious interference with contract and tortious interference with prospective business advantage. These claims come within the subject matter of copyright. 17 U.S.C. §§ 102, 103. Further, these state-law claims address rights equivalent to the rights within the scope of the Copyright Act. 17 U.S.C. § 106. As such, these Counts are preempted by the Copyright Act and should be dismissed.

6. Further, Plaintiff's causes of action under District of Columbia law should be dismissed, pursuant to Fed. R. Civ. P. 12(b)(6) because they fail to state claims upon which relief can be granted.

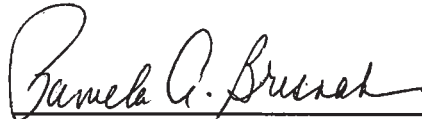
7. Attached hereto in further support of this Motion is a Memorandum of Points and Authorities, which is incorporated by referenced as if set forth fully herein.

8. Pursuant to Local R. 7(f), Defendants respectfully request an oral hearing on their Motion to Dismiss the Amended Complaint.

WHEREFORE, based upon the foregoing, Defendants International Association of Plumbing and Mechanical Officials, Inc. and IAPMO Evaluation Service, LLC respectfully request that this Court dismiss Plaintiff's Amended Complaint, with prejudice. A proposed Order is attached.

Dated: February 29, 2016

Respectfully submitted,



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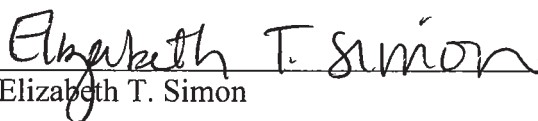
Counsel for Defendants IAPMO and IAPMO-ES

CERTIFICATE OF SERVICE

I certify that on this 29th day of February 2016, a copy of the foregoing Motion to Dismiss, Memorandum in Support thereof and Proposed Order were served through the Court's CM/ECF electronic filing system upon the following:

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