

No. 17-35634

**In the United States Court of Appeals
for the Ninth Circuit**

MOHAMED SHEIKH ABDIRAHMAN KARIYE; FAISAL NABIN KASHEM;
RAYMOND EARL KNAEBLE IV; AMIR MESHAL;
STEPHEN DURGA PERSAUD,

Plaintiffs-Appellants,

v.

JEFFERSON B. SESSIONS III, Attorney General of the United States;
CHRISTOPHER A. WRAY, Director, Federal Bureau of Investigation;
CHARLES H. KABLE IV, Director, Terrorist Screening Center,

Defendants-Appellees.

**PLAINTIFF-APPELLANTS' EXCERPTS OF RECORD
VOLUME III OF IV**

On Appeal from the United States District
Court for the District of Oregon
Portland Division
Case: 3:10-cv-00750-BR

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Exhibit A

U.S. Department of Homeland Security
DHS Traveler Redress Inquiry Program (DHS TRIP)
601 South 12th Street, TSA-901
Arlington, VA 20598-6901



**Homeland
Security**

November 24, 2014

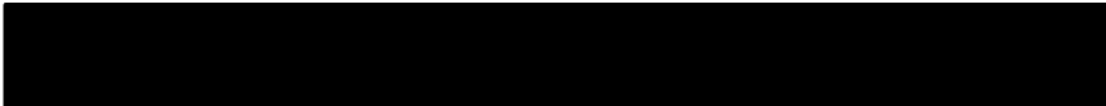
Raymond Earl Knaeble
c/o Nusrat Jahan Choudhury
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004

Redress Control Number: 2093292

Dear Mr. Knaeble:

We have reevaluated the redress inquiry you filed with the Department of Homeland Security (DHS) Traveler Redress Inquiry Program (DHS TRIP). As part of that reevaluation, we have conducted a new review of applicable records in consultation with other federal agencies, as appropriate. It has been determined that you are on the No Fly List because you have been identified as an individual who "may be a threat to civil aviation or national security." 49 U.S.C. § 114(h)(3)(A). In particular, it has been determined that you pose a threat of committing an act of domestic terrorism (as defined in 18 U.S.C. § 2331(5)) with respect to the homeland.

Below is an unclassified summary that includes reasons supporting your placement on the No Fly List.

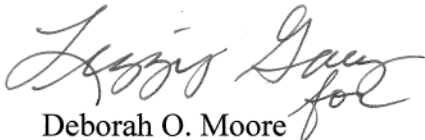


We are unable to provide additional disclosures regarding your placement on the No Fly List. Factors limiting disclosure in this context may include national security concerns, privileges, and/or legal limitations such as the Privacy Act.

If you feel that this determination is in error, or you feel that the information provided to you is inaccurate, you are encouraged to respond and provide us with information you think may be relevant. Such information should be submitted to DHS TRIP at the above address. As we have been advised by the Department of Justice that your redress inquiry is the subject of litigation with court-imposed deadlines, such information should be submitted by December 15, 2014. Information you submit will be considered before a final determination is made. The final determination will constitute a final order pursuant to 49 U.S.C. § 46110 on your redress inquiry by January 16, 2015.

If you have any further questions, please write to DHS TRIP at the address in this letterhead or via e-mail at TRIP@dhs.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deborah O. Moore".

Deborah O. Moore
Director, DHS TRIP

Exhibit B

NATIONAL SECURITY
PROJECT



December 15, 2014

VIA MAIL

Deborah O. Moore
U.S. Department of Homeland Security
DHS Traveler Redress Inquiry Program (DHS TRIP)
601 South 12th Street, TSA-901
Arlington, VA 20598-6901

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OFFICERS AND DIRECTORS
SUSAN N. HERMAN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

Re: Raymond Earl Knaeble, Redress Control Number 2093292

Dear Ms. Moore:

On behalf of Raymond Knaeble, we submit this response to your letter dated November 24, 2014, in which you provided “an unclassified summary that includes reasons” for Mr. Knaeble’s placement on the No Fly List. DHS TRIP Letter, attached as Exhibit 1. Because the court in *Latif v. Holder*, Case No. 10-Civ-750-BR (D. Or.), has mandated that the Government conduct an administrative review of the inclusion on the No Fly List of the plaintiffs in that case “as soon as practicable,” Dkt. No. 152 at 2, we are submitting this response by December 15, as requested in your letter.¹

Nonetheless, the disclosure in the DHS TRIP letter to Mr. Knaeble is wholly inadequate, and the Government’s revised No Fly List administrative redress system remains constitutionally deficient. The court in *Latif* has emphasized that “Plaintiffs’ inclusion on the No Fly List constitutes a significant deprivation of their liberty interests” and imposes a “major burden” on those interests. Dkt. No. 136 at 30. The court ordered the Government to provide “a new process that satisfies the constitutional requirements for due process.” *Id.* at 61. The disclosure to Mr. Knaeble does not come close to satisfying those requirements, nor does the Government’s revised system provide Mr. Knaeble the process he is due under the Constitution or the court’s order. Among other defects, the substantive criteria cited for Mr. Knaeble’s inclusion on the No Fly List are overbroad and unconstitutionally vague, and the redress process fails to offer procedural protections that are necessary to vindicate Mr. Knaeble’s due process rights.

¹ Included along with this letter is an updated DHS Form 590 authorizing release of information to Mr. Knaeble’s current counsel.

On December 5, 2014, we requested that counsel for the defendants in *Latif* provide essential procedural protections, additional information, and a constitutionally compliant substantive standard for the revised redress process. Letter, attached as Exhibit 2. We have received no response to that letter.

Thus, Mr. Knaeble has not been given a “meaningful opportunity to respond” to the reasons for his inclusion on the No Fly List. *See Al Haramain v. U.S. Dep’t of Treasury*, 686 F.3d 965, 985 (9th Cir. 2011) (requiring meaningful notice and opportunity to be heard); *see also Latif*, Dkt. 136 at 62 (citing *Al Haramain*). Absent such a meaningful opportunity, Mr. Knaeble is hobbled in his ability to rebut the allegations against him, and any response from him is necessarily incomplete. We thus submit this response subject to the objections and requests for further information set forth below, as well as those set forth in Exhibit 2. We also reserve the right to supplement any record being created by the Government with such additional information that the Government provides in response to the requests in Exhibit 2, or to discovery requests or an order of the court in *Latif*, or that we discover through our own investigation.

I. The Government’s Disclosure To Mr. Knaeble Is Insufficient.

The sole “reasons supporting” Mr. Knaeble’s placement on the No Fly List set forth in the DHS TRIP letter are the following:

[REDACTED]

Ex. 1 at 1. This ambiguous, one-sentence disclosure does not satisfy due process requirements or comply with the order of the court in *Latif*. That order states:

Because due process requires Defendants to provide Plaintiffs . . . with notice regarding their status on the No-Fly List and the reasons for placement on that List, it follows that such notice must be reasonably calculated to permit each Plaintiff to submit evidence relevant to the reasons for their respective inclusions on the No-Fly List.

Dkt. No. 136 at 61. Without further information on the specific nature of the [REDACTED] satisfy appropriately narrow criteria for inclusion on the No Fly List, Mr. Knaeble cannot submit relevant evidence or meaningfully respond to the disclosure in the letter. The Government has scarcely provided Mr. Knaeble with any notice of the reasons for his inclusion on the List, let alone notice reasonably calculated to permit him to counter those reasons.

The DHS TRIP letter acknowledges that the disclosure to Mr. Knaeble is incomplete. It states that it “includes reasons supporting” his placement on the No Fly List, and that the Government is “unable to provide additional disclosures” beyond those in the letter. Ex. 1 at 1, 2. Mr. Knaeble cannot meaningfully respond to allegations that have not been revealed to him, nor can he take steps, such as the retention of counsel with a security clearance, to deal with information withheld as classified where he does not know whether such withholdings have occurred. *See* Ex. 2 at 2-3 (citing Dkt. No. 136 at 61-62).

The Government must provide Mr. Knaeble with a complete statement of the reasons for his placement on the No Fly List, consistent with the Constitution and the court’s order in *Latif*. Likewise, to the extent that the Government is relying on specific categories of information in placing Mr. Knaeble on the List—such as his prior statements, electronic or other surveillance, or statements of witnesses (including government agents)—the Government must provide such information to Mr. Knaeble. *See* Ex. 2 at 4-6. The Government must also reveal any exculpatory information or promises to witnesses whose statements form a basis for Mr. Knaeble’s inclusion on the No Fly List. *See id.* at 6. The failure to provide this information unfairly prejudices Mr. Knaeble’s due process right to challenge his placement on the No Fly List.

II. The Redress System Remains Inadequate.

Aside from the insufficiency of the disclosure to Mr. Knaeble, the Government’s revised No Fly List redress system does not comply with the Constitution or the *Latif* court’s order for two primary reasons.

First, it utilizes a substantive standard that is overbroad and vague. The DHS TRIP letter to Mr. Knaeble states:

It has been determined that you are on the No Fly List because you have been identified as an individual who “may be a threat to civil aviation or national security.” 49 U.S.C. § 114(h)(3)(A). In particular, it has been determined that you pose a threat of committing an act of domestic terrorism (as defined in 18 U.S.C. § 2331(5)) with respect to the homeland.

Ex. 1 at 1. The letter contains no further explanation of the standard or its terms.

This standard is overbroad, in that it does not require any nexus to aviation security and lacks a meaningful temporal limitation, and is also unconstitutionally vague on its face. *See* Ex. 2 at 6-7. Additionally, the

standard fails to utilize the least restrictive means to mitigate the “threat” to which it is addressed. *See* Ex. 2 at 7-8. Nothing in the letter shows, or even attempts to show, that utilization of the procedures the Government employed to avoid litigation of the preliminary injunction motion filed by Mr. Knaeble and others in *Latif*—including the requirement that individuals book flights in advance on U.S. carriers and submit to heightened airport security measures—would not suffice to satisfy its interests in aviation security.

These defects render the substantive standard used to place Mr. Knaeble on the No Fly List unconstitutional. No one—Mr. Knaeble included—can meaningfully respond to allegations purporting to justify placement on the No Fly List when the standard for that placement is ambiguous, overbroad, and open-ended.

The second major defect in the revised redress system is that it lacks necessary procedural protections, absent which Mr. Knaeble’s core due process rights cannot be upheld. The court in *Latif* ordered the Government to revise the redress system in large part because “the DHS TRIP process . . . contains a high risk of erroneous deprivation of Plaintiffs’ constitutionally-protected interests.” *See* Dkt. No. 136 at 39. That risk remains high under the revised system that the Government has applied to Mr. Knaeble.

First, as explained above, the disclosure to Mr. Knaeble is incomplete and ambiguous: he has not been given a full statement of reasons and a detailed statement of withheld evidence. The letter also fails to notify Mr. Knaeble of the entity responsible for determining that he meets the standard for inclusion on the No Fly List. *See* Ex. 1 at 1 (“*it has been determined* that you pose a threat . . .”) (emphasis added). Mr. Knaeble therefore cannot assess the institutional competence of the deciding entity or identify specific policies, regulations, and statutes that may govern such a determination.

Second, the process does not provide for a hearing at which live witness testimony may be presented and tested under cross-examination. At any hearing, Mr. Knaeble would credibly testify that he presents no threat to aviation security and respond to any specific allegations made against him. However, without a hearing, Mr. Knaeble will have no ability either to establish his own credibility through live testimony or to challenge the testimony of the Government’s witnesses through cross-examination. *See* Ex. 2 at 3.

Third, the DHS TRIP letter contains no indication what, if any, evidentiary standard the Government used to place Mr. Knaeble on the No Fly List, or to review that placement. As explained in Exhibit 2, the Constitution requires that the Government use a “clear and convincing evidence” standard in this context. Ex. 2 at 3-4.

Fourth, the DHS TRIP letter fails to explain how the allegations in it satisfy appropriately narrow criteria for inclusion on the No Fly List. Nothing about the brief, amorphous disclosure to Mr. Knaeble suggests why he would be worthy of placement on the List.

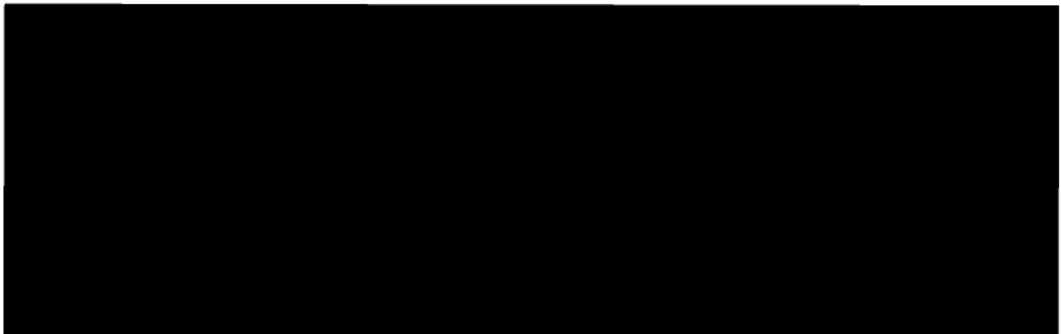
As with the substantive standard, these procedural defects preclude Mr. Knaeble from responding to the DHS TRIP letter meaningfully and drive home that the Government's revised redress system remains constitutionally deficient.

III. The Allegations Against Mr. Knaeble Do Not Justify His Continued Inclusion On The No Fly List.

For the foregoing reasons, the revised system the Government is using to review Mr. Knaeble's inclusion on the No Fly List is constitutionally inadequate. Mr. Knaeble cannot respond to the allegations in the DHS TRIP letter effectively, and he will not receive the process he is due, unless the Government remedies the deficiencies set forth above. Nonetheless, because the court in *Latif* has directed the Government to complete its administrative review of the plaintiffs' DHS TRIP redress inquiries before the court considers substantive motions on the merits, we submit this disclosure of Mr. Knaeble's expected testimony on his behalf. We do so without conceding the adequacy of the notice and process afforded to Mr. Knaeble, and without waiving any of the objections to the legality or constitutionality of the revised redress process.

If called to testify at an evidentiary hearing regarding his placement on the No Fly List, we expect that Mr. Knaeble's testimony would include the following:

1. Mr. Knaeble does not pose, and has never posed, a threat of committing any violent criminal act. He has no intention of engaging in, or providing support for, violent unlawful activity anywhere in the world.
2. Mr. Knaeble served in the U.S. Army and was honorably discharged in 2003.





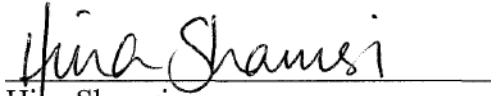
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7. Mr. Knaeble does not knowingly have ties to terrorist organizations or individual terrorists, and he does not advocate violence.

Mr. Knaeble reserves the right to provide additional information upon receipt of further information as to the nature of the allegations against him, the sources of evidence on which the government has relied, and other information specified above.

For the foregoing reasons, Mr. Knaeble's placement on the No Fly List was in error, and he should promptly be removed from the No Fly List.

Sincerely yours,



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Hugh Handeyside

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Exhibit 1

U.S. Department of Homeland Security
DHS Traveler Redress Inquiry Program (DHS TRIP)
601 South 12th Street, TSA-901
Arlington, VA 20598-6901



**Homeland
Security**

November 24, 2014

Raymond Earl Knaeble
c/o Nusrat Jahan Choudhury
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004

Redress Control Number: 2093292

Dear Mr. Knaeble:

We have reevaluated the redress inquiry you filed with the Department of Homeland Security (DHS) Traveler Redress Inquiry Program (DHS TRIP). As part of that reevaluation, we have conducted a new review of applicable records in consultation with other federal agencies, as appropriate. It has been determined that you are on the No Fly List because you have been identified as an individual who "may be a threat to civil aviation or national security." 49 U.S.C. § 114(h)(3)(A). In particular, it has been determined that you pose a threat of committing an act of domestic terrorism (as defined in 18 U.S.C. § 2331(5)) with respect to the homeland.

Below is an unclassified summary that includes reasons supporting your placement on the No Fly List.

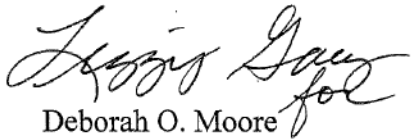


We are unable to provide additional disclosures regarding your placement on the No Fly List. Factors limiting disclosure in this context may include national security concerns, privileges, and/or legal limitations such as the Privacy Act.

If you feel that this determination is in error, or you feel that the information provided to you is inaccurate, you are encouraged to respond and provide us with information you think may be relevant. Such information should be submitted to DHS TRIP at the above address. As we have been advised by the Department of Justice that your redress inquiry is the subject of litigation with court-imposed deadlines, such information should be submitted by December 15, 2014. Information you submit will be considered before a final determination is made. The final determination will constitute a final order pursuant to 49 U.S.C. § 46110 on your redress inquiry by January 16, 2015.

If you have any further questions, please write to DHS TRIP at the address in this letterhead or via e-mail at TRIP@dhs.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deborah O. Moore".

Deborah O. Moore
Director, DHS TRIP

Exhibit 2

NATIONAL SECURITY
PROJECT



December 5, 2014

VIA EMAIL

Amy Powell
Brigham J. Bowen
Adam D. Kirschner
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20001

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Re: Latif v. Holder, Case No. 10-Civ.-750-BR

Dear Counsel:

After reviewing the DHS TRIP letters sent to the Plaintiffs in this case who remain on the No Fly List, we write to make three requests regarding the administrative process Defendants are using for these Plaintiffs.¹ First, we request that Defendants provide certain necessary procedural protections as part of the administrative process. Second and relatedly, we request that Defendants provide additional information related to the basis or bases for Plaintiffs' inclusion on the No Fly List. Third, we request that Defendants craft, apply, and disclose to Plaintiffs a constitutionally-compliant substantive standard for inclusion on the No Fly List. Such a standard must be narrower and more specific than the vague and over-broad standard that Defendants appear to be employing here.

In addition, as we discussed with Amy and Brigham before we received the DHS TRIP letters, we seek to enter into a stipulation and protective order to prevent public disclosure of the DHS TRIP letters and the additional information we are requesting. The need we anticipated for such a stipulation and protective order is confirmed by the inflammatory, piecemeal allegations in the letters. We will follow up with a call to discuss the content of the stipulation and protective order.

¹ It is our understanding that those Plaintiffs are Mohamed Sheikh Abdirahman Kariye, Faisal Kashem, Raymond Knaeble, Amir Meshal, Stephen Persaud, and Steven Washburn, because those are the only Plaintiffs for whom Defendants have provided DHS TRIP letters. If our understanding is incorrect, please inform us of that fact immediately.

As Defendants will recall, the Court's order of June 24, 2014 (Dkt. 136) reiterated that "Plaintiffs' inclusion on the No Fly List constitutes a significant deprivation of their liberty interests," *id.* at 30; held that inclusion on the No Fly List imposes a "major burden" on those interests, *id.*; and required Defendants to provide "a new process that satisfies the constitutional requirements for due process." *Id.* at 61. The DHS TRIP letters sent to Plaintiffs, to which Defendants have asked Plaintiffs to respond by December 15 or 16, 2014, do not constitute process sufficient to satisfy due process and APA requirements under the Court's order. *Cf. Mathews v. Eldridge*, 424 U.S. 319, 334, 96 S. Ct. 893, 902, 47 L. Ed. 2d 18 (1976); 5 U.S.C. §§ 555, 556 (governing procedures and production of evidence in administrative proceedings). In particular, the information Defendants have provided does not suffice to permit any of the six Plaintiffs a "meaningful opportunity to respond" to the reasons for their inclusion on the No Fly List. *Al Haramain v. U.S. Dep't of Treasury*, 686 F.3d 965, 985 (9th Cir. 2011) (requiring meaningful notice and opportunity to be heard); *Kindhearts v. Geithner*, 647 F. Supp. 2d 857, 906 (N.D. Ohio 2009) (requiring "meaningful opportunity to be heard" by provision of a "post-deprivation hearing"); *see also* Dkt. 136 at 62 (citing *Al Haramain*).

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For that reason, we request the following additional procedures and categories of information (if in the possession of any branch of the federal government), each of which is necessary to comply with the Court's order:

I. Additional Procedural Protections

Compliance with the Court's order requires Defendants to provide the following procedural protections:

1. A *complete* statement of reasons. The DHS TRIP letters suggest that there may be reasons other than those Defendants have provided on which they are relying to justify Plaintiffs' inclusion on the No Fly List. The Court's order plainly requires the provision of "*the* reasons for" Plaintiffs' inclusion, Dkt. 136 at 61 (emphasis added), and an incomplete statement makes it impossible for Plaintiffs to refute all of Defendants' bases for placing Plaintiffs on the List.

2. A *complete* statement regarding withheld evidence and the basis for withholding any such evidence. The DHS TRIP letters suggest that there *may* be both undisclosed evidence on which the Government has relied to justify Plaintiffs' inclusion on the No Fly List and undisclosed claims of privilege used to justify the withholding of that evidence. However, the Court's order indicates that Plaintiffs must know when evidence has been withheld and on what grounds so that they may meaningfully respond, including by requesting "disclos[ure] [of] the classified reasons to properly-cleared counsel," Dkt. 136 at 61, and whether to seek judicial review of any privilege assertion. *Id.* at 62.

Obviously, Plaintiffs cannot take those steps without knowing at least in summary form what evidence Defendants have chosen to rely upon without disclosing it, and the reasons for any such withholding.

3. An explanation of how Defendants' allegations satisfy appropriately narrow criteria for inclusion on the No Fly List. The DHS TRIP letters fail to explain if and how the allegations made in them relate to the substantive criteria for inclusion on the No Fly List. *See People's Mojahedin Org. of Iran v. U.S. Dep't of State*, 613 F.3d 220, 230 (D.C. Cir. 2010) (requiring the Secretary of State to explain how information relied upon for designation as a terrorist organization related to specific portion of governing statute). Without such an explanation, Plaintiffs are left to guess as to how their alleged conduct satisfies the substantive standards for inclusion on the list.

4. A hearing at which live witness testimony may be presented and tested under cross-examination. Due process requires hearings in contexts in which far less is at stake than inclusion on the No Fly List. *See, e.g., Califano v. Yamasaki*, 442 U.S. 682, 697, 99 S. Ct. 2545 (1979) (in social security context, paper review failed to satisfy due process because determination at issue "usually requires an assessment of the recipient's credibility"). Without a hearing, Plaintiffs have no ability either to establish their own credibility through live testimony or to challenge the testimony of Defendants' witnesses through cross-examination. Such live testimony is critical in situations, such as these, where credibility is central to any assessment of whether Plaintiffs may be deprived of their constitutionally protected liberty interest through inclusion on the No Fly List. *Cf. Mendoza Manimbao v. Ashcroft*, 329 F.3d 655, 662 (9th Cir. 2003) (holding that credibility determinations in deportation cases require a hearing because "[a]ll aspects of the witness's demeanor—including the expression of his countenance, how he sits or stands, whether he is inordinately nervous, his coloration during critical examination, the modulation or pace of his speech and other non-verbal communication—may convince the observing trial judge that the witness is testifying truthfully or falsely. These same very important factors, however, are entirely unavailable to a reader of the transcript.").

5. Application of a "clear and convincing" standard of proof where Defendants bear the burden of establishing that inclusion on the No Fly List is warranted. The DHS TRIP letters contain no articulation of any standard or burden of proof. The "clear and convincing evidence" standard is "the normal burden of proof . . . in civil proceedings in which the individual interests at stake . . . are both particularly important and more substantial than mere loss of money." *V. Singh v. Holder*, 638 F.3d 1196, 1204 (9th Cir. 2011) (internal quotations omitted). As the Ninth Circuit has recognized, courts have applied the "clear and convincing" standard in a variety of contexts involving significant deprivations of liberty. *See id.* (collecting cases involving

competency to proceed, deportation, denaturalization, and civil commitment). *See also Doe v. Gallinot*, 657 F.2d 1017, 1023 (9th Cir. 1981) (holding in civil commitment context that “[i]t is the state, after all, which must ultimately justify depriving a person of a protected liberty interest by determining that good cause exists for the deprivation.”). Given the comparably “significant deprivation of liberty” at stake here, Defendants must prove with clear and convincing evidence that Plaintiffs’ placement on the on the No Fly List is warranted.

II. Additional Information

Compliance with the Court’s order also requires Defendants to provide the following additional information in order to satisfy due process:

1. Plaintiffs’ prior statements. The DHS TRIP letters make clear that Defendants are relying upon some Plaintiffs’ alleged statements in order to justify their inclusion on the No Fly List. Defendants must provide all written or recorded statements of each Plaintiff, made to any persons at any time and place, and the substance of any oral statements, if not embodied in a writing. If any statements are recorded, please provide a transcript or audible copy of each recording. *See Dhiab v. Bush*, 2008 WL 4905489 at *2 (D.D.C. Nov. 17, 2008) (ordering, in habeas corpus proceeding brought by individual detained as alleged enemy combatants, disclosure of all statements made or adopted by the petitioner relating to the factual bases for his detention, as well as information regarding the circumstances of such statements) (citing *Bismullah v. Gates*, 501 F.3d 178, 187 (D.C. Cir. 2007) (“we presume counsel . . . has a ‘need to know’ all Government Information concerning his [or her] client”)).

2. Notice of surveillance techniques. The DHS TRIP letters suggest that some or all of the Plaintiffs were placed on the No Fly List based on information obtained or derived from surveillance activities. To the extent that any such information forms any basis for Plaintiffs’ inclusion on the No Fly List, or that the government intends to use such information in these administrative or any related judicial proceeding, Plaintiffs are entitled to notice of the surveillance and the information obtained or derived from it. *See, e.g.*, 50 U.S.C. § 1806(c) (FISA electronic surveillance); 50 U.S.C. § 1825(d) (FISA physical search); 50 U.S.C. § 1842(c) (FISA pen register); 18 U.S.C. § 2518(8)(d) (Title III). Due process also requires that the Plaintiffs be given notice of the surveillance techniques (including, but not limited to, surveillance under Executive Order 12,333) that led to their placement on the No Fly List so that they may seek review of the lawfulness of that surveillance and determine whether Defendants’ alleged basis or bases for including them on the No Fly List are derived from it. *See United States v. U.S. District Court (Keith)*, 407 U.S. 297, 92 S. Ct. 2125 (1972). To that end, each Plaintiff hereby asserts his right to notice of information or evidence that

forms any basis for his inclusion on the No Fly List that is the product of unlawful surveillance or was obtained by the exploitation of any unlawful surveillance. *See* 18 U.S.C. § 3504(a). Defendants must therefore “affirm or deny the occurrence of” such surveillance. *See id.*

3. Witness information and statements. The DHS TRIP letters make clear that Defendants are relying on the statements of witnesses to support Plaintiffs’ inclusion on the No Fly List. Defendants must therefore provide the names, last known addresses, and telephone numbers of witnesses upon whose statements Defendants are relying. This witness information includes: government agents whose statements the letters describe as fact; all reports relating to Plaintiffs prepared by law enforcement and other government personnel (including but not limited to any FD-302 reports prepared by FBI agents investigating any Plaintiff); the statements of unidentified third parties; the prior arrest and conviction records of all such persons; all prior written, recorded, or oral statements (including agents’ rough notes of such statements) of such persons; and all evidence that any such persons have ever made any false statement to law enforcement or the courts, whether or not under oath.

Individuals facing government sanctions in comparable civil proceedings have a right to such evidence. *See, e.g., Willner v. Comm. on Character & Fitness*, 373 U.S. 96, 103 (1963) (holding in bar license revocation context that “procedural due process often requires confrontation and cross-examination of those whose word deprives a person of his livelihood”); *Cabo Distrib. Co. v. Brady*, 821 F. Supp. 601, 611 (N.D. Cal. 1992) (same for revocation of alcohol label certificate). Moreover, such information could prove critical in determining whether any of these witnesses have a history of providing inaccurate or contradictory testimony, or a motive to provide biased or misleading information to law enforcement. It is also necessary both to allow Plaintiffs’ counsel to contact such witnesses (in order to independently investigate their claims) and for counsel to determine whether the use of their hearsay statements would be fundamentally fair. *See Calhoun v. Bailar*, 626 F.2d 145, 149 (9th Cir. 1980) (to constitute substantial evidence to support administrative determination, hearsay declarations, like any other evidence, must meet minimum criteria for admissibility, must have probative value and bear indicia of reliability; factors to be considered include independence or possible bias of declarant, type of hearsay materials submitted, whether statements are signed and sworn to, whether statements are contradicted by direct testimony, availability of declarant, credibility of declarant, and whether hearsay is corroborated); *Hernandez-Guadarrama v. Ashcroft*, 394 F.3d 674, 681-82 (9th Cir. 2005) (holding, in deportation context, that “the government’s choice whether to produce a witness or to use a hearsay statement [is not] wholly unfettered” and requiring showing that “despite reasonable efforts, [the government] was unable to secure the presence of the witness at the hearing” prior to use of hearsay evidence); *see*

also Dhiab, 2008 WL 4905489 at *4 (requiring consideration of “whether provision of nonhearsay evidence would unduly burden the movant or interfere with the Government’s efforts to protect national security”).

4. Promises to witnesses. Defendants must provide any express or implicit promise, understanding, offer of immunity, sentencing leniency, or of past, present, or future compensation, or any other kind of agreement or understanding between any witness whose statements or information form a basis for any Plaintiff’s inclusion on the No Fly List and any law enforcement or prosecutorial agent or agency (federal, state, and local). *Cf. Kyles v. Whitley*, 514 U.S. 419, 432-34 (1995) (reaffirming that the failure to disclose evidence favorable to an accused upon request violates due process, and holding that this requirement extends to all witness impeachment evidence); *United States v. Shaffer*, 789 F.2d 682 (9th Cir. 1986) (affirming reversal of conviction where prosecution failed to disclose that witness received benefits in exchange for cooperation with government).

5. Exculpatory evidence. Defendants must provide all evidence, including any statements by any person, tending to: contradict Defendants’ evidence in support of their inclusion of Plaintiffs on the No Fly List; show that Plaintiffs do not meet the appropriate criteria for inclusion on the No Fly List; or otherwise establish that Plaintiffs do not merit inclusion on the No Fly List. *See Dent v. Holder*, 627 F.3d 365, 374 (9th Cir. 2010) (holding in deportation context that failure to disclose exculpatory documents in government file violated due process); *Dhiab*, 2008 WL 4905489 at *1 (ordering, in habeas corpus proceeding brought by alleged enemy combatant, that the government must “disclose to Petitioner all reasonably available evidence in its possession or that the Government can obtain through reasonable diligence that tends materially to undermine the information presented to support the Government’s justification”).

III. Application of Appropriate Substantive Standard

Finally, the substantive standard that Defendants appear to be using to assess whether each Plaintiff’s inclusion on the No Fly List is warranted does not satisfy constitutional requirements, for the reasons set forth below:

1. The criteria cited in the DHS TRIP letters are overbroad. As a threshold matter, they do not require any nexus to aviation security. *See, e.g., Aptheker v. Sec’y of State*, 378 U.S. 500, 517, 84 S. Ct. 1659, 12 L.Ed.2d 992 (1964) (law imposing complete travel ban for members of communist organizations was overbroad and unconstitutional on its face). Because of that, the criteria “sweep[] too widely and too indiscriminately across the liberty guaranteed in the Fifth Amendment” and are “not . . . narrowly drawn to prevent the supposed evil.” *See id.* at 514. They mandate a significant penalty—inability to travel by air—that is untethered from the (undefined)

“threat” included in the criteria. Similarly, the criteria lack a meaningful temporal limitation. They fail to specify whether and to what extent past conduct can continue to satisfy the standard—whatever that may be—for placement on the No Fly List. They also lack any means for determining at what point, absent new information, an individual ceases to satisfy the criteria.

2. The criteria are unconstitutionally vague on their face and as applied to Plaintiffs. See *United States v. Wunsch*, 84 F.3d 1110, 1119 (9th Cir. 1996) (statute must be “sufficiently clear so as not to cause persons ‘of common intelligence ... necessarily [to] guess at its meaning and [to] differ as to its application’”) (quoting *Connally v. General Constr. Co.*, 269 U.S. 385, 391, 46 S. Ct. 126, 70 L. Ed. 322 (1926)). In particular, terms such as “threat,” “represent,” and “pose” are undefined and vague, opening the door to subjective, arbitrary, and discriminatory interpretation of the criteria. See *Foti v. City of Menlo Park*, 146 F.3d 629, 638 (9th Cir. 1998). Such ambiguous terms easily encompass conduct that individuals could not have known would lead to their placement on the No Fly List. See *id.* (noting that the void-for-vagueness doctrine exists in part “to avoid punishing people for behavior that they could not have known was illegal”).

Greater certainty as to the meaning of such terms is especially necessary when, as here, a statute “might induce individuals to forego their rights of speech, press, and association” to avoid the risk of penalty. *Scull v. Com. of Va. ex rel. Comm. on Law Reform & Racial Activities*, 359 U.S. 344, 353 (1959). Indeed, most of the DHS TRIP letters include allegations related to Plaintiffs’ speech or other expressive activity and associations, making it clear that the criteria impermissibly impinge on First Amendment-protected conduct. Defendants may not sanction Plaintiffs for engaging in activity that is itself constitutionally protected, whether by the First Amendment or any other constitutional provision. See *NAACP v. Claiborne Hardware*, 458 U.S. 886, 932 (1982) (government may not penalize someone on the basis of association alone).

3. The criteria fail to utilize the least restrictive means to mitigate the “threat” to which they are addressed. No standard imposing an outright ban on air travel can comply with the Constitution if it is not the least restrictive means available to protect the Government’s interest in preventing threats to “civil aviation or national security” that could arise from permitting plaintiffs to fly. See, e.g., *Mohamed v. Holder*, 995 F. Supp. 2d 520, 530 (E.D. Va. 2014) (in a No Fly List case, citing *Aptheker* in refusing to conclude on record before the court that “there are no means less restrictive than an unqualified flight ban to adequately assure flight security”); *Jones v. Blanas*, 393 F.3d, 918, 932 (9th Cir. 2004) (striking down measures to incarcerate civil detainees because government’s procedures “[we]re employed to achieve objectives that could be accomplished in so many alternative and less harsh methods”). At a minimum, the Government must show why the utilization of the procedures it

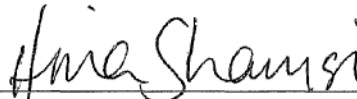
employed to avoid litigation of Plaintiffs' preliminary injunction motion—including the requirement that individuals book flights in advance on U.S. carriers and submit to heightened airport security measures—would not suffice to satisfy its interests in aviation security.

Plaintiffs request that Defendants craft new criteria that remedy these constitutional deficiencies, disclose those criteria to Plaintiffs, and apply those criteria to Defendants' factual allegations using a clear and convincing evidentiary standard.

Because Defendants have asked Plaintiffs to provide their responses to the DHS TRIP letters by December 15 or 16, 2014, the additional procedures and information we request should be provided to Plaintiffs no later than December 11, 2014. If Defendants agree to comply with the foregoing requests, Plaintiffs are willing to consider seeking a joint month-long extension of the January 16, 2015 deadline in the court's case management order, Dkt. No. 154 at 2, to accommodate hearings.

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

Sincerely yours,



Hina Shamsi
Hugh Handeyside

Ahilan Arulanantham
ACLU Foundation of Southern California
1313 West Eighth Street
Los Angeles, CA 90017

Steven Wilker
Tonkon Torp LLP
1600 Pioneer Tower
888 SW 5th Avenue
Portland, OR 97204

Please complete this form to authorize the Department of Homeland Security (DHS) or its designated DHS Component element to disclose your personal information to another person. You are asked to provide your information only to facilitate the identification and processing of your request. Without your information DHS or its designated DHS Component element may be unable to process your request.

SECTION I. Personal Information

Name
Raymond Earl Knaeble

Address
See Representative address, below

City	State	Zip Code
Country	Telephone Number(s)	
USA	+1 (212) 549-2500	
Date of Birth	Place of Birth (city, state, country)	
08/09/1980	California, USA	

SECTION II. Representative Information

Name
Hugh Handeyside, Staff Attorney, American Civil Liberties Union Foundation

Address
125 Broad Street, 18th Floor

City	State	Zip Code
New York	NY	10004
Country	Telephone Number(s)	
United States of America	+1 (212) 549-2500	

Pursuant to the Privacy Act of 1974 (5 U.S.C. §552a(b)), I authorize DHS and/or its DHS Component elements to release any and all information relating to my redress request to my representative.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above in Section I. I understand that falsification of this statement is punishable under the provisions of 18 U.S.C. §1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years, or both.

Signature Ray Knaeble Date 11-12-14

PRIVACY ACT STATEMENT:

AUTHORITY: Title IV of the Intelligence Reform and Terrorism Prevention Act of 2004 authorizes DHS to take security measures to protect travel, and under Subtitle B, Section 4012(1)(G), the Act directs DHS to provide appeal and correction opportunities for travelers whose information may be incorrect.

PRINCIPAL PURPOSE(S): DHS will use this information in order to assist you with seeking redress in connection with travel.

ROUTINE USE(S): DHS will use and disclose this information to appropriate governmental agencies to verify your identity, distinguish your identity from that of another individual, such as someone included on a watch list, and/or address your redress request. Additionally, limited information may be shared with non-governmental entities, such as air carriers, where necessary for the sole purpose of carrying out your redress request.

DISCLOSURE: Furnishing this information is voluntary; however DHS may not be able to process your redress request without the information requested.

Exhibit C

**U.S. Department of Homeland
Security**

DHS Traveler Redress Inquiry
Program (DHS TRIP)
601 South 12th Street, TSA-901
Arlington, VA 22202-4220



**Homeland
Security**

January 21, 2015

Mr. Hugh Handeyside
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004

RE: Raymond Earl Knaeble
Redress Control Number: 2093292

Dear Mr. Handeyside:

The Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP) received your response of December 15, 2014, providing the reasons supporting your client's belief that his placement on the No Fly List was in error. DHS TRIP provided your submission to the Transportation Security Administration (TSA) for review. Attached, please find a TSA determination regarding your client's redress inquiry.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Moore".

Deborah Moore
Director, DHS Traveler Redress Inquiry Program

Office of the Administrator

U.S. Department of Homeland Security
601 South 12th Street
Arlington, VA 20598-6001



**Transportation
Security
Administration**

DECISION AND ORDER

On December 15, 2014, Raymond Earl Knaeble, through his counsel, submitted a response to the Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP) providing reasons why he believed his placement on the No Fly List was in error and requesting his removal from that List. For the reasons set forth below, I determine that Mr. Knaeble should remain on the No Fly List.

On June 30, 2010, Mr. Knaeble submitted an inquiry to DHS TRIP describing his travel difficulties. On August 19, 2010, DHS TRIP informed Mr. Knaeble it had conducted a review of his records and determined that no changes were warranted at that time. On November 24, 2014, DHS TRIP informed Mr. Knaeble that it was reevaluating his redress inquiry. DHS TRIP further informed Mr. Knaeble that he was on the No Fly List because he had been identified as an individual who “may be a threat to civil aviation or national security.” 49 U.S.C. § 114(h)(3)(A). In particular, it had been determined that he posed a threat of committing an act of domestic terrorism (as defined in 18 U.S.C. § 2331(5)) with respect to the homeland.

In addition, DHS TRIP provided Mr. Knaeble with a summary of the unclassified facts available for release that supported his placement on the No Fly List and encouraged him to respond with relevant information if he believed the determination was in error or if he felt the information provided to him was inaccurate. DHS TRIP withheld certain information because

additional disclosure would risk harm to national security and jeopardize law enforcement activities. On December 15, 2014, Mr. Knaeble, through his counsel, responded that he believed his placement on the No Fly List was not warranted and provided factual representations he believed to be relevant to DHS TRIP's determination. Mr. Knaeble did not submit any evidence in support of any of these representations.

Upon review of all of the information Mr. Knaeble has submitted to DHS TRIP, as well as other information available related to Mr. Knaeble's placement on the No Fly List, I find that Mr. Knaeble may be a threat to civil aviation or national security; in particular, I find that he is an individual who represents a threat of engaging in or conducting a violent act of terrorism and who is operationally capable of doing so. I therefore conclude that Mr. Knaeble is properly placed on the No Fly List and no change in status is warranted.

Consistent with the protection of national security and law enforcement activities, I can provide the following explanation of my decision:

1. I have considered Mr. Knaeble's contentions concerning his travel to Yemen and other countries. I have concluded, however, that the information available supports Mr. Knaeble's placement on the No Fly List.
2. I have considered Mr. Knaeble's contentions concerning his cooperation with the FBI and other matters addressed in his response letter. I have concluded, however, that the information available supports Mr. Knaeble's placement on the No Fly List.

These conclusions do not constitute the entire basis of my decision, but I am unable to provide additional information. Without specifying all possible grounds for withholding information in this case, information has been withheld for the following particular reasons:

- additional disclosure would risk harm to national security; and

- additional disclosure would jeopardize law enforcement activities.

No Fly List determinations, including this one, are not based solely on the exercise of Constitutionally protected activities, such as the exercise of protected First Amendment activity.

Finally, on November 24, 2014, DHS TRIP informed Mr. Knaeble that he was on the No Fly List because he had been identified as an individual who may be a threat to civil aviation or national security, 49 U.S.C. § 114(h)(3)(A), pursuant to a determination that he posed a threat of committing an act of domestic terrorism (as defined in 18 U.S.C. § 2331(5)) with respect to the homeland. I have determined that Mr. Knaeble is properly placed on the No Fly List because he is an individual who represents a threat of engaging in or conducting a violent act of terrorism and who is operationally capable of doing so. If Mr. Knaeble wishes to submit additional information to DHS TRIP to respond to this basis for my determination, he may do so within 30 calendar days and I will consider that information and reconsider this determination.

This determination will become final 30 calendar days after its issuance unless Mr. Knaeble submits additional information. Final determinations are reviewable in a United States Court of Appeals pursuant to 49 U.S.C. § 46110 or as otherwise appropriate by law. A petition for review must be filed within 60 days of issuance of this order.

1 - 21 - 2015
DATED



Melvin J. Carraway
Acting Administrator
Transportation Security Administration

Exhibit A

U.S. Department of Homeland Security
DHS Traveler Redress Inquiry Program (DHS TRIP)
601 South 12th Street, TSA-901
Arlington, VA 20598-6901



**Homeland
Security**

November 24, 2014

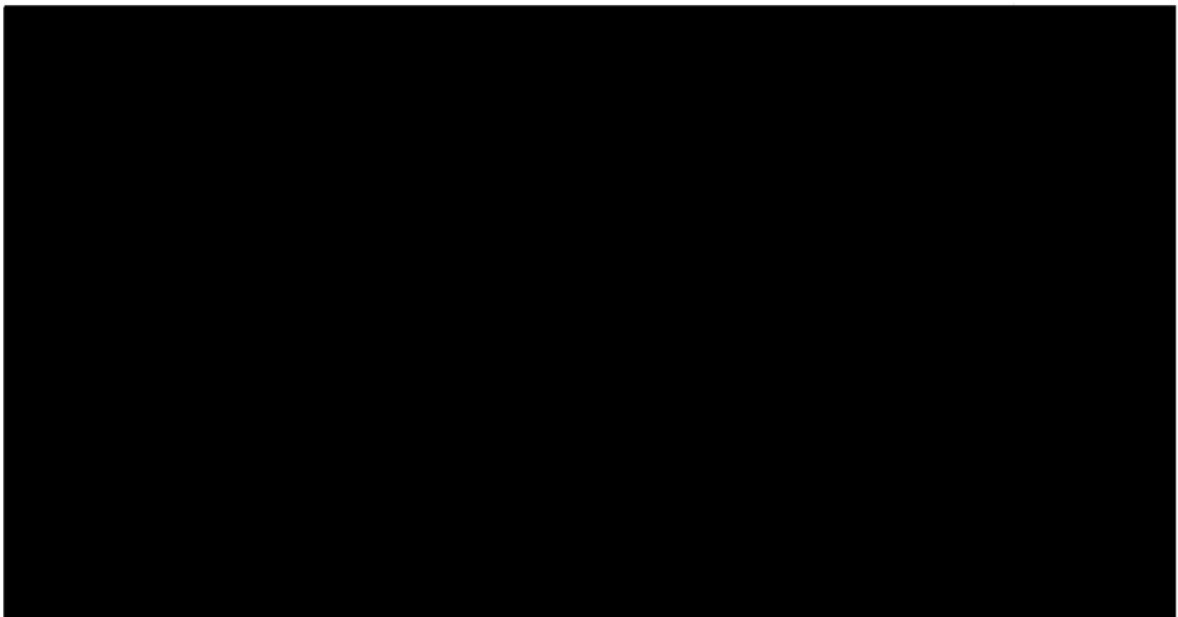
Mr. Faisal Nabin Kashem
c/o Nusrat Jahan Choudhury
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004

Redress Control Number: 2103133

Dear Mr. Kashem:

We have reevaluated the redress inquiry you filed with the Department of Homeland Security (DHS) Traveler Redress Inquiry Program (DHS TRIP). As part of that reevaluation, we have conducted a new review of applicable records in consultation with other federal agencies, as appropriate. It has been determined that you are on the No Fly List because you have been identified as an individual who “may be a threat to civil aviation or national security.” 49 U.S.C. § 114(h)(3)(A). In particular, it has been determined that you are an individual who represents a threat of engaging in or conducting a violent act of terrorism and who is operationally capable of doing so.

Below is an unclassified summary that includes reasons supporting your placement on the No Fly List.





We are unable to provide additional disclosures regarding your placement on the No Fly List. Factors limiting disclosure in this context may include national security concerns, privileges, and/or legal limitations such as the Privacy Act.

If you feel that this determination is in error, or you feel that the information provided to you is inaccurate, you are encouraged to respond and provide us with information you think may be relevant. Such information should be submitted to DHS TRIP at the above address. As we have been advised by the Department of Justice that your redress inquiry is the subject of litigation with court-imposed deadlines, such information should be submitted by December 15, 2014. Information you submit will be considered before a final determination is made. The final determination will constitute a final order pursuant to 49 U.S.C. § 46110 on your redress inquiry by January 16, 2015.

If you have any further questions, please write to DHS TRIP at the address in this letterhead or via e-mail at TRIP@dhs.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deborah O. Moore".

Deborah O. Moore
Director, DHS TRIP

Exhibit B

NATIONAL SECURITY
PROJECT



December 15, 2014

VIA MAIL

Deborah O. Moore
U.S. Department of Homeland Security
DHS Traveler Redress Inquiry Program (DHS TRIP)
601 South 12th Street, TSA-901
Arlington, VA 20598-6901

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500
WWW.ACLU.ORG

OFFICERS AND DIRECTORS
SUSAN N. HERMAN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

Re: Faisal Kashem, Redress Control Number 2103133

Dear Ms. Moore:

On behalf of Faisal Kashem, we submit this response to your letter dated November 24, 2014, in which you provided “an unclassified summary that includes reasons” for Mr. Kashem’s placement on the No Fly List. DHS TRIP Letter, attached as Exhibit 1. Because the court in *Latif v. Holder*, Case No. 10-Civ-750-BR (D. Or.), has mandated that the Government conduct an administrative review of the inclusion on the No Fly List of the plaintiffs in that case “as soon as practicable,” Dkt. No. 152 at 2, we are submitting this response by December 15, as requested in your letter.¹

Nonetheless, the Government’s revised No Fly List administrative redress system remains inadequate, and your letter lacks information that is critical to Mr. Kashem’s ability to respond meaningfully to the allegations in it. The court in *Latif* has emphasized that “Plaintiffs’ inclusion on the No Fly List constitutes a significant deprivation of their liberty interests” and imposes a “major burden” on those interests. Dkt. No. 136 at 30. The court ordered the Government to provide “a new process that satisfies the constitutional requirements for due process.” *Id.* at 61. The Government’s revised system does not provide Mr. Kashem the process he is due under the Constitution or the court’s order, nor does it comply with the requirements of the Administrative Procedure Act. Among other defects, the substantive criteria cited for Mr. Kashem’s inclusion on the No Fly List are overbroad and unconstitutionally vague, and the redress process fails to offer procedural protections that are necessary to vindicate Mr. Kashem’s due process rights.

¹ Included along with this letter is an updated DHS Form 590 authorizing release of information to Mr. Kashem’s current counsel.

On December 5, 2014, we requested that counsel for the defendants in *Latif* provide essential procedural protections, additional information, and a constitutionally compliant substantive standard for the revised redress process. Letter, attached as Exhibit 2. We have received no response to that letter.

Thus, Mr. Kashem has not been given a “meaningful opportunity to respond” to the reasons for his inclusion on the No Fly List. *See Al Haramain v. U.S. Dep’t of Treasury*, 686 F.3d 965, 985 (9th Cir. 2011) (requiring meaningful notice and opportunity to be heard); *see also Latif*, Dkt. 136 at 62 (citing *Al Haramain*). Absent such a meaningful opportunity, Mr. Kashem is hobbled in his ability to rebut the allegations, and any response from him is necessarily incomplete. We thus submit this response subject to the objections and requests for further information set forth below, as well as those set forth in Exhibit 2. We also reserve the right to supplement any record being created by the Government with such additional information that the Government provides in response to the requests in Exhibit 2, or to discovery requests or an order of the court in *Latif*, or that we discover through our own investigation.

I. The Redress System Remains Inadequate.

The Government’s revised No Fly List redress system does not comply with the Constitution or the *Latif* court’s order for two primary reasons.

First, it utilizes a substantive standard that is overbroad and vague. The DHS TRIP letter to Mr. Kashem states:

It has been determined that you are on the No Fly List because you have been identified as an individual who “may be a threat to civil aviation or national security.” 49 U.S.C. § 114(h)(3)(A). In particular, it has been determined that you are an individual who represents a threat of engaging in or conducting a violent act of terrorism and who is operationally capable of doing so.

Ex. 1 at 1. The letter contains no further explanation of the standard or its terms.

This standard is overbroad, in that it does not require any nexus to aviation security and lacks a meaningful temporal limitation, and is also unconstitutionally vague on its face. *See Ex. 2* at 6-7. As applied to Mr. Kashem, the standard also violates the First Amendment. *Id.* at 7. Indeed, many of the allegations in the DHS TRIP letter to Mr. Kashem relate to his speech or other expressive activity and associations, making it clear that the criteria impermissibly impinge on First Amendment-protected conduct. *See*

Ex. 1 at 1 [REDACTED]

Additionally, the standard fails to utilize the least restrictive means to mitigate the “threat” to which it is addressed. *See* Ex. 2 at 7-8. Nothing in the letter shows, or even attempts to show, that utilization of the procedures the Government employed to avoid litigation of the preliminary injunction motion filed by Mr. Kashem and others in *Latif*—including the requirement that individuals book flights in advance on U.S. carriers and submit to heightened airport security measures—would not suffice to satisfy its interests in aviation security.

These defects render the substantive standard used to place Mr. Kashem on the No Fly List unconstitutional. No one—Mr. Kashem included—can meaningfully respond to allegations purporting to justify placement on the No Fly List when the standard for that placement is ambiguous, overbroad, and open-ended.

The second major defect in the revised redress system is that it lacks necessary procedural protections, absent which Mr. Kashem’s core due process rights cannot be upheld. The court in *Latif* ordered the Government to revise the redress system in large part because “the DHS TRIP process . . . contains a high risk of erroneous deprivation of Plaintiffs’ constitutionally-protected interests.” *See* Dkt. No. 136 at 39. That risk remains high under the revised system that the Government has applied to Mr. Kashem.

First, the process does not provide for a hearing at which live witness testimony may be presented and tested under cross-examination. At any hearing, Mr. Kashem would credibly testify that he presents no threat to aviation security and respond to any specific allegations made against him. However, without a hearing, Mr. Kashem will have no ability either to establish his own credibility through live testimony or to challenge the testimony of the Government’s witnesses through cross-examination. *See* Ex. 2 at 3.

Second, the disclosure to Mr. Kashem is incomplete. The DHS TRIP letter states that it “includes reasons supporting” his placement on the No Fly List, and that the Government is “unable to provide additional disclosures” beyond those in the letter.² Ex. 1 at 1, 2. An incomplete statement makes it

² The letter also fails to notify Mr. Kashem of the entity responsible for determining that he meets the standard for inclusion on the No Fly List. *See* Ex. 1 at 1 (“*it has been determined* that you are an individual who represents a threat . . .”) (emphasis added). Mr. Kashem therefore cannot assess the institutional competence of the deciding entity or identify specific policies, regulations, and statutes that may govern such a determination.

impossible for Mr. Kashem to refute all of the Government's bases for placing him on the List. Without a complete statement of reasons and a detailed statement of withheld evidence, Mr. Kashem cannot meaningfully respond to the allegations in the letter. Nor can he take steps, such as the retention of counsel with a security clearance, to deal with information withheld as classified where he does not know whether such withholdings have occurred. *See* Ex. 2 at 2-3 (citing Dkt. No. 136 at 61-62).

Third, the DHS TRIP letter contains no indication what, if any, evidentiary standard the Government used to place Mr. Kashem on the No Fly List, or to review that placement. As explained in Exhibit 2, the Constitution requires that the Government use a "clear and convincing evidence" standard in this context. Ex. 2 at 3-4.

Fourth, the DHS TRIP letter fails to explain how the allegations in it satisfy appropriately narrow criteria for inclusion on the No Fly List. That Mr. Kashem has, for example, [REDACTED] (Ex. 1 at 1), even if true, would not suffice to explain how his alleged conduct renders him a "threat" worthy of inclusion on the list.

As with the substantive standard, these procedural defects preclude Mr. Kashem from responding to the DHS TRIP letter meaningfully and drive home that the Government's revised redress system remains constitutionally deficient.

II. Mr. Kashem Cannot Respond Meaningfully Without Further Information.

The allegations in the DHS TRIP letter reveal specific categories of information that the Government must provide to Mr. Kashem in order to satisfy due process:

1. Mr. Kashem's prior statements. The Government is relying on Mr. Kashem's alleged statements, each of which was purportedly made years ago, in order to justify his inclusion on the No Fly List. *See* Ex. 1 at 1. Mr. Kashem must be provided with all of his written or recorded statements, made to any persons at any time and place, and the substance of any oral statements, if not embodied in a writing. If any statements are recorded, he should be given a transcript or audible copy of each recording. *See* Ex. 2 at 4.

2. Notice of surveillance techniques. The DHS TRIP letter suggests that Mr. Kashem was placed on the No Fly List based on information obtained or derived from surveillance activities. To the extent that any such information forms any basis for his inclusion on the No Fly List, or that the government intends to use such information in these administrative or any

related judicial proceeding, Mr. Kashem is entitled to notice of the surveillance and the information obtained or derived from it. He is also entitled to notice of information or evidence that is the product of unlawful surveillance. *See id.* at 4-5.

3. Witness information and statements. The DHS TRIP letter indicates that the Government is relying on the statements of witnesses to support Mr. Kashem's inclusion on the No Fly List. Ex. 1 at 1. The Government must therefore provide the names and contact information for any such witnesses, including government agents whose statements the letters describe as fact; all reports relating to Mr. Kashem prepared by law enforcement and other government personnel (including but not limited to any FD-302 reports prepared by FBI agents investigating Mr. Kashem); the statements of unidentified third parties; the prior arrest and conviction records of all such persons; all prior written, recorded, or oral statements (including agents' rough notes of such statements) of such persons; and all evidence that any such persons have ever made any false statement to law enforcement or the courts, whether or not under oath. *See Ex. 2 at 5-6.*

4. Promises to witnesses. The Government must provide any express or implicit promise, understanding, offer of immunity, sentencing leniency, or of past, present, or future compensation, or any other kind of agreement or understanding between any witness whose statements or information form a basis for Mr. Kashem's inclusion on the No Fly List and any law enforcement or prosecutorial agent or agency (federal, state, and local). *See id.* at 6.

5. Exculpatory evidence. The Government must provide all evidence, including any statements by any person, tending to: contradict the evidence and allegations advanced in support of Mr. Kashem's inclusion on the No Fly List; show that Mr. Kashem does not meet the appropriate criteria for inclusion on the List; or otherwise establish that Mr. Kashem does not merit inclusion on the List. *See id.*

6. Additionally, to the extent that the Government is relying on any information, whether or not disclosed in the DHS TRIP letter, that does not fall under any of the preceding categories, such information must also be provided to Mr. Kashem.

The failure to provide this information unfairly prejudices Mr. Kashem's due process right to challenge his placement on the No Fly List.

III. The Allegations Against Mr. Kashem Do Not Justify His Continued Inclusion On The No Fly List.

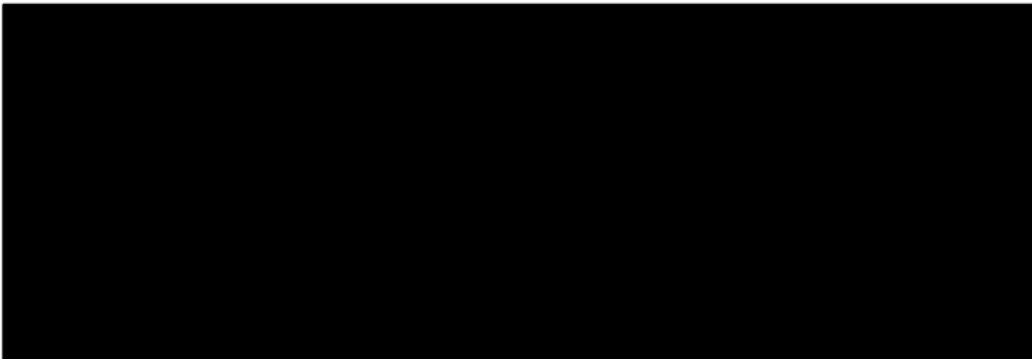
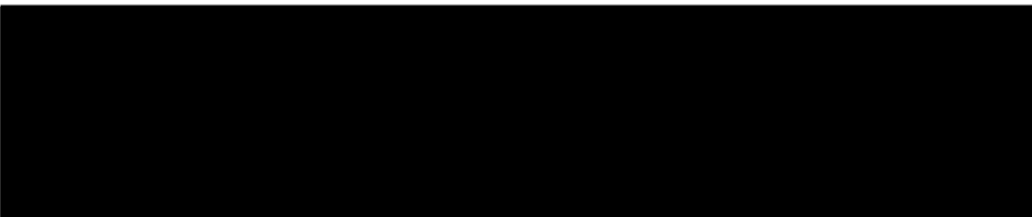
For the foregoing reasons, the revised system the Government is using to review Mr. Kashem's inclusion on the No Fly List is constitutionally

inadequate. Mr. Kashem cannot respond to the allegations in the DHS TRIP letter effectively, and he will not receive the process he is due, unless the Government remedies the deficiencies set forth above. Nonetheless, because the court in *Latif* has directed the Government to complete its administrative review of the plaintiffs' DHS TRIP redress inquiries before the court considers substantive motions on the merits, we submit this disclosure of Mr. Kashem's expected testimony on his behalf. We do so without waiving any of the objections to the legality or constitutionality of the revised redress process, and without conceding the adequacy of the notice and process afforded to Mr. Kashem.

If called to testify at an evidentiary hearing regarding his placement on the No Fly List, we expect that Mr. Kashem's testimony would include the following:

1. Mr. Kashem does not pose, and has never posed, a threat of engaging in a violent act of terrorism. He has no intention of engaging in, or providing support for, violent unlawful activity anywhere in the world.

2. Mr. Kashem graduated with a degree in accounting from the University of Connecticut in 2005 and worked for Accenture before being laid off in February 2009. He then decided to enroll in a program of Arabic and Islamic Studies at the Islamic University of al-Madinah al-Munawarah, a public university in Medina, Saudi Arabia. He has been enrolled at the university since January 2010 and remains a student there today.




5. Mr. Kashem cooperated with the consulate staff in Jeddah and FBI agents who interviewed him after he was denied boarding on a flight bound for New York City on June 24, 2010.

6. Mr. Kashem does not knowingly have ties to terrorist organizations or individual terrorists, and he does not advocate violence.

Mr. Kashem reserves the right to provide additional information upon receipt of further information as to the nature of the allegations against him, the sources of evidence on which the government has relied, and other information specified above.

For the foregoing reasons, Mr. Kashem's placement on the No Fly List was in error, and he should promptly be removed from the No Fly List.

Sincerely yours,



Hina Shamsi
Hugh Handeyside

Ahilan Arulanantham
ACLU Foundation of Southern California
1313 West Eighth Street
Los Angeles, CA 90017

Steven Wilker
Tonkon Torp LLP
1600 Pioneer Tower
888 SW 5th Avenue
Portland, OR 97204

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Exhibit 1

U.S. Department of Homeland Security
DHS Traveler Redress Inquiry Program (DHS TRIP)
601 South 12th Street, TSA-901
Arlington, VA 20598-6901



**Homeland
Security**

November 24, 2014

Mr. Faisal Nabin Kashem
c/o Nusrat Jahan Choudhury
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004

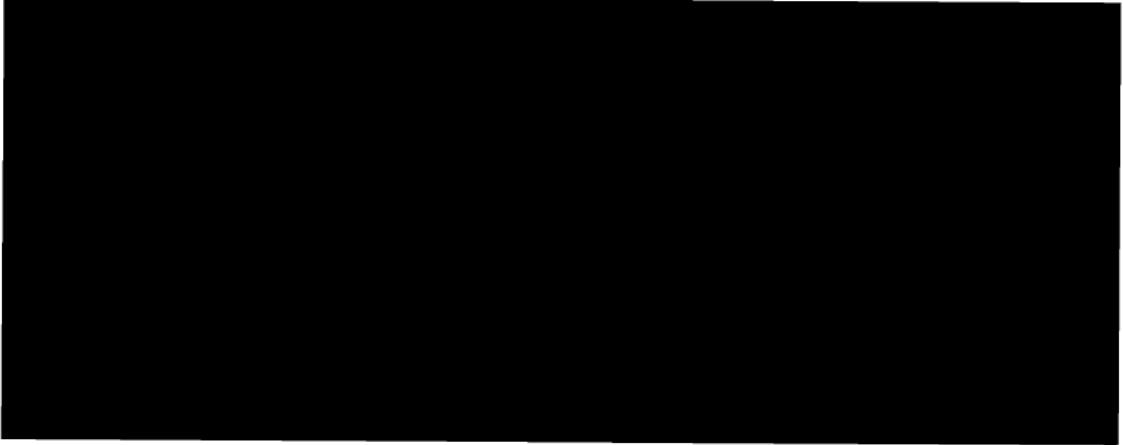
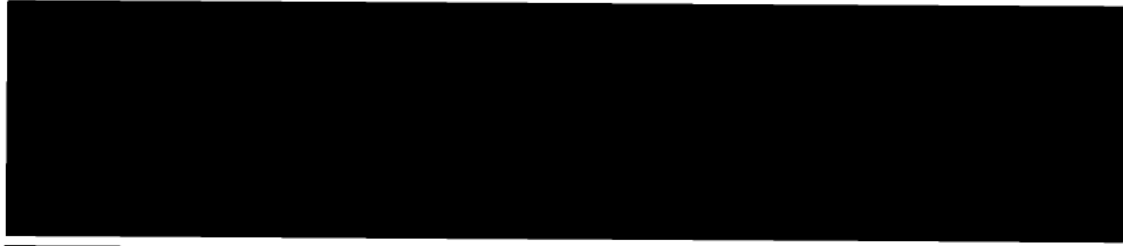
Redress Control Number: 2103133

Dear Mr. Kashem:

We have reevaluated the redress inquiry you filed with the Department of Homeland Security (DHS) Traveler Redress Inquiry Program (DHS TRIP). As part of that reevaluation, we have conducted a new review of applicable records in consultation with other federal agencies, as appropriate. It has been determined that you are on the No Fly List because you have been identified as an individual who "may be a threat to civil aviation or national security." 49 U.S.C. § 114(h)(3)(A). In particular, it has been determined that you are an individual who represents a threat of engaging in or conducting a violent act of terrorism and who is operationally capable of doing so.

Below is an unclassified summary that includes reasons supporting your placement on the No Fly List.





We are unable to provide additional disclosures regarding your placement on the No Fly List. Factors limiting disclosure in this context may include national security concerns, privileges, and/or legal limitations such as the Privacy Act.

If you feel that this determination is in error, or you feel that the information provided to you is inaccurate, you are encouraged to respond and provide us with information you think may be relevant. Such information should be submitted to DHS TRIP at the above address. As we have been advised by the Department of Justice that your redress inquiry is the subject of litigation with court-imposed deadlines, such information should be submitted by December 15, 2014. Information you submit will be considered before a final determination is made. The final determination will constitute a final order pursuant to 49 U.S.C. § 46110 on your redress inquiry by January 16, 2015.

If you have any further questions, please write to DHS TRIP at the address in this letterhead or via e-mail at TRIP@dhs.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deborah O. Moore".

Deborah O. Moore
Director, DHS TRIP

Exhibit 2

NATIONAL SECURITY
PROJECT



December 5, 2014

VIA EMAIL

Amy Powell
Brigham J. Bowen
Adam D. Kirschner
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20001

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500
WWW.ACLU.ORG

Re: Latif v. Holder, Case No. 10-Civ.-750-BR

Dear Counsel:

After reviewing the DHS TRIP letters sent to the Plaintiffs in this case who remain on the No Fly List, we write to make three requests regarding the administrative process Defendants are using for these Plaintiffs.¹ First, we request that Defendants provide certain necessary procedural protections as part of the administrative process. Second and relatedly, we request that Defendants provide additional information related to the basis or bases for Plaintiffs' inclusion on the No Fly List. Third, we request that Defendants craft, apply, and disclose to Plaintiffs a constitutionally-compliant substantive standard for inclusion on the No Fly List. Such a standard must be narrower and more specific than the vague and over-broad standard that Defendants appear to be employing here.

In addition, as we discussed with Amy and Brigham before we received the DHS TRIP letters, we seek to enter into a stipulation and protective order to prevent public disclosure of the DHS TRIP letters and the additional information we are requesting. The need we anticipated for such a stipulation and protective order is confirmed by the inflammatory, piecemeal allegations in the letters. We will follow up with a call to discuss the content of the stipulation and protective order.

¹ It is our understanding that those Plaintiffs are Mohamed Sheikh Abdirahman Kariye, Faisal Kashem, Raymond Knaeble, Amir Meshal, Stephen Persaud, and Steven Washburn, because those are the only Plaintiffs for whom Defendants have provided DHS TRIP letters. If our understanding is incorrect, please inform us of that fact immediately.

As Defendants will recall, the Court's order of June 24, 2014 (Dkt. 136) reiterated that "Plaintiffs' inclusion on the No Fly List constitutes a significant deprivation of their liberty interests," *id.* at 30; held that inclusion on the No Fly List imposes a "major burden" on those interests, *id.*; and required Defendants to provide "a new process that satisfies the constitutional requirements for due process." *Id.* at 61. The DHS TRIP letters sent to Plaintiffs, to which Defendants have asked Plaintiffs to respond by December 15 or 16, 2014, do not constitute process sufficient to satisfy due process and APA requirements under the Court's order. *Cf. Mathews v. Eldridge*, 424 U.S. 319, 334, 96 S. Ct. 893, 902, 47 L. Ed. 2d 18 (1976); 5 U.S.C. §§ 555, 556 (governing procedures and production of evidence in administrative proceedings). In particular, the information Defendants have provided does not suffice to permit any of the six Plaintiffs a "meaningful opportunity to respond" to the reasons for their inclusion on the No Fly List. *Al Haramain v. U.S. Dep't of Treasury*, 686 F.3d 965, 985 (9th Cir. 2011) (requiring meaningful notice and opportunity to be heard); *Kindhearts v. Geithner*, 647 F. Supp. 2d 857, 906 (N.D. Ohio 2009) (requiring "meaningful opportunity to be heard" by provision of a "post-deprivation hearing"); *see also* Dkt. 136 at 62 (citing *Al Haramain*).

For that reason, we request the following additional procedures and categories of information (if in the possession of any branch of the federal government), each of which is necessary to comply with the Court's order:

I. Additional Procedural Protections

Compliance with the Court's order requires Defendants to provide the following procedural protections:

1. A *complete* statement of reasons. The DHS TRIP letters suggest that there may be reasons other than those Defendants have provided on which they are relying to justify Plaintiffs' inclusion on the No Fly List. The Court's order plainly requires the provision of "*the* reasons for" Plaintiffs' inclusion, Dkt. 136 at 61 (emphasis added), and an incomplete statement makes it impossible for Plaintiffs to refute all of Defendants' bases for placing Plaintiffs on the List.

2. A *complete* statement regarding withheld evidence and the basis for withholding any such evidence. The DHS TRIP letters suggest that there *may* be both undisclosed evidence on which the Government has relied to justify Plaintiffs' inclusion on the No Fly List and undisclosed claims of privilege used to justify the withholding of that evidence. However, the Court's order indicates that Plaintiffs must know when evidence has been withheld and on what grounds so that they may meaningfully respond, including by requesting "disclos[ure] [of] the classified reasons to properly-cleared counsel," Dkt. 136 at 61, and whether to seek judicial review of any privilege assertion. *Id.* at 62.

Obviously, Plaintiffs cannot take those steps without knowing at least in summary form what evidence Defendants have chosen to rely upon without disclosing it, and the reasons for any such withholding.

3. An explanation of how Defendants' allegations satisfy appropriately narrow criteria for inclusion on the No Fly List. The DHS TRIP letters fail to explain if and how the allegations made in them relate to the substantive criteria for inclusion on the No Fly List. *See People's Mojahedin Org. of Iran v. U.S. Dep't of State*, 613 F.3d 220, 230 (D.C. Cir. 2010) (requiring the Secretary of State to explain how information relied upon for designation as a terrorist organization related to specific portion of governing statute). Without such an explanation, Plaintiffs are left to guess as to how their alleged conduct satisfies the substantive standards for inclusion on the list.

4. A hearing at which live witness testimony may be presented and tested under cross-examination. Due process requires hearings in contexts in which far less is at stake than inclusion on the No Fly List. *See, e.g., Califano v. Yamasaki*, 442 U.S. 682, 697, 99 S. Ct. 2545 (1979) (in social security context, paper review failed to satisfy due process because determination at issue "usually requires an assessment of the recipient's credibility"). Without a hearing, Plaintiffs have no ability either to establish their own credibility through live testimony or to challenge the testimony of Defendants' witnesses through cross-examination. Such live testimony is critical in situations, such as these, where credibility is central to any assessment of whether Plaintiffs may be deprived of their constitutionally protected liberty interest through inclusion on the No Fly List. *Cf. Mendoza Manimbao v. Ashcroft*, 329 F.3d 655, 662 (9th Cir. 2003) (holding that credibility determinations in deportation cases require a hearing because "[a]ll aspects of the witness's demeanor—including the expression of his countenance, how he sits or stands, whether he is inordinately nervous, his coloration during critical examination, the modulation or pace of his speech and other non-verbal communication—may convince the observing trial judge that the witness is testifying truthfully or falsely. These same very important factors, however, are entirely unavailable to a reader of the transcript.").

5. Application of a "clear and convincing" standard of proof where Defendants bear the burden of establishing that inclusion on the No Fly List is warranted. The DHS TRIP letters contain no articulation of any standard or burden of proof. The "clear and convincing evidence" standard is "the normal burden of proof . . . in civil proceedings in which the individual interests at stake . . . are both particularly important and more substantial than mere loss of money." *V. Singh v. Holder*, 638 F.3d 1196, 1204 (9th Cir. 2011) (internal quotations omitted). As the Ninth Circuit has recognized, courts have applied the "clear and convincing" standard in a variety of contexts involving significant deprivations of liberty. *See id.* (collecting cases involving

competency to proceed, deportation, denaturalization, and civil commitment). *See also Doe v. Gallinot*, 657 F.2d 1017, 1023 (9th Cir. 1981) (holding in civil commitment context that “[i]t is the state, after all, which must ultimately justify depriving a person of a protected liberty interest by determining that good cause exists for the deprivation.”). Given the comparably “significant deprivation of liberty” at stake here, Defendants must prove with clear and convincing evidence that Plaintiffs’ placement on the on the No Fly List is warranted.

II. Additional Information

Compliance with the Court’s order also requires Defendants to provide the following additional information in order to satisfy due process:

1. Plaintiffs’ prior statements. The DHS TRIP letters make clear that Defendants are relying upon some Plaintiffs’ alleged statements in order to justify their inclusion on the No Fly List. Defendants must provide all written or recorded statements of each Plaintiff, made to any persons at any time and place, and the substance of any oral statements, if not embodied in a writing. If any statements are recorded, please provide a transcript or audible copy of each recording. *See Dhiab v. Bush*, 2008 WL 4905489 at *2 (D.D.C. Nov. 17, 2008) (ordering, in habeas corpus proceeding brought by individual detained as alleged enemy combatants, disclosure of all statements made or adopted by the petitioner relating to the factual bases for his detention, as well as information regarding the circumstances of such statements) (citing *Bismullah v. Gates*, 501 F.3d 178, 187 (D.C. Cir. 2007) (“we presume counsel . . . has a ‘need to know’ all Government Information concerning his [or her] client”)).

2. Notice of surveillance techniques. The DHS TRIP letters suggest that some or all of the Plaintiffs were placed on the No Fly List based on information obtained or derived from surveillance activities. To the extent that any such information forms any basis for Plaintiffs’ inclusion on the No Fly List, or that the government intends to use such information in these administrative or any related judicial proceeding, Plaintiffs are entitled to notice of the surveillance and the information obtained or derived from it. *See, e.g.*, 50 U.S.C. § 1806(c) (FISA electronic surveillance); 50 U.S.C. § 1825(d) (FISA physical search); 50 U.S.C. § 1842(c) (FISA pen register); 18 U.S.C. § 2518(8)(d) (Title III). Due process also requires that the Plaintiffs be given notice of the surveillance techniques (including, but not limited to, surveillance under Executive Order 12,333) that led to their placement on the No Fly List so that they may seek review of the lawfulness of that surveillance and determine whether Defendants’ alleged basis or bases for including them on the No Fly List are derived from it. *See United States v. U.S. District Court (Keith)*, 407 U.S. 297, 92 S. Ct. 2125 (1972). To that end, each Plaintiff hereby asserts his right to notice of information or evidence that

forms any basis for his inclusion on the No Fly List that is the product of unlawful surveillance or was obtained by the exploitation of any unlawful surveillance. *See* 18 U.S.C. § 3504(a). Defendants must therefore “affirm or deny the occurrence of” such surveillance. *See id.*

3. Witness information and statements. The DHS TRIP letters make clear that Defendants are relying on the statements of witnesses to support Plaintiffs’ inclusion on the No Fly List. Defendants must therefore provide the names, last known addresses, and telephone numbers of witnesses upon whose statements Defendants are relying. This witness information includes: government agents whose statements the letters describe as fact; all reports relating to Plaintiffs prepared by law enforcement and other government personnel (including but not limited to any FD-302 reports prepared by FBI agents investigating any Plaintiff); the statements of unidentified third parties; the prior arrest and conviction records of all such persons; all prior written, recorded, or oral statements (including agents’ rough notes of such statements) of such persons; and all evidence that any such persons have ever made any false statement to law enforcement or the courts, whether or not under oath.

Individuals facing government sanctions in comparable civil proceedings have a right to such evidence. *See, e.g., Willner v. Comm. on Character & Fitness*, 373 U.S. 96, 103 (1963) (holding in bar license revocation context that “procedural due process often requires confrontation and cross-examination of those whose word deprives a person of his livelihood”); *Cabo Distrib. Co. v. Brady*, 821 F. Supp. 601, 611 (N.D. Cal. 1992) (same for revocation of alcohol label certificate). Moreover, such information could prove critical in determining whether any of these witnesses have a history of providing inaccurate or contradictory testimony, or a motive to provide biased or misleading information to law enforcement. It is also necessary both to allow Plaintiffs’ counsel to contact such witnesses (in order to independently investigate their claims) and for counsel to determine whether the use of their hearsay statements would be fundamentally fair. *See Calhoun v. Bailar*, 626 F.2d 145, 149 (9th Cir. 1980) (to constitute substantial evidence to support administrative determination, hearsay declarations, like any other evidence, must meet minimum criteria for admissibility, must have probative value and bear indicia of reliability; factors to be considered include independence or possible bias of declarant, type of hearsay materials submitted, whether statements are signed and sworn to, whether statements are contradicted by direct testimony, availability of declarant, credibility of declarant, and whether hearsay is corroborated); *Hernandez-Guadarrama v. Ashcroft*, 394 F.3d 674, 681-82 (9th Cir. 2005) (holding, in deportation context, that “the government’s choice whether to produce a witness or to use a hearsay statement [is not] wholly unfettered” and requiring showing that “despite reasonable efforts, [the government] was unable to secure the presence of the witness at the hearing” prior to use of hearsay evidence); *see*

also Dhiab, 2008 WL 4905489 at *4 (requiring consideration of “whether provision of nonhearsay evidence would unduly burden the movant or interfere with the Government’s efforts to protect national security”).

4. Promises to witnesses. Defendants must provide any express or implicit promise, understanding, offer of immunity, sentencing leniency, or of past, present, or future compensation, or any other kind of agreement or understanding between any witness whose statements or information form a basis for any Plaintiff’s inclusion on the No Fly List and any law enforcement or prosecutorial agent or agency (federal, state, and local). *Cf. Kyles v. Whitley*, 514 U.S. 419, 432-34 (1995) (reaffirming that the failure to disclose evidence favorable to an accused upon request violates due process, and holding that this requirement extends to all witness impeachment evidence); *United States v. Shaffer*, 789 F.2d 682 (9th Cir. 1986) (affirming reversal of conviction where prosecution failed to disclose that witness received benefits in exchange for cooperation with government).

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5. Exculpatory evidence. Defendants must provide all evidence, including any statements by any person, tending to: contradict Defendants’ evidence in support of their inclusion of Plaintiffs on the No Fly List; show that Plaintiffs do not meet the appropriate criteria for inclusion on the No Fly List; or otherwise establish that Plaintiffs do not merit inclusion on the No Fly List. *See Dent v. Holder*, 627 F.3d 365, 374 (9th Cir. 2010) (holding in deportation context that failure to disclose exculpatory documents in government file violated due process); *Dhiab*, 2008 WL 4905489 at *1 (ordering, in habeas corpus proceeding brought by alleged enemy combatant, that the government must “disclose to Petitioner all reasonably available evidence in its possession or that the Government can obtain through reasonable diligence that tends materially to undermine the information presented to support the Government’s justification”).

III. Application of Appropriate Substantive Standard

Finally, the substantive standard that Defendants appear to be using to assess whether each Plaintiff’s inclusion on the No Fly List is warranted does not satisfy constitutional requirements, for the reasons set forth below:

1. The criteria cited in the DHS TRIP letters are overbroad. As a threshold matter, they do not require any nexus to aviation security. *See, e.g., Aptheker v. Sec’y of State*, 378 U.S. 500, 517, 84 S. Ct. 1659, 12 L.Ed.2d 992 (1964) (law imposing complete travel ban for members of communist organizations was overbroad and unconstitutional on its face). Because of that, the criteria “sweep[] too widely and too indiscriminately across the liberty guaranteed in the Fifth Amendment” and are “not . . . narrowly drawn to prevent the supposed evil.” *See id.* at 514. They mandate a significant penalty—inability to travel by air—that is untethered from the (undefined)

“threat” included in the criteria. Similarly, the criteria lack a meaningful temporal limitation. They fail to specify whether and to what extent past conduct can continue to satisfy the standard—whatever that may be—for placement on the No Fly List. They also lack any means for determining at what point, absent new information, an individual ceases to satisfy the criteria.

2. The criteria are unconstitutionally vague on their face and as applied to Plaintiffs. *See United States v. Wunsch*, 84 F.3d 1110, 1119 (9th Cir. 1996) (statute must be “sufficiently clear so as not to cause persons ‘of common intelligence ... necessarily [to] guess at its meaning and [to] differ as to its application’”) (quoting *Connally v. General Constr. Co.*, 269 U.S. 385, 391, 46 S. Ct. 126, 70 L. Ed. 322 (1926)). In particular, terms such as “threat,” “represent,” and “pose” are undefined and vague, opening the door to subjective, arbitrary, and discriminatory interpretation of the criteria. *See Foti v. City of Menlo Park*, 146 F.3d 629, 638 (9th Cir. 1998). Such ambiguous terms easily encompass conduct that individuals could not have known would lead to their placement on the No Fly List. *See id.* (noting that the void-for-vagueness doctrine exists in part “to avoid punishing people for behavior that they could not have known was illegal”).

Greater certainty as to the meaning of such terms is especially necessary when, as here, a statute “might induce individuals to forego their rights of speech, press, and association” to avoid the risk of penalty. *Scull v. Com. of Va. ex rel. Comm. on Law Reform & Racial Activities*, 359 U.S. 344, 353 (1959). Indeed, most of the DHS TRIP letters include allegations related to Plaintiffs’ speech or other expressive activity and associations, making it clear that the criteria impermissibly impinge on First Amendment-protected conduct. Defendants may not sanction Plaintiffs for engaging in activity that is itself constitutionally protected, whether by the First Amendment or any other constitutional provision. *See NAACP v. Claiborne Hardware*, 458 U.S. 886, 932 (1982) (government may not penalize someone on the basis of association alone).

3. The criteria fail to utilize the least restrictive means to mitigate the “threat” to which they are addressed. No standard imposing an outright ban on air travel can comply with the Constitution if it is not the least restrictive means available to protect the Government’s interest in preventing threats to “civil aviation or national security” that could arise from permitting plaintiffs to fly. *See, e.g., Mohamed v. Holder*, 995 F. Supp. 2d 520, 530 (E.D. Va. 2014) (in a No Fly List case, citing *Aptheker* in refusing to conclude on record before the court that “there are no means less restrictive than an unqualified flight ban to adequately assure flight security”); *Jones v. Blanas*, 393 F.3d, 918, 932 (9th Cir. 2004) (striking down measures to incarcerate civil detainees because government’s procedures “[we]re employed to achieve objectives that could be accomplished in so many alternative and less harsh methods”). At a minimum, the Government must show why the utilization of the procedures it

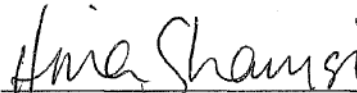
employed to avoid litigation of Plaintiffs' preliminary injunction motion—including the requirement that individuals book flights in advance on U.S. carriers and submit to heightened airport security measures—would not suffice to satisfy its interests in aviation security.

Plaintiffs request that Defendants craft new criteria that remedy these constitutional deficiencies, disclose those criteria to Plaintiffs, and apply those criteria to Defendants' factual allegations using a clear and convincing evidentiary standard.

Because Defendants have asked Plaintiffs to provide their responses to the DHS TRIP letters by December 15 or 16, 2014, the additional procedures and information we request should be provided to Plaintiffs no later than December 11, 2014. If Defendants agree to comply with the foregoing requests, Plaintiffs are willing to consider seeking a joint month-long extension of the January 16, 2015 deadline in the court's case management order, Dkt. No. 154 at 2, to accommodate hearings.

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UNION FOUNDATION

Sincerely yours,



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Hugh Handeyside

Ahilan Arulanantham
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Steven Wilker
Tonkon Torp LLP
1600 Pioneer Tower
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DEPARTMENT OF HOMELAND SECURITY
AUTHORIZATION TO RELEASE INFORMATION TO ANOTHER PERSON

Please complete this form to authorize the Department of Homeland Security (DHS) or its designated DHS Component element to disclose your personal information to another person. You are asked to provide your information only to facilitate the identification and processing of your request. Without your information DHS or its designated DHS Component element may be unable to process your request.

SECTION I. Personal Information

Name

Faisal Nabin Kashem

Address

See Representative's address, below

City

State

Zip Code

Country

Telephone Number(s)

+1 (212) 549-2500

Date of Birth

10/13/1987

Place of Birth (city, state, country)

New York, USA

SECTION II. Representative Information

Name

Hugh Handeyside, Staff Attorney, American Civil Liberties Union Foundation

Address

125 Broad Street, 18th Floor

City

New York

State

NY

Zip Code

10004

Country

United States of America

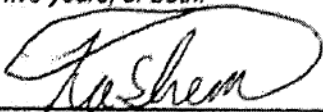
Telephone Number(s)

+1 (212) 549-2500

Pursuant to the Privacy Act of 1974 (5 U.S.C. §552a(b)), I authorize DHS and/or its DHS Component elements to release any and all information relating to my redress request to my representative.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above in Section I. I understand that falsification of this statement is punishable under the provisions of 18 U.S.C. §1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years, or both.

Signature



Date

12-13-14

PRIVACY ACT STATEMENT:

AUTHORITY: Title IV of the Intelligence Reform and Terrorism Prevention Act of 2004 authorizes DHS to take security measures to protect travel, and under Subtitle B, Section 4012(1)(G), the Act directs DHS to provide appeal and correction opportunities for travelers whose information may be incorrect.

PRINCIPAL PURPOSE(S): DHS will use this information in order to assist you with seeking redress in connection with travel.

ROUTINE USE(S): DHS will use and disclose this information to appropriate governmental agencies to verify your identity, distinguish your identity from that of another individual, such as someone included on a watch list, and/or address your redress request. Additionally, limited information may be shared with non-governmental entities, such as air carriers, where necessary for the sole purpose of carrying out your redress request.

DISCLOSURE: Furnishing this information is voluntary; however DHS may not be able to process your redress request without the information requested.

Exhibit C

**U.S. Department of Homeland
Security**
DHS Traveler Redress Inquiry
Program (DHS TRIP)
601 South 12th Street, TSA-901
Arlington, VA 22202-4220



**Homeland
Security**

January 21, 2015

Mr. Hugh Handeyside
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004

RE: Faisal Nabin Kashem
Redress Control Number: 2103133

Dear Mr. Handeyside:

The Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP) received your response of December 15, 2014, providing the reasons supporting your client's belief that his placement on the No Fly List was in error. DHS TRIP provided your submission to the Transportation Security Administration (TSA) for review. Attached, please find a TSA determination regarding your client's redress inquiry.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Moore".

Deborah Moore
Director, DHS Traveler Redress Inquiry Program

Office of the Administrator

U.S. Department of Homeland Security
601 South 12th Street
Arlington, VA 20598-6001



**Transportation
Security
Administration**

DECISION AND ORDER

On December 15, 2014, Faisal Kashem, through his counsel, submitted a response to the Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP) providing reasons why he believed his placement on the No Fly List was in error and requesting his removal from that List. For the reasons set forth below, I determine that Mr. Kashem should remain on the No Fly List.

On August 25, 2010, Mr. Kashem submitted a redress inquiry to DHS TRIP describing his travel difficulties. On November 4, 2010, DHS TRIP informed Mr. Kashem it had conducted a review of his records and determined that no changes were warranted at that time. On November 24, 2014, DHS TRIP informed Mr. Kashem that it was reevaluating his redress inquiry. DHS TRIP further informed Mr. Kashem that he was on the No Fly List because he had been identified as an individual who “may be a threat to civil aviation or national security.” 49 U.S.C. § 114(h)(3)(A). In particular, it had been determined that Mr. Kashem represented a threat of engaging in or conducting a violent act of terrorism and is operationally capable of doing so.

In addition, DHS TRIP provided Mr. Kashem with a summary of the unclassified facts available for release that supported his placement on the No Fly List and encouraged him to respond with relevant information if he believed the determination was in error or if he felt the

information provided to him was inaccurate. DHS TRIP withheld certain information because additional disclosure would risk harm to national security and jeopardize law enforcement activities. On December 15, 2014, Mr. Kashem, through his counsel, responded that he believed his placement on the No Fly List was not warranted and provided representations he believed to be relevant to DHS TRIP's determination. Mr. Kashem did not submit any evidence in support of any of these representations.

Upon review of all of the information Mr. Kashem has submitted to DHS TRIP, as well as other information available related to Mr. Kashem's placement on the No Fly List, I find that Mr. Kashem may be a threat to civil aviation or national security; in particular, I find that he represents a threat of engaging in or conducting a violent act of terrorism and is operationally capable of doing so. I therefore conclude that Mr. Kashem is properly placed on the No Fly List and no change in status is warranted.

Consistent with the protection of national security and law enforcement activities, I can provide the following explanation of my decision:

1. I have considered Mr. Kashem's contention that he "does not pose, and has never posed, a threat of engaging in a violent act of terrorism." I have concluded, however, that the information available, including Mr. Kashem's statements to the FBI, supports Mr. Kashem's placement on the No Fly List.
2. I have also considered: (i) Mr. Kashem's contention that [REDACTED] and (ii) Mr. Kashem's contentions [REDACTED] I conclude, however, that the information available supports Mr. Kashem's placement on the No Fly List.

These conclusions do not constitute the entire basis of my decision, but I am unable to provide additional information. Without specifying all possible grounds for withholding information in this case, information has been withheld for the following particular reasons:

- additional disclosure would risk harm to national security; and
- additional disclosure would jeopardize law enforcement activities.

No Fly List determinations, including this one, are not based solely on the exercise of Constitutionally protected activities, such as the exercise of protected First Amendment activity.

This determination constitutes a final order and is reviewable in a United States Court of Appeals pursuant to 49 U.S.C. § 46110 or as otherwise appropriate by law. A petition for review must be filed within 60 days of issuance of this order.

1-21-2015
DATED


Melvin J. Carraway
Acting Administrator
Transportation Security Administration

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Attorneys for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

AYMAN LATIF, et al., <i>Plaintiffs,</i>	Case 3:10-cv-00750-BR
v. ERIC H. HOLDER, JR., et al., <i>Defendants.</i>	JOINT COMBINED STATEMENT OF AGREED FACTS RELEVANT TO ALL PLAINTIFFS

In accordance with the Court’s Case Management Order dated February 13, 2015 (Dkt. No. 168), the parties have conferred and hereby submit the following Joint Statement of Agreed Facts Relevant to All Plaintiffs:

1. The Terrorist Screening Center (“TSC”) develops and maintains the federal Government’s consolidated Terrorist Screening Database (“TSDB”). The TSC has a multi-agency staff and is administered by the Federal Bureau of Investigation (“FBI”). The TSC provides identity information concerning known or suspected terrorists from the TSDB to other Government agencies that use that information for screening purposes.
2. TSC accepts nominations for inclusion in the TSDB when they satisfy two requirements. First, the biographic information associated with a nomination must contain sufficient identifying data so that a person being screened or encountered can be matched to or disassociated from a watchlisted person in the TSDB. Second, the facts and circumstances pertaining to the nomination must satisfy minimum substantive derogatory criteria for inclusion in the TSDB. Homeland Security Presidential Directives Nos. 6, 11, and 24 generally require nominations to meet a “reasonable suspicion” standard of review.
3. Nominations to the TSDB are generally accepted based on a “reasonable suspicion” that the individual is a known or suspected terrorist derived from the totality of the information reviewed. For watchlisting purposes, TSC’s standard is that “reasonable suspicion requires articulable intelligence or information which, taken together with rational inferences from those facts, reasonably warrant the determination that an individual is known or suspected to be, or has been engaged in conduct constituting, in preparation for, in aid of or related to, terrorism and terrorist activities.”
4. The No Fly List is a subset of the TSDB.
5. Nominations to the No Fly List must meet additional substantive criteria, above what is required for inclusion in the larger TSDB. More specifically, any individual, regardless

of citizenship, may be placed on the No Fly List if the TSC determines that he or she represents:

- a. A threat of committing an act of international terrorism (as defined in 18 U.S.C. § 2331(1)) or an act of domestic terrorism (as defined in 18 U.S.C. § 2331(5)) with respect to an aircraft (including a threat of air piracy, or threat to an airline, passenger, or civil aviation security); or
 - b. A threat of committing an act of domestic terrorism (as defined in 18 U.S.C. § 2331(5)) with respect to the homeland; or
 - c. A threat of committing an act of international terrorism (as defined in 18 U.S.C. § 2331(1)) against any U.S. Government facility abroad and associated or supporting personnel, including U.S. embassies, consulates and missions, military installations (as defined by 10 U.S.C. § 2801(c)(4)), U.S. ships, U.S. aircraft, or other auxiliary craft owned or leased by the U.S. Government; or
 - d. A threat of engaging in or conducting a violent act of terrorism and who is operationally capable of doing so.
6. The Government has defined or further elucidated some of the terms used in the criteria for placement on the No Fly List in the Watchlisting Guidance, which it has disseminated solely within the U.S. Government watchlisting and screening communities.
 7. The TSC provides the No Fly List to the Transportation Security Administration (“TSA”), a component of the Department of Homeland Security (“DHS”), for use in pre-screening airline passengers.
 8. The Department of Homeland Security Traveler Redress Inquiry Program (“DHS TRIP”) is the mechanism for individuals to seek redress for travel-related difficulties experienced at airports or while crossing U.S. borders. DHS TRIP is intended to permit inquiry, and, when appropriate, address situations in which:
 - a. travelers believe their travel difficulties may be the result of a watchlist misidentification;
 - b. travelers believe they have faced problems at ports of entry;
 - c. travelers believe they have been unfairly or incorrectly delayed, denied boarding, or identified for additional screening or inspection at transportation hubs as a result of, *inter alia*, being incorrectly placed on a watchlist.
 9. A traveler who experiences difficulties (including denied or delayed boarding) may submit a DHS TRIP Traveler Inquiry Form, after which the traveler will receive a Redress Control Number to help monitor the progress of the inquiry. The traveler may provide the Redress Control Number to air carriers the next time he or she attempts to travel.
 10. On the DHS TRIP Traveler Inquiry Form, travelers are prompted to describe their particular experience, produce documentation related to the subject inquiry (depending on the inquiry), provide at least one piece of government-issued photo identification, and provide contact information to which a response will be directed.

11. The Plaintiffs in this action each filed a DHS TRIP inquiry, and each received a determination letter in response.
12. The original determination letters that the Plaintiffs received in response to their DHS TRIP inquiries neither confirmed nor denied whether the Plaintiffs were in the TSDB or on the No Fly List, nor did the letters provide any further details about why the Plaintiffs were or were not in the TSDB or on the No Fly List. The determination letters also did not provide any assurances about the Plaintiffs' ability to undertake future travel.
13. In 2014, after the issuance of this Court's June 2014 Memorandum Opinion and Order (Dkt. No. 136), the Government advised the Court that it was undertaking a revision of its existing redress process. In connection with that effort in this case, and in accordance with the Court's October 3, 2014 Case Management Order (Dkt. No. 152), the DHS TRIP inquiries of the Plaintiffs remaining on the No Fly List were reopened.
14. On October 10, 2014, the Government informed the Court and seven of the Plaintiffs in this matter that as of that date, the seven Plaintiffs were not on the No Fly List. The notification that those seven Plaintiffs were not on the No Fly List stated that Defendants "make no other representations with respect to past or future travel." Dkt. No 153-1.
15. The Government reevaluated the DHS TRIP inquiries for the six Plaintiffs on the No Fly List: Faisal Kashem, Mohamed Sheikh Abdirahman Kariye, Raymond Knaeble, Amir Meshal, Stephen Persaud, and Steven Washburn.
16. The Government provided these six Plaintiffs with DHS TRIP notification letters. The notification letters to Faisal Kashem, Raymond Knaeble, Amir Meshal, Stephen Persaud, and Steven Washburn were dated November 24, 2014. The notification letter to Mohamed Sheikh Abdirahman Kariye was dated November 26, 2014.
17. The November 2014 DHS TRIP notification letters informed the Plaintiffs of their status on the No Fly List, stated what the Government identified as the applicable substantive criterion for each individual, and provided an unclassified summary that included reasons for the placement of each individual on the No Fly List.
18. The November 2014 DHS TRIP notification letters did not disclose all of the reasons or information that the Government relied upon in determining that the six Plaintiffs should remain on the No Fly List.
19. The November 2014 DHS TRIP notification letters informed each Plaintiff that the Government was "unable to provide additional disclosures" regarding each Plaintiff's placement on the No Fly List.
20. The November 2014 DHS TRIP notification letters did not discuss the presence or absence of information not reflected in the letters that might be in the Government's possession contravening a Plaintiff's placement on the No Fly List.
21. In some cases, the November 2014 DHS TRIP notification letters referenced prior statements allegedly made by Plaintiffs to Government officials. The November 2014

DHS TRIP notification letters did not provide the Plaintiffs with their full prior statements.

22. The November 2014 DHS TRIP notification letters did not confirm or deny whether any particular surveillance techniques were used to procure information that formed a basis for including the Plaintiffs on the No Fly List.
23. The November 2014 DHS TRIP notification letters invited the individuals to respond by written submission on or before December 15, 2014.
24. By letter dated December 5, 2014, counsel for Plaintiffs wrote to counsel for Defendants seeking additional information and procedures. Dkt. No. 167-1.
25. By letter dated December 14, 2014, counsel for Defendants advised counsel for Plaintiffs that they believed the notification letters and revised redress process were appropriate. Dkt. No. 167-2
26. On December 15, 2014, Plaintiffs Faisal Kashem, Raymond Knaeble, and Steven Washburn submitted responses to the DHS TRIP notification letters. Plaintiff Mohamed Sheikh Abdirahman Kariye submitted a response to his DHS TRIP notification letter on December 16, 2014. Plaintiff Amir Meshal submitted a response to his DHS TRIP notification letter on December 18, 2014. Plaintiff Stephen Persaud submitted a response to his DHS TRIP notification letter on January 8, 2015.
27. The Government assessed the Plaintiffs' responses and the Acting Administrator of TSA thereafter issued final determinations. The final TSA determinations regarding the redress inquiries submitted by Faisal Kashem, Mohamed Sheikh Abdirahman Kariye, Raymond Knaeble, Amir Meshal, and Steven Washburn were dated January 21, 2015. The final TSA determination regarding Stephen Persaud's redress inquiry was dated January 28, 2015.
28. The Government's re-evaluation of the Plaintiffs' DHS TRIP inquiries did not include a hearing at which live witness testimony could be presented or witnesses cross-examined.
29. The TSA Administrator's final determinations concluded that each of the six Plaintiffs should remain on the No Fly List.

Dated: March 13, 2015

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Attorneys for Plaintiff Stephen Persaud

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing stipulation was delivered to all counsel of record via the Court's ECF notification system.

s/ Hina Shamsi

Plaintiffs' Exhibit A

NATIONAL SECURITY
PROJECT



December 5, 2014

VIA EMAIL

Amy Powell
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Re: Latif v. Holder, Case No. 10-Civ.-750-BR

Dear Counsel:

After reviewing the DHS TRIP letters sent to the Plaintiffs in this case who remain on the No Fly List, we write to make three requests regarding the administrative process Defendants are using for these Plaintiffs.¹ First, we request that Defendants provide certain necessary procedural protections as part of the administrative process. Second and relatedly, we request that Defendants provide additional information related to the basis or bases for Plaintiffs' inclusion on the No Fly List. Third, we request that Defendants craft, apply, and disclose to Plaintiffs a constitutionally-compliant substantive standard for inclusion on the No Fly List. Such a standard must be narrower and more specific than the vague and over-broad standard that Defendants appear to be employing here.

In addition, as we discussed with Amy and Brigham before we received the DHS TRIP letters, we seek to enter into a stipulation and protective order to prevent public disclosure of the DHS TRIP letters and the additional information we are requesting. The need we anticipated for such a stipulation and protective order is confirmed by the inflammatory, piecemeal allegations in the letters. We will follow up with a call to discuss the content of the stipulation and protective order.

¹ It is our understanding that those Plaintiffs are Mohamed Sheikh Abdirahman Kariye, Faisal Kashem, Raymond Knaeble, Amir Meshal, Stephen Persaud, and Steven Washburn, because those are the only Plaintiffs for whom Defendants have provided DHS TRIP letters. If our understanding is incorrect, please inform us of that fact immediately.

ER0579

As Defendants will recall, the Court's order of June 24, 2014 (Dkt. 136) reiterated that "Plaintiffs' inclusion on the No Fly List constitutes a significant deprivation of their liberty interests," *id.* at 30; held that inclusion on the No Fly List imposes a "major burden" on those interests, *id.*; and required Defendants to provide "a new process that satisfies the constitutional requirements for due process." *Id.* at 61. The DHS TRIP letters sent to Plaintiffs, to which Defendants have asked Plaintiffs to respond by December 15 or 16, 2014, do not constitute process sufficient to satisfy due process and APA requirements under the Court's order. *Cf. Mathews v. Eldridge*, 424 U.S. 319, 334, 96 S. Ct. 893, 902, 47 L. Ed. 2d 18 (1976); 5 U.S.C. §§ 555, 556 (governing procedures and production of evidence in administrative proceedings). In particular, the information Defendants have provided does not suffice to permit any of the six Plaintiffs a "meaningful opportunity to respond" to the reasons for their inclusion on the No Fly List. *Al Haramain v. U.S. Dep't of Treasury*, 686 F.3d 965, 985 (9th Cir. 2011) (requiring meaningful notice and opportunity to be heard); *Kindhearts v. Geithner*, 647 F. Supp. 2d 857, 906 (N.D. Ohio 2009) (requiring "meaningful opportunity to be heard" by provision of a "post-deprivation hearing"); *see also* Dkt. 136 at 62 (citing *Al Haramain*).

For that reason, we request the following additional procedures and categories of information (if in the possession of any branch of the federal government), each of which is necessary to comply with the Court's order:

I. Additional Procedural Protections

Compliance with the Court's order requires Defendants to provide the following procedural protections:

1. A *complete* statement of reasons. The DHS TRIP letters suggest that there may be reasons other than those Defendants have provided on which they are relying to justify Plaintiffs' inclusion on the No Fly List. The Court's order plainly requires the provision of "*the* reasons for" Plaintiffs' inclusion, Dkt. 136 at 61 (emphasis added), and an incomplete statement makes it impossible for Plaintiffs to refute all of Defendants' bases for placing Plaintiffs on the List.

2. A *complete* statement regarding withheld evidence and the basis for withholding any such evidence. The DHS TRIP letters suggest that there *may* be both undisclosed evidence on which the Government has relied to justify Plaintiffs' inclusion on the No Fly List and undisclosed claims of privilege used to justify the withholding of that evidence. However, the Court's order indicates that Plaintiffs must know when evidence has been withheld and on what grounds so that they may meaningfully respond, including by requesting "disclos[ure] [of] the classified reasons to properly-cleared counsel," Dkt. 136 at 61, and whether to seek judicial review of any privilege assertion. *Id.* at 62.

Obviously, Plaintiffs cannot take those steps without knowing at least in summary form what evidence Defendants have chosen to rely upon without disclosing it, and the reasons for any such withholding.

3. An explanation of how Defendants' allegations satisfy appropriately narrow criteria for inclusion on the No Fly List. The DHS TRIP letters fail to explain if and how the allegations made in them relate to the substantive criteria for inclusion on the No Fly List. *See People's Mojahedin Org. of Iran v. U.S. Dep't of State*, 613 F.3d 220, 230 (D.C. Cir. 2010) (requiring the Secretary of State to explain how information relied upon for designation as a terrorist organization related to specific portion of governing statute). Without such an explanation, Plaintiffs are left to guess as to how their alleged conduct satisfies the substantive standards for inclusion on the list.

4. A hearing at which live witness testimony may be presented and tested under cross-examination. Due process requires hearings in contexts in which far less is at stake than inclusion on the No Fly List. *See, e.g., Califano v. Yamasaki*, 442 U.S. 682, 697, 99 S. Ct. 2545 (1979) (in social security context, paper review failed to satisfy due process because determination at issue "usually requires an assessment of the recipient's credibility"). Without a hearing, Plaintiffs have no ability either to establish their own credibility through live testimony or to challenge the testimony of Defendants' witnesses through cross-examination. Such live testimony is critical in situations, such as these, where credibility is central to any assessment of whether Plaintiffs may be deprived of their constitutionally protected liberty interest through inclusion on the No Fly List. *Cf. Mendoza Manimbao v. Ashcroft*, 329 F.3d 655, 662 (9th Cir. 2003) (holding that credibility determinations in deportation cases require a hearing because "[a]ll aspects of the witness's demeanor—including the expression of his countenance, how he sits or stands, whether he is inordinately nervous, his coloration during critical examination, the modulation or pace of his speech and other non-verbal communication—may convince the observing trial judge that the witness is testifying truthfully or falsely. These same very important factors, however, are entirely unavailable to a reader of the transcript.").

5. Application of a "clear and convincing" standard of proof where Defendants bear the burden of establishing that inclusion on the No Fly List is warranted. The DHS TRIP letters contain no articulation of any standard or burden of proof. The "clear and convincing evidence" standard is "the normal burden of proof . . . in civil proceedings in which the individual interests at stake . . . are both particularly important and more substantial than mere loss of money." *V. Singh v. Holder*, 638 F.3d 1196, 1204 (9th Cir. 2011) (internal quotations omitted). As the Ninth Circuit has recognized, courts have applied the "clear and convincing" standard in a variety of contexts involving significant deprivations of liberty. *See id.* (collecting cases involving

competency to proceed, deportation, denaturalization, and civil commitment). *See also Doe v. Gallinot*, 657 F.2d 1017, 1023 (9th Cir. 1981) (holding in civil commitment context that “[i]t is the state, after all, which must ultimately justify depriving a person of a protected liberty interest by determining that good cause exists for the deprivation.”). Given the comparably “significant deprivation of liberty” at stake here, Defendants must prove with clear and convincing evidence that Plaintiffs’ placement on the on the No Fly List is warranted.

II. Additional Information

Compliance with the Court’s order also requires Defendants to provide the following additional information in order to satisfy due process:

1. Plaintiffs’ prior statements. The DHS TRIP letters make clear that Defendants are relying upon some Plaintiffs’ alleged statements in order to justify their inclusion on the No Fly List. Defendants must provide all written or recorded statements of each Plaintiff, made to any persons at any time and place, and the substance of any oral statements, if not embodied in a writing. If any statements are recorded, please provide a transcript or audible copy of each recording. *See Dhiab v. Bush*, 2008 WL 4905489 at *2 (D.D.C. Nov. 17, 2008) (ordering, in habeas corpus proceeding brought by individual detained as alleged enemy combatants, disclosure of all statements made or adopted by the petitioner relating to the factual bases for his detention, as well as information regarding the circumstances of such statements) (citing *Bismullah v. Gates*, 501 F.3d 178, 187 (D.C. Cir. 2007) (“we presume counsel . . . has a ‘need to know’ all Government Information concerning his [or her] client”))).

2. Notice of surveillance techniques. The DHS TRIP letters suggest that some or all of the Plaintiffs were placed on the No Fly List based on information obtained or derived from surveillance activities. To the extent that any such information forms any basis for Plaintiffs’ inclusion on the No Fly List, or that the government intends to use such information in these administrative or any related judicial proceeding, Plaintiffs are entitled to notice of the surveillance and the information obtained or derived from it. *See, e.g.*, 50 U.S.C. § 1806(c) (FISA electronic surveillance); 50 U.S.C. § 1825(d) (FISA physical search); 50 U.S.C. § 1842(c) (FISA pen register); 18 U.S.C. § 2518(8)(d) (Title III). Due process also requires that the Plaintiffs be given notice of the surveillance techniques (including, but not limited to, surveillance under Executive Order 12,333) that led to their placement on the No Fly List so that they may seek review of the lawfulness of that surveillance and determine whether Defendants’ alleged basis or bases for including them on the No Fly List are derived from it. *See United States v. U.S. District Court (Keith)*, 407 U.S. 297, 92 S. Ct. 2125 (1972). To that end, each Plaintiff hereby asserts his right to notice of information or evidence that

forms any basis for his inclusion on the No Fly List that is the product of unlawful surveillance or was obtained by the exploitation of any unlawful surveillance. *See* 18 U.S.C. § 3504(a). Defendants must therefore “affirm or deny the occurrence of” such surveillance. *See id.*

3. Witness information and statements. The DHS TRIP letters make clear that Defendants are relying on the statements of witnesses to support Plaintiffs’ inclusion on the No Fly List. Defendants must therefore provide the names, last known addresses, and telephone numbers of witnesses upon whose statements Defendants are relying. This witness information includes: government agents whose statements the letters describe as fact; all reports relating to Plaintiffs prepared by law enforcement and other government personnel (including but not limited to any FD-302 reports prepared by FBI agents investigating any Plaintiff); the statements of unidentified third parties; the prior arrest and conviction records of all such persons; all prior written, recorded, or oral statements (including agents’ rough notes of such statements) of such persons; and all evidence that any such persons have ever made any false statement to law enforcement or the courts, whether or not under oath.

Individuals facing government sanctions in comparable civil proceedings have a right to such evidence. *See, e.g., Willner v. Comm. on Character & Fitness*, 373 U.S. 96, 103 (1963) (holding in bar license revocation context that “procedural due process often requires confrontation and cross-examination of those whose word deprives a person of his livelihood”); *Cabo Distrib. Co. v. Brady*, 821 F. Supp. 601, 611 (N.D. Cal. 1992) (same for revocation of alcohol label certificate). Moreover, such information could prove critical in determining whether any of these witnesses have a history of providing inaccurate or contradictory testimony, or a motive to provide biased or misleading information to law enforcement. It is also necessary both to allow Plaintiffs’ counsel to contact such witnesses (in order to independently investigate their claims) and for counsel to determine whether the use of their hearsay statements would be fundamentally fair. *See Calhoun v. Bailar*, 626 F.2d 145, 149 (9th Cir. 1980) (to constitute substantial evidence to support administrative determination, hearsay declarations, like any other evidence, must meet minimum criteria for admissibility, must have probative value and bear indicia of reliability; factors to be considered include independence or possible bias of declarant, type of hearsay materials submitted, whether statements are signed and sworn to, whether statements are contradicted by direct testimony, availability of declarant, credibility of declarant, and whether hearsay is corroborated); *Hernandez-Guadarrama v. Ashcroft*, 394 F.3d 674, 681-82 (9th Cir. 2005) (holding, in deportation context, that “the government’s choice whether to produce a witness or to use a hearsay statement [is not] wholly unfettered” and requiring showing that “despite reasonable efforts, [the government] was unable to secure the presence of the witness at the hearing” prior to use of hearsay evidence); *see*

also Dhiab, 2008 WL 4905489 at *4 (requiring consideration of “whether provision of nonhearsay evidence would unduly burden the movant or interfere with the Government’s efforts to protect national security”).

4. Promises to witnesses. Defendants must provide any express or implicit promise, understanding, offer of immunity, sentencing leniency, or of past, present, or future compensation, or any other kind of agreement or understanding between any witness whose statements or information form a basis for any Plaintiff’s inclusion on the No Fly List and any law enforcement or prosecutorial agent or agency (federal, state, and local). *Cf. Kyles v. Whitley*, 514 U.S. 419, 432-34 (1995) (reaffirming that the failure to disclose evidence favorable to an accused upon request violates due process, and holding that this requirement extends to all witness impeachment evidence); *United States v. Shaffer*, 789 F.2d 682 (9th Cir. 1986) (affirming reversal of conviction where prosecution failed to disclose that witness received benefits in exchange for cooperation with government).

5. Exculpatory evidence. Defendants must provide all evidence, including any statements by any person, tending to: contradict Defendants’ evidence in support of their inclusion of Plaintiffs on the No Fly List; show that Plaintiffs do not meet the appropriate criteria for inclusion on the No Fly List; or otherwise establish that Plaintiffs do not merit inclusion on the No Fly List. *See Dent v. Holder*, 627 F.3d 365, 374 (9th Cir. 2010) (holding in deportation context that failure to disclose exculpatory documents in government file violated due process); *Dhiab*, 2008 WL 4905489 at *1 (ordering, in habeas corpus proceeding brought by alleged enemy combatant, that the government must “disclose to Petitioner all reasonably available evidence in its possession or that the Government can obtain through reasonable diligence that tends materially to undermine the information presented to support the Government’s justification”).

III. Application of Appropriate Substantive Standard

Finally, the substantive standard that Defendants appear to be using to assess whether each Plaintiff’s inclusion on the No Fly List is warranted does not satisfy constitutional requirements, for the reasons set forth below:

1. The criteria cited in the DHS TRIP letters are overbroad. As a threshold matter, they do not require any nexus to aviation security. *See, e.g., Aptheker v. Sec’y of State*, 378 U.S. 500, 517, 84 S. Ct. 1659, 12 L.Ed.2d 992 (1964) (law imposing complete travel ban for members of communist organizations was overbroad and unconstitutional on its face). Because of that, the criteria “sweep[] too widely and too indiscriminately across the liberty guaranteed in the Fifth Amendment” and are “not . . . narrowly drawn to prevent the supposed evil.” *See id.* at 514. They mandate a significant penalty—inability to travel by air—that is untethered from the (undefined)

“threat” included in the criteria. Similarly, the criteria lack a meaningful temporal limitation. They fail to specify whether and to what extent past conduct can continue to satisfy the standard—whatever that may be—for placement on the No Fly List. They also lack any means for determining at what point, absent new information, an individual ceases to satisfy the criteria.

2. The criteria are unconstitutionally vague on their face and as applied to Plaintiffs. *See United States v. Wunsch*, 84 F.3d 1110, 1119 (9th Cir. 1996) (statute must be “sufficiently clear so as not to cause persons ‘of common intelligence ... necessarily [to] guess at its meaning and [to] differ as to its application’”) (quoting *Connally v. General Constr. Co.*, 269 U.S. 385, 391, 46 S. Ct. 126, 70 L. Ed. 322 (1926)). In particular, terms such as “threat,” “represent,” and “pose” are undefined and vague, opening the door to subjective, arbitrary, and discriminatory interpretation of the criteria. *See Foti v. City of Menlo Park*, 146 F.3d 629, 638 (9th Cir. 1998). Such ambiguous terms easily encompass conduct that individuals could not have known would lead to their placement on the No Fly List. *See id.* (noting that the void-for-vagueness doctrine exists in part “to avoid punishing people for behavior that they could not have known was illegal”).

Greater certainty as to the meaning of such terms is especially necessary when, as here, a statute “might induce individuals to forego their rights of speech, press, and association” to avoid the risk of penalty. *Scull v. Com. of Va. ex rel. Comm. on Law Reform & Racial Activities*, 359 U.S. 344, 353 (1959). Indeed, most of the DHS TRIP letters include allegations related to Plaintiffs’ speech or other expressive activity and associations, making it clear that the criteria impermissibly impinge on First Amendment-protected conduct. Defendants may not sanction Plaintiffs for engaging in activity that is itself constitutionally protected, whether by the First Amendment or any other constitutional provision. *See NAACP v. Claiborne Hardware*, 458 U.S. 886, 932 (1982) (government may not penalize someone on the basis of association alone).

3. The criteria fail to utilize the least restrictive means to mitigate the “threat” to which they are addressed. No standard imposing an outright ban on air travel can comply with the Constitution if it is not the least restrictive means available to protect the Government’s interest in preventing threats to “civil aviation or national security” that could arise from permitting plaintiffs to fly. *See, e.g., Mohamed v. Holder*, 995 F. Supp. 2d 520, 530 (E.D. Va. 2014) (in a No Fly List case, citing *Aptheker* in refusing to conclude on record before the court that “there are no means less restrictive than an unqualified flight ban to adequately assure flight security”); *Jones v. Blanas*, 393 F.3d, 918, 932 (9th Cir. 2004) (striking down measures to incarcerate civil detainees because government’s procedures “[we]re employed to achieve objectives that could be accomplished in so many alternative and less harsh methods”). At a minimum, the Government must show why the utilization of the procedures it

employed to avoid litigation of Plaintiffs' preliminary injunction motion—including the requirement that individuals book flights in advance on U.S. carriers and submit to heightened airport security measures—would not suffice to satisfy its interests in aviation security.

Plaintiffs request that Defendants craft new criteria that remedy these constitutional deficiencies, disclose those criteria to Plaintiffs, and apply those criteria to Defendants' factual allegations using a clear and convincing evidentiary standard.

Because Defendants have asked Plaintiffs to provide their responses to the DHS TRIP letters by December 15 or 16, 2014, the additional procedures and information we request should be provided to Plaintiffs no later than December 11, 2014. If Defendants agree to comply with the foregoing requests, Plaintiffs are willing to consider seeking a joint month-long extension of the January 16, 2015 deadline in the court's case management order, Dkt. No. 154 at 2, to accommodate hearings.

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

Sincerely yours,



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Hugh Handeyside

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Plaintiffs' Exhibit B



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December 17, 2014

VIA EMAIL

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Re: Latif v. Holder, 3:10-cv-00750-BR (D. Oregon)

Dear Counsel,

I write in response to your letter of December 5, 2014.

As you are aware, your clients received additional letters from DHS TRIP in late November. These letters are the result of the reopening of your clients' DHS TRIP complaints. The letters provided additional information regarding the basis of your clients' placement on the No Fly List, while balancing the interest in disclosure against the risks to national security. In our view, the letters strike that balance appropriately, and we disagree with the vast majority of the points of contention in your December 5, 2014 letter. Of note is the Court's recognition of the established need to limit disclosures that would present risks to national security. *See, e.g., Latif*, June 24, 2014 Mem. Op. (ECF No. 136) at 62 (noting that although evaluation must be given on a case by case basis, "this Court cannot foreclose the possibility that in some cases such disclosures may be limited or withheld altogether because any such disclosure would create an undue risk to national security"). We view the matters raised in your letter as appropriate for the Court's consideration through briefing at the conclusion of the reopened redress process.

The contents of your December 5 letter were also included in the responses you provided to DHS TRIP on December 15, 2014. As you know, final decisions on the reopened DHS TRIP complaints are to be made by January 16, 2015 (absent extension), and review of what you have submitted is underway. The next responses may include additional information, to the extent such information is appropriate for disclosure. To the extent you allege legal infirmity in those responses, we expect that these issues will be appropriate for resolution in the Court at the conclusion of the administrative process.

On the issue of timing, we understand that various factors, including hiring of new counsel, may delay the administrative process originally contemplated by the parties and the

ER0588

Court. We are available to discuss the schedule going forward and the status report due on December 19, 2014, and will plan for a telephone conference on Thursday, December 18. We are available in the morning, and possibly after 4 p.m.

Sincerely,

/s

Brigham J. Bowen

JOYCE R. BRANDA
Acting Assistant Attorney General
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Attorneys for Defendants

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

AYMAN LATIF, et al., <i>Plaintiffs,</i>	Case 3:10-cv-00750-BR
v. ERIC H. HOLDER, JR., et al., <i>Defendants.</i>	DEFENDANTS' STATUS REPORT

In accordance with the Court's October 6, 2014 Case Management Order, ECF No. 152, Defendants hereby submit this status report conveying the information required by paragraph 6 of that Order. Pursuant to the Order, the reapplication of revised redress procedures is complete

for all plaintiffs who remained on the No Fly List as of November 14, 2014, with the exception of Mr. Persaud, whose process remains pending.

Procedures and standards employed in each reconsideration: Application of revised redress procedures to Plaintiffs' DHS TRIP inquiries began with substantive assessments, conducted prior to November 14, 2014. Promptly thereafter, during the week of November 24, 2014, Defendants provided those plaintiffs remaining on the No Fly List with notification letters. These notification letters (1) informed Plaintiffs of their status on the No Fly List, (2) provided the specific applicable substantive criteria for each individual, and (3) provided unclassified summaries of the reasons why each individual met the applicable criteria, to the extent possible without compromising sensitive national security and law enforcement information.

With regard to the substantive criteria used to place individuals on the No Fly List, an individual nominated to the No Fly List must meet at least one of the following criteria by posing a threat of:

- (1) committing an act of international terrorism (as defined in 18 U.S.C. § 2331(1)) or an act of domestic terrorism (as defined in 18 U.S.C. § 2331(5)) with respect to an aircraft;
- (2) committing an act of domestic terrorism (as defined in 18 U.S.C. § 2331(5)) with respect to the homeland;
- (3) committing an act of international terrorism (as defined in 18 U.S.C. § 2331(1)) against any U.S. Government facility abroad and associated or supporting personnel, including U.S. embassies, consulates and missions, military installations, U.S. ships, U.S. aircraft, or other auxiliary craft owned or leased by the U.S. Government; or
- (4) engaging in or conducting a violent act of terrorism and who is operationally capable of doing so.

Decl. of G. Clayton Grigg, *Mohamed v. Holder, et al.*, No. 11-CV-0050, Dkt. No. 158-1 (E.D. Va. Dec. 9, 2014).

With regard to the unclassified information DHS TRIP was able to reveal, the scope and volume of that information varied, depending on the nature and sensitivity of relevant information relating to each individual. DHS TRIP was able to provide information to each

plaintiff identifying reasons for his inclusion on the No Fly List. DHS TRIP did not — nor could it — disclose all information relied upon in determining that each plaintiff should be on the No Fly List. Instead, DHS TRIP provided information able to be disclosed without compromising national security and law enforcement information and interests.¹

The November letters from DHS TRIP requested responses from Plaintiffs by December 15. Plaintiffs, with the exception of Mr. Persaud, submitted responses during that week. (Mr. Persaud obtained new counsel who submitted a response received by DHS TRIP on January 8, 2015.)

Defendants thereafter assessed Plaintiffs' submissions and provided them with final determinations on January 22, 2015. (As of this date, the process for Mr. Persaud is ongoing. In accordance with the Court's order, the Government expects to complete this process on or before January 28.) These final determinations reflect the TSA Administrator's consideration of Plaintiffs' submissions and provide responsive information as appropriate. As with the November notification letters, these final determinations did not disclose all information relied upon in determining that each plaintiff should be on the No Fly List, but included only information that could be disclosed without harm to national security and law enforcement interests.

Final result of Defendants' reconsideration. No plaintiffs who were on the No Fly List as of November 14, 2014, have been removed from the list upon reconsideration of their redress inquiries under the revised redress procedures.

¹ In some cases, and as set forth in the final determinations released to Plaintiffs, certain limited information was withheld for privacy reasons. To the extent additional grounds for withholding may exist (such as, *e.g.*, privacy information related to or appearing within other information wholly protected from disclosure for national security reasons), those grounds for withholding may not be identifiable without compromising the information itself or compromising other validly withheld information.

Dated: January 22, 2015

Respectfully Submitted,

JOYCE R. BRANDA
Acting Assistant Attorney General

DIANE KELLEHER
Assistant Branch Director
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s/ Brigham J. Bowen

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion was delivered to all counsel of record via the Court's ECF notification system.

s/ Brigham J. Bowen
BRIGHAM J. BOWEN

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

AYMAN LATIF, MOHAMED SHEIKH ABDIRAHM
KARIYE, RAYMOND EARL KNAEBLE IV,
STEVEN WILLIAM WASHBURN, NAGIB ALI
GHALEB, ABDULLATIF MUTHANNA, FAISAL
NABIN KASHEM, ELIAS MUSTAFA MOHAMED,
IBRAHEIM Y. MASHAL, SALAH ALI AHMED,
AMIR MESHAL, STEPHEN DURGA PERSAUD,
and MASHAAL RANA,

Plaintiffs,

v.

ERIC H. HOLDER, JR., in his official
capacity as Attorney General of the
United States; JAMES B. COMEY, in his
official capacity as Director of the
Federal Bureau of Investigation; and
CHRISTOPHER M. PIEHOTA, in his
official capacity as Director of the
FBI Terrorist Screening Center,

Defendants.

3:10-cv-00750-BR

CASE-MANAGEMENT
ORDER

BROWN, Judge.

Having fully considered the parties' respective case-management proposals (#148) following the Court's June 24, 2014, Opinion and Order (#136) and having conducted a Rule 16 Case Management Conference with counsel on October 3, 2014, the Court, in the exercise of its case-management discretion, issues this Case-Management Order.

The Court notes the importance, complexity, and sensitivity of the issues raised and the remedies to be implemented in this matter preclude proceeding with undue haste. Nevertheless, in light of the fact that each Plaintiff has presumably been prevented from flying internationally and otherwise over United States airspace during the four years this matter has been pending, the Court concludes the time has come to resolve the claims of each Plaintiff on an individualized basis as soon as practicable. Accordingly, in the exercise of its discretion, the Court fashions the following schedule to address such individual claims expeditiously while allowing time for Defendants to make system-wide changes in due course to its DHS TRIP processes, which, the Court emphasizes, are beyond the reach of this particular litigation:

1. The Court concludes a remand of this matter is unnecessary to permit Defendants to reconsider each Plaintiff's individualized DHS TRIP redress inquiries under re-formulated

procedures compliant with this Court's Opinion and Order of June 24, 2014. Accordingly, the Court directs Defendants to make and to complete such individualized reconsideration as soon as practicable and within the timelines ordered herein.

2. No later than **October 10, 2014**, Defendant shall identify to the Court and Plaintiffs which Plaintiffs, if any, will not be precluded as of that date from boarding a commercial aircraft flying over United States airspace. In light of each Plaintiff's allegations that each has previously been denied boarding such flights (because of inclusion on the No-Fly List) as well as the fact that any Plaintiff who will not be precluded on that basis as of October 10, 2014, may have no other justiciable claims in this action, the Court concludes it is not necessary to issue a protective order as to this required disclosure.

3. Although the Court agrees Defendants require some time to reconsider any remaining Plaintiffs' DHS TRIP redress inquiries under constitutionally-sufficient procedures, Defendants shall, no later than **November 14, 2014**, complete an interim substantive review of the grounds for precluding all remaining Plaintiffs from flying over United States airspace in order to determine whether any additional Plaintiffs may thereafter be permitted to board such aircraft. If at any time Defendants determine any Plaintiff is presently eligible to do

so, Defendants shall immediately notify the Court and Plaintiffs of such status.

4. If Defendants determine after the interim substantive review of a Plaintiff's status that such Plaintiff is not presently eligible to fly over United States airspace, Defendants shall promptly and consistent with the Court's Opinion and Order of June 24, 2014:

(a) give such Plaintiff notice of that determination;

(b) give such Plaintiff an explanation of the reasons for that determination sufficient to permit the Plaintiff to provide Defendants relevant information responsive to such reasons; and

(c) consider any such responsive information provided before completing the substantive reconsideration of such Plaintiff's DHS TRIP redress inquiry as ordered herein.

5. No later than **December 19, 2014**, Defendants shall file a Status Report updating the Court and Plaintiffs of Defendants' progress in reconsidering each remaining Plaintiff's DHS TRIP applications.

6. No later than **January 16, 2015**, Defendants shall have completed their final substantive reconsideration of all remaining Plaintiffs' DHS TRIP redress inquiries pursuant to procedures fully compliant with the Court's June 24, 2014, Opinion and Order, and Paragraph 4 above. Defendants shall file a Status Report as of that date detailing the procedures and

standards employed in each reconsideration and informing the Court and Plaintiffs of the final result of Defendants' reconsideration of the remaining Plaintiffs' DHS TRIP redress inquiries.

7. Although this Order expresses firm deadlines and the Court does not intend to grant any extension absent a compelling showing that highly extraordinary intervening circumstances make compliance with this Order impossible, the Court will consider any requested extension of time that follows full conferral among the parties.

8. Because it is likely there will be claims remaining for adjudication in this Court on completion of Defendants' reconsideration of the remaining Plaintiffs' DHS TRIP redress inquiries, the parties shall submit a Joint Status Report no later than **January 31, 2015**, informing the Court of their proposed process and schedule for adjudicating those remaining claims. In the meantime the Court will not consider any substantive motions on the merits of Plaintiffs' claims and the Court expects the parties not to engage in ordinary discovery, but any party may request an interim status conference with and direction from the Court when good cause exists.

9. Although the Court does not intend to issue a general order requiring Defendants to permit Plaintiffs to fly over United States airspace during the continued pendency of these

proceedings, if a Plaintiff is presented with extraordinary circumstances that necessitate such travel (such as the death or critical illness of an immediate family member), that Plaintiff shall confer and attempt to reach an agreement with Defendants for a one-time waiver permitting the Plaintiff to complete such necessary travel. If that Plaintiff and Defendants are unable to reach an agreement, the Plaintiff may petition the Court for such relief, and Defendants will be permitted to respond accordingly. As noted, however, the Court will consider such trip-specific relief only in the most extraordinary circumstances.

10. The Court expects the parties to make all filings on the public docket. If, however, a filing contains information that must be submitted under seal or if circumstances arise in which a party must file a document *ex parte*, that party shall file a corresponding document on the public docket noting and, to the extent possible, substantively summarizing such submission for the public record.

IT IS SO ORDERED.

DATED this 6th day of October, 2014.



ANNA J. BROWN
United States District Judge

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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

AYMAN LATIF, et al., <i>Plaintiffs,</i>	Case 3:10-cv-00750-BR
v. ERIC H. HOLDER, JR., et al., <i>Defendants.</i>	PARTIES' SUPPLEMENTAL JOINT STATUS REPORT

SUPPLEMENTAL JOINT STATUS REPORT

Following the filing of the parties' Joint Status Report on August 4, 2014 (Docket #144), the Court directed the parties to confer regarding six questions it posed, and to submit an additional joint status report setting forth the parties' positions as to those questions. The parties have now conferred regarding the Court's questions and submit this Supplemental Joint Status Report in accordance with the Court's order.

1. Do Defendants intend to seek an interlocutory appeal, and, if so, within what time-frame do Defendants propose to seek such an appeal?

Defendants' Response: Defendants do not intend to seek an appeal of the Court's interlocutory decision entered on June 24, 2014 at this time.

Plaintiffs' Response: Plaintiffs have asked for clarification whether Defendants will seek to appeal the Court's decision at any time, and have received none. To the extent Defendants had 60 days to decide whether to seek interlocutory appeal, that time has now expired.

2. What is the minimum realistic time-frame within which Defendants can produce new procedures to consider each Plaintiff's status?

3. What is the least amount of time needed to reconsider each Plaintiff's DHS TRIP inquiries after such new procedures have been promulgated?

Defendants' Response: With respect to questions 2 and 3, Defendants respectfully submit that the six-month period they have proposed is the minimum realistic time-frame needed to complete the process they have described, including developing revised procedures, applying the revised procedures to Plaintiffs and issuing final administrative orders. As previously described, creating revised procedures is a significant undertaking, involving balancing the complex needs of multiple federal agencies having a role in protecting aviation security from terrorist threats, with full consideration of the multiple issues identified by the Court. In particular, six months is needed because developing revised procedures will require the relevant agencies to assess the impact on national security of disclosing additional information.

Accordingly, Defendants have already commenced the interagency discussions necessary to develop revised procedures and expect that, by around mid-November, they can provide an update with publicly available information. The time needed to complete the process thereafter will depend on whether additional work remains to refine the process at that time, whether any individual Plaintiffs are on the No Fly List, what kind of process is provided to individual Plaintiffs as a result of the revised procedures, and whether any Plaintiffs' responses to that process requires additional deliberation or investigation by the Government. Despite these uncertainties, Defendants are nonetheless committed to complete all of these steps and issue final orders prior to February 2, 2015.

As noted in Defendants' portions of the parties' August 4, 2014 status report (Dkt. 144), Plaintiffs' suggestion that the parties forge ahead with briefing on the legality of procedures that Defendants have not yet devised nor applied is neither productive nor logical. The Court left to Defendants the obligation to revise those procedures. Plaintiffs' characterization of undue delay

is untrue and unfair; Defendants' voluntary remand is a significant undertaking by multiple Government agencies to rework the existing administrative scheme and apply it to Plaintiffs. This ordering ensures that matters are appropriately vetted within the relevant agencies before they are presented to the Court. In addition, Defendants submit that briefing any procedures before they are applied to Plaintiffs would be similarly unhelpful, as the issues may not be fully articulated for the Court at that time.

Plaintiffs' Response: Even if Defendants abide by the time-frame they suggest, their proposal virtually guarantees over a year of litigation for Plaintiffs who remain on the No Fly List after Defendants apply their unilaterally-devised procedures. That is because, if the Court accepts Defendants' proposal, Plaintiffs will not be able to start briefing any challenges they have to the constitutional adequacy of Defendants' new procedures until February 2015, and the Court will not be able to adjudicate that procedural due process challenge—let alone Plaintiffs' substantive due process claims—until after that time. In essence, Plaintiffs who remain on the No Fly List will be worse off than they are now—over four years after they initiated this litigation, and several months after this Court recognized Plaintiffs' constitutionally-protected liberty interest in travel and held that Plaintiffs' procedural due process rights have been violated. Plaintiffs' position therefore remains that the procedural posture of this case calls for immediate briefing from the parties on the new procedures the Court has ordered the Defendants to fashion, so that the Court may adjudicate Plaintiffs' substantive due process claims and requests for declaratory and injunctive relief promptly.

Defendants' responses to the Court's questions exacerbate Plaintiffs' concern that additional litigation is inevitable: Defendants' insistence that they, and they alone, must decide on the form and content of new redress procedures speaks volumes about the likelihood that the

remand Defendants propose will result in a system that requires Plaintiffs to renew their procedural due process challenge. Defendants appear to treat the Court's Order as merely one factor to be considered in devising an adequate redress process, rather than as a statement of constitutional imperatives. They have offered no reassurance that they will provide Plaintiffs with notice "reasonably calculated to permit Plaintiffs to submit evidence relevant to the reasons for their respective inclusions on the No Fly List," or the meaningful opportunity to be heard that is at the heart of the Due Process Clause and this Court's Order. *See Op. and Order*, Docket #136 at 61. Rather than stating an intent to *comply* fully with the Court's order, Defendants say only that they will give it "full consideration," and "endeavor to increase transparency" while taking into account "myriad legal and policy concerns" related to the No Fly List. Joint Status Report, Docket #144 at 4. It should go without saying that the Court's Order is not an advisory opinion for Defendants to consider; it is an order setting forth terms with which Defendants must comply.

Should the Court permit Defendants to proceed as they propose, however, Plaintiffs respectfully submit that Defendants should not then subject Plaintiffs to the new administrative procedures—the constitutionality of which would remain in question—until the parties have briefed the constitutional adequacy of those procedures. Although it is Plaintiffs' view that allowing Defendants to fashion procedures through a one-sided, non-adversarial process is neither fair nor efficient, Plaintiffs respectfully submit that it makes even less sense for Defendants to take several additional months to then apply those procedures to Plaintiffs, when any defects in the procedures would invalidate the results of the process and lead to further iterations of challenge and review—and, of course, further delay. Thus, should the Court permit Defendants to take three months to devise new procedures, Plaintiffs ask the Court then to permit

the parties to brief any challenges Plaintiffs have to the constitutional adequacy of those procedures.

4. Can interim steps be taken to permit Plaintiffs to fly as may be needed while this action remains pending in the trial court and during any appeal? What would such interim steps look like?

Defendants' Response: If a person is on the No Fly List, it is because the Executive Branch has evaluated the available intelligence and deemed that person a threat to civil aviation and/or national security and has accordingly determined that he or she should be prevented from boarding an aircraft. *See* 49 U.S.C. §114(h)(3). The decision to place an individual on the No Fly List involves matters of national security and intelligence, and, as the Court recognized, the Government and public interest in protecting national security is particularly compelling. *See* Slip Op. at 41-42. Under the current circumstances of this case, it therefore would be inappropriate and unwarranted for the Court to order the Government to permit an individual on the No Fly List to board a civilian aircraft, where the Court has not addressed the merits of Plaintiffs' substantive claims. For the same reasons, the Court should not order any such preliminary remedy, particularly while the relevant Government agencies are undertaking the revision of procedures and a renewed review of Plaintiffs' redress requests. Such relief would be entirely unrelated to Plaintiffs' procedural claims and therefore unwarranted; although such relief could be arguably related to their substantive claims, the Court has not ruled on those claims, and Plaintiffs have not made a showing under the standard for extraordinary preliminary relief. *See Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). In any event, even if Plaintiffs ultimately prevail on some or all of their substantive claims, the appropriate remedy would be remand to determine whether or not such an individual should be placed on a No Fly List.

Because such a remand is ongoing, there is no reason for the Court to consider preliminary relief.

In particular, Plaintiffs suggest that Defendants somehow apply to them the inapposite procedures that exist to address the unique situation in which a U.S. person is denied boarding on flights to the United States from abroad. In that specific and unusual situation, the Government has developed procedures for attempting to resolve the travel difficulties of U.S. persons returning to the United States. It would be inappropriate to order some type of application of these procedures to the Plaintiffs in this case, none of whom presently claim to be unable to enter the United States or claim any entitlement to preliminary relief.

However, it is possible that some alleged travel difficulties could be resolved at this time without the imposition of extraordinary and unwarranted measures. Given the current circumstances of this case, Defendants would be willing to provide the names of those Plaintiffs (if any) who are not currently on the No Fly List to Plaintiffs and their counsel under an appropriate protective order.¹ This measure would provide clarity to individual Plaintiffs (if any) who are not on the No Fly list and eliminate any alleged hardship.²

Plaintiffs' Response: Defendants' proposal to inform certain Plaintiffs that they are not on the No Fly List is long overdue, but does nothing to alleviate the continuing hardships for the

¹ No Fly List status is currently considered sensitive information, and, as explained in Defendants' initial status report, Defendants are currently undertaking extensive interagency deliberations regarding revised redress procedures, with full consideration of the Court's order, including about how this information will be addressed in such procedures (for example, precise contexts, timing, and wording). In addition, Plaintiffs have alleged that they were and are stigmatized by any inferences which can be drawn about their alleged status on the No Fly List when they were denied boarding. To permit public dissemination of an official disclosure of No Fly list status could interfere with the agencies' ongoing deliberations about broader revisions to the redress process and also could implicate the kinds of allegations Plaintiffs have made. Defendants thus request that the Court enter a protective order that limits the dissemination of this information to Plaintiffs and their counsel until such time as the remand is concluded. Defendants counsel consulted with plaintiffs' counsel about the possibility of a protective order, and Plaintiffs' counsel did not take a position prior to filing.

² Defendants understand that the Court found that due process requires disclosure of status as part of a constitutionally sufficient redress process, which the Court has charged Defendants with devising. The Court has not, to our knowledge, ordered immediate disclosure outside that process, as Plaintiffs seem to believe.

Plaintiffs who remain on the No Fly List. Indeed, Defendants offer nothing more than to take steps to carry out what the Court has already ordered: notice to Plaintiffs of their status on or off the No Fly List. Defendants' refusal to take interim steps makes little sense given the record in this case, which shows that Defendants can—and have—taken such measures in the past.³

As an initial matter, it bears repeating that each Plaintiff has stated in a sworn declaration to this Court that he or she poses no threat to aviation security. Nonetheless, Plaintiffs are willing to submit to additional security measures on an interim basis if doing so would enable them to fly while their remaining claims are being adjudicated, particularly if the Court permits Defendants to take at least six months to fashion administrative redress procedures and, as Defendants propose, apply those procedures to Plaintiffs—after which further constitutional review of the new procedures and this Court's judicial review of Defendants' substantive determinations would still need to occur. Pending such a drawn-out process, Plaintiffs must continue to live under a regime that this Court has already adjudicated unconstitutional.

Defendants could take interim measures that, at a minimum, permit Plaintiffs to fly to and from the United States if they agree to take the steps that Defendants utilized to permit several of the Plaintiffs to return home at the outset of this case. These steps include: providing the government with advance notice of their travel plans; booking on U.S.-based carriers; arriving at departure airports earlier than usual; undergoing additional screening prior to boarding; and, if necessary, the (presumably undisclosed) use of federal air marshals on flights.

Defendants have already used one or more of these measures in order to avoid litigation over the preliminary injunction filed by Plaintiffs who were previously stranded overseas. *See* Mem. in Supp. of Mot. for Prelim. Inj., Docket #21 at 36; Joint Status Report, Docket #28 at 3-

³ Although Plaintiffs have not asked the Court to order such measures, they reserve their right to do so, including in the form of injunctive relief.

4.⁴ Defendants instructed Plaintiffs who were abroad to provide the U.S. embassies in the countries where they were stranded with itineraries for return travel in advance of their dates of travel, and the embassies then coordinated with local authorities to permit the Plaintiffs to board their flights. As an interim measure only, Plaintiffs believe such measures would be appropriate to permit them to fly either domestically or abroad while this action is pending.⁵ Defendants' refusal to provide these measures, combined with their proposal delaying resolution of Plaintiffs' substantive due process and other remaining claims, perpetuate the personal and constitutional injuries they continue to suffer.

5. If the Court determines a stay and partial remand of the type that Defendants propose is reasonable, is there any reason why the case could not simultaneously proceed in this Court to litigate Plaintiffs' substantive due-process and declaratory-judgment claims?

Defendants' Response: Plaintiffs' substantive claims are inextricably bound up with the procedural claims. Plaintiffs' substantive due process claims concern the reasons underlying any government action. Substantive due process requires that certain fundamental rights must not be

⁴ Defendants did not assure the Plaintiffs stranded overseas that they would subsequently be able to travel abroad again after having returned to the United States. Plaintiffs Faisal Kashem and Elias Mohamed therefore elected not to return to the United States because they did not want to risk being unable to return to complete their studies overseas. See Joint Status Report, Docket #28 at 3-4. Plaintiff Mashal Rana has also not availed herself of this process because she fears being unable to return abroad to be with her husband. Interim measures should include the additional protection Plaintiffs seek, so as to allow these plaintiffs to finally avail themselves of their rights as U.S. citizens.

⁵ Defendants have since extended those procedures to all U.S. citizens or lawful permanent residents ("LPRs") who are stranded overseas because of their presumed status on the No Fly List. The procedures call for such individuals to contact the State Department's Office of Overseas Citizens Services ("OCS") or a responsible official at a U.S. embassy abroad regarding denial of permission to board U.S.-bound airplanes; present OCS or the official with a proposed itinerary for return travel with advance notice; and purchase the ticket once OCS or the official has communicated approval for the proposed itinerary. Individuals with approved itineraries are advised to arrive at the airport at least four hours before their flights depart, in order to allow for any additional screening. See American Civil Liberties Union, Know Your Rights: What to Do if You Think You're on the No Fly List, available at <https://www.aclu.org/national-security/know-your-rights-what-do-if-you-think-youre-no-fly-list> (compiling information based on instructions the government has given the ACLU when the ACLU seeks to help travelers apparently on the No Fly List return home, and the experiences of those travelers).

abridged by the legislature absent a “compelling” governmental interest and narrow tailoring, and that other liberty interests be rationally related to legitimate government interests. *See generally Washington v. Glucksberg*, 521 U.S. 702 (1997). Either inquiry involves a careful examination of the Government’s rationale for an action. Moreover, evaluation of the substantive Administrative Procedure Act claims requires examination of the administrative record supporting the decision at issue. The relevant records and the reasoning for maintaining a No Fly listing (if any) for Plaintiffs are nearly certain to be affected by the revised redress procedures that Defendants are developing and plan to apply to Plaintiffs; for example, the consultation of any additional materials submitted by any Plaintiff as part of that process. If such information is submitted and considered during the remand, it could change the agencies’ reasoning and affect the substantive outcome.

There are a multitude of possible outcomes from the application of revised procedures to Plaintiffs that could affect the Court’s consideration of Plaintiffs’ substantive claims and counsel against proceeding with such claims at this time. If a Plaintiff was, but is no longer on the No Fly List at the conclusion of the remand, that Plaintiff’s “substantive” claims would be entirely moot. If a Plaintiff remains on the No Fly List at the conclusion of the remand, this decision with respect to redress will be a new agency action, and the analysis underlying such a placement may have changed at least in part. To adjudicate the present claims, when the Government has undertaken to revise the procedures forming the basis for those claims and apply them to Plaintiffs, would waste the resources of the parties and the Court; it also would unnecessarily interfere in ongoing agency deliberations. In short, the issues for judicial review of Plaintiffs’ substantive claims would be clarified and potentially narrowed following Defendants’ actions,

and thus, continuing to litigate such claims now would not promote an efficient resolution of this case and would be disruptive of the ongoing interagency process.

In general, voluntary remand is consistent with the principle that “[a]dministrative agencies have an inherent authority to reconsider their own decisions, since the power to decide in the first instance carries with it the power to reconsider.” *Trujillo v. General Electric Co.*, 621 F.2d 1084, 1086 (10th Cir. 1980); *see also Lute v. Singer Co.*, 678 F.2d 844, 846 (9th Cir. 1982) (discussing *Trujillo*); *NRDC v. Norton*, 2007 WL 14283 at *8 (E.D. Cal. Jan. 3, 2007) (collecting cases). Courts retain the discretion to remand an agency decision when an agency has raised “substantial and legitimate” concerns in support of remand. *See Am. Forest Resource Council v. Ashe*, 946 F. Supp. 2d 1, 41 (D.D.C. 2013) (quoting *SFK USA, Inc. v. United States*, 254 F.2d 1022, 1029 (Fed. Cir. 2001)). Voluntary remand also serves to “save the Court’s and the parties’ resources.” *See Am. Forest Resource Council v. Ashe*, 946 F. Supp.2d at 43; *see also Sierra Club v. Antwerp*, 560 F. Supp. 2d 21, 23 (D.D.C. 2008) (“an agency wishing to reconsider its action, should move the court to remand or hold the case in abeyance pending the agency’s reconsideration”) (citing *Anchor Line Ltd. v. Fed. Mar. Comm’n*, 299 F.2d 124, 125 (D.C. Cir. 1962)). .

Plaintiffs insist that the Court could engage in further substantive proceedings, but even assuming Plaintiffs’ “substantive” claims have merit, the only appropriate result of such proceedings would be a remand order, allowing Defendants a plausible amount of time to remake and apply new procedures in reaching a new substantive decision, a process which Defendants are currently undertaking. This proposal is both more efficient than Plaintiffs’ proposal and more consistent with the principles adopted in the Court’s opinion, that

“Defendants (and not the Court) must fashion new procedures that provide Plaintiffs with the requisite due process described herein without jeopardizing national security.” Slip Op. at 61.

Plaintiffs’ Response: As a formal doctrinal matter, Plaintiffs are unaware of any legal rule that would bar Defendants from reconsidering the policies applicable to the Plaintiffs while this Court simultaneously considers the substantive due process and declaratory relief claims.

However, Plaintiffs respectfully submit that a remand for administrative review of Plaintiffs’ claims that is concurrent with judicial review in this Court would be unnecessarily duplicative and would in practice almost certainly delay judicial resolution of Plaintiffs’ pending claims. To adjudicate Plaintiffs’ substantive due process claims and requests for declaratory and injunctive relief, Plaintiffs have asked this Court to (1) find that Defendants have violated Plaintiffs’ constitutionally-protected liberty interests in travel and freedom from false stigmatization by placing Plaintiffs on the No Fly List, (2) declare that Defendants’ policies, practices and customs violate the Fifth Amendment and the Administrative Procedures Act, and (3) require Defendants to remedy these violations by providing meaningful notice of the reasons for Plaintiffs’ inclusion on the No Fly List, a meaningful opportunity to contest inclusion, and, after adjudication, removal of the Plaintiffs from the No Fly List. In its Opinion, the Court has already made the findings that are necessary for the declaratory relief requested in (2). It remains for the Court to adjudicate Plaintiffs’ substantive due process claims (1) and their injunctive remedy claims (3). If this judicial process occurs concurrent with agency administrative review, the Court and executive agencies would be making the same or similar determinations, perhaps with different outcomes.⁶ Plaintiffs’ original proposal would avoid such

⁶ Defendants’ assertion that “the only appropriate result” of a ruling in Plaintiffs’ favor on their substantive claims would be a remand order to “apply new procedures in reaching a new substantive decision,” *see supra*, misconstrues the nature of Plaintiffs’ claims and implies that the only remedy for a substantive due process violation is further agency proceedings. That is not the case. If, as Plaintiffs’

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duplication while also permitting expeditious resolution of Plaintiffs' remaining claims—and an end to the years-long limbo that has had such deeply negative consequences for Plaintiffs' personal and professional lives.

By contrast, Defendants' continued insistence on a unilaterally-devised administrative process delays resolution of Plaintiffs' claims, perpetuates uncertainty about the constitutional adequacy of revised redress procedures, and unnecessarily postpones the inevitable: this Court's judicial review of the validity of Plaintiffs' placement on the No Fly List. The interagency process that Defendants have initiated need not be complete before the issues for judicial review of Plaintiffs' remaining claims can be "clarified and potentially narrowed." *See* Defs.' Resp., *supra*. Each Plaintiff either is, or is not, on the No Fly List—something Defendants could inform them of immediately. And the new redress process is irrelevant to determining whether any given Plaintiff's placement on the No Fly List constituted a substantive due process violation.

Defendants cite to cases that are easily distinguishable and offer no guidance here. First, those cases are inapposite because they do not involve legal or factual circumstances that are analogous to those before this Court. *See Trujillo*, 621 F.2d at 1085-87 (determining whether agency could reconsider and rescind previously issued agency notice concerning plaintiffs' right to sue agency); *Lute*, 678 F.2d at 845-46 (same); *Ashe*, 946 F. Supp. 2d at 4 (considering challenge to habitat designation under Endangered Species Act); *Sierra Club*, 560 F. Supp. 2d at 22 (challenge to issuance of Clean Water Act permit).⁷ Second, those cases do not involve

request, the Court finds that Defendants violated Plaintiffs' substantive due process rights by placing them on the No Fly List, the Court plainly has the authority to order Plaintiffs to be removed from the List.

⁷ *NRDC v. Norton*, 2007 WL 14283 (E.D. Cal. Jan. 3, 2007), actually undermines Defendants' argument. In that case, the plaintiffs challenged opinions issued by any agency (the U.S. Fish and Wildlife Service) under a statute (the Endangered Species Act). *Id.* at *1. In considering defendants' request for a voluntary

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underlying administrative procedures that had been found to be unconstitutional, nor do they contemplate that new procedures would have to be fashioned in order to supply the plaintiffs in those cases with constitutional due process. *See id.* In other words, the courts in those cases had no reason to question the validity of agency procedures. Third, the courts in *Trujillo* and *Lute* did not hold that an agency must be permitted to reconsider its original decision, much less that a matter must be remanded to an agency, as Defendants inexplicably suggest. Instead, the courts merely held that agencies have the authority to reconsider original determinations—reconsiderations that occurred *before the plaintiffs in those cases ever filed federal lawsuits on the merits.* *Trujillo*, 621 F.2d at 1086; *Lute*, 678 F.2d at 845. Thus, the cases Defendants cite provide no authority in support of their position, and instead underscore that the government’s proposed remand would be premature and inefficient under the circumstances of this case.

6. What discovery, motion practice, and other case-management steps need to be accomplished to adjudicate Plaintiffs' remaining substantive due-process and declaratory-judgment claims and within what time-frame can these be reasonably accomplished?

Defendants’ Response: The claims of those Plaintiffs who are not on the No Fly List at the conclusion of the remand should likely be dismissed as moot absent some new claim. They would have received all relief to which they could possibly be entitled in this action. For Plaintiffs who are on the No Fly List at the conclusion of the remand, Defendants possibly may be able to file a new dispositive motion based on stipulated facts (as the parties have proceeded thus far) and/or a public administrative record based on the concluded administrative

remand (as an alternative to dismissal), the court held that voluntary remand was inappropriate because there were factual disputes concerning the basis for the agency’s opinions. *Id.* at *13. Key to the court’s decision was its view that the case should not be remanded to the agency before a decision on the merits. *Id.* at *12; *see also id.* at *16 (“Plaintiffs are entitled to have their complaint decided on the merits, particularly given the fact that Defendants continue to rely on the challenged [opinions] as if they were lawfully enacted.”). *Norton* provides persuasive authority in support of Plaintiffs’ position, not Defendants’.

proceedings, depending on the outcome of the remand. If it is not possible to resolve the matter at that time on the basis of public information, the parties will need to consider the nature of any further proceedings; if the matter is in discovery, Defendants will need to consider the applicability of certain privileges that could shape the litigation, depending on the precise information at issue. *See, e.g., Mohamed v. Jeppesen Dataplan, Inc.*, 614 F.3d 1070 (9th Cir. 2010). Rather than broach these issues prematurely, Defendants propose that the parties meet and confer shortly after conclusion of Defendants' action in the voluntary remand in order to propose to the Court prompt next steps at that time.

Defendants would appreciate the opportunity to address the Court on these issues, and represent that counsel is available for an in-person conference September 18 or 19 or anytime the week of September 22.

Plaintiffs' Response: Plaintiffs' proposal is that the parties submit briefing on procedures that will meet due process requirements and that will govern the adjudication of their claims. Such briefing would necessarily address notice to Plaintiffs of their status on the No Fly List; the form and extent of the disclosure to Plaintiffs regarding the basis of their placement on the No Fly List, such that they can meaningfully contest that basis (*see* Op. and Order, Docket #136 at 61); and the procedures for determining whether Defendants' placement of any given Plaintiff on the No Fly List amounted to a violation of that Plaintiff's substantive due process rights.

While it is Plaintiffs' position that issues related to discovery, motion practice, and case management dates should be addressed in this briefing, Plaintiffs do not envision a cumbersome or drawn-out process. Rather, under Plaintiffs' proposed schedule, briefing would be complete within approximately 45 days, after which the Court could decide on the standards and

procedures to be used for expedited hearings on Plaintiffs' remaining claims. Defendants would then issue the disclosures ordered by the Court. Once Plaintiffs finally have notice of the reasons for their inclusion on the No Fly List, they could assemble evidence relevant to those reasons and seek expedited discovery if necessary. The need for and extent of any such discovery would, of course, depend on the extent and content of Defendants' disclosures to Plaintiffs. Following a brief period for expedited discovery, Plaintiffs could either move for summary judgment on their substantive due process claims or proceed to a hearing before the Court to determine the propriety of their placement on the No Fly List.⁸

Plaintiffs' counsel are also available for an in-person conference before the Court on September 18, 24, or 30, and October 1 or 3.

⁸ In the alternative, Plaintiffs respectfully request that the parties be permitted to brief any challenges Plaintiffs have to the constitutional adequacy of Defendants' procedures before those procedures are applied to Plaintiffs. *See supra*, Plaintiffs' Response to Question 3.

Dated: September 3, 2014

Respectfully Submitted,

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1 - DECLARATION OF MOHAMED KARIYE
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

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2 - DECLARATION OF MOHAMED KARIYE
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

ER0621

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

AYMAN LATIF, *et al.*,

Plaintiffs,

v.

ERIC H. HOLDER, JR., *et al.*,

Defendants.

Case No.: 10-cv-750 (BR)

**DECLARATION OF
MOHAMED SHEIKH
ABDIRAHMAN KARIYE IN
SUPPORT OF PLAINTIFFS'
CROSS-MOTION FOR PARTIAL
SUMMARY JUDGMENT AND IN
OPPOSITION TO DEFENDANTS'
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

I, Mohamed Kariye, hereby declare and state as follows pursuant to 28 U.S.C. § 1746:

1. I submit this declaration based on my personal knowledge in support of Plaintiffs' cross-motion for partial summary judgment and in opposition to Defendants' motion for partial summary judgment in the above-captioned case.

2. I am a U.S. citizen and live with my wife and three of my children in Portland, Oregon.

3. I am the imam, or religious leader, of Masjid As-Saber, also known as The Islamic Center of Portland.

4. Prior to March 8, 2010, I flew for years without any problems.

5. In early 2010, I sought to visit my daughter, who at the time was a high school student in Dubai. I booked tickets to travel by plane from Portland to Dubai, via Amsterdam.

3 - DECLARATION OF MOHAMED KARIYE
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

ER0622

6. On March 8, 2010, I was denied boarding on my flight to Amsterdam at the Portland International Airport. An airline employee told me that I could not fly because I am on a government watch list. When she told me this, five government officials, including a police officer, detective, U.S. Marshal and two FBI agents were surrounding me.

7. I felt humiliated that everyone near me in the airport, including government and airline officials and other travelers, could see that I was denied boarding on my flight. I felt like I was being treated like a suspected terrorist.

8. My placement on the No Fly List has prevented me from traveling from my home in Portland to other parts of the United States and to other countries. I have no practical means of traveling to these locations without flying.

9. Because I am on the No Fly List, I could not travel from Portland to Dubai to be with my daughter, and presently cannot travel from Portland to Saudi Arabia to accompany my mother on the *hajj* pilgrimage, an Islamic religious obligation. I cannot make the 6,500-mile journey from Portland to Dubai or Saudi Arabia without flying because travel over land and by ship is prohibitively expensive, time consuming, and dangerous. A one-way journey to either destination would take weeks, and possibly more than a month to complete. I also fear interrogation and detention in any countries through which I would need to transit.

10. I have no idea why the government has put me on the No Fly List. I have never been charged, indicted, or convicted of a terrorism crime in a U.S. or foreign court. No government official has ever told me why I was denied boarding or why I would be included in the No Fly List. Because of this, I simply do not know how to explain that I should not be on the No Fly List, or what information I should provide in my defense.

4 - DECLARATION OF MOHAMED KARIYE
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

ER0623

11. I do not pose a threat to civil aviation or national security. I would be willing to undergo any suitable screening procedures in order to be permitted to board planes.

12. I declare and state under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on March 21, 2013



MOHAMED KARIYE

5 - DECLARATION OF MOHAMED KARIYE
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

ER0624

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1 - DECLARATION OF FAISAL NABIN KASHEM
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
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2 - DECLARATION OF FAISAL NABIN KASHEM
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

AYMAN LATIF, *et al.*,
Plaintiffs,
v.
ERIC H. HOLDER, JR., *et al.*,
Defendants.

Case No.: 10-cv-750 (BR)

**DECLARATION OF
FAISAL NABIN KASHEM
IN SUPPORT OF PLAINTIFFS'
CROSS-MOTION FOR PARTIAL
SUMMARY JUDGMENT AND IN
OPPOSITION TO DEFENDANTS'
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

I, Faisal Nabin Kashem, hereby declare and state as follows pursuant to 28 U.S.C. § 1746:

1. I submit this declaration based on my personal knowledge in support of Plaintiffs' cross-motion for partial summary judgment and in opposition to Defendants' motion for partial summary judgment in the above-captioned case.
2. I am a U.S. citizen and was born in New York. My family and I eventually settled in Connecticut, where I went to high school and college.
3. Prior to June 25, 2010, I flew for years without any problems.
4. In January 2010, I enrolled in a two-year Arabic language certificate program at the Islamic University of Al-Madinah Al-Munawwarah in Medina, Saudi Arabia. That same month, I flew from New York to Medina to begin my studies.

3 - DECLARATION OF FAISAL NABIN KASHEM
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

5. I planned to return home to Connecticut for my summer vacation from June to August 2010. I scheduled a flight to return by plane from Medina to New York, via Jeddah, Saudi Arabia.

6. On June 23, 2010, I was denied boarding on my flight from Jeddah to New York. An airline employee told me that I am on the No Fly List.

7. I felt humiliated that everyone near me in the airport could see that I was denied boarding on my flight. I felt like I was being treated like a suspected terrorist.

8. On July 6, 2010, two FBI agents questioned me and informed me that I am on the No Fly List.

9. In August 2010, I joined this lawsuit and, with several other plaintiffs in this case who were stranded abroad, filed a motion for a preliminary injunction ordering the government to permit us to fly home to the United States.

10. Shortly afterwards, U.S. officials communicated with me. They informed me that I could make arrangements to fly back to the United States by contacting the U.S. Embassy. I understood this to mean that I was being given a "one-time waiver" to fly home. However, U.S. officials expressly refused to make any assurances about whether I could fly in the future.

11. Until U.S. officials offered me this waiver, I had been in involuntary exile from the United States for approximately two months.

12. I have not used a one-time waiver to fly to Connecticut because U.S. officials have expressly refused to confirm that I would be able to fly back to Saudi Arabia to resume my studies.

4 - DECLARATION OF FAISAL NABIN KASHEM
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

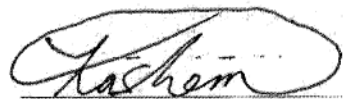
13. Because I am on the No Fly List, I cannot travel from Connecticut to Saudi Arabia. Making this journey over land and by ship would be prohibitively expensive, time consuming and dangerous. It would jeopardize my studies because even a one-way trip would take weeks, and I do not have sufficient vacation from school. I also fear that traveling through other countries to get from the United States to Saudi Arabia would place me at risk of interrogation and detention by foreign authorities.

14. I have no idea why the government has put me on the No Fly List. I have never been charged, indicted, or convicted of a terrorism crime in a U.S. or foreign court. No government official has ever told me why I was denied boarding or why I would be included in the No Fly List. Because of this, I simply do not know how to explain that I should not be on the No Fly List, or what information I should provide in my defense.

15. I do not pose a threat to civil aviation or national security. I would be willing to undergo any suitable screening procedures in order to be permitted to board planes.

16. I declare and state under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on March 21, 2013


FAISAL NABIN KASHEM

5 - DECLARATION OF FAISAL NABIN KASHEM
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

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1 - DECLARATION OF RAYMOND EARL KNAEBLE IV
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

ER0630

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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

AYMAN LATIF, et al.,

Plaintiffs,

v.

ERIC H. HOLDER, JR., et al.,

Defendants.

Case No.: 10-cv-750 (BR)

**DECLARATION OF
RAYMOND EARL KNAEBLE IV
IN SUPPORT OF PLAINTIFFS'
CROSS-MOTION FOR PARTIAL
SUMMARY JUDGMENT AND IN
OPPOSITION TO DEFENDANTS'
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

I, Raymond Earl Knaeble IV, hereby declare and state as follows pursuant to 28 U.S.C. § 1746:

1. I submit this declaration based on my personal knowledge in support of Plaintiffs' cross-motion for partial summary judgment and in opposition to Defendants' motion for partial summary judgment in the above-captioned case.

2. I am a U.S. citizen and U.S. Army veteran.

3. I was born in California and raised in California and Texas. I now live in Chicago, Illinois.

4. In 2006, I moved to Kuwait to work for ITT Systems Corporation ("ITT Systems"), a multinational company specializing in global defense and security.

5. In March 2010, ITT Systems offered me a position in Qatar. My employment was contingent upon passage of a pre-employment medical exam. ITT Systems indicated that a

medical exam administered in the United States would be processed more quickly than one administered in a foreign country.

6. I accepted the ITT Systems position and scheduled my physical examination to take place in Killeen, Texas on March 16, 2010.

7. Shortly before my scheduled physical examination, I flew from Kuwait to Bogota, Colombia so that I could marry my wife, a Colombian citizen, and spend some time with extended family there. I planned to fly to the United States after the wedding so that I could take my physical examination and spend some time with my mother and daughter.

8. Prior to March 14, 2010, I never experienced a problem when flying.

9. On March 14, 2010, however, I was denied boarding on my flight from Bogota to Miami. An airline official told me that no airline would permit me to board a U.S.-bound flight.

10. I felt humiliated that everyone near me in the airport, including other travelers and airline officials, could see that I was denied boarding on my flight. I felt like I was being treated like a suspected terrorist. I felt that my reputation as an Army veteran was tarnished.

11. Two FBI agents subsequently questioned me numerous times in Colombia.

12. On April 13, 2010, I received a letter from ITT Systems. It indicated that because I had not taken the required physical exam in Killeen, the firm had withdrawn the offer for a position in Qatar.

13. I tried to find an alternative way to travel to the United States without flying directly there. I purchased tickets to fly from Santa Marta, Colombia to Nuevo Laredo, Mexico, with stops in Bogota and Mexico City. I hoped to enter the United States by traveling over land across the U.S.-Mexico border.

14. On May 11, 2010, I flew to Mexico City. Mexican government agents met me at the gate of the plane, questioned me for more than three hours, detained me for fifteen hours, and refused to allow me to board my flight to Nuevo Laredo or to travel by bus or any other means to the U.S.-Mexico border. The agents placed me on a flight back to Bogota the following day.

15. I was desperate to return to the United States. I searched for ways to travel there by boat and over land.

16. I ultimately returned to the United States in August 2010 by traveling for twelve days, mostly over land, from Santa Marta to Mexicali, California. I flew from Santa Marta to Panama City, Panama. I then took buses from Panama City to Mexicali.

17. This journey was fraught with peril and made me fear for my safety. Honduran and El Salvadoran authorities interrogated, detained, and searched me on three occasions. In Guatemala I was followed and questioned. These experiences caused me to fear for my safety. Every time foreign authorities stopped me or subjected me to questioning and searches, I did not know if they would permit me to proceed or would detain me.

18. Until I returned to the United States in August 2010, I had been in involuntary exile from my country for almost five months.

19. Because I am on the No Fly List, I was unable to travel from Bogota to the United States to take a required medical examination and consequently lost my job with ITT Systems.

20. My placement on the No Fly List has also prevented me from traveling from the United States abroad. I would like to travel to Colombia to be with my wife and extended family. I would also like to travel to Saudi Arabia to perform the *hajj* pilgrimage, an Islamic religious obligation. But, because I am on the No Fly List, I have no practical means of traveling to either location.

21. Traveling from Illinois to Colombia or Saudi Arabia over land and by ship would be prohibitively expensive, time consuming and dangerous. I fear that traveling through other countries to get from the United States to Colombia or Saudi Arabia would place me at risk of interrogation and detention by foreign authorities.

22. I have no idea why the government has put me on the No Fly List. I have never been charged, indicted, or convicted of a terrorism crime in a U.S. or foreign court. No government official has ever told me why I was denied boarding or why I would be included in the No Fly List. Because of this, I simply do not know how to explain that I should not be on the No Fly List, or what information I should provide in my defense.

23. I do not pose a threat to civil aviation or national security. I would be willing to undergo any suitable screening procedures in order to be permitted to board planes.

24. I declare and state under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on March 21, 2013


RAYMOND EARL KNAEBLE

3-21-13

6 - DECLARATION OF RAYMOND EARL KNAEBLE IV
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

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1 - DECLARATION OF AMIR MESHAL
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

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2 - DECLARATION OF AMIR MESHAL
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

AYMAN LATIF, *et al.*,

Plaintiffs,

v.

ERIC H. HOLDER, JR., *et al.*,

Defendants.

Case No.: 10-cv-750 (BR)

**DECLARATION OF
AMIR MESHAL
IN SUPPORT OF PLAINTIFFS'
PARTIAL CROSS-MOTION
FOR PARTIAL SUMMARY
JUDGMENT AND IN
OPPOSITION TO DEFENDANTS'
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

I, Amir Meshal, hereby declare and state as follows pursuant to 28 U.S.C. § 1746:

1. I submit this declaration based on my personal knowledge in support of Plaintiffs' cross-motion for partial summary judgment and in opposition to Defendants' motion for partial summary judgment in the above-captioned case. I am a U.S. citizen. I was born and raised in New Jersey.
2. I currently live in Minnesota, where I work as a bus driver.
3. Prior to June 9, 2009, I flew for years without any problems. I flew to visit family in other parts of the United States and abroad.
4. In the spring of 2009, I planned to travel from New Jersey to Orange County, California to visit friends.
5. On June 9, 2009, I was denied boarding on my flight to Irvine, California at Newark International Airport. Approximately thirty uniformed and plainclothes officers

3 - DECLARATION OF AMIR MESHAL
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

surrounded me at the check-in counter. One officer identified himself as an FBI agent and informed me that I am on a government list that prohibits me from flying. I felt humiliated that everyone in the airport could see that I was denied boarding on my flight. I felt like I was being treated like a suspected terrorist.

6. In October 2010, FBI agents offered me the opportunity to serve as a government informant in exchange for assistance in removing my name from the No Fly List. One agent told me: "If you help us, we can help you off of the No Fly List."

7. My placement on the No Fly List has prevented me from traveling to be with my family in California, New Jersey, and other locations of the United States that are far away from Minnesota. I have no practical means of traveling to these locations without flying. Such lengthy journeys would incur prohibitive costs for food, gas, lodging and lost income during the multiple days it would require to drive or to travel by bus or train.

8. Because I am on the No Fly List, I cannot travel to Egypt, where my mother and extended family lives. Such a journey would be prohibitively expensive. It would also jeopardize my job because even a one-way trip would take weeks, and I do not have sufficient leave time from work. I also fear that such a journey would put me at risk of interrogation and detention by foreign authorities because I would have to travel through other countries to get from Minnesota to Egypt.

9. I have no idea why the government has put me on the No Fly List. I have never been charged, indicted, or convicted of a terrorism crime in a U.S. or foreign court. No government official has ever told me why I was denied boarding or why I would be included in the No Fly List. Because of this, I simply do not know how to explain that I should not be on the

4 - DECLARATION OF AMIR MESHAL
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

No Fly List, or what information I should provide in my defense.

10. I do not pose a threat to civil aviation or national security. I would be willing to undergo any suitable screening procedures in order to be permitted to board planes.

11. I declare and state under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on March 21, 2013


AMIR MESHAL

5 - DECLARATION OF AMIR MESHAL
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

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1 - DECLARATION OF STEPHEN DURGA PERSAUD
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

ER0641

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2 - DECLARATION OF STEPHEN DURGA PERSAUD

**In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment**

ER0642

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

AYMAN LATIF, et al.,

Plaintiffs,

v.

ERIC H. HOLDER, JR., et al.,

Defendants.

Case No.: 10-cv-750 (BR)

**DECLARATION OF
STEPHEN DURGA PERSAUD
IN SUPPORT OF PLAINTIFFS'
CROSS-MOTION FOR PARTIAL
SUMMARY JUDGMENT AND IN
OPPOSITION TO DEFENDANTS'
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

I, Stephen Durga Persaud, hereby declare and state as follows pursuant to 28 U.S.C. § 1746:

1. I submit this declaration based on my personal knowledge in support of Plaintiffs' cross-motion for partial summary judgment and in opposition to Defendants' motion for partial summary judgment in the above-captioned case.

2. I am a U.S. citizen. I live in Irvine, California with my wife and children, where I work as a registered nurse.

3. In 2007, I moved to St. Thomas in the U.S. Virgin Islands to be with extended family and attend nursing school. I met and married my wife, and had a son while in St. Thomas.

4. In May 2010, my wife was pregnant with our second child. We planned to return to California so that she could deliver our second child there and I could attend a graduate program in nursing. I purchased tickets for us to fly from St. Thomas to Irvine with a change of planes in Miami.

3 - DECLARATION OF STEPHEN DURGA PERSAUD
In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment and
In Opposition to Defendants' Motion for Partial Summary Judgment

ER0643

5. On May 11, 2010, I was denied boarding on my flight from St. Thomas to Miami. Five government officials, including four FBI agents, surrounded me, my wife, and my son at the airport. An FBI agent told me I was denied boarding.

6. I felt humiliated that everyone near me in the airport, including my wife and son and other air travelers, could see that I was denied boarding on my flight. I felt like I was being treated like a suspected terrorist.

7. The FBI agent informed me that I am on the No Fly List and took me to a separate room for questioning.

8. My wife and son were eventually permitted to fly to Irvine. I remained in St. Thomas, unable to board a plane.

9. I was desperate to join my family in Irvine before the birth of my second child. On June 1, 2010, I left St. Thomas on a ship. I reached Irvine after traveling by ship for five days from St. Thomas to Miami, and by train for four days from Miami to Los Angeles.

10. An FBI agent followed me during the entire journey. On the ship, the agent told me that my name would remain on the No Fly List and that this "problem" would only be resolved if I agreed to be questioned further by the FBI. I told the agent that I wanted to speak to an attorney first. The agent told me, "There is no judicial process for getting off the No Fly List. The only way to get off the list is to talk to us."

11. My placement on the No Fly List has prevented me from traveling to be with family and close friends in St. Thomas and states of the United States that are far away from my home in Irvine. I have no practical means of traveling to these locations without flying. Such lengthy journeys would incur prohibitive costs for food, gas, lodging and lost income during the multiple days it would require to drive or to travel by bus, train, or ship. I also fear that FBI

agents will follow me and try to question me during any lengthy journey by train and/or ship from Irvine to distant locations, like St. Thomas, as was the case in June 2010.

12. Because I am on the No Fly List I cannot travel to Saudi Arabia to perform the hajj pilgrimage, an Islamic religious obligation. Traveling from Irvine to Saudi Arabia over land and by ship would be prohibitively expensive, lengthy and dangerous. It would jeopardize my job as a registered nurse because even a one-way trip would take weeks, and I do not have sufficient leave time from work. I also fear that traveling through other countries to get from Irvine to Saudi Arabia will place me at risk of interrogation and detention by foreign authorities.

13. I have no idea why the government has put me on the No Fly List. I have never been charged, indicted, or convicted of a terrorism crime in a U.S. or foreign court. No government official has ever told me why I was denied boarding or why I would be included in the No Fly List. Because of this, I simply do not know how to explain that I should not be on the No Fly List, or what information I should provide in my defense.

14. I do not pose a threat to civil aviation or national security. I would be willing to undergo any suitable screening procedures in order to be permitted to board planes.

15. I declare and state under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on March 20, 2013



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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

AYMAN LATIF, MOHAMED SHEIKH
ABDIRAHMAN KARIYE, RAYMOND EARL
KNAEBLE IV, FAISAL NABIN KASHEM, ELIAS
MUSTAFA MOHAMED, STEVEN WILLIAM
WASHBURN, ABDULLATIF MUTHANNA,
NAGIB ALI GHALEB, MASHAAL RANA,
IBRAHEIM Y. MASHAL, SALAH ALI AHMED,
AMIR MESHAL, and STEPHEN DURGA
PERSAUD,

Plaintiffs,

v.

ERIC H. HOLDER, JR., in his official capacity as
Attorney General of the United States; ROBERT S.
MUELLER, III, in his official capacity as Director of
the Federal Bureau of Investigation; and TIMOTHY J.
HEALY, in his official capacity as Director of the
Terrorist Screening Center,

Defendants.

No. 10-cv-750 (BR)

**THIRD AMENDED AND
SUPPLEMENTAL
COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF**

**(Violation of Fifth
Amendment Rights and the
Administrative Procedure Act)**

INTRODUCTION

1. The United States' system of screening commercial airline passengers against databases of suspected terrorists is broken. Thousands of people have been barred altogether from commercial air travel without any opportunity to confront or rebut the basis for their inclusion, or apparent inclusion, on a government watch list known as the "No Fly List." The result is a vast and growing list of individuals whom, on the basis of error or innuendo, the government deems too dangerous to fly, but too harmless to arrest. Many of these individuals,

like the Plaintiffs in this action, are citizens and lawful permanent residents of the United States; some, including four Plaintiffs in this action, are veterans of the United States Armed Forces. Some U.S. citizens and lawful permanent residents were placed on the list while traveling abroad and found themselves stranded in foreign countries, without explanation or appropriate visas, unable to return home to their families, jobs, and needed medical care in the United States. The Constitution does not permit such a fundamental deprivation of rights to be carried out under a veil of secrecy and in the absence of even rudimentary process.

2. Plaintiffs are U.S. citizens and lawful permanent residents of the United States who were denied boarding on flights to or from the United States, or over U.S. airspace.

3. Plaintiffs believe that they are on the No Fly List. Agents of the Federal Bureau of Investigation, other U.S. officials, and local law enforcement officers have told many of the Plaintiffs that they are on the No Fly List. Plaintiffs pose no threat to aviation security and do not know why they are on the No Fly List or how they can get off it. Before they were placed on the No Fly List, Plaintiffs had flown numerous times to, from, and within the United States in recent years without incident.

4. Plaintiffs have submitted applications for “redress” through the only available government mechanism, to no avail. Each Plaintiff has sought explanations from the Department of Homeland Security, but no government official or agency has offered any explanation for Plaintiffs’ apparent placement on the No Fly List or any other watch list that has prevented them from flying. Nor has any government official or agency offered any of the Plaintiffs any meaningful opportunity to contest his or her placement on such a list.

5. Through this action for declaratory and injunctive relief, Plaintiffs seek a fair hearing in which they can confront any evidence against them and contest their unlawful

designation. Plaintiffs also seek the removal of their names from any government watch list or database that has prevented them from flying.

PARTIES

6. Plaintiff Ayman Latif is a thirty-five-year-old U.S. citizen and disabled veteran of the U.S. Marine Corps. He was born and raised in Miami, Florida, and currently resides in Stone Mountain, Georgia with his wife and two children.

7. Plaintiff Mohamed Sheikh Abdirahman Kariye is a fifty-one-year-old U.S. citizen and resident of Portland, Oregon. He is the Imam at the Masjid As-Saber in Portland.

8. Plaintiff Raymond Earl Knaeble IV is a thirty-two-year-old U.S. citizen and U.S. Army veteran. He was born and raised in California and currently resides in Chicago, Illinois, where he works as a truck driver.

9. Plaintiff Faisal Nabin Kashem is a twenty-five-year-old citizen of the United States and a resident of Connecticut. He is a university student.

10. Plaintiff Elias Mustafa Mohamed is a twenty-three-year-old citizen of the United States and a resident of Seattle, Washington. He is a university student.

11. Plaintiff Steven William Washburn is a fifty-seven-year-old U.S. citizen and U.S. Air Force veteran. Mr. Washburn was born and raised in Las Cruces, New Mexico, where he currently resides.

12. Plaintiff Nagib Ali Ghaleb is a thirty-four-year-old U.S. citizen and resident of San Francisco, California.

13. Plaintiff Abdullatif Muthanna is a thirty-year-old U.S. citizen and a resident of Rochester, New York.

14. Plaintiff Mashaal Rana is a twenty-six-year-old U.S. citizen and a resident of New York. She was born and raised in New York and is a housewife.

15. Plaintiff Ibraheim (Abe) Y. Mashal is a thirty-three-year-old U.S. citizen and veteran of the U.S. Marine Corps. He was born and raised in the United States, resides with his wife and three children in St. Charles, Illinois, and works as a traveling dog trainer.

16. Plaintiff Salah Ali Ahmed is a sixty-year-old U.S. citizen and resident of Norcross, Georgia, where he works as an electrical technician.

17. Plaintiff Amir Meshal is a thirty-year-old U.S. citizen and resident of Minnesota, where he works as a bus driver.

18. Plaintiff Stephen Durga Persaud is a thirty-two-year-old U.S. citizen. He is a registered nurse and resident of Irvine, California, where he lives with his wife and two children.

19. Defendant Eric H. Holder, Jr. is the Attorney General of the United States and heads the Department of Justice (“DOJ”), a department of the United States government that oversees the Federal Bureau of Investigation (“FBI”). The FBI in turn administers the Terrorist Screening Center (“TSC”), which was created to consolidate the government’s approach to terrorism screening. The TSC develops and maintains the federal government’s consolidated Terrorist Screening Database (the “watch list”), of which the No Fly List is a component. Defendant Holder is sued in his official capacity.

20. Defendant Robert S. Mueller is the Director of the FBI, which administers the TSC. Defendant Mueller is sued in his official capacity.

21. Defendant Timothy J. Healy is the Director of the TSC and is sued in his official capacity.

JURISDICTION AND VENUE

22. This is a complaint for injunctive and declaratory relief based upon civil rights violations committed by the Terrorist Screening Center, Federal Bureau of Investigation, and U.S. Department of Justice in violation of the Fifth Amendment to the U.S. Constitution and the Administrative Procedure Act (“APA”).

23. This Court has subject matter jurisdiction over Plaintiffs’ claims pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 702, which waives the sovereign immunity of the United States with respect to any action for injunctive relief under 28 U.S.C. § 1331.

24. This Court has the authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

25. Under the APA, 5 U.S.C. § 706, this Court has the power to compel agency action unlawfully withheld or unreasonably delayed and to hold unlawful and set aside the challenged agency actions. The Due Process Clause itself also provides this Court with authority to order the injunctive relief requested against Defendants.

26. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because Defendants are officers of agencies of the United States sued in their official capacity and because this judicial district is where Plaintiff Mohamed Sheikh Abdirahman Kariye resides and where a substantial part of the events or omissions giving rise to the claim occurred.

FACTUAL ALLEGATIONS

A. The Federal Government’s Terrorist Watch List

27. In September 2003, Attorney General John Ashcroft established the Terrorist Screening Center to consolidate the government’s approach to terrorism screening. The TSC,

which is administered by the FBI, develops and maintains the federal government's consolidated Terrorist Screening Database (the "watch list"). TSC's consolidated watch list is the federal government's master repository for suspected international and domestic terrorist records used for watch list-related screening.

28. The TSC sends records from its terrorist watch list to other government agencies, which in turn use those records to identify suspected terrorists. For example, applicable TSC records are provided to the Transportation Security Administration ("TSA") for use by airlines in pre-screening passengers and to U.S. Customs and Border Protection ("CBP") for use in screening travelers entering the United States. Front-line agencies, like the TSA and CBP, carry out the screening function by conducting a name-based search of an individual to determine whether he or she has been placed on a watch list by the TSC.

29. Although the TSA, CBP, and other agencies may use the records provided by the TSC, it is the TSC that maintains and controls the database of suspected terrorists.

30. Two government entities are primarily responsible for "nominating" individuals for inclusion in the terrorist watch list—the National Counterterrorism Center ("NCTC") and the FBI. The TSC makes the final decision on whether a nominated individual meets the minimum requirements for inclusion into the watch list as a "known or suspected terrorist" and which screening systems will receive the information about that individual.

31. The TSC determines whether a nominated individual is "reasonably suspected" of having possible links to terrorism. According to the TSC, "reasonable suspicion requires articulable facts which, taken together with rational inferences, reasonably warrant the determination that an individual is known or suspected to be or has been engaged in conduct constituting, in preparation for, in aid of or related to terrorism and terrorist activities."

32. Defendants have not stated publicly what standards or criteria are applied to determine whether an individual on the consolidated watch list will be placed on the No Fly List that is distributed to the TSA.

33. A 2007 Government Accountability Office (“GAO”) report found that the TSC rejects approximately one percent of nominations to the watch list.

34. In response to intelligence failures that permitted Nigerian citizen Umar Farouk Abdulmutallab, a would-be bomber, to fly from Amsterdam to Detroit on December 25, 2009, the Defendants have dramatically expanded the watch list as a whole and the No Fly List in particular.

B. Inadequacy of Redress Process

35. The government entities and individuals involved in the creation, maintenance, support, modification, and enforcement of the No Fly List, including Defendants, have not provided travelers with a fair and effective mechanism through which they can challenge the TSC’s decision to place them on the No Fly List.

36. An individual who has been barred from boarding an aircraft due to apparent placement on the No Fly List has no avenue for redress with the TSC, the government entity responsible for maintaining an individual’s inclusion on, or removing an individual from, the list. The TSC does not accept redress inquiries directly from the public, nor does it directly provide final orders or disposition letters to individuals who have submitted redress inquiries.

37. Rather, individuals who seek redress after being prevented from flying must complete a standard form and submit it to the Department of Homeland Security Traveler Redress Inquiry Program (“DHS TRIP”). DHS TRIP transmits traveler complaints to the TSC, which determines whether any action should be taken. The TSC has provided no publicly

available information about how it makes that decision. The TSC is the final arbiter of whether an individual's name is retained on or removed from the list.

38. Once the TSC makes a final determination regarding a particular individual's status on the watch lists, including the No Fly List, the TSC advises DHS that it has completed its process. DHS TRIP then responds to the individual with a letter that neither confirms nor denies the existence of any terrorist watch list records relating to the individual. The letters do not set forth any basis for inclusion in a terrorist watch list, do not state how the government has resolved the complaint at issue, and do not specify whether an individual will be permitted to fly in the future. Thus, the only "process" available to individuals who are prevented from boarding commercial flights is to submit their names and other identifying information to a government entity that has no authority to provide redress and to hope that an unspecified government agency corrects an error or changes its mind.

39. As alleged below, each of the Plaintiffs made at least one redress request through DHS TRIP. Each Plaintiff received a letter as described in paragraph 38 above.

C. Plaintiffs' Allegations

Ayman Latif

40. Plaintiff Ayman Latif moved with his wife and family to Egypt in November 2008 so that he could study Arabic.

41. Mr. Latif and his wife purchased tickets to fly with their children from Cairo, Egypt to Miami, Florida in April 2010 to visit relatives, including his mother, who was elderly and very ill.

42. On April 13, 2010, Mr. Latif and his family were denied boarding on their flight to Miami at the Cairo International Airport on instruction from the U.S. Embassy.

43. About one month later, Mr. Latif was questioned on two consecutive days by two FBI agents, one of whom told Mr. Latif that he was on the No Fly List.

44. In or around the middle of May 2010, Mr. Latif learned from family in Florida that the U.S. Department of Veterans Affairs (“VA”) had written to advise him that his service-connected disability benefits would be reduced from \$899.00 to \$293.00.

45. Mr. Latif called the VA and was told that he had been scheduled to attend a Disability Evaluation on April 15, 2010, which he had missed. Because he had been denied boarding on his April 13, 2010 flight, Mr. Latif was not in Florida on April 15, 2010 and could not have attended the evaluation.

46. Mr. Latif was unable to reschedule his Disability Evaluation because he was unable to fly from Egypt to the United States due to his placement on the No Fly List.

47. Mr. Latif received a July 27, 2010 letter from the Disabled American Veterans National Service Office stating that his disability benefits would be cut to zero, effective October 1, 2010.

48. Mr. Latif’s monthly disability benefit was subsequently reduced.

Raymond Earl Knaeble IV

49. Plaintiff Raymond Earl Knaeble IV moved to Kuwait in 2006 to work for ITT Systems Corporation (“ITT Systems”), a multinational company specializing in global defense and security.

50. On March 1, 2010, ITT Systems offered Mr. Knaeble a position in Qatar. The effective date of employment was contingent upon Mr. Knaeble’s passage of a pre-employment medical exam that was to be scheduled within days of acceptance of the offer. ITT Systems

indicated that a medical exam administered in the United States would be processed more quickly than one administered in a foreign country.

51. Mr. Knaeble accepted the ITT Systems position and scheduled his physical examination to take place in Killeen, Texas on March 16, 2010. Prior to moving to Qatar to start his new job, Mr. Knaeble planned to travel to Bogota, Colombia so that he could marry his fiancé, a Colombian citizen, and spend some time with her family and his relatives. He also planned to visit his daughter in Texas and his mother and sisters in California while in the United States following his scheduled medical examination and before moving to Qatar with his new wife.

52. Mr. Knaeble booked airline tickets to travel from Kuwait to Bogota and then from Bogota to the United States.

53. On March 10 and 11, 2010, Mr. Knaeble flew from Kuwait to Bogota without incident. On March 14, 2010, however, Mr. Knaeble was denied boarding on his flight to the United States at Aeropuerto Internacional El Dorado in Bogota. An airline official told him that no airline would permit him to board a U.S.-bound flight. He was instructed to contact the U.S. Embassy in Bogota.

54. Mr. Knaeble subsequently met with and was questioned by two FBI agents at the U.S. Embassy. Despite Mr. Knaeble's repeated questions, neither agent told him why he had been placed on the No Fly List or why they were questioning him.

55. On April 13, 2010, Mr. Knaeble received a letter from ITT Systems indicating that because he had not taken the required physical exam in Killeen as planned, the firm had withdrawn the offer for a position in Qatar.

56. Mr. Knaeble tried to find an alternative way to return to the United States. On May 11, 2010, he purchased a ticket to fly from Santa Marta to Nuevo Laredo, Mexico, with stops in Bogota and Mexico City. He hoped to enter the United States over land by crossing the border between Nuevo Laredo and Laredo, Texas.

57. When Mr. Knaeble landed in Mexico City the following day, Mexican government agents met him at the gate of the plane, questioned him, detained him for fifteen hours, and refused to allow him to board his flight to Nuevo Laredo or to travel by bus or any other means to the U.S.-Mexico border. The agents placed Mr. Knaeble on a flight back to Bogota the following day. Mr. Knaeble was unauthorized to work in Colombia and unable to secure paid employment.

58. Mr. Knaeble ultimately returned to the United States in August 2010 by traveling for twelve days, mostly over land, from Santa Marta, Colombia to Mexicali, California. During the journey, foreign authorities interrogated, detained, and searched him.

Faisal Nabin Kashem

59. Plaintiff Faisal Nabin Kashem graduated from the University of Connecticut in 2005 with a degree in accounting. He worked for some time for a Connecticut-based consulting firm.

60. In January 2010, Mr. Kashem enrolled in a fully-funded two-year Arabic language certificate program at the Islamic University of Al-Madinah Al-Munawwarah in Medina, Saudi Arabia. He planned to complete the program and subsequently enroll in a four-year Islamic Studies degree program at the university.

61. On or around January 7, 2010, Mr. Kashem flew without incident from New York to Medina and commenced his studies.

62. Mr. Kashem planned to return home to Connecticut for his summer vacation from June to August 2010. On June 23, 2010, Mr. Kashem flew without incident from Medina to Jeddah, Saudi Arabia, but was denied boarding on his flight from Jeddah to New York. An airline employee told him that he was on the No Fly List and that the United States had barred him from flying.

63. Mr. Kashem was subsequently questioned by FBI agents who informed him that he would not be permitted to fly to the United States.

Elias Mustafa Mohamed

64. Plaintiff Elias Mustafa Mohamed has lived in Seattle with his family since the age of six. Mr. Mohamed's parents, stepfather, and seven siblings are all U.S. citizens and live in the United States.

65. In 2008, Mr. Mohamed was granted admission to the two-year Arabic language certificate program at the Islamic University of Al-Madinah Al-Munawwarah in Medina.

66. In January 2010, Mr. Mohamed flew without incident from Washington, D.C. to Medina and began his studies.

67. Mr. Mohamed planned to return home to Seattle for his summer vacation from June to August 2010. On June 25, 2010, he flew from Medina to Jeddah without incident, but was denied boarding on his flight from Jeddah to New York. An airline employee told him that he was not permitted to fly.

68. On July 6, 2010, Mr. Mohamed was questioned by two FBI agents who confirmed that he was on the No Fly List.

Steven William Washburn

69. Plaintiff Steven William Washburn is a U.S. citizen and veteran of the U.S. Air Force. In August 2008, Mr. Washburn and his wife moved to Riyadh, Saudi Arabia so that he could work for a technology company. After one and a half years there, they decided to move back to the United States.

70. Mr. Washburn and his wife purchased airline tickets to travel from Riyadh to Las Cruces, New Mexico, where Mr. Washburn's parents live. They planned to spend a one-week layover in Ireland with Mr. Washburn's step-daughter, who was pregnant at the time.

71. Mr. Washburn and his wife flew from Riyadh to Dublin without incident. On February 5, 2010, Mr. Washburn attempted to check in for his flight from Shannon Airport Ireland to Boston. An airline employee denied him a boarding pass and informed Mr. Washburn that he was on the No Fly List.

72. Mr. Washburn purchased a new set of airline tickets to travel from Dublin to Ciudad Juarez, Mexico, with changes of aircraft in London and Mexico City. He planned to enter the United States by walking over a bridge located at the border between Ciudad Juarez and El Paso, Texas.

73. On February 12, 2010, Mr. Washburn flew from Dublin to London without incident. He was permitted to board his flight from London to Mexico City. Approximately three and a half hours after the plane took off, however, the aircraft turned around and flew back to London.

74. Upon information and belief, Mr. Washburn's flight returned to London because, after he had boarded the flight, U.S. officials instructed airline officials not to fly over U.S. airspace with Mr. Washburn on board due to his placement on the No Fly List.

75. When Mr. Washburn's flight landed in London, airport security and New Scotland Yard officials met him at the gate of the plane, detained and interrogated him for more than nine hours, photographed and fingerprinted him, subjected him to a DNA test, and seized the life savings that Mr. Washburn carried with him. New Scotland Yard officials escorted Mr. Washburn to another aircraft, which took him back to Ireland.

76. Mr. Washburn ultimately returned to the United States in May 2010 by flying from Dublin to Ciudad Juarez, with stops in Germany, Brazil, Peru, and Mexico City, and by then crossing the land border between Ciudad Juarez and El Paso. During this journey, foreign authorities detained and questioned him.

Abdullatif Muthanna

77. Plaintiff Abdullatif Muthanna was born in Yemen and moved to the United States in 1996 to join his mother and stepfather.

78. Mr. Muthanna is a naturalized U.S. citizen and works in Rochester to support his wife and four children, who live in southern Yemen. He travels to Yemen every few years to spend time with his family.

79. Mr. Muthanna also remains in the United States apart from his family in order to receive medical care for serious medical conditions. Mr. Muthanna suffers from and receives treatment for digestive diseases and mental health conditions. His doctors, including his primary care physician, internist, and gastroenterologist, are all located in New York.

80. On June 18, 2009, Mr. Muthanna flew from Rochester to Yemen without incident in order to visit his wife and children. He planned to return to the United States by flying from Aden to New York via Jeddah.

81. On May 31, 2010, Mr. Muthanna flew from Aden to Jeddah without incident. On June 3, he went to the airport for his flight to New York. Mr. Muthanna attempted to check in, but was told by an airline employee that he was not permitted to fly to the United States. A Saudi immigration official confirmed that he was prohibited from boarding his flight.

82. Mr. Muthanna flew back to Yemen. An official at the U.S. Embassy in Sana'a told him that he was on a U.S. government list of people who were not permitted to fly.

83. On September 29, 2010, Mr. Muthanna ultimately returned home to Rochester through what is understood to be a "one-time" waiver from U.S. authorities to fly to the United States. In Rochester, Mr. Muthanna received needed medical care, and worked in a clothing store and in wholesale to support his family. After being separated from his wife and children for more than one year, however, Mr. Muthanna missed his family and sought to fly to Yemen to visit them.

84. On June 18, 2012, Mr. Muthanna attempted to check in for his flight from New York to Abu Dhabi. He was denied a boarding pass.

85. Distraught by his separation from his family, Mr. Muthanna sought to travel from New York to Yemen by boat and over land. He booked a thirty-six-day long passage by cargo freighter from Philadelphia to Jebel Ali, United Arab Emirates via Antwerp, Belgium. He hoped to travel from Jebel Ali to Yemen by car or bus.

86. Mr. Muthanna traveled from Rochester to Philadelphia by car. On August 12, 2012, after Mr. Muthanna had boarded the cargo freighter in the Philadelphia port, the captain denied him passage. The captain informed Mr. Muthanna that his decision was based on the recommendation of U.S. Customs and Border Protection, and that Mr. Muthanna would be denied passage on the freighter sailing from Antwerp to Jebel Ali for the same reason. Upon

information and belief, CBP recommended that Mr. Muthanna be denied passage on these ships because his name is on the No Fly List.

87. Mr. Muthanna has found no way to travel from the United States to Yemen without flying from the United States or over U.S. airspace, or sailing from a U.S. port.

88. Mr. Muthanna submitted a DHS TRIP complaint concerning his denial of passage on the ship and was assigned a Redress Control Number. DHS TRIP has not issued him a determination letter regarding this complaint.

Nagib Ali Ghaleb

89. Plaintiff Nagib Ali Ghaleb moved to the United States from Yemen in 1996 and is a naturalized U.S. citizen. He works in San Francisco as a janitor.

90. Mr. Ghaleb's wife and four children, one of whom is a U.S. citizen, live in Yemen. Mr. Ghaleb flew from California to Yemen in August 2009 to visit his family and to meet with the U.S. consul there in hopes of finding out the reason for the delay in processing his wife's and children's visa applications. Mr. Ghaleb planned to fly home to San Francisco in February 2010 so that he could resume his work.

91. On February 16, 2010, Mr. Ghaleb flew from Sana'a to Frankfurt without incident. At Frankfurt Airport, Mr. Ghaleb was denied boarding on his flight to San Francisco. Two U.S. officials who, upon information and belief, were FBI agents met Mr. Ghaleb at the check-in counter and told him that he would not be permitted to fly to the United States.

92. Mr. Ghaleb flew back to Sana'a. An official at the U.S. Embassy in Sana'a told him that he was not permitted to board flights to the United States.

93. Mr. Ghaleb was subsequently questioned at the U.S. Embassy by two officials, one of whom, upon information and belief, was an FBI agent. The interrogators knew details

about Mr. Ghaleb's life, including the names of mosques he attended in the Bay Area, that he was a highly regarded soccer player and was well-known in the Bay Area Yemeni community, and that he had been trying for a long time to bring his family to the United States. The interrogators offered to arrange for Mr. Ghaleb to fly back to the United States immediately if he would agree to tell them who the "bad guys" were in Yemen and in San Francisco. The interrogators insisted that Mr. Ghaleb could provide the names of people from his mosque and his community. When Mr. Ghaleb told the interrogators that he was not interested in spying on the Yemeni community, they told Mr. Ghaleb that if he did not cooperate, they would have him arrested and jailed in Yemen. They advised him to "think about it."

94. On May 3, 2010, Mr. Ghaleb again attempted to fly home to San Francisco. He flew without incident from Sana'a to Dubai. In Dubai, he was denied boarding on his flight to San Francisco. Dubai police told Mr. Ghaleb that he was on the No Fly List.

Mashaal Rana

95. Plaintiff Mashaal Rana was born and raised in New York. Her parents and three brothers are all U.S. citizens and live in New York.

96. In 2008, Ms. Rana graduated from Hunter College with a degree in community health medicine. She sought to pursue a master's degree in Islamic Studies and enrolled in the International Islamic University of Islamabad, which was located near her extended family in Pakistan.

97. In January 2009, Ms. Rana flew to Pakistan. After attending the International Islamic University for several months, she decided to return home to the United States. Ms. Rana purchased tickets to fly from Lahore, Pakistan to New York via Manchester, United Kingdom.

98. On February 17, 2010, Ms. Rana went to the Lahore airport with her parents. Moments before the family reached the ticketing counter, Ms. Rana's mother received a call on her mobile phone from an airline official who said that Ms. Rana would be denied boarding. The official said that he saw Ms. Rana's name on a security list.

99. Ms. Rana went to the U.S. Embassy in Islamabad. FBI agents in Pakistan subsequently questioned her on four separate occasions. An FBI official told Ms. Rana's father that if Ms. Rana agreed to be questioned by the FBI, he could "look into" getting her name taken off "the list."

100. Ms. Rana was married in Pakistan in July 2010. She became pregnant in April 2012.

101. In October 2012, Ms. Rana sought to fly back to the United States to deliver her child and access needed medical care. She contacted U.S. Embassy officials to request a "waiver" to return to the United States by plane. Three weeks before her intended travel date, Ms. Rana's brother provided her proposed itinerary to an FBI agent. The agent told Ms. Rana's brother that she was cleared to fly on the proposed flights.

102. On the morning of Ms. Rana's scheduled November 3, 2012 flight, the FBI agent called Ms. Rana's brother and told him that Ms. Rana would be denied boarding on her flight.

103. Ms. Rana remains in Pakistan.

Mohamed Sheikh Abdirahman Kariye

104. Plaintiff Mohamed Sheikh Abdirahman Kariye is a U.S. citizen and the imam, or religious leader, of Masjid As-Saber, also known as The Islamic Center of Portland. His job requires him to travel by commercial air to several speaking engagements and conferences each year.

105. In early 2010, Mr. Kariye sought to visit his daughter, who is a high school student in Dubai. He booked tickets to travel by plane from Portland to Dubai, via Amsterdam.

106. On March 8, 2010, Mr. Kariye was denied boarding on his flight to Amsterdam at the Portland International Airport. An airline employee told Mr. Kariye that he could not fly because he was on a government watch list.

Ibraheim (Abe) Mashal

107. Plaintiff Ibraheim (Abe) Mashal was born and raised in the United States and lives in St. Charles, Illinois with his wife and three children. Since his honorable discharge from the U.S. Marine Corps in 2003, Mr. Mashal has worked as a traveling dog trainer.

108. Mr. Mashal has provided dog-training services to clients in twenty-three U.S. states. He often receives new clients through referrals from satisfied customers.

109. In early 2010, a woman in Spokane, Washington hired Mr. Mashal to train her dog. She paid for his round-trip air travel from Chicago to Spokane, his hotel accommodations in Spokane, and his dog-training services fee. Mr. Mashal planned to fly from Chicago to Spokane via Salt Lake City for the job.

110. On April 20, 2010, Mr. Mashal was denied boarding on his flight to Spokane at Chicago's Midway Airport. The ticketing agent told Mr. Mashal that he was on the No Fly List and that he would not be able to board any flights.

111. Several days later, Mr. Mashal's client in Spokane requested a refund after having been questioned about Mr. Mashal by an FBI agent. Mr. Mashal returned approximately \$2,000 to the client.

112. On June 23, 2010, two FBI agents told Mr. Mashal that if he would help the FBI by serving as an informant, his name would be removed from the No Fly List and he would

receive compensation. When Mr. Mashal asked to speak with them in the presence of his attorney, the agents promptly ended the meeting.

Salah Ali Ahmed

113. Plaintiff Salah Ali Ahmed is of Somali and Yemeni descent and was born and raised in Somalia. He moved to Atlanta in 1992 and became a naturalized U.S. citizen in 2007. His U.S.-citizen wife and six children, five of whom are U.S. citizens and one of whom is a lawful permanent resident, live with him in Norcross, Georgia, where he works as an electrical technician. His siblings, nieces, nephews, and other relatives live in Yemen.

114. Mr. Ahmed planned to fly to Yemen for a four-week vacation to visit relatives. He was scheduled to fly from Atlanta to Sana'a via Frankfurt on July 16, 2010 and to return on August 16, 2010.

115. On July 16, 2010, Mr. Ahmed was denied boarding on his flight to Frankfurt at Hartsfield-Jackson Atlanta International Airport. An airline employee told Mr. Ahmed that his passport was "flagged" and that he would not be permitted to board any flight.

116. A TSA officer also told Mr. Ahmed that he was "flagged" and that he would not be allowed to board any flights. The officer told Mr. Ahmed that he could travel by car, but that he could not leave the country by plane.

Amir Meshal

117. Plaintiff Amir Meshal was born and raised in New Jersey. He currently works as a bus driver in Minnesota.

118. In or around May 2009, Mr. Meshal planned to travel from New Jersey to Orange County, California to visit friends.

119. On June 9, 2009, Mr. Meshal was denied boarding on his flight to Irvine, California at Newark International Airport.

120. Approximately thirty uniformed and plainclothes officers surrounded Mr. Meshal at the check-in counter. One officer, who identified himself as an FBI agent, informed Mr. Meshal that he was on a government list that prohibited him from flying.

121. FBI agents subsequently offered Mr. Meshal the opportunity to serve as a government informant and, in exchange, promised to help remove him from the No Fly List, among other things. One agent told Mr. Meshal: "If you help us, we can help get you off of the No Fly List."

Stephen Durga Persaud

122. Plaintiff Stephen Durga Persaud is a registered nurse who lives with his wife and children in Irvine, California.

123. Mr. Persaud moved with his family to St. Thomas in the U.S. Virgin Islands in January 2007 to visit family and attend nursing school. They planned to return to California in May 2010 so that Mr. Persaud's wife could deliver their second child there and so that Mr. Persaud could attend a graduate program in nursing. Mr. Persaud purchased tickets for the family to fly from St. Thomas to Irvine with a change of planes in Miami.

124. On May 11, 2010, Mr. Persaud, his wife, and their sixteen-month old son went to the airport in St. Thomas to commence their trip home. Mr. Persaud was denied boarding on his flight.

125. Five government officials, including four FBI agents, appeared and surrounded Mr. Persaud, his wife, and their son at the airport. An FBI agent informed Mr. Persaud that he was on the No Fly List.

126. Mr. Persaud's wife and son flew to Irvine. Mr. Persaud remained in St. Thomas, unable to board a plane.

127. Desperate to join his family in Irvine before the birth of his second child, Mr. Persaud commenced a nine-day journey by ship and train on June 1, 2010. He reached home after traveling for five days by ship from St. Thomas to Miami and for four days by train from Miami to Los Angeles.

128. An FBI agent followed Mr. Persaud during his journey. On the ship, the agent told Mr. Persaud that his name would remain on the No Fly List and that the "problem" would be resolved only if Mr. Persaud cooperated with the FBI. The agent told Mr. Persaud, "There is no judicial process for getting off the No Fly List. The only way to get off the list is to talk to us."

Common Post Denial-of-Travel Allegations

129. After Plaintiffs Ahmed, Ghaleb, Kashem, Knaeble, Latif, Mohamed, Mashal, Rana, and Washburn were prevented from flying, U.S. officials known or believed to be FBI agents questioned each of them about their religious beliefs, religious practices, political opinions, academic studies, reading and writing on the internet and in email, and/or associations with persons of particular ethnic, national origin, or religious backgrounds. Upon information and belief, these Plaintiffs' religious beliefs and practices, political opinions, academic studies, reading and writing on the internet and in email, and associations with others formed a basis for the government's decision to include them on the No Fly List.

130. Subsequent to each Plaintiff first being denied travel via commercial aircraft to or from the United States, or over U.S. airspace, each Plaintiff completed at least one DHS TRIP form online and was assigned at least one Redress Control Number. Each Plaintiff received a letter as described in paragraph 38 above.

131. Each Plaintiff has exhausted administrative remedies.

132. Following the commencement of this action and shortly after the filing of an August 16, 2010 preliminary injunction motion, U.S. officials communicated with those Plaintiffs who were still abroad, except for Plaintiff Rana, and instructed them to make the necessary travel arrangements to return to the United States under what was understood to be a “one-time waiver.” On November 10, 2012, U.S. officials communicated with Ms. Rana in Pakistan and instructed her to make the necessary travel arrangements to return to the United States under what was understood to be a “one-time waiver.”

133. All Plaintiffs who were unable to return home due to their inability to fly commercial airlines to or from the United States, or over U.S. airspace, have now done so except Plaintiffs Kashem, Mohamed, and Rana.

134. Plaintiffs Kashem, Mohamed, and Rana have not returned to the United States because Defendants have expressly refused to make any assurances about future travel. Plaintiffs Kashem and Mohamed fear that if they return to the United States, they will be unable to fly back to Saudi Arabia to resume their studies. Plaintiff Rana fears that if she returns to the United States, she will be unable to fly back to Pakistan, where her husband resides.

135. Plaintiffs do not present a security threat to commercial aviation. Plaintiffs do not know of any reason why they would be placed on the No Fly List.

136. All of the Plaintiffs believe they are still on the No Fly List.

137. Because Defendants have barred Plaintiffs from flying commercial airlines to and from the United States, and over U.S. airspace, Plaintiffs have suffered, and continue to suffer, various types of harm including the inability to travel domestically and internationally for familial, educational, social, religious, legal, business and employment reasons.

FIRST CLAIM FOR RELIEF

**FAILURE TO PROVIDE POST-DEPRIVATION NOTICE AND HEARING
IN VIOLATION OF THE FIFTH AMENDMENT RIGHT
TO PROCEDURAL DUE PROCESS
(Jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. § 702)**

138. Each of the Plaintiffs learned that he or she was placed on the No Fly List and sought to challenge such placement.

139. Defendants' actions as described above in refusing to provide Plaintiffs with any reason or basis for their placement on the No Fly List and in refusing to provide Plaintiffs with a meaningful opportunity to challenge their continued inclusion on the No Fly List deprive Plaintiffs of constitutionally protected liberty interests, including but not limited to those identified in paragraphs 140, 141, and 142 below.

140. Plaintiffs have a liberty interest in traveling free from unreasonable burdens within, to, and from the United States, and over U.S. air space.

141. Plaintiffs have a right to be free from false governmental stigmatization as individuals who are "known or suspected to be" terrorists, or who are otherwise associated with terrorist activity, when such harm arises in conjunction with the deprivation of their right to travel on the same terms as other travelers and/or the deprivation of their liberty interest under the Fifth Amendment in travel free from unreasonable burdens.

142. Plaintiffs have a liberty interest in nonattainder (i.e., the interest against being singled out for punishment without trial). Defendants' actions have singled out Plaintiffs for punishments that include, but are not limited to, inability to travel by air to and from the United States, and over U.S. airspace, false association with a list of individuals suspected of terrorism, involuntary exile from the United States, and effective expatriation from the United States.

143. Plaintiffs, having been denied boarding on commercial flights and having sought to challenge their placement on the No Fly List, are entitled to a constitutionally adequate legal mechanism that affords them notice of the reasons and bases for their placement on the No Fly List and a meaningful opportunity to contest their continued inclusion on the No Fly List.

144. By failing to provide Plaintiffs with such a constitutionally adequate legal mechanism, Defendants have deprived Plaintiffs of their protected liberty interests, including but not limited to their liberty interests in traveling, freedom from false stigmatization, and nonattainder, and thus have violated Plaintiffs' constitutional rights without affording them due process of law and will continue to do so into the future if Plaintiffs are not afforded the relief demanded below.

SECOND CLAIM FOR RELIEF

DEPRIVATION OF PROTECTED LIBERTIES IN VIOLATION OF FIFTH AMENDMENT RIGHT TO SUBSTANTIVE DUE PROCESS (Jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. § 702)

145. Because Plaintiffs do not present a security threat to commercial aviation, Defendants' actions as described above in including Plaintiffs on a watch list that prevents them from boarding commercial flights to and from the United States, and over U.S. airspace, are arbitrary, lack even a rational relationship to any legitimate government interest, and have unreasonably deprived Plaintiffs of constitutionally protected rights, including their liberty interests in travel, freedom from false stigmatization, and nonattainder.

146. Defendants have thus violated Plaintiffs' constitutional rights without affording them due process of law and will continue to do so into the future if Plaintiffs are not afforded the relief demanded below.

THIRD CLAIM FOR RELIEF

UNLAWFUL AGENCY ACTION IN VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. §§ 702, 706 (Jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. § 702)

147. Defendants' actions described herein were and are arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law, and contrary to constitutional rights, power, privilege, or immunity, and should be set aside as unlawful pursuant to 5 U.S.C. § 706.

148. Defendants' failure to provide Plaintiffs, who had been denied boarding on commercial flights and sought to challenge their placement on the No Fly List, with a constitutionally adequate mechanism that affords them notice of the reasons and bases for their placement on the No Fly List and a meaningful opportunity to contest their continued inclusion on the No Fly List is arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law, and contrary to constitutional rights, power, privilege, or immunity, and should be set aside as unlawful pursuant to 5 U.S.C. § 706.

149. Because Plaintiffs do not present a security threat to commercial aviation, Defendants' actions as described above in including Plaintiffs on a watch list that prevents them from boarding commercial flights to and from the United States, and over U.S. airspace, are arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law, and contrary to constitutional rights, power, privilege, or immunity, and should be set aside as unlawful pursuant to 5 U.S.C. § 706.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request:

1. A declaratory judgment that Defendants' policies, practices, and customs violate the Fifth Amendment to the United States Constitution and the Administrative Procedure Act;

2. An injunction that:
 - a. requires Defendants to remedy the constitutional and statutory violations identified above, including the removal of Plaintiffs from any watch list or database that prevents them from flying; and
 - b. requires Defendants to provide Plaintiffs with a legal mechanism that affords them notice of the reasons and bases for their placement on the No Fly List and a meaningful opportunity to contest their continued inclusion on the No Fly List.
3. An award of attorneys' fees, costs, and expenses of all litigation, pursuant to 28 U.S.C. § 2412; and
4. Such other and further relief as the Court may deem just and proper.

DATED this January 11, 2013

Respectfully submitted,

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U.S. District Court
District of Oregon (Portland (3))
CIVIL DOCKET FOR CASE #: 3:10-cv-00750-BR

Latif et al v. United States Department of Justice et al
Assigned to: Judge Anna J. Brown
Case in other court: 9th Circuit Court of Appeals, 11-35407
9th Circuit Court of Appeals, 14-36027
9th Circuit Court of Appeals, 17-35634
Cause: 28:1331 Fed. Question

Date Filed: 06/30/2010
Date Terminated: 06/09/2017
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

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 ATTORNEY TO BE NOTICED

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 TERMINATED: 04/30/2014

Samuel M. Singer
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 ATTORNEY TO BE NOTICED

Scott A. Risner
 (See above for address)
 TERMINATED: 11/15/2013

Alexandra F. Smith
 (See above for address)
 TERMINATED: 09/23/2016
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The Constitution Project

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 TERMINATED: 09/23/2016
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Date Filed	#	Docket Text
06/30/2010	1	Complaint. Filing Fee in amount of \$350 collected. Receipt No. 34302. Summons issued as to Eric H. Holder, Jr.; Robert S. Mueller, III; and Timothy J. Healy. Filed by Adama

ER0707

		Bah, Halime Sat, Raymond Earl Knaeble, IV, Saleh A. Omar, Mohamed Sheikh Abdirahm Kariye, Ayman Latif, Steven Washburn, Nagib Ali Ghaleb, Samir Mohamed Ahmed Mohamed, Abdullatif Muthanna against Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Attachments: # 1 Civil Cover Sheet) (eo) (Additional attachment(s) added on 5/5/2014: # 2 summons) (dnt). (Entered: 06/30/2010)
06/30/2010	2	Discovery and Pretrial Scheduling Order and Notice of Case Assignment to Judge Anna J. Brown. Discovery is to be completed by 10/28/2010. Joint Alternate Dispute Resolution Report is due by 11/29/2010. Pretrial Order is due by 11/29/2010. Ordered by Judge Anna J. Brown. (eo) (Entered: 06/30/2010)
07/09/2010	3	Affidavit of Service upon Terrorist Screening Center served on 7/7/2010 Filed by All Plaintiffs. (Wilker, Steven) (Entered: 07/09/2010)
07/09/2010	4	Affidavit of Service upon United States Department of Justice served on 7/7/2010 Filed by All Plaintiffs. (Wilker, Steven) (Entered: 07/09/2010)
07/09/2010	5	Affidavit of Service upon Federal Bureau of Investigation served on 7/7/2010 Filed by All Plaintiffs. (Wilker, Steven) (Entered: 07/09/2010)
07/15/2010	6	Order - Granting Application for Special Admission Pro Hac Vice of Ahilan Arulanantham for Adama Bah,Ahilan Arulanantham for Nagib Ali Ghaleb,Ahilan Arulanantham for Mohamed Sheikh Abdirahm Kariye,Ahilan Arulanantham for Raymond Earl Knaeble, IV,Ahilan Arulanantham for Ayman Latif,Ahilan Arulanantham for Samir Mohamed Ahmed Mohamed,Ahilan Arulanantham for Abdullatif Muthanna,Ahilan Arulanantham for Saleh A. Omar,Ahilan Arulanantham for Halime Sat,Ahilan Arulanantham for Steven Washburn. Application Fee in amount of \$100 collected. Receipt No. 34535 issued. Signed on 7/14/2010 by Judge Anna J. Brown. (ecp) (Entered: 07/15/2010)
07/15/2010	7	Order - Granting Application for Special Admission Pro Hac Vice of Nusrat Jahan Choudhury for Adama Bah,Nusrat Jahan Choudhury for Nagib Ali Ghaleb,Nusrat Jahan Choudhury for Mohamed Sheikh Abdirahm Kariye,Nusrat Jahan Choudhury for Raymond Earl Knaeble, IV,Nusrat Jahan Choudhury for Ayman Latif,Nusrat Jahan Choudhury for Samir Mohamed Ahmed Mohamed,Nusrat Jahan Choudhury for Abdullatif Muthanna,Nusrat Jahan Choudhury for Saleh A. Omar,Nusrat Jahan Choudhury for Halime Sat,Nusrat Jahan Choudhury for Steven Washburn. Application Fee in amount of \$100 collected. Receipt No. 34540 issued. Signed on 7/14/2010 by Judge Anna J. Brown. (ecp) (Entered: 07/15/2010)
07/15/2010	8	Order -Granting Application for Special Admission Pro Hac Vice of Julia Harumi Mass for Adama Bah,Julia Harumi Mass for Nagib Ali Ghaleb,Julia Harumi Mass for Mohamed Sheikh Abdirahm Kariye,Julia Harumi Mass for Raymond Earl Knaeble, IV,Julia Harumi Mass for Ayman Latif,Julia Harumi Mass for Samir Mohamed Ahmed Mohamed,Julia Harumi Mass for Abdullatif Muthanna,Julia Harumi Mass for Saleh A. Omar,Julia Harumi Mass for Halime Sat,Julia Harumi Mass for Steven Washburn. Application Fee in amount of \$100 collected. Receipt No. 34529 issued. Signed on 7/14/2010 by Judge Anna J. Brown. (ecp) (Entered: 07/15/2010)
07/15/2010	9	Order -Granting Application for Special Admission Pro Hac Vice of Jennifer Pasquarella for Adama Bah,Jennifer Pasquarella for Nagib Ali Ghaleb,Jennifer Pasquarella for Mohamed Sheikh Abdirahm Kariye,Jennifer Pasquarella for Raymond Earl Knaeble, IV,Jennifer Pasquarella for Ayman Latif,Jennifer Pasquarella for Samir Mohamed Ahmed Mohamed,Jennifer Pasquarella for Abdullatif Muthanna,Jennifer Pasquarella for Saleh A. Omar,Jennifer Pasquarella for Halime Sat,Jennifer Pasquarella for Steven Washburn.

		Application Fee in amount of \$100 collected. Receipt No. 34534 issued. Signed on 7/14/2010 by Judge Anna J. Brown. (ecp) (Entered: 07/15/2010)
07/15/2010	10	Order - Granting Application for Special Admission Pro Hac Vice of Reem Salahi for Adama Bah, Reem Salahi for Nagib Ali Ghaleb, Reem Salahi for Mohamed Sheikh Abdirahm Kariye, Reem Salahi for Raymond Earl Knaeble, IV, Reem Salahi for Ayman Latif, Reem Salahi for Samir Mohamed Ahmed Mohamed, Reem Salahi for Abdullatif Muthanna, Reem Salahi for Saleh A. Omar, Reem Salahi for Halime Sat, Reem Salahi for Steven Washburn. Application Fee in amount of \$100 collected. Receipt No. 34533 issued. Signed on 7/14/2010 by Judge Anna J. Brown. (ecp) (Entered: 07/15/2010)
07/15/2010	11	Order - Granting Application for Special Admission Pro Hac Vice of Laura Schauer Ives for Adama Bah, Laura Schauer Ives for Nagib Ali Ghaleb, Laura Schauer Ives for Mohamed Sheikh Abdirahm Kariye, Laura Schauer Ives for Raymond Earl Knaeble, IV, Laura Schauer Ives for Ayman Latif, Laura Schauer Ives for Samir Mohamed Ahmed Mohamed, Laura Schauer Ives for Abdullatif Muthanna, Laura Schauer Ives for Saleh A. Omar, Laura Schauer Ives for Halime Sat, Laura Schauer Ives for Steven Washburn. Application Fee in amount of \$100 collected. Receipt No. 34537 issued. Signed on 7/14/2010 by Judge Anna J. Brown. (ecp) (Entered: 07/15/2010)
07/15/2010	12	Order - Granting Application for Special Admission Pro Hac Vice of Alan L. Schlosser for Adama Bah, Alan L. Schlosser for Nagib Ali Ghaleb, Alan L. Schlosser for Mohamed Sheikh Abdirahm Kariye, Alan L. Schlosser for Raymond Earl Knaeble, IV, Alan L. Schlosser for Ayman Latif, Alan L. Schlosser for Samir Mohamed Ahmed Mohamed, Alan L. Schlosser for Abdullatif Muthanna, Alan L. Schlosser for Saleh A. Omar, Alan L. Schlosser for Halime Sat, Alan L. Schlosser for Steven Washburn. Application Fee in amount of \$100 collected. Receipt No. 34531 issued. Signed on 7/14/2010 by Judge Anna J. Brown. (ecp) (Entered: 07/15/2010)
07/15/2010	13	Order - Granting Application for Special Admission Pro Hac Vice of Ben Wizner for Adama Bah, Ben Wizner for Nagib Ali Ghaleb, Ben Wizner for Mohamed Sheikh Abdirahm Kariye, Ben Wizner for Raymond Earl Knaeble, IV, Ben Wizner for Ayman Latif, Ben Wizner for Samir Mohamed Ahmed Mohamed, Ben Wizner for Abdullatif Muthanna, Ben Wizner for Saleh A. Omar, Ben Wizner for Halime Sat, Ben Wizner for Steven Washburn. Application Fee in amount of \$100 collected. Receipt No. 34539 issued. Signed on 7/14/2010 by Judge Anna J. Brown. (ecp) (Entered: 07/15/2010)
08/03/2010	14	Notice of Appearance of Diane Kelleher appearing on behalf of All Defendants Filed by on behalf of All Defendants (Kelleher, Diane) (Entered: 08/03/2010)
08/06/2010	15	First Amended Complaint. Filed by Adama Bah, Halime Sat, Raymond Earl Knaeble, IV, Saleh A. Omar, Mohamed Sheikh Abdirahm Kariye, Ayman Latif, Steven Washburn, Nagib Ali Ghaleb, Samir Mohamed Ahmed Mohamed, Abdullatif Muthanna against All Defendants. (Wizner, Ben) (Entered: 08/06/2010)
08/10/2010	16	Notice of Appearance of Amy Elizabeth Powell appearing on behalf of All Defendants Filed by on behalf of All Defendants (Powell, Amy) (Entered: 08/10/2010)
08/12/2010	17	Joint Motion for Extension of Discovery & PTO Deadlines and Request for Entry of a Scheduling Order. Filed by All Parties. (Attachments: # 1 Proposed Order) (Kelleher, Diane) (Entered: 08/12/2010)
08/16/2010	18	Motion for Preliminary Injunction. Oral Argument requested. Filed by All Plaintiffs. (Wizner, Ben) (Entered: 08/16/2010)
08/16/2010	19	Memorandum in Support. Filed by All Plaintiffs. (Related document(s): Motion for Preliminary Injunction 18 .) (Attachments: # 1 Declaration of Abdul Hakeim Ahmed Thabet, # 2 Declaration of Abdullatif Muthanna, # 3 Declaration of Ayman Latif, # 4

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		Declaration of Ben Wizner, # 5 Declaration of Elias Mustafa Mohamed, # 6 Declaration of Faisal Kashem, # 7 Declaration of Raymond Earl Knaeble IV, # 8 Declaration of Saleh A. Omar, # 9 Declaration of Samir Mohamed Ahmed Mohamed, # 10 Declaration of Steven William Washburn) (Wizner, Ben) (Entered: 08/16/2010)
08/16/2010	20	Amended Motion for Preliminary Injunction. Oral Argument requested. Filed by All Plaintiffs. (Choudhury, Nusrat) (Entered: 08/16/2010)
08/16/2010	21	Corrected Memorandum in Support of Preliminary Injunction. Filed by All Plaintiffs. (Related document(s): Motion for Preliminary Injunction 18 , Motion for Preliminary Injunction 20 .) (Choudhury, Nusrat) (Entered: 08/16/2010)
08/18/2010	22	Scheduling Order by Judge Anna J. Brown. A Telephonic Conference on the Joint Motion (#17) for Extension of Discovery & PTO Deadlines and Request for Entry of a Scheduling Order is SET for 8/25/2010 at 01:00 PM before Judge Anna J. Brown. Counsel to e-mail the courtroom deputy with their phone numbers. The Court will initiate the call. (bb) (Entered: 08/18/2010)
08/18/2010	23	Notice of Appearance of James E. Cox, Jr appearing on behalf of All Defendants Filed by on behalf of All Defendants (Cox, James) (Entered: 08/18/2010)
08/25/2010	24	MINUTES of Proceedings: Scheduling Conference. Joint Status Report is due 9/23/2010. Response to Amended Motion for Preliminary Injunction due 9/23/2010; Reply due 10/7/2010. Oral Argument is set for 10/21/2010 at 02:00 PM before Judge Anna J. Brown. Ben Wizner, Kevin Diaz, Steven Wilker present as counsel for plaintiff(s). Amy Powell, Diane Kelleher, Jennifer Daskal present as counsel for defendant(s). Court Reporter: Amanda LeGore. Judge Anna J. Brown presiding. (bb) (Entered: 08/30/2010)
09/21/2010	25	Unopposed Motion for Extension of Time to File a Response/Reply to Amended Motion for Preliminary Injunction 20 . Filed by All Defendants. (Attachments: # 1 Proposed Order) (Kelleher, Diane) (Entered: 09/21/2010)
09/23/2010	26	ORDER by Judge Anna J. Brown. The Court has completed its consideration of Defendants' Unopposed Motion for an Extension of Time 25 to file their Opposition to Plaintiffs' Motion for Preliminary Injunction. The Court GRANTS the Motion as follows: Defendant's Opposition to Plaintiffs' Motion for Preliminary Injunction is now due October 14, 2010; Plaintiff's Reply is now due October 28, 2010; and the Court will set a telephone conference with counsel thereafter to schedule any needed hearing on Plaintiff's Motion. The Court directs the parties to submit an updated Joint Status Report on October 28, 2010. IT IS SO ORDERED. (bb) (Entered: 09/23/2010)
09/23/2010	27	Minute Order by Judge Anna J. Brown. Oral Argument on the Motion for Preliminary Injunction set for October 21, 2010 is STRICKEN. (bb) (Entered: 09/23/2010)
09/23/2010	28	Joint Status Report by All Defendants. Filed by All Defendants. (Powell, Amy) (Entered: 09/23/2010)
09/28/2010	29	Minute Order by Judge Anna J. Brown. The Court has completed its review of the Parties' Joint Status Report 28 . Before the Court adopts a schedule for the filing of dispositive motions and before the parties file any dispositive motions, the Court concludes it is necessary for Plaintiffs to decide whether they will seek leave to amend their Complaint and the Court decides, after an appropriate response from Defendants, whether the proposed amendments will be permitted (so that any dispositive motions that are filed deal with all of the issues). Accordingly, Plaintiffs must file no later than October 15, 2010, any motion for leave to amend their Complaint after conferring with Defendants. If Plaintiffs determine before then that they are not going to seek to amend

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		the Complaint, Plaintiffs shall notify the Court and Defendants' counsel, and the Court will then set the schedule for dispositive motions, including any cross-motions for summary judgment. If Plaintiffs do file a motion for leave to amend, the Court will set the dispositive motion schedule after the status of Plaintiffs' pleadings are settled. IT IS SO ORDERED. (bb) (Entered: 09/28/2010)
10/07/2010	30	Unopposed Motion for Extension of Time to File Opposition to Plaintiffs' Motion for a Preliminary Injunction. Filed by All Defendants. (Attachments: # 1 Proposed Document) (Kelleher, Diane) (Entered: 10/07/2010)
10/08/2010	31	ORDER by Judge Anna J. Brown. Granting Defendants' Unopposed Motion 30 for Extension of Time to File Response to Amended Motion for Preliminary Injunction 20 . Response is due by 10/21/2010. Reply is due by 11/4/2010. Motion is taken under advisement as of 11/4/2010. Joint Status Report is due by 11/4/2010. (bb) (Entered: 10/08/2010)
10/15/2010	32	Report : Plaintiffs' Notice of Intent Not to Seek Leave to Amend First Amended Complaint. Filed by All Plaintiffs. (Choudhury, Nusrat) (Entered: 10/15/2010)
10/20/2010	33	Motion to Withdraw Plaintiffs' Motion for Preliminary Injunction 18 , Motion for Preliminary Injunction 20 . Filed by All Plaintiffs. (Choudhury, Nusrat) (Entered: 10/20/2010)
10/25/2010	34	Joint Motion for a Scheduling Order. Filed by All Defendants. (Powell, Amy) (Entered: 10/25/2010)
10/27/2010	35	ORDER by Judge Anna J. Brown. Granting Parties' Joint Motion 34 for a Scheduling Order. Government's Dispositive Motion due 11/17/2010; Plaintiff's separate response due 12/17/2010; Government's Reply due 1/11/2011. Plaintiff's separate cross-motion due 12/17/2010; Government's separate response due 1/11/2011; Plaintiff's separate reply due 1/25/2011. Oral Argument to be set at a later date. Remaining case management dates to be set when motions resolved. (bb) (Entered: 10/27/2010)
11/04/2010	36	Joint Status Report. Filed by All Parties. (Choudhury, Nusrat) (Entered: 11/04/2010)
11/10/2010	37	Unopposed Motion to File Excess Pages. Filed by All Defendants. (Powell, Amy) (Entered: 11/10/2010)
11/15/2010	38	Minute Order by Judge Anna J. Brown. The Court acknowledges Plaintiffs' Notice 33 of Withdrawal Without Prejudice of Plaintiffs' Motion for a Preliminary Injunction. Plaintiffs' Motion 18 for a Preliminary Injunction and Amended Motion 20 for a Preliminary Injunction are WITHDRAWN. (bb) (Entered: 11/15/2010)
11/15/2010	39	ORDER by Judge Anna J. Brown. Granting Defendants' Unopposed Motion 37 to Exceed Page Limit in Memorandum in Support of Motion for Summary Judgment. Defendants may file a 60 page memorandum in support of their summary judgment motion. (bb) (Entered: 11/15/2010)
11/16/2010	40	Unopposed Motion for Status Conference (Expedited Consideration Requested). Filed by All Plaintiffs. (Attachments: # 1 Attachment Declaration and Exhibit) (Choudhury, Nusrat) (Entered: 11/16/2010)
11/17/2010	41	Joint Stipulation Statement of Stipulated Facts by All Defendants. Filed by All Defendants. (Powell, Amy) (Entered: 11/17/2010)
11/17/2010	42	Notice of Lodging Ex Parte, In Camera Material Filed by All Defendants (Powell, Amy) (Entered: 11/17/2010)
11/17/2010	43	Motion to Dismiss, Motion for Summary Judgment. Oral Argument requested. Filed by

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		All Defendants. (Powell, Amy) (Entered: 11/17/2010)
11/17/2010	44	Memorandum in Support. Filed by All Defendants. (Related document(s): Motion to Dismiss, Motion for Summary Judgment 43 .) (Attachments: # 1 Attachment Declaration of Christopher Piehota, # 2 Attachment Declaration of Mark Giuliano, # 3 Attachment Declaration of James Kennedy, # 4 Exhibit A to Kennedy Declaration, # 5 Exhibit B to Kennedy Declaration, # 6 Attachment Declaration of Kevin McAleenan, # 7 Attachment Declaration of Sharon Raya) (Powell, Amy) (Entered: 11/17/2010)
11/17/2010	45	Concise Statement of Material Fact. Filed by All Defendants. (Related document(s): Motion to Dismiss, Motion for Summary Judgment 43 .) (Powell, Amy) (Entered: 11/17/2010)
11/23/2010	46	Notice of Filing Substitute Copies of Declarations Submitted in Support of Motion for Summary Judgment Filed by All Defendants (Attachments: # 1 Declaration of Mark Giuliano (Cleaner Copy), # 2 Declaration of Sharon Raya (Cleaner Copy)) (Powell, Amy) (Entered: 11/23/2010)
11/23/2010	47	Scheduling Order by Judge Anna J. Brown. A Telephonic Status Conference is SET for 11/29/2010 at 10:00 AM before Judge Anna J. Brown. Counsel to e-mail the courtroom deputy with their phone numbers. The Court will initiate the call. (bb) (Entered: 11/23/2010)
11/29/2010	48	MINUTES of Proceedings: R16 Conference. The Court first will address Defendants' jurisdictional and dismissal challenges raised in their Motion to Dismiss and briefed at pages 15-20 of their supporting Memorandum (#44). Plaintiffs' opposition to this portion of Defendants' combined Motions (#43) is due no later than December 15, 2010. Defendants' reply is due no later than January 7, 2011. Oral Argument is set for 1/21/2011, at 1:30 p.m. No later than December 15, 2010, Plaintiffs shall file their Motion and separate supporting Memorandum challenging Defendants' support of their alternative Motion for Summary Judgment with material to which Plaintiffs do not have access. Defendants' opposition is due no later than January 7, 2011. No reply permitted. Oral Argument is SET for 01/21/2011, at 1:30 p.m. See attached. Ben Wizner, Kevin Diaz, Nusrat Choudhury, Steven Wilker present as counsel for plaintiff(s). Amy Powell present as counsel for defendant(s). Court Reporter: Amanda LeGore. Judge Anna J. Brown presiding. (bb) Modified on 11/30/2010 to correct dates from 2010 to 2011 (bb). (Entered: 11/29/2010)
12/13/2010	49	Notice re Notice 42 of Filing Filed by All Defendants (Related document(s): Notice 42 .) (Kelleher, Diane) (Entered: 12/13/2010)
12/15/2010	50	Memorandum in Opposition to Motion to Dismiss Motion for Summary Judgment 43 Oral Argument requested. Filed by All Plaintiffs. (Wizner, Ben) (Entered: 12/15/2010)
12/15/2010	51	Motion to Strike or Compel Disclosure of Defendants' Ex Parte Submissions. Oral Argument requested. Filed by All Plaintiffs. (Choudhury, Nusrat) (Entered: 12/15/2010)
12/15/2010	52	Memorandum in Support. Filed by All Plaintiffs. (Related document(s): Motion to Strike 51 .) (Choudhury, Nusrat) (Entered: 12/15/2010)
01/07/2011	53	Supplemental Memorandum in Support of Defendants' Motion to Dismiss (Reply Memorandum). Filed by All Defendants. (Related document(s): Motion to Dismiss, Motion for Summary Judgment 43 .) (Attachments: # 1 Exhibit) (Kelleher, Diane) (Entered: 01/07/2011)
01/07/2011	54	Memorandum in Opposition to Motion to Strike or Compel Disclosure of Defendants' Ex Parte Submissions 51 . Filed by All Defendants. (Attachments: # 1 Exhibit A - Second

		Declaration of Christopher Piehota, # 2 Exhibit B - January 4, 20100 Letter to Wizner) (Powell, Amy) (Entered: 01/07/2011)
01/14/2011	55	Motion for Leave to Appear Pro Hac Vice Mitchell P. Hurley. Filed by All Plaintiffs. (Wilker, Steven) (Entered: 01/14/2011)
01/14/2011	56	Motion for Leave to Appear Pro Hac Vice Justin H. Bell. Filed by All Plaintiffs. (Wilker, Steven) (Entered: 01/14/2011)
01/14/2011	57	Motion for Leave to Appear Pro Hac Vice Christopher M. Egleson. Filed by All Plaintiffs. (Wilker, Steven) (Entered: 01/14/2011)
01/20/2011	58	Joint Notice re Motion to Strike 51 Agreement Regarding Consideration of Plaintiffs' Motion to Strike or to Compel Disclosure Filed by All Parties (Related document(s): Motion to Strike 51 .) (Attachments: # 1 Exhibit) (Choudhury, Nusrat) (Entered: 01/20/2011)
01/21/2011	59	Order - Granting Application for Special Admission Pro Hac Vice of Mitchell P. Hurley for Adama Bah,Nagib Ali Ghaleb,Mohamed Sheikh Abdirahm Kariye,Raymond Earl Knaeble, IV, Ayman Latif, Samir Mohamed Ahmed Mohamed,Abdullatif Muthanna, Saleh A. Omar, Halime Sat, Steven Washburn. Application Fee in amount of \$100 collected. Receipt No. 38154 issued. Signed on 1/20/2011 by Judge Anna J. Brown. (ecp) (Entered: 01/21/2011)
01/21/2011	60	Order - Granting Application for Special Admission Pro Hac Vice of Justin H. Bell for Adama Bah, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye,Raymond Earl Knaeble, IV,Ayman Latif,Samir Mohamed Ahmed Mohamed, Abdullatif Muthanna, Saleh A. Omar, Halime Sat, and Steven Washburn. Application Fee in amount of \$100 collected. Receipt No. 38155 issued. Signed on 1/20/2011 by Judge Anna J. Brown. (ecp) (Entered: 01/21/2011)
01/21/2011	61	Order - Granting Application for Special Admission Pro Hac Vice of Christopher M. Egleson for Adama Bah, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye,Raymond Earl Knaeble, IV, Ayman Latif, Samir Mohamed Ahmed Mohamed,Abdullatif Muthanna,Saleh A. Omar, Halime Sat,and Steven Washburn. Application Fee in amount of \$100 collected. Receipt No. 38153 issued. Signed on 1/20/2011 by Judge Anna J. Brown. (ecp) (Entered: 01/21/2011)
01/21/2011	62	MINUTES of Proceedings: The Court heard oral argument on that portion of Defendants' Motion to Dismiss or for Summary Judgment (#43) that asserts the Court lacks subject matter jurisdiction over this action pursuant to 49 USC Section 46110. At the conclusion of the hearing and in lieu of ruling on the jurisdictional aspects of Defendants' Motion on the existing record, the Court granted Plaintiffs leave to file no later than February 4, 2011, a Second Amended Complaint that is a plain and concise statement of their intended claims pursuant to Fed. R. Civ. P. 8(a) and that sets forth the jurisdictional and elemental bases for such claims. Defendants may file no later than February 18, 2011, a final memorandum in support of the jurisdictional challenges raised in their Motion (#43). Plaintiffs may file no later than March 4, 2011, their final memorandum in opposition to dismissal for lack of subject matter jurisdiction. The Court will then take the jurisdictional challenge under advisement on March 4, 2011. In the meantime, the remainder of Defendants' Motion (#43) and Plaintiffs' Motion to Strike (#51) remain pending. Ben Wizner, Kevin Diaz, Nusrat Choudhury, Steven Wilker present as counsel for plaintiff(s). Amy Powell, Diane Kelleher present as counsel for defendant(s). Court Reporter: Amanda LeGore. Judge Anna J. Brown presiding. (bb) (Entered: 01/21/2011)
01/31/2011	63	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Oral Argument held on

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		January 21, 2011 before Judge Anna J. Brown, Court Reporter Amanda M. LeGore, telephone number 503-326-8184. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 2/10/2011. Redaction Request due 2/25/2011. Redacted Transcript Deadline set for 3/7/2011. Release of Transcript Restriction set for 5/5/2011. (LeGore, Amanda) (Entered: 01/31/2011)
02/04/2011	64	Second Amended Complaint. Filed by Raymond Earl Knaeble, IV, Saleh A. Omar, Mohamed Sheikh Abdirahm Kariye, Ayman Latif, Nagib Ali Ghaleb, Samir Mohamed Ahmed Mohamed, Abdullatif Muthanna, Steven Washburn against All Defendants. (Wizner, Ben) (Entered: 02/04/2011)
02/18/2011	65	Supplemental Reply by Defendants in Further Support to Motion to Dismiss Motion for Summary Judgment 43 . Filed by All Defendants. (Kelleher, Diane) (Entered: 02/18/2011)
02/24/2011	66	Notice re Motion to Dismiss, Motion for Summary Judgment 43 of Withdrawal of Certain Arguments and Materials Filed by All Defendants (Related document(s): Motion to Dismiss, Motion for Summary Judgment 43 .) (Kelleher, Diane) (Entered: 02/24/2011)
03/04/2011	67	Supplemental Memorandum in Opposition to Motion to Dismiss Motion for Summary Judgment 43 . Filed by Abdul Hakeim Thabet Ahmed, Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Samir Mohamed Ahmed Mohamed, Abdullatif Muthanna, Saleh A. Omar, Stephen Durga Persaud, Steven William Washburn. (Wizner, Ben) (Entered: 03/04/2011)
03/08/2011	68	Order by Judge Anna J. Brown. In light of Defendants' Notice (#66) of Withdrawal of Certain Arguments and Materials, the Court directs Classified Information Officer Scooter Slade to retrieve from the Court's custody all materials Defendants submitted ex parte and in camera. IT IS SO ORDERED. (bb) (Entered: 03/08/2011)
05/03/2011	69	Order. The Court GRANTS Defendants' Motion 43 to Dismiss this action for failure to join an indispensable party and for lack of subject-matter jurisdiction. Signed on 05/03/2011 by Judge Anna J. Brown. See 16 page Opinion and Order for full text. (bb) (Entered: 05/03/2011)
05/05/2011	70	Judgment. Based on the Court's Opinion and Order 69 issued May 3, 2011, the Court DISMISSES this matter. Signed on 05/05/2011 by Judge Anna J. Brown. See 2 page Judgment. (bb) (Entered: 05/05/2011)
05/12/2011	71	Notice of Appeal to the 9th Circuit from Judgment 70 . Filed by Abdul Hakeim Thabet Ahmed, Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Samir Mohamed Ahmed Mohamed, Abdullatif Muthanna, Saleh A. Omar, Stephen Durga Persaud, Steven William Washburn. (Wizner, Ben) (Entered: 05/12/2011)
05/12/2011	72	Representation Statement re Notice of Appeal, 71 . Filed by Abdul Hakeim Thabet Ahmed, Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Samir Mohamed Ahmed Mohamed, Abdullatif Muthanna, Saleh A. Omar, Stephen Durga Persaud, Steven William Washburn. (Wizner, Ben) (Entered: 05/12/2011)
05/13/2011		USCA Case Number and Notice confirming Docketing Record on Appeal re Notice of Appeal, 71 Case Appealed to 9th Cir cuit Court of Appeals Case Number 1 1-35407 ER0714

		assigned. (sd) (Entered: 05/13/2011)
05/13/2011		USCA Appeal Fees re Notice of Appeal, 71 : Received Fee in amount of \$ 455. Receipt number 40492 issued. (msk) (Entered: 05/13/2011)
06/22/2011	73	ORDER by Judge Ancer L. Haggerty: When due, the Administrative Record should be submitted in CD Format only. No paper copy is necessary. (sp) (Entered: 06/22/2011)
06/22/2011	74	Order for Administrative Correction of the Record pursuant to Fed. R. Civ. P. 60(a). A Clerical error has been discovered in the case record. The Clerk is directed to make the following administrative corrections to the record: Docket #73 was entered in the wrong case and should be disregarded by the parties. (sm) (Entered: 06/22/2011)
11/19/2012	75	MANDATE of USCA for the 9th Circuit, USCA # 11-35407, re Notice of Appeal, 71 . The decision of the District Court is Reversed and Remanded. (Attachments: # 1 Appeal Opinion) (cp) (Entered: 11/28/2012)
11/29/2012	76	The Mandate 75 having been filed, the Court directs the parties to submit a jointly proposed case management plan and schedule no later than December 10, 2012, after which the Court will convene a Rule 16 Conference. In the meantime, counsel shall also inform the Courtroom Deputy of their availability for the Rule 16 Conference on dates after December 10, 2012. (bb) (Entered: 11/29/2012)
12/10/2012	77	Joint Status Report and Case Management Plan . Filed by All Parties. (Attachments: # 1 Proposed Order) (Choudhury, Nusrat) (Entered: 12/10/2012)
12/11/2012	78	Order Granting Application for Special Admission Pro Hac Vice of Hina Shamsi for Abdul Hakeim Thabet Ahmed,Hina Shamsi for Salah Ali Ahmed,Hina Shamsi for Nagib Ali Ghaleb,Hina Shamsi for Mohamed Sheikh Abdirahm Kariye,Hina Shamsi for Faisal Nabin Kashem,Hina Shamsi for Raymond Earl Knaeble, IV,Hina Shamsi for Ayman Latif,Hina Shamsi for Ibraheim Y. Mashal,Hina Shamsi for Amir Meshal,Hina Shamsi for Elias Mustafa Mohamed,Hina Shamsi for Samir Mohamed Ahmed Mohamed,Hina Shamsi for Abdullatif Muthanna,Hina Shamsi for Saleh A. Omar,Hina Shamsi for Stephen Durga Persaud,Hina Shamsi for Steven William Washburn. Application Fee in amount of \$100 collected. Receipt No. 49952 issued. Signed on 12/11/2012 by Judge Anna J. Brown. (ecp) (Entered: 12/13/2012)
12/14/2012	79	Scheduling Order by Judge Anna J. Brown. A Scheduling Conference is SET for 12/19/2012 at 01:30 PM before Judge Anna J. Brown. Counsel may appear by telephone by e-mailing the courtroom deputy with their contact information. (bb) (Entered: 12/14/2012)
12/19/2012	80	MINUTES of Proceedings: Scheduling Conference. Third Amended Complaint due 01/11/2013. Joint Statement of Agreed Facts due 02/03/2013. Defendants' Motion(s) against the Third Amended Complaint due 02/13/2013. Plaintiffs' Opposition and separately filed cross-motion are due 03/15/2013. Defendants' Reply and separately filed opposition are due 04/05/2013. Plaintiffs' Reply is due 04/19/2013. The Court will schedule Oral Argument on these motions in due course. Other case management issues will be addressed after resolution of these motions. See attached Order for full text. Hini Shamsi, Nusrat Choudhury, Steven Wilker, Kevin Diaz present as counsel for plaintiff(s). Diane Kelleher, Amy Powell, James Cox present as counsel for defendant(s). Court Reporter: Bridget Montero. Judge Anna J. Brown presiding. (bb) Modified on 12/20/2012 to correct typos (bb). (Entered: 12/19/2012)
01/11/2013	81	Notice of Appearance of Scott A. Risner appearing on behalf of All Defendants Filed by on behalf of All Defendants (Risner, Scott) (Entered: 01/11/2013)
01/11/2013	82	Notice of Appearance of Lily S. Farel appearing on behalf of All Defendants Filed by on

		behalf of All Defendants (Farel, Lily) (Entered: 01/11/2013)
01/11/2013	83	Third Amended Complaint . Filed by Amir Meshal, Elias Mustafa Mohamed, Raymond Earl Knaeble, IV, Salah Ali Ahmed, Ayman Latif, Faisal Nabin Kashem, Nagib Ali Ghaleb, Stephen Durga Persaud, Ibraheim Y. Mashal, Mohamed Sheikh Abdirahm Kariye, Abdullatif Muthanna, Steven William Washburn against All Defendants. (Choudhury, Nusrat) (Entered: 01/11/2013)
01/31/2013	84	Joint Stipulation (Joint Statement of Stipulated Facts) by Salah Ali Ahmed, Federal Bureau of Investigation, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Terrorist Screening Center, United States Department of Justice, Steven William Washburn. Filed by Salah Ali Ahmed, Federal Bureau of Investigation, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Terrorist Screening Center, United States Department of Justice, Steven William Washburn. (Choudhury, Nusrat) (Entered: 01/31/2013)
02/13/2013	85	Motion for Partial Summary Judgment . Filed by All Defendants. (Attachments: # 1 Memorandum in Support, # 2 Declaration of Cindy A. Coppola, # 3 Attachment to Coppola Declaration) (Farel, Lily) (Entered: 02/13/2013)
02/13/2013	86	Notice re Motion for Partial Summary Judgment 85 of Intent to Lodge Ex Parte In Camera Material Filed by All Defendants (Related document(s): Motion for Partial Summary Judgment 85 .) (Farel, Lily) (Entered: 02/13/2013)
02/19/2013	87	Certificate of Compliance with LR 7-1(a). Filed by All Defendants. (Related document(s): Motion for Partial Summary Judgment 85 .) (Risner, Scott) (Entered: 02/19/2013)
03/08/2013	88	Unopposed Motion for Extension of Time to File Plaintiffs' Cross-Motion for Partial Summary Judgment and memorandum in opposition to Defendants' Motion for Partial Summary Judgment Filed by All Plaintiffs. (Attachments: # 1 Attachment) (Choudhury, Nusrat) (Entered: 03/08/2013)
03/11/2013	89	ORDER by Judge Anna J. Brown. Granting Motion for Extension of Time 88 . Plaintiffs' Memorandum in Opposition to Defendants' Motion for Partial Summary Judgment and Plaintiffs' separately filed Cross-Motion for Partial Summary Judgment, and supporting submission are now due 03/22/2013. Defendants' Reply in support of their Motion for Partial Summary Judgment and separately filed Opposition to Plaintiffs' Cross-Motion for Partial Summary Judgment are due 4/12/2013. Plaintiffs' reply in support of their Cross-Motion for Summary Judgment is due 04/26/2013. Motion is taken under advisement as of 4/26/2013. (bb) (Entered: 03/11/2013)
03/19/2013	90	Order by Judge Anna J. Brown. The Court has reviewed the Application for Special Admission - Pro Hac Vice of Rita M. Siemion who seeks to file as amicus curiae a brief on behalf of The Constitution Project. In the Application, Ms. Siemion explains why she presently does not carry professional liability insurance. Ms. Siemion does not explain, however, whether The Constitution Project consents to her representation without such insurance, a fact the Court finds important to resolving whether she should be admitted pro hac vice in this case. Accordingly, the Court holds this Application in abeyance pending a further submission by Ms. Siemion addressing this question. In addition, to the extent any party to this matter has any position on this Application, the party should make an appropriate filing to express the same no later than March 25, 2013. (bb) (Entered: 03/19/2013)

03/22/2013	91	Cross Motion for Partial Summary Judgment . Oral Argument requested. Filed by Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Samir Mohamed Ahmed Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Steven William Washburn. (Attachments: # 1 Memorandum of Points and Authorities, # 2 Declaration of Salah Ali Ahmed, # 3 Declaration of Nagib Ali Ghaleb, # 4 Declaration of Mohamed Sheikh Abdirahman Kariye, # 5 Declaration of Faisal Nabin Kashem, # 6 Declaration of Raymond Earl Knaeble IV, # 7 Declaration of Allah R. Rana, # 8 Declaration of Mashaal Rana, # 9 Declaration of Nauman Rana, # 10 Declaration of Ibraheim Mashal, # 11 Declaration of Amir Meshal, # 12 Declaration of Elias Mustafa Mohamed, # 13 Declaration of Stephen Persaud, # 14 Declaration of Steven William Washburn, # 15 Declaration of Nusrat J. Choudhury, # 16 Exhibit A to Choudhury Declaration, # 17 Exhibit B to Choudhury Declaration, # 18 Exhibit C to Choudhury Declaration, # 19 Exhibit D to Choudhury Declaration, # 20 Exhibit E to Choudhury Declaration, # 21 Exhibit F to Choudhury Declaration, # 22 Exhibit G to Choudhury Declaration, # 23 Exhibit H Choudhury Declaration, # 24 Exhibit I to Choudhury Declaration, # 25 Exhibit J to Choudhury Declaration, # 26 Exhibit K to Choudhury Declaration, # 27 Exhibit L to Choudhury Declaration) (Shamsi, Hina) (Entered: 03/22/2013)
03/22/2013	92	Response in Opposition to Motion for Partial Summary Judgment 85 Oral Argument requested. Filed by Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Steven William Washburn. (Attachments: # 1 Declaration of Salah Ali Ahmed, # 2 Declaration of Nagib Ali Ghaleb, # 3 Declaration of Mohamed Sheikh Abdirahman Kariye, # 4 Declaration of Faisal Nabin Kashem, # 5 Declaration of Raymond Earl Knaeble IV, # 6 Declaration of Allah R. Rana, # 7 Declaration of Mashaal Rana, # 8 Declaration of Nauman Rana, # 9 Declaration of Ibraheim Mashal, # 10 Declaration of Amir Meshal, # 11 Declaration of Elias Mustafa Mohamed, # 12 Declaration of Stephen Persaud, # 13 Declaration of Steven William Washburn, # 14 Declaration of Nusrat J. Choudhury, # 15 Exhibit A to Choudhury Declaration, # 16 Exhibit B to Choudhury Declaration, # 17 Exhibit C to Choudhury Declaration, # 18 Exhibit D to Choudhury Declaration, # 19 Exhibit E to Choudhury Declaration, # 20 Exhibit F to Choudhury Declaration, # 21 Exhibit G to Choudhury Declaration, # 22 Exhibit H to Choudhury Declaration, # 23 Exhibit I to Choudhury Declaration, # 24 Exhibit J to Choudhury Declaration, # 25 Exhibit K to Choudhury Declaration, # 26 Exhibit L to Choudhury Declaration) (Shamsi, Hina) (Entered: 03/22/2013)
03/26/2013	93	Unopposed Motion to Supplement the Record on the Parties Cr oss-Motions for Partial Summary Judgment Filed by Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Steven William Washburn. (Attachments: # 1 Attachment) (Choudhury, Nusrat) (Entered: 03/26/2013)
03/27/2013	94	Order Granting Application for Special Admission Pro Hac Vice of Rita M. Siemion for Constitution Project. Application Fee in amount of \$100 collected. Receipt No. 51324 issued. Signed on 3/27/2013 by Judge Anna J. Brown. (ecp) (Entered: 03/28/2013)
03/28/2013	95	ORDER by Judge Anna J. Br own. Granting Plaintiff's Unopposed Motion to Supplement the Record on the Parties' Cross-Motions for Partial Summary Judgment 93 . (bb) (Entered: 03/28/2013)
03/29/2013	96	Unopposed Motion to Appear as Amicus Curiae . Filed by Constitution Project. (Attachments: # 1 Exhibit Exhibit A) (Siemion, Rita) (Entered: 03/29/2013)

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04/01/2013	97	ORDER by Judge Anna J. Brown. The Court has completed its consideration of The Constitution Project's Motion 96 for Leave to File Amicus Curiae Brief in Support of Plaintiffs; Cross-motion for Partial Summary Judgment. The Court notes the conditional consent of the parties to the participation of The Constitution Project provided the Court permits the described additional, optional briefing by the parties. Because the Court anticipates setting oral argument no earlier than mid-June, the Court concludes the additional proposed briefing will not delay its preparation and, therefore, grants the Motion 96 as follows: 1. The Constitution Project may file its proposed Amicus Curiae Brief in the record of this case; 2. Defendants now have until April 26, 2013, to file their opposition to Plaintiffs' Cross-Motion 91 for Partial Summary Judgment and to file any brief responsive to The Constitution Project's Amicus Brief; 3. Plaintiffs' reply in further support of their Cross-Motion is now due May 10, 2013. (bb) (Entered: 04/01/2013)
04/01/2013	98	Unopposed Motion to Amend/Correct Plaintiffs' Memoranda of Points and Authorities in Support of Their Cross-Motion for Partial Summary Judgment and in Opposition to Defendants' Motion for Partial Summary Judgment. Filed by Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Steven William Washburn. (Attachments: # 1 Proposed Document Plaintiffs' Amended Memorandum of Points and Authorities in Support of Plaintiffs' Cross-Motion for Partial Summary Judgment, # 2 Proposed Document Plaintiffs' Amended Memorandum of Points and Authorities in Opposition to Defendants' Motion for Partial Summary Judgment) (Choudhury, Nusrat) (Entered: 04/01/2013)
04/02/2013	99	Amicus Brief In Support of Plaintiffs' Cross-Motion for Partial Summary Judgment. Filed by The Constitution Project. (Siemion, Rita) (Entered: 04/02/2013)
04/05/2013	100	ORDER by Judge Anna J. Brown. Granting Plaintiffs' Unopposed Motion to Amend Plaintiffs' Memoranda of Points and Authorities 98 . Counsel are directed to provide the Court with two copies, three-hole punched. (bb) (Entered: 04/05/2013)
04/08/2013	101	Scheduling Order by Judge Anna J. Brown. Oral Argument on Defendants' Motion for Partial Summary Judgment 85 , Plaintiffs' Cross Motion for Partial Summary Judgment 91 and The Constitution Project's Amicus Curiae Brief is SET for 6/21/2013 at 09:00 AM before Judge Anna J. Brown. (bb) (Entered: 04/08/2013)
04/26/2013	102	Reply to Motion for Partial Summary Judgment 85 . Filed by All Defendants. (Risner, Scott) (Entered: 04/26/2013)
04/26/2013	103	Response in Opposition to Cross Motion for Partial Summary Judgment 91 . Filed by All Defendants. (Risner, Scott) (Entered: 04/26/2013)
05/10/2013	104	Reply to Cross Motion for Partial Summary Judgment 91 Oral Argument requested. Filed by Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Steven William Washburn. (Choudhury, Nusrat) (Entered: 05/10/2013)
06/07/2013	105	Order by Judge Anna J. Brown. The Court notes Plaintiffs failed to file their amended Memoranda as proposed after the Court granted their Unopposed Motion 98 to amend same on 4/5/13. In light of the fact that Replies 102 , 104 to both pending Motions 85 , 91 in this matter have been filed, however, the Court deems Plaintiffs' amended Memoranda as having been timely filed on 4/5/13. Counsel also are reminded that the Local Rules require all motions to be accompanied by a separately filed memorandum in support. (bb) (Entered: 06/07/2013)

06/21/2013	106	MINUTES of Proceedings: Oral Argument on Motion for Partial Summary Judgment 85 and Motion for Partial Summary Judgment 91 . Motions are taken under advisement as of 6/21/2013. Nusrat Choudhury, Hina Shamsi, Steve Wilker, Kevin Diaz, Ahilan Arulanantham, present as counsel for plaintiff(s). Scott Risner, Lily Farel, present as counsel for defendant(s). Rita Siemion present (Amicus Brief). Court Reporter: Jill Erwin. Judge Anna J. Brown presiding. (bb) Modified on 7/10/2013 to correct court reporter (bb). (Entered: 06/24/2013)
07/03/2013	107	Notice re Motion Hearing Held, 106 Response to the Court's Inquiry During Summary Judgment Hearing Filed by All Defendants (Related document(s): Motion Hearing Held, 106 .) (Farel, Lily) (Entered: 07/03/2013)
07/16/2013	108	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Oral Argument held on June 21, 2013, before Judge Anna J. Brown, Court Reporter Jill L. Erwin, telephone number (503)326-8191. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through the court reporter or PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 7/26/2013. Redaction Request due 8/9/2013. Redacted Transcript Deadline set for 8/19/2013. Release of Transcript Restriction set for 10/18/2013. (Erwin, Jill) (Entered: 07/16/2013)
07/18/2013	109	Order by Judge Anna J. Brown. The pending Motions 85 and 91 were taken under advisement on 7/3/13 upon receipt of Defendants' response to the Court's request at oral argument. (bb) (Entered: 07/18/2013)
08/28/2013	110	Opinion and Order: The Court GRANTS in part Plaintiffs Cross-Motion 91 as to Plaintiffs liberty interests in international air travel and reputation, DENIES in part Defendants Motion 85 as to the same issue, and DEFERS ruling on the remaining parts of the pending Cross-Motions. The Court also directs the parties to confer and to submit a joint status report no later than September 9, 2013, setting out their recommendation as to the most effective process to better develop the record so that the Court may complete its consideration of the still-pending Motions (#91, #85) and specifically setting out any additional issues that the parties believe need to be resolved on the existing Cross-Motions in light of the Court's rulings herein. Signed on 08/28/2013 by Judge Anna J. Brown. (bb) (Entered: 08/28/2013)
09/03/2013	111	Consent Motion for Extension of Time to File Joint Status Report . Filed by All Defendants. (Attachments: # 1 Proposed Order) (Risner, Scott) (Entered: 09/03/2013)
09/05/2013	112	ORDER: Granting Defendants' Consent Motion for Extension of Time 111 to File Joint Status Report. Joint Status Report is due by 9/16/2013. (bb) (Entered: 09/05/2013)
09/16/2013	113	Joint Status Report by Salah Ali Ahmed, Federal Bureau of Investigation, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Terrorist Screening Center, United States Department of Justice, Steven William Washburn. Filed by Salah Ali Ahmed, Federal Bureau of Investigation, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Terrorist Screening Center, United States Department of Justice, Steven William Washburn. (Choudhury, Nusrat) (Entered: 09/16/2013)
09/26/2013	114	Joint Stipulation re Cross Motion for Partial Summary Judgment 91 , Motion for Partial Summary Judgment 85 by Salah Ali Ahmed, Federal Bureau of Investigation, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed,

		Abdullatif Muthanna, Stephen Durga Persaud, Terrorist Screening Center, United States Department of Justice, Steven William Washburn. Filed by Salah Ali Ahmed, Federal Bureau of Investigation, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Terrorist Screening Center, United States Department of Justice, Steven William Washburn. (Choudhury, Nusrat) (Entered: 09/26/2013)
10/01/2013	115	Consent Motion for Stay of Supplemental Briefing in Light of Lapse of Appropriations. Filed by All Defendants. (Attachments: # 1 Proposed Order) (Risner, Scott) (Entered: 10/01/2013)
10/01/2013	116	ORDER by Judge Anna J. Brown. Granting Consent Motion for Stay of Supplemental Briefing in Light of Lapse of Appropriations 115 . Counsel for Defendants shall confer with counsel for Plaintiffs and submit to the Court a proposal (with dates) as to how the parties wish to proceed within 7 days from the date Congress has appropriated funds for the Department of Justice. (bb) (Entered: 10/01/2013)
10/04/2013	117	Notice of Attorney Withdrawal: Ben Wizner Filed by Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Steven William Washburn (Choudhury, Nusrat) (Entered: 10/04/2013)
10/22/2013	118	Joint Status Report . Filed by All Parties. (Attachments: # 1 Proposed Order) (Risner, Scott) (Entered: 10/22/2013)
10/25/2013	119	Supplemental Brief . Filed by All Defendants. (Related document(s): Motion for Partial Summary Judgment,,,,, 91 , Motion for Partial Summary Judgment 85 .) (Risner, Scott) (Entered: 10/25/2013)
10/28/2013	120	Order by Judge Anna J. Brown. The Court has reviewed the Joint Status Report 118 of the parties and acknowledges Defendants' filing of its Supplemental Brief 119 related to the Court's further consideration of Defendants' Motion 85 for Partial Summary Judgment. In their Joint Status Report, the parties propose a briefing schedule for Plaintiffs' Response Brief (November 5, 2013), Defendants' Reply Brief, if any (November 15, 2013), and Plaintiffs' Reply Brief, if any (December 2, 2013). The Court adopts this proposed supplemental briefing schedule, but notes Plaintiffs are permitted to reply only if Defendants choose to reply. Once the briefing is complete, the Court will inform the parties whether oral argument would be helpful to the Court. (bb) (Entered: 10/28/2013)
11/05/2013	121	Supplemental Brief in Support of Plaintiffs' Cross-Motion for Partial Summary Judgment. Filed by All Plaintiffs. (Related documents: Cross Motion for Partial Summary Judgment 91 , Motion for Partial Summary Judgment 85 .) (Shamsi, Hina) (Entered: 11/05/2013)
11/15/2013	122	Notice of Attorney Withdrawal: Filed by All Defendants (Risner, Scott) (Entered: 11/15/2013)
11/15/2013	123	Supplemental Brief Reply Memorandum in Support of Defendants Motion for Partial Summary Judgment. Filed by All Defendants. (Related document(s): Motion for Partial Summary Judgment,,,,, 91 , Motion for Partial Summary Judgment 85 .) (Powell, Amy) (Entered: 11/15/2013)
12/02/2013	124	Supplemental Brief Reply Memorandum in Support of Plaintiffs' Cross-Motion for Partial Summary Judgment. Filed by Abdul Hakeim Thabet Ahmed, Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond

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		Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Steven William Washburn. (Related document(s): Motion for Partial Summary Judgment,,,,, 91 , Motion for Partial Summary Judgment 85 .) (Shamsi, Hina) (Entered: 12/02/2013)
01/09/2014	125	Notice of Attorney Withdrawal: Nusrat Jahan Choudhury Filed by Salah Ali Ahmed, Adama Bah, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Steven William Washburn (Choudhury, Nusrat) (Entered: 01/09/2014)
01/15/2014	126	Notice of Supplemental Authority Filed by Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Steven William Washburn (Attachments: # 1 Exhibit A) (Shamsi, Hina) (Entered: 01/15/2014)
01/23/2014	127	Second Notice of Supplemental Authority Filed by Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Steven William Washburn (Attachments: # 1 Exhibit) (Shamsi, Hina) (Entered: 01/23/2014)
01/30/2014	128	Scheduling Order by Judge Anna J. Brown. In light of the supplemental briefs and supplemental authority regarding Defendants' Motion for Partial Summary Judgment 85 and Plaintiffs' Cross-Motion for Partial Summary Judgment 91 , continued Oral Argument is SET for 3/17/2014 at 01:30 PM in Portland Courtroom 14A before Judge Anna J. Brown. (bb) (Entered: 01/30/2014)
02/10/2014	129	Third Notice of Supplemental Authority Filed by Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Steven William Washburn (Attachments: # 1 Exhibit A) (Shamsi, Hina) (Entered: 02/10/2014)
03/17/2014	130	MINUTES of Proceedings: Oral Argument on Motion for Partial Summary Judgment 85 and Cross-Motion for Partial Summary Judgment 91 . Motions are taken under advisement as of 3/17/2014. Hina Shamsi, Steven Wilker, Kevin Diaz present as counsel for plaintiff(s). Lily Farel, Amy Powell present as counsel for defendant(s). Court Reporter: Amanda LeGore. Judge Anna J. Brown presiding. (bb) (Entered: 03/20/2014)
03/25/2014	131	Fourth Notice of Supplemental Authority Filed by Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Steven William Washburn (Attachments: # 1 Exhibit Exhibit A) (Shamsi, Hina) (Entered: 03/25/2014)
04/18/2014	132	Fifth Notice of Supplemental Authority Filed by All Plaintiffs (Attachments: # 1 Exhibit Exhibit A) (Shamsi, Hina) (Entered: 04/18/2014)
04/30/2014	133	Notice of Attorney Withdrawal: Lily Farel Filed by All Defendants (Farel, Lily) (Entered: 04/30/2014)
05/29/2014	134	Motion for Leave to Appear Pro Hac Vice for Attorney Alexandra Freedman Smith. Filing fee in the amount of \$100 collected; Agency Tracking ID: 0979-3698025. Filed by All Plaintiffs. (Wilker, Steven) (Entered: 05/29/2014)
06/01/2014	135	Order Granting Application for Special Admission Pro Hac Vice of Alexandra F. Smith

		for Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Stephen Durga Persaud, Mashaal Rana, Steven William Washburn. Application Fee in amount of \$100 collected. Receipt No. 0979-3698025 issued. Signed on 6/1/2014 by Judge Anna J. Brown. (ecp) (Entered: 06/02/2014)
06/24/2014	136	Opinion and Order: The Court DENIES Defendants' Motion 85 for Partial Summary Judgment and GRANTS Plaintiffs' Cross-Motion 91 for Partial Summary Judgment as to Claims One and Three in Plaintiffs' Third Amended Complaint, 83 . The Court directs the parties to confer as to the next steps in this litigation and to file no later than July 14, 2014, a Joint Status Report with their respective proposals and schedules. The Court will schedule a Status Conference thereafter at which primary counsel for the parties should plan to attend in person. Signed on 06/24/2014 by Judge Anna J. Brown. See attached 65 page Opinion and Order for full text. (bb) (Entered: 06/24/2014)
06/24/2014	137	Notice of Attorney Substitution: Attorney Alexandra Smith is substituted as counsel of record in place of Attorney Laura Schauer Ives Filed by Ayman Latif (Smith, Alexandra) (Entered: 06/24/2014)
06/30/2014	138	Unopposed Motion for Extension of Time to file a status report. Filed by All Defendants. (Powell, Amy) (Entered: 06/30/2014)
07/01/2014	139	ORDER by Judge Anna J. Brown. Granting Defendants' Unopposed Motion for Extension of Time 138 to File Status Report. Joint Status Report is due by 8/4/2014. Status Conference is SET for 8/12/2014 at 02:00 PM in Portland Courtroom 14A before Judge Anna J. Brown. Per docket #136, primary counsel for the parties should plan to attend in person. (bb) (Entered: 07/01/2014)
07/01/2014	140	Motion for Leave to Appear Pro Hac Vice for Attorney Hugh Handeyside. Filing fee in the amount of \$100 collected; Agency Tracking ID: 0979-3742267. Filed by All Plaintiffs. (Wilker, Steven) (Entered: 07/01/2014)
07/01/2014	141	Order Granting Application for Special Admission Pro Hac Vice of Hugh Handeyside for all Plaintiffs. Application Fee in amount of \$100 collected. Receipt No. 0979-3742267 issued. Signed on 7/1/2014 by Judge Anna J. Brown. (sss) (Entered: 07/02/2014)
07/02/2014	142	Notification of CM/ECF Account: Attorney Hugh Handeyside (appearing Pro Hac Vice). (sss) (Entered: 07/02/2014)
07/25/2014	143	Scheduling Order by Judge Anna J. Brown. Status Conference set for 08/12/2014 at 2:00 PM is RESET AS TO TIME ONLY TO 11:00 AM in Portland Courtroom 14A before Judge Anna J. Brown. (bb) (Entered: 07/25/2014)
08/04/2014	144	Joint Status Report by All Defendants. Filed by All Defendants. (Powell, Amy) (Entered: 08/04/2014)
08/07/2014	145	Order by Judge Anna J. Brown. The Court acknowledges receipt of the Parties' Joint Status Report 144 . The Court is considering the parties' proposals and will give counsel direction in due course. In the meantime, the Court STRIKES the status conference set for 8/12/14 and will reset it at a later date with directions as to how the parties may prepare for the conference. (bb) (Entered: 08/07/2014)
08/07/2014	146	Notice of Attorney Withdrawal: Kevin Diaz Filed by All Plaintiffs (Wilker, Steven) (Entered: 08/07/2014)
08/22/2014	147	Order by Judge Anna J. Brown. The Court GRANTS the parties' email request to extend the deadline to 9/3/2014 for filing the parties' Joint Status Report. (sm) (Entered: 08/22/2014)

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09/03/2014	148	Joint Status Report by All Defendants. Filed by All Defendants. (Powell, Amy) (Entered: 09/03/2014)
09/08/2014	149	ORDER regarding Status Report 148 . The Court acknowledges receipt of the parties' Joint Status Report 148 . The Court will provide the parties with further direction in due course. Ordered by Judge Anna J. Brown. (mr) (Entered: 09/08/2014)
09/17/2014	150	Scheduling Order by Judge Anna J. Brown. Rule 16 Conference is SET for 10/3/2014 at 09:00 AM in Portland Courtroom 14A before Judge Anna J. Brown. (bb) (Entered: 09/17/2014)
10/01/2014	151	Notice of Appearance of Brigham J. Bowen appearing on behalf of Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice Filed by on behalf of Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice (Bowen, Brigham) (Entered: 10/01/2014)
10/03/2014	152	MINUTES of Proceedings: Having fully considered the parties' respective case-management proposals 148 following the Court's 6/24/2014, Opinion and Order 136 and having conducted a Rule 16 Case Management Conference with counsel on 10/03/2014, the Court, in the exercise of its case-management discretion, issues this Case-Management Order. No later than 10/10/2014, Defendant shall identify to the Court and Plaintiffs which Plaintiffs, if any, will not be precluded as of that date from boarding a commercial aircraft flying over United States airspace. Defendants shall, no later than 11/14/2014, complete an interim substantive review of the grounds for precluding all remaining Plaintiffs from flying over United States airspace in order to determine whether any additional Plaintiffs may thereafter be permitted to board such aircraft. No later than 12/19/2014, Defendants shall file a Status Report updating the Court and Plaintiffs of Defendants' progress in reconsidering each remaining Plaintiff's DHS TRIP applications. No later than 1/16/2015, Defendants shall have completed their final substantive reconsideration of all remaining Plaintiffs' DHS TRIP redress inquiries pursuant to procedures fully compliant with the Court's June 24, 2014, Opinion and Order, and this Order. The parties shall submit a Joint Status Report no later than 1/31/2015, informing the Court of their proposed process and schedule for adjudicating those remaining claims. See attached Order for full text. Hina Shamsi, Hugh Haneyside, Steven Wilker present as counsel for plaintiff(s). Diane Kelleher, Brigham Bowen present as counsel for defendant(s). Court Reporter: Amanda LeGore. Judge Anna J. Brown presiding. (bb) (Entered: 10/06/2014)
10/10/2014	153	Status Report by All Defendants. Filed by All Defendants. (Attachments: # 1 Attachment Letter to the ACLU) (Powell, Amy) (Entered: 10/10/2014)
10/27/2014	154	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Oral Argument held on October 3, 2014 before Judge Anna J. Brown, Court Reporter Amanda M. LeGore, telephone number 503-326-8184. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 11/6/2014. Redaction Request due 11/20/2014. Redacted Transcript Deadline set for 12/4/2014. Release of Transcript Restriction set for 1/29/2015. (LeGore, Amanda) (Entered: 10/27/2014)
12/02/2014	155	Notice of Appearance of Adam D. Kirschner appearing on behalf of Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice Filed by on behalf of Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice (Kirschner, Adam) (Entered: 12/02/2014)
12/02/2014	156	Notice of Appeal to the 9th Circuit (fee exempt status selected (AUSA)). Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice.

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		(Attachments: # 1 Exhibit A- Representation Statement) (Kirschner, Adam) (Entered: 12/02/2014)
12/03/2014		USCA Case Number and Notice confirming Docketing Record on Appeal re Notice of Appeal 156 . Case Appealed to 9th Circuit Court of Appeals Case Number 14-36027 assigned. (dsg) (Entered: 12/03/2014)
12/19/2014	157	Status Report by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 12/19/2014)
12/19/2014	158	Notice of Attorney Substitution:Attorney Justine Fischer is substituted as counsel of record in place of Attorney Steven M. Wilker Hina Shamst and High Handeyside; Ahilan Arulanantham and Jennifer Pasquarella; Alan Schlosser and Julia Harumi Mass; Mitchell Hurley, Christopher Egleson and Justin Bell; and Alexandra Freedman Smith; and Reem Salahi Filed by Stephen Durga Persaud (Fischer, Justine) (Entered: 12/19/2014)
12/19/2014	159	Motion for Leave to Appear Pro Hac Vice for Attorney William J. Genego . Filing fee in the amount of \$100 collected; Agency Tracking ID: 0979-3947287. Filed by Stephen Durga Persaud. (Fischer, Justine) (Entered: 12/19/2014)
12/22/2014	160	Order Granting Application for Special Admission Pro Hac Vice of William J. Genego for Stephen Durga Persaud. Application Fee in amount of \$100 collected. Receipt No. 0979-3947287 issued. Signed on 12/22/2014 by Judge Anna J. Brown. (ecp) (Entered: 12/22/2014)
12/22/2014	161	Notification of CM/ECF Account for Attorney William J. Genego (appearing Pro Hac Vice). Your login is: wjgenego . Go to the CM/ECF login page to set your password. (ecp) (Entered: 12/22/2014)
12/31/2014	162	MANDATE of USCA for the 9th Circuit, USCA # 14-36027, re Notice of Appeal 156 . The motion filed by the appellants on December 18, 2014 for voluntary dismissal of this appeal is granted. This appeal is dismissed. See Fed. R. App. P. 42(b); 9th Cir. R. 27-9.1. This order served on the district court shall constitute the mandate of this court. (dsg) (Entered: 12/31/2014)
01/15/2015	163	Consent Motion to Modify Case Management Schedule Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 01/15/2015)
01/16/2015	164	ORDER by Judge Anna J. Brown. Granting Motion (Consent) 163 to Modify Schedule. General deadline to complete DHS TRIP review process is extended to 1/22/2015; deadline to complete DHS TRIP review process for Mr. Persaud is extended to 01/28/2015. Joint Status Report is now due 02/06/2015. (bb) (Entered: 01/16/2015)
01/22/2015	165	Status Report by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 01/22/2015)
01/29/2015	166	Notice of Appearance of Samuel M. Singer appearing on behalf of All Defendants Filed by on behalf of All Defendants (Singer, Samuel) (Entered: 01/29/2015)
02/06/2015	167	Joint Status Report . Filed by All Plaintiffs. (Attachments: # 1 Plaintiffs' Exhibit A, # 2 Plaintiffs' Exhibit B) (Shamsi, Hina) (Entered: 02/06/2015)
02/13/2015	168	CASE MANAGEMENT ORDER. See 10-page order attached. Signed on 2/13/2015 by

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		Judge Anna J. Brown. (mr) (Entered: 02/13/2015)
02/25/2015	169	Joint Motion for Entry of Stipulated Protective Order. Filed by All Plaintiffs. (Shamsi, Hina) (Entered: 02/25/2015)
03/06/2015	170	ORDER by Judge Anna J. Br own. The Court has received the parties' proposed form of Stipulated Protective Order 169 . For the reasons in the attached Order, the Court declines to sign the order in its current form and DENIES the request. The Court directs the parties to confer further and to submit a new form of stipulated protective order in which they propose the requisite "good cause" findings. (bb) (Entered: 03/06/2015)
03/13/2015	171	Joint Motion for Protective Order (Renewed). Filed by All Plaintiffs. (Shamsi, Hina) (Entered: 03/13/2015)
03/13/2015	172	Consent Motion to File Under Seal Unredacted Exhibits to Plaintiff-Specific Joint Statements of Agreed Facts. Filed by All Plaintiffs. (Shamsi, Hina) (Entered: 03/13/2015)
03/13/2015	173	Joint Concise Statement of Agreed Facts Relevant to All Plaintiffs. Filed by All Plaintiffs. (Shamsi, Hina) (Entered: 03/13/2015)
03/13/2015	174	ORDER by Judge Anna J. Br own. The Court has considered the parties' Consent Motion 172 to File Under Seal Unredacted Exhibits to Plaintiff-Specific Joint Statements of Agreed Facts. Without attempting to resolve the parties' disagreement as to whether and to what extent public disclosure of proposed redacted material may stigmatize Plaintiffs or raise security concerns, the Court is satisfied in the exercise of its discretion that good cause exists for the parties to proceed as proposed in the Consent Motion. Accordingly, the Court grants the Motion. (bb) (Entered: 03/13/2015)
03/13/2015	175	Joint Concise Statement of Agreed Facts Relevant to Plaintiff Mohamed Sheikh Abdirahman Kariye. Filed by All Plaintiffs. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C) (Shamsi, Hina) (Entered: 03/13/2015)
03/13/2015	176	Joint Concise Statement of Agreed Facts Relevant to Plaintiff Faisal Kashem . Filed by All Plaintiffs. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C) (Shamsi, Hina) (Entered: 03/13/2015)
03/13/2015	177	Joint Concise Statement of Agreed Facts Relevant to Plaintiff Raymond Knaeble. Filed by Raymond Earl Knaeble, IV. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C) (Shamsi, Hina) (Entered: 03/13/2015)
03/13/2015	178	Joint Concise Statement of Agreed Facts Relevant to Plaintiff Amir Meshal. Filed by Amir Meshal. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C) (Shamsi, Hina) (Entered: 03/13/2015)
03/13/2015	179	Joint Concise Statement of Agreed Facts Relevant to Plaintiff Steven Washburn . Filed by Steven William Washburn. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C) (Shamsi, Hina) (Entered: 03/13/2015)
03/13/2015	180	Joint Concise Statement of Agreed Facts Relevant to Plaintiff Stephen Persaud . Filed by Stephen Durga Persaud. (Attachments: # 1 Errata A, # 2 Exhibit B, # 3 Exhibit C) (Genego, William) (Entered: 03/13/2015)
03/13/2015	181	Joint Concise Statement re Order 168 --- Joint Filing Regarding Disposition of Claims. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Attachments: # 1 Exhibit 1 (Plaintiffs' Proposed Order), # 2 Exhibit 2 (Defendants' Proposed Order)) (Bowen, Brigham) (Entered: 03/13/2015)
03/16/2015	182	Stipulated Protective Order . Signed on 03/16/2015 by Judge Anna J. Brown. (bb) (Entered: 03/16/2015)

03/17/2015	183	(DOCUMENT FILED UNDER SEAL) , Exhibit re Joint Concise Statement of Agreed Facts Relevant to Plaintiff Stephen Persaud 180 . Filed by Stephen Durga Persaud. (ecp) (Entered: 03/19/2015)
03/17/2015	184	Exhibit re Joint Concise Statement 175 of Agreed Facts Relevant to Plaintiff Mohamed Sheikh Abdirahman Kariye. Filed by Mohamed Sheikh Abdirahm Kariye. (ecp) Modified on 9/1/2015 to unseal document per Order 293 (ecp). (Entered: 03/19/2015)
03/17/2015	185	(DOCUMENT FILED UNDER SEAL) , Exhibits re Concise Statement of Agreed Facts Relevant to Plaintiff Faisal Kashem 176 . Filed by Faisal Nabin Kashem. (ecp) (Entered: 03/19/2015)
03/17/2015	186	(DOCUMENT FILED UNDER SEAL) , Exhibits re Concise Statement of Agreed Facts Relevant to Plaintiff Raymond Knaeble 177 . Filed by Raymond Earl Knaeble, IV. (ecp) (Entered: 03/19/2015)
03/17/2015	187	(DOCUMENT FILED UNDER SEAL) , Exhibits re Concise Statement of Agreed Facts Relevant to Plaintiff Amir Meshal 178 . Filed by Amir Meshal. (ecp) (Entered: 03/19/2015)
03/17/2015	188	(DOCUMENT FILED UNDER SEAL) , Exhibits re Concise Statement of Agreed Facts Relevant to Plaintiff Steven Washburn 179 . Filed by Steven William Washburn. (ecp) (Entered: 03/19/2015)
03/23/2015	189	Consent Motion to Revise Case Management Schedule. Filed by All Plaintiffs. (Shamsi, Hina) (Entered: 03/23/2015)
03/24/2015	190	ORDER: The Court has completed its consideration of the parties' Consent Motion (#189) to Change Case Management Schedule and grants the Motion. See Order for full text and complete deadlines. Dispositive Motions are due by 4/17/2015. Responses to Dispositive Motions are due by 5/18/2015. Replies to Dispositive Motions are due by 6/22/2015. Replies are due by 7/16/2015. Ordered by Judge Anna J. Brown. (dls) (Entered: 03/24/2015)
03/24/2015	191	ORDER: The Court has reviewed the parties' Joint Filing (#181) Regarding Disposition of Claims. The Court has prepared its own proposed form of Judgment attached hereto as Exhibit A for the parties' consideration. See order for full text. A single joint filing due no later than 5 court days before the telephone conference. Status Conference is set for 4/13/2015 at 01:30PM in Portland by telephone before Judge Anna J. Brown. Counsel received the conference call information via email. Ordered by Judge Anna J. Brown. (Attachments: # 1 Attachment draft judgment) (dls) (Entered: 03/24/2015)
03/26/2015	192	Consent Motion to Revise Case Management Schedule. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 03/26/2015)
03/26/2015	193	ORDER: GRANTING Defendants' consent Motion (#192) to Revise Case Management Schedule 192 . Defendants' Response to Combined Plaintiffs' Summary Judgment Motion and separate Responses to Plaintiff-Specific Summary Judgment Motions are due 5/28/15. Defendants' Combined Cross-Motions and Defendants' separate Plaintiff-Specific Cross-Motions are due 5/28/15. Ordered by Judge Anna J. Brown. (dls) (Entered: 03/26/2015)
04/06/2015	194	Joint Concise Statement Supplementing Joint Filing Regarding Disposition of Claims for Individuals Not on the No Fly List Filed by Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Mashaal Rana, Steven William Washburn. (Attachments: # 1 Attachment

		Declaration of Hugh Handeyside in Support of Plaintiffs, # 2 Exhibit A to Handeyside Declaration, # 3 Exhibit B to Handeyside Declaration, # 4 Exhibit C to Handeyside Declaration) (Shamsi, Hina) (Entered: 04/06/2015)
04/08/2015	195	Order by Judge Anna J. Brown. The Court acknowledges receipt of the parties' Supplemental Joint Filing Regarding Disposition of Claims 194 in which the parties offer extensive disputed analysis as to whether the Court should enter a judgment at this time as to the claims of those Plaintiffs who are no longer on the No Fly List. The Court concludes there is insufficient time between now and the April 13, 2015, telephone conference for the Court to consider adequately the parties' arguments on this issue and, therefore, the Court strikes that telephone conference. The Court is taking under advisement the question whether a judgment should enter now and, if so, in what form, and the Court will notify the parties if additional briefing or argument will be helpful to the Court. In the meantime, the Court requests counsel for the Plaintiffs who are no longer on the No Fly List to file no later than April 17, 2015, a statement for the record confirming that, other than a future petition for attorneys' fees and costs on behalf of these Plaintiffs, there are not any additional claims to be litigated on behalf of these particular Plaintiffs in this action. (bb) (Entered: 04/08/2015)
04/09/2015	196	Scheduling Order by Judge Anna J. Brown. After the Court has reviewed the parties Summary Judgment motions and cross-motions to be filed and has determined oral argument is necessary, Oral Argument will be SET for 8/20/2015 at 01:30PM in Portland Courtroom 14A before Judge Anna J. Brown. Counsel are directed to secure this date on their calendar. (bb) (Entered: 04/09/2015)
04/13/2015	197	Notice re: Revisions to DHS TRIP Procedures Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice (Bowen, Brigham) (Entered: 04/13/2015)
04/14/2015	198	Concise Statement re Scheduling,,,, 195 Regarding Disposition of Claims for Individuals Not on the No Fly List Filed by Salah Ali Ahmed, Nagib Ali Ghaleb, Ayman Latif, Ibraheim Y. Mashal, Elias Mustafa Mohamed, Abdullatif Muthanna, Mashaal Rana. (Shamsi, Hina) (Entered: 04/14/2015)
04/17/2015	199	Notice of Filing Under Seal Unredacted Memorandum in Support of Renewed Motion for Partial Summary Judgment Filed by Mohamed Sheikh Abdirahm Kariye (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	200	Notice of Filing Under Seal Unredacted Memorandum in Support of Renewed Motion for Partial Summary Judgment Filed by Faisal Nabin Kashem (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	201	Notice of Filing Under Seal Unredacted Memorandum in Support of Renewed Motion for Partial Summary Judgment Filed by Raymond Earl Knaeble, IV (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	202	Notice of Filing Under Seal Unredacted Memorandum in Support of Renewed Motion for Partial Summary Judgment Filed by Amir Meshal (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	203	Notice of Filing Under Seal Unredacted Memorandum in Support of Renewed Motion for Partial Summary Judgment Filed by Steven William Washburn (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	204	Notice of Under Seal Filing of Unredacted Memorandum in Support of Renewed Motion for Partial Summary Judgment Filed by Stephen Durga Persaud (Genego, William) (Entered: 04/17/2015)
04/17/2015	205	Redacted Memorandum in Support of Renewed Motion For Partial Summary Judgment.

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		Filed by Stephen Durga Persaud. (Genego, William) (Entered: 04/17/2015)
04/17/2015	206	Motion for Partial Summary Judgment Renewed and Combined on Behalf of Plaintiffs on No Fly List Oral Argument requested. Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud, Steven William Washburn. (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	207	Memorandum in Support of Plaintiffs' Renewed and Combined Motion for Partial Summary Judgment Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud, Steven William Washburn. (Related document(s): Motion for Partial Summary Judgment, 206 .) (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	208	Declaration of Hugh Handeyside in Support of Plaintiffs' Renewed and Combined Motion for Partial Summary Judgment . Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud, Steven William Washburn. (Related document(s): Motion for Partial Summary Judgment, 206 .) (Attachments: # 1 Exhibit A (Part 1 of 2), # 2 Exhibit A (Part 2 of 2)) (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	209	Motion for Partial Summary Judgment Renewed by Mohamed Kariye (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Oral Argument requested. Filed by Mohamed Sheikh Abdirahm Kariye. (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	210	Motion for Partial Summary Judgment Renewed by Mohamed Kariye (CORRECTED ENTRY) Oral Argument requested. Filed by Mohamed Sheikh Abdirahm Kariye. (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	211	Memorandum in Support of Renewed Motion for Partial Summary Judgment by Plaintiff Mohamed Kariye. Filed by Mohamed Sheikh Abdirahm Kariye. (Related document(s): Motion for Partial Summary Judgment 210 .) (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	212	Motion for Partial Summary Judgment Renewed by Faisal Kashem. Oral Argument requested. Filed by Faisal Nabin Kashem. (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	213	Memorandum in Support of Renewed Motion for Partial Summary Judgment by Plaintiff Faisal Kashem. Filed by Faisal Nabin Kashem. (Related document(s): Motion for Partial Summary Judgment 212 .) (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	214	Motion for Partial Summary Judgment Renewed by Raymond Knaeble Oral Argument requested. Filed by Raymond Earl Knaeble, IV. (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	215	Memorandum in Support of Renewed Motion for Partial Summary Judgment by Plaintiff Raymond Knaeble. Filed by Raymond Earl Knaeble, IV. (Related document(s): Motion for Partial Summary Judgment 214 .) (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	216	Motion for Partial Summary Judgment Renewed by Amir Meshal Oral Argument requested. Filed by Amir Meshal. (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	217	Memorandum in Support of Renewed Motion for Partial Summary Judgment by Plaintiff Amir Meshal. Filed by Amir Meshal. (Related document(s): Motion for Partial Summary Judgment 216 .) (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	218	Motion for Partial Summary Judgment Renewed by Steven Washburn. Oral Argument requested. Filed by Steven William Washburn. (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	219	Memorandum in Support of Renewed Motion for Partial Summary Judgment by Plaintiff Steven Washburn. Filed by Steven William Washburn. (Related document(s): Motion for

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		Partial Summary Judgment 218 .) (Shamsi, Hina) (Entered: 04/17/2015)
04/17/2015	220	Motion for Partial Summary Judgment Renewed by Stephen Persaud. Oral Argument requested. Filed by Stephen Durga Persaud. (Genego, William) (Entered: 04/17/2015)
04/17/2015	221	Memorandum in Support of Renewed Motion for Partial Summary Judgment by Plaintiff Mohamed Kariye. Filed by Mohamed Sheikh Abdirahm Kariye. (Related document(s): Motion for Partial Summary Judgment 210 .) (ecp) Modified on 9/1/2015 to unseal document per Order 293 (ecp). (Entered: 04/20/2015)
04/17/2015	222	(DOCUMENT FILED UNDER SEAL) , Memorandum in Support of Motion for Partial Summary Judgment Renewed by Faisal Kashem.. Filed by Faisal Nabin Kashem. (Related document(s): Motion for Partial Summary Judgment 212 .) (ecp) (Entered: 04/20/2015)
04/17/2015	223	(DOCUMENT FILED UNDER SEAL) , Memorandum in Support of Motion for Partial Summary Judgment Renewed by Raymond Knaeble. Filed by Raymond Earl Knaeble, IV. (Related document(s): Motion for Partial Summary Judgment 214 .) (ecp) (Entered: 04/20/2015)
04/17/2015	224	(DOCUMENT FILED UNDER SEAL) , Memorandum in Support of Motion for Partial Summary Judgment Renewed by Amir Meshal. Filed by Amir Meshal. (Related document(s): Motion for Partial Summary Judgment 216 .) (ecp) (Entered: 04/20/2015)
04/17/2015	225	(DOCUMENT FILED UNDER SEAL) , Memorandum in Support of Motion for Partial Summary Judgment Renewed by Stephen Persaud.. Filed by Stephen Durga Persaud. (Related document(s): Motion for Partial Summary Judgment 220 .) (ecp) (Entered: 04/20/2015)
04/17/2015	226	(DOCUMENT FILED UNDER SEAL) , Memorandum in Support of Motion for Partial Summary Judgment Renewed by Steven Washburn. Filed by Steven William Washburn. (Related document(s): Motion for Partial Summary Judgment 218 .) (ecp) (Entered: 04/20/2015)
04/24/2015	227	ORDER: The Court ENTERS a non-final Judgment on Claims One and Three in Plaintiffs Third Amended Complaint in favor of Plaintiffs Ayman Latif, Elias Mustafa Mohamed, Nagib Ali Ghaleb, Abdullatif Muthanna, Ibraheim Y. Mashal, Salah Ali Ahmed, and Mashaal Rana, who are not on the No-Fly List. The Court also DISMISSES without prejudice Claim Two as to these Plaintiffs, who are not presently on the No-Fly List. Signed on 4/24/15 by Judge Anna J. Brown. (dls) (Entered: 04/24/2015)
04/24/2015	228	JUDGMENT: Based on the Court's Opinions and Orders (#110, #136) issued August 28, 2013, and June 24, 2014, respectively, granting partial summary judgment in Plaintiffs' favor; the Court's Case-Management Order (#152) issued October 3, 2014; and Defendants' October 10, 2014, disclosure that the subset of Plaintiffs listed below are not currently on the No-Fly List, the Court ENTERS Judgment in favor of Plaintiffs Ayman Latif, Elias Mustafa Mohamed, Nagib Ali Ghaleb, Abdullatif Muthanna, Ibraheim Y. Mashal, Salah Ali Ahmed, and Mashaal Rana on Claims One and Three of Plaintiffs' Third Amended Complaint consistent with the Courts Orders (#110, #136, #152). See order for full text. Signed on 4/24/15 by Judge Anna J. Brown. (dls) (Entered: 04/24/2015)
05/05/2015	229	Notice of Attorney Withdrawal: of Christopher Egelson as Counsel For Plaintiffs Filed by Abdul Hakeim Thabet Ahmed, Salah Ali Ahmed, Adama Bah, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Samir Mohamed Ahmed Mohamed, Abdullatif Muthanna, Saleh A. Omar, Mashaal Rana, Halime Sat, Steven William Washburn (Wilker, Steven) (Entered: 05/05/2015)

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05/21/2015	230	Unopposed Motion to Consolidate Memoranda in Support of Summary Judgment Submissions. Filed by All Defendants. (Singer, Samuel) (Entered: 05/21/2015)
05/21/2015	231	Notice of Errata Filed by All Defendants (Singer, Samuel) (Entered: 05/21/2015)
05/26/2015	232	ORDER by Judge Anna J. Brown. The Court GRANTS Defendants' Motion 230 to Consolidate Memoranda. Defendants' consolidated memorandum in support of Defendants' expected cross-motion for summary judgment and Defendants' memorandum in opposition to Plaintiffs' Motion 206 for Partial Summary Judgment shall be filed no later than May 28, 2015, and must not exceed 60 pages. Defendants' consolidated memoranda as to each individual Plaintiff shall be filed no later than May 28, 20125, and must not exceed 15 pages each. Plaintiffs may file similar consolidated responses to Defendants' expected motions as to each individual Plaintiff and replies in support of Plaintiffs' Motions no later than June 22, 2015. (bb) (Entered: 05/26/2015)
05/28/2015	233	Notice re Order on motion for protective order 182 , Order on Motion - Miscellaneous,, 174 Notice of Filing Under Seal - Kariye Cross-Motion and Opposition Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice (Related document(s): Order on motion for protective order 182 , Order on Motion - Miscellaneous,, 174 .) (Bowen, Brigham) (Entered: 05/28/2015)
05/28/2015	234	Notice re Order on motion for protective order 182 , Order on Motion - Miscellaneous,, 174 Notice of Filing Under Seal - Kashem Cross-Motion and Opposition Filed by All Defendants (Related document(s): Order on motion for protective order 182 , Order on Motion - Miscellaneous,, 174 .) (Bowen, Brigham) (Entered: 05/28/2015)
05/28/2015	235	Notice re Order on motion for protective order 182 , Order on Motion - Miscellaneous,, 174 Notice of Filing Under Seal - Knaeble Cross-Motion and Opposition Filed by All Defendants (Related document(s): Order on motion for protective order 182 , Order on Motion - Miscellaneous,, 174 .) (Bowen, Brigham) (Entered: 05/28/2015)
05/28/2015	236	Notice re Order on motion for protective order 182 , Order on Motion - Miscellaneous,, 174 Notice of Filing Under Seal - Meshal Cross-Motion and Opposition Filed by All Defendants (Related document(s): Order on motion for protective order 182 , Order on Motion - Miscellaneous,, 174 .) (Bowen, Brigham) (Entered: 05/28/2015)
05/28/2015	237	Notice re Order on motion for protective order 182 , Order on Motion - Miscellaneous,, 174 Notice of Filing Under Seal - Persaud Cr oss-Motion and Opposition Filed by All Defendants (Related document(s): Order on motion for protective order 182 , Order on Motion - Miscellaneous,, 174 .) (Bowen, Brigham) (Entered: 05/28/2015)
05/28/2015	238	Notice re Order on motion for protective order 182 , Order on Motion - Miscellaneous,, 174 Notice of Filing Under Seal - Washburn Cr oss-Motion and Opposition Filed by All Defendants (Related document(s): Order on motion for protective order 182 , Order on Motion - Miscellaneous,, 174 .) (Bowen, Brigham) (Entered: 05/28/2015)
05/28/2015	239	Brief - Cross-Motion for Partial Summary Judgment and Opposition - Kariye. Filed by All Defendants. (Bowen, Brigham) Modified on 9/1/2015 to unseal document per Order 293 (ecp). (Entered: 05/28/2015)
05/28/2015	240	Brief - Cross-Motion for Partial Summary Judgment and Opposition - Kashem. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Defendants. (Bowen, Brigham) (Entered: 05/28/2015)
05/28/2015	241	Motion for Partial Summary Judgment - (Redacted) Cross-Motion for Partial Summary Judgment and Opposition - Kariye. Oral Argument requested. Filed by All Defendants. (Bowen, Brigham) (Entered: 05/28/2015)

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05/28/2015	242	Motion for Partial Summary Judgment - (Redacted) Cross-Motion for Partial Summary Judgment and Opposition - Kashem. Oral Argument requested. Filed by All Defendants. (Bowen, Brigham) (Entered: 05/28/2015)
05/28/2015	243	Cross Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Meshal. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Oral Argument requested. Filed by All Defendants. (Powell, Amy) (Entered: 05/28/2015)
05/28/2015	244	Cross Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Persaud. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Oral Argument requested. Filed by All Defendants. (Powell, Amy) (Entered: 05/28/2015)
05/28/2015	245	Cross Motion for Partial Summary Judgment and Opposition - Washburn. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Oral Argument requested. Filed by All Defendants. (Powell, Amy) (Entered: 05/28/2015)
05/28/2015	246	Cross Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Knaeble. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Oral Argument requested. Filed by All Defendants. (Powell, Amy) (Entered: 05/28/2015)
05/28/2015	247	Redacted Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Meshal. Oral Argument requested. Filed by All Defendants. (Powell, Amy) (Entered: 05/28/2015)
05/28/2015	248	Redacted Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Persaud. Oral Argument requested. Filed by All Defendants. (Powell, Amy) (Entered: 05/28/2015)
05/28/2015	249	Redacted Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Washburn. Oral Argument requested. Filed by All Defendants. (Powell, Amy) (Entered: 05/28/2015)
05/28/2015	250	Redacted Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Knaeble. Oral Argument requested. Filed by All Defendants. (Powell, Amy) (Entered: 05/28/2015)
05/28/2015	251	Cross Motion for Partial Summary Judgment and Opposition (All Plaintiffs). Oral Argument requested. Filed by All Defendants. (Bowen, Brigham) (Entered: 05/28/2015)
05/28/2015	252	Declaration of Deborah O. Moore . Filed by All Defendants. (Related document(s): Motion for Partial Summary Judgment 251 .) (Bowen, Brigham) (Entered: 05/28/2015)
05/28/2015	253	Declaration of G. Clayton Grigg. Filed by All Defendants. (Related document(s): Motion for Partial Summary Judgment 251 .) (Attachments: # 1 Exhibit) (Bowen, Brigham) (Entered: 05/28/2015)
05/28/2015	254	Declaration of Michael Steinbach . Filed by All Defendants. (Related document(s): Motion for Partial Summary Judgment 251 .) (Attachments: # 1 Exhibit Memorandum of Understanding) (Bowen, Brigham) (Entered: 05/28/2015)
06/11/2015	255	Motion to Revise Case Management Schedule. Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud, Steven William Washburn. (Shamsi, Hina) (Entered: 06/11/2015)
06/16/2015	256	Memorandum in Opposition to Motion to Revise Case Management Schedule 255 . Filed by All Defendants. (Powell, Amy) (Entered: 06/16/2015)
06/17/2015	257	Reply to Motion to Revise Case Management Schedule 255 . Filed by Mohamed Sheikh

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		Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud, Steven William Washburn. (Shamsi, Hina) (Entered: 06/17/2015)
06/18/2015	258	ORDER by Judge Anna J. Brown. After a thorough review of the extensive briefing on Plaintiffs' Motion (#255) to Revise Case Management Schedule, the Court GRANTS in part Plaintiff's Motion as follows: The Court concludes, in the exercise of its case-management discretion, that Plaintiffs should be permitted to make their record in opposition to Defendants' Motions #241-#251 for Summary Judgment, including the proffer of expert evidentiary arguments to explain their opposition. Because Plaintiffs did not anticipate their asserted need to make such a record in time to meet the current deadlines in the Court's Case Management Schedule, the Court also concludes the existing schedule should be modified reasonably to permit Plaintiffs to complete that record. The Court, however, declines on this scheduling Motion to make any ruling as to admissibility of the to-be-proffered declarations from Plaintiffs' retained experts for the purpose of resisting Defendants' Motion, and Defendants may challenge the admissibility of this evidence and, if necessary, supplement their record and arguments in light of these submissions. Accordingly, the Court makes the following changes to the existing Case Management Schedule: No later than June 24, 2015, Plaintiffs must disclose to Defendants the identities and curriculum vitae of all expert witnesses on whom they intend to rely in opposition to Defendants' Motion. No later than July 20, 2015, Plaintiffs must file their Memoranda in Opposition to Defendants' Combined and Plaintiff-Specific Cross-Motions for Summary Judgment and Reply Memoranda in Support of their Combined and Plaintiff-Specific Motions for Summary Judgment, including any substantive declarations from their expert witnesses. If Defendants require additional time to prepare their reply memoranda in light of Plaintiffs' proffer of expert declarations, then the Court will consider any motion for an extension of time in due course. Otherwise, Defendants must file their Reply Memoranda in Support of their Combined and Plaintiff-Specific Cross-Motions for Summary Judgment no later than August 27, 2015. These changes also necessitate the rescheduling of the oral argument previously set for August 20, 2015, which the Court now STRIKES. The Clerk will contact the parties in due course to reset oral argument on the parties' Cross-Motions for Summary Judgment for sometime in September 2015. (bb) (Entered: 06/18/2015)
07/08/2015	259	Scheduling Order by Judge Anna J. Brown Oral Argument on all pending motions is SET for 10/19/2015 at 01:30 PM in Portland Courtroom 14A before Judge Anna J. Brown. (bb) (Entered: 07/08/2015)
07/10/2015	260	Consent Motion for Extension of Time to Submit Response Brief Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud, Steven William Washburn. (Shamsi, Hina) (Entered: 07/10/2015)
07/13/2015	261	ORDER: The Court GRANTS the parties' Consent Motion 260 to Extend Briefing Deadlines. Plaintiff's Memoranda in Opposition to Defendants' Combined and Plaintiff-Specific Cross-Motions for Summary Judgment and Plaintiffs' Reply Memoranda in Support of their Combined and Plaintiff-Specific Motions for Summary Judgment are due 7/24/15. Defendants' Reply Memoranda in Support of their Combined and Plaintiff-Specific Cross-Motions for Summary Judgment are due 9/2/15. Ordered by Judge Anna J. Brown. (mr) (Entered: 07/13/2015)
07/23/2015	262	Consent Motion for Extension of Time Re Briefing Deadlines. Expedited Hearing requested. Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Steven William Washburn. (Shamsi, Hina) (Entered: 07/23/2015)

07/24/2015	263	ORDER by Judge Anna J. Brown. The Court GRANTS the Consent Motion 262 for Extension of Time. Plaintiffs Memoranda in Opposition to Defendants Combined and Plaintiff-Specific Cross-Motions for Summary Judgment; Plaintiffs Reply Memoranda in Support of their Combined and Plaintiff-Specific Motions for Summary Judgment are now due 8/7/15. Defendants Reply Memoranda in Support of their Combined and Plaintiff-Specific Cross-Motions for Summary Judgment are now due 9/23/15. Oral argument remains set on October 19, 2015. (bb) (Entered: 07/24/2015)
08/03/2015	264	Scheduling Order by Judge Anna J. Brown. A telephonic Scheduling Conference is SET for 8/7/2015 at 10:00 AM before Judge Anna J. Brown. Parties were emailed the conference call in number. (bb) (Entered: 08/03/2015)
08/07/2015	265	MINUTES of Proceedings: Status Conference held. The Court received input from the parties as to whether or not to have 3:15-cv-1343-SI US v Kariye reassigned to this judicial officer. The Court will make a joint recommendation to the Case Management Committee and advise the parties. Hina Shamsi, Steven Wilker, Catherine Wagner, Ahilan Arulanantham present as counsel for plaintiff(s). Brigham Bowen, Amy Powell, Samuel Singer present as counsel for defendant(s). Court Reporter: Amanda LeGore. Judge Anna J. Brown presiding. (bb) (Entered: 08/07/2015)
08/07/2015	266	Motion for Leave to Appear Pro Hac Vice for Attorney Catherine A. Wagner . Filing fee in the amount of \$100 collected; Agency Tracking ID: 0979-4232605. Filed by Abdul Hakeim Thabet Ahmed, Salah Ali Ahmed, Adama Bah, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Samir Mohamed Ahmed Mohamed, Abdullatif Muthanna, Saleh A. Omar, Mashaal Rana, Halime Sat, Steven William Washburn. (Wilker, Steven) (Entered: 08/07/2015)
08/07/2015	267	Response in Opposition to Cross Motion for Partial Summary Judgment and Opposition (All Plaintiffs) 251 Oral Argument requested. Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud, Steven William Washburn. (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	268	Declaration of Marc Sageman in Support of Plaintiffs' Opposition to Defendants' Cross-Motion for Summary Judgment Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud, Steven William Washburn. (Related document(s): Response in Opposition to Motion, 267 .) (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	269	Declaration of James Austin in Support of Plaintiffs' Opposition to Defendants' Cross-Motion for Summary Judgment Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud, Steven William Washburn. (Related document(s): Response in Opposition to Motion, 267 .) (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	270	Declaration of Amir Meshal in Support of Plaintiffs' Opposition to Defendants' Cross-Motion for Summary Judgment Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Steven William Washburn. (Related document(s): Response in Opposition to Motion, 267 .) (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	271	Notice of Filing Under Seal of Plaintiff Kariye's Unredacted Opposition to Defts' Cross-Motion for Summary Judgment and Reply in Support of His Motion for Partial Summary Judgment Filed by Mohamed Sheikh Abdirahm Kariye (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	272	Response in Opposition to Motion for Partial Summary Judgment - (Redacted) Cross-

		Motion for Partial Summary Judgment and Opposition - Kariye 241 Oral Argument requested. Filed by Mohamed Sheikh Abdirahm Kariye. (Shamsi, Hina) Modified on 9/1/2015 to unseal document per Order 293 (ecp). (Entered: 08/07/2015)
08/07/2015	273	Response in Opposition (Redacted) to Motion for Partial Summary Judgment - (Redacted) Cross-Motion for Partial Summary Judgment and Opposition - Kariye 241 Oral Argument requested. Filed by Mohamed Sheikh Abdirahm Kariye. (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	274	Notice of Filing Under Seal of Plaintiff Kashem's Unredacted Opposition to Defts' Cross-Motion for Summary Judgment and Reply in Support of His Motion for Partial Summary Judgment Filed by Faisal Nabin Kashem (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	275	Response in Opposition to Motion for Partial Summary Judgment - (Redacted) Cross-Motion for Partial Summary Judgment and Opposition - Kashem 242 Oral Argument requested. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by Faisal Nabin Kashem. (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	276	Response in Opposition (Redacted) to Motion for Partial Summary Judgment - (Redacted) Cross-Motion for Partial Summary Judgment and Opposition - Kashem 242 Oral Argument requested. Filed by Faisal Nabin Kashem. (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	277	Notice of Filing Under Seal of Plaintiff Knaeble's Unredacted Opposition to Defts' Cross-Motion for Summary Judgment and Reply in Support of His Motion for Partial Summary Judgment Filed by Raymond Earl Knaeble, IV (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	278	Response in Opposition to Cross Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Knaeble 246 Oral Argument requested. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by Raymond Earl Knaeble, IV. (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	279	Response in Opposition (Redacted) to Redacted Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Knaeble 250 Oral Argument requested. Filed by Raymond Earl Knaeble, IV. (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	280	Notice of Filing Under Seal of Plaintiff Meshal's Unredacted Opposition to Defts' Cross-Motion for Summary Judgment and Reply in Support of His Motion for Partial Summary Judgment Filed by Amir Meshal (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	281	Response in Opposition to Cross Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Meshal 243 Oral Argument requested. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by Amir Meshal. (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	282	Response in Opposition (Redacted) to Redacted Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Meshal 247 Oral Argument requested. Filed by Amir Meshal. (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	283	Notice of Filing Under Seal of Plaintiff Washburn's Unredacted Opposition to Defts' Cross-Motion for Summary Judgment and Reply in Support of His Motion for Partial Summary Judgment Filed by Steven William Washburn (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	284	Response in Opposition to Cross Motion for Partial Summary Judgment and Opposition - Washburn 245 Oral Argument requested. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by Steven William Washburn. (Shamsi, Hina) (Entered: 08/07/2015)

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08/07/2015	285	Response in Opposition (Redacted) to Redacted Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Washburn 249 Oral Argument requested. Filed by Steven William Washburn. (Shamsi, Hina) (Entered: 08/07/2015)
08/07/2015	286	Notice of Filing Under Seal of Plaintiff Persaud's Unredacted Opposition to Defs' Cross-Motion for Summary Judgment and Reply In Support of His Motion for Partial Summary Judgment Filed by Stephen Durga Persaud (Genego, William) (Entered: 08/07/2015)
08/07/2015	287	Response in Opposition to Cross Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Persaud 244 Oral Argument requested. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by Stephen Durga Persaud. (Genego, William) (Entered: 08/07/2015)
08/07/2015	288	Response in Opposition (Redacted) to Redacted Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Persaud 248 Oral Argument requested. Filed by Stephen Durga Persaud. (Genego, William) (Entered: 08/07/2015)
08/10/2015	289	ORDER: Granting Application for Special Admission Pro Hac Vice of Catherine A. Wagner for all Plaintiffs except Plaintiff Stephen Persaud. Application Fee in amount of \$100 collected. Receipt No. 0979-4232605 issued. Signed on 8/10/2015 by Judge Anna J. Brown. (ecp) (Entered: 08/10/2015)
08/10/2015	290	Notification of CM/ECF Account for Attorney Catherine A. Wagner (appearing Pro Hac Vice). Your login is: cawagner . Go to the CM/ECF login page to set your password. (ecp) (Entered: 08/10/2015)
08/10/2015	291	Notice of Attorney Withdrawal: Jennifer Pasquarella Filed by Abdul Hakeim Thabet Ahmed, Salah Ali Ahmed, Adama Bah, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Ayman Latif, Ibraheim Y. Mashal, Amir Meshal, Elias Mustafa Mohamed, Samir Mohamed Ahmed Mohamed, Abdullatif Muthanna, Saleh A. Omar, Mashaal Rana, Halime Sat, Steven William Washburn (Wilker, Steven) (Entered: 08/10/2015)
08/26/2015	292	Consent Motion to Unseal Documents and Information Relevant to Plaintiff Kariye. Filed by Mohamed Sheikh Abdirahm Kariye. (Wagner, Catherine) (Entered: 08/26/2015)
08/27/2015	293	ORDER: The Court concurs with and, therefore, grants the parties' Consent Motion 292 to Unseal Documents and directs the Clerk to unseal in full the documents identified in the Motion. (bb) (Entered: 08/27/2015)
09/14/2015	294	Motion for Extension of Time to File Reply Memoranda in Support of Cross-Motions for Summary Judgment. Expedited Hearing requested. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 09/14/2015)
09/15/2015	295	Response in Opposition to Motion for Extension of Time to File Reply Memoranda in Support of Cross-Motions for Summary Judgment 294 . Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud, Steven William Washburn. (Shamsi, Hina) (Entered: 09/15/2015)
09/28/2015	296	ORDER by Judge Anna J. Brown. The Court GRANTS Defendants' Motion 294 for Extension of Time to File Reply Memoranda in Support of Cross-Motions for Summary Judgment. As noted in its Order 258 granting in part Plaintiff's Motion 255 to Revise Case Management Schedule, the Court anticipated the possibility that Defendants would require additional time to respond to Plaintiffs' proffered expert testimony. The Court DENIES Plaintiffs' alternative request for leave to file surreply memoranda before oral argument with leave to renew at oral argument. If after the benefit of oral argument the

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		Court determines supplemental briefing will be helpful, the Court will provide the parties with an opportunity to do so at that time. Accordingly, Defendants must file their Reply Memoranda in Support of Cross-Motions for Summary Judgment no later than October 14, 2015. The Court STRIKES the oral argument currently scheduled for October 19, 2015. The Clerk will contact the parties at a later date to re-schedule a firm date for oral argument. (bb) (Entered: 09/28/2015)
10/08/2015	297	Scheduling Order by Judge Anna J. Brown. Oral Argument on pending motions is SET for 12/09/2015 at 9:00 AM in Courtroom 14A before Judge Anna J. Brown. (bb) (Entered: 10/08/2015)
10/13/2015	298	Consent Motion for Extension of Time to File Reply Summary Judgment Memoranda, Consent Motion to File Excess Pages . Expedited Hearing requested. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 10/13/2015)
10/13/2015	299	ORDER: The Court GRANTS Defendants' Consent Motion 298 for Extension of Time and to File Excess Pages. Defendants' reply memoranda must be filed no later than October 19, 2015. Defendants' combined reply memorandum must not exceed 45 pages. Ordered by Judge Anna J. Brown. (sm) (Entered: 10/13/2015)
10/19/2015	300	Reply re: Kashem (filed under seal) to Motion for Partial Summary Judgment - (Redacted) Cross-Motion for Partial Summary Judgment and Opposition - Kashem 242 Oral Argument requested. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 10/19/2015)
10/19/2015	301	Reply re: Kashem (redacted public version) to Motion for Partial Summary Judgment - (Redacted) Cross-Motion for Partial Summary Judgment and Opposition - Kashem 242 Oral Argument requested. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 10/19/2015)
10/19/2015	302	Reply re: Washburn (filed under seal) to Cross Motion for Partial Summary Judgment and Opposition - Washburn 245 Oral Argument requested. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 10/19/2015)
10/19/2015	303	Reply re: Washburn (redacted public version) to Redacted Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Washburn 249 Oral Argument requested. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 10/19/2015)
10/19/2015	304	Reply re: All Plaintiffs to Cross Motion for Partial Summary Judgment and Opposition (All Plaintiffs) 251 . Filed by All Defendants. (Attachments: # 1 Attachment Declaration of EAD John Giacalone) (Powell, Amy) (Entered: 10/19/2015)
10/19/2015	305	Reply re: Meshal (filed under seal) to Cross Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Meshal 243 Oral Argument requested. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 10/19/2015)
10/19/2015	306	Reply re: Meshal (redacted public version) to Redacted Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Meshal 247 Oral Argument requested. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 10/19/2015)

10/19/2015	307	Reply re: Kariye to Motion for Partial Summary Judgment - (Redacted) Cross-Motion for Partial Summary Judgment and Opposition - Kariye 241 . Filed by All Defendants. (Powell, Amy) (Entered: 10/19/2015)
10/19/2015	308	Reply re: Knaeble (filed under seal) to Cross Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Knaeble 246 Oral Argument requested. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 10/19/2015)
10/19/2015	309	Redacted Reply re: Knaeble (redacted public version) to Redacted Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Knaeble 250 Oral Argument requested. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 10/19/2015)
10/19/2015	310	Reply re: Persaud (filed under seal) to Cross Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Persaud 244 Oral Argument requested. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 10/19/2015)
10/19/2015	311	Redacted Reply re: Persaud (redacted public version) to Redacted Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion - Persaud 248 Oral Argument requested. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 10/19/2015)
10/26/2015	312	Notice of Supplemental Authority Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud, Steven William Washburn (Attachments: # 1 Exhibit A) (Shamsi, Hina) (Entered: 10/26/2015)
12/02/2015	313	Motion for Partial Closure of Oral Argument Hearing. Expedited Hearing requested. Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud, Steven William Washburn. (Shamsi, Hina) (Entered: 12/02/2015)
12/04/2015	314	Memorandum in Opposition to Motion for Partial Closure of Oral Argument Hearing 313 . Filed by All Defendants. (Powell, Amy) (Entered: 12/04/2015)
12/07/2015	315	Order by Judge Anna J. Brown. The Court acknowledges receipt of Plaintiffs' Motion 313 for Partial Closure of Oral Argument and hereby advises counsel the Court will take argument on this Motion as the first order of business on 12/9/15. (bb) (Entered: 12/07/2015)
12/09/2015	316	MINUTES of Proceedings: Oral Argument heard on all pending motions. Motion for Partial Closure of Oral Argument hearing 313 denied as moot. Court directed the parties to each file, no later than 1/8/2016, a supplemental memorandum (not to exceed 10 pages not including the caption) that is limited to specifying how the parties expect a judicial review on the substantive decision made by the TSA Administrator to occur, in what forum, and in what context. The Court further directed the parties to advise the Court of their proposals for next steps in this action in the event the Court grants any party's motion in whole or in part. Hina Shamsi, Ahilan Arulanantham, Hugh Handyside, William Genego present as counsel for plaintiff(s). Brigham Bowen, Amy Powell present as counsel for defendant(s). Court Reporter: Amanda LeGore. Judge Anna J. Brown presiding. (bb) (Entered: 12/17/2015)
12/18/2015	317	Notice of Attorney Substitution: Attorney Joel P. Leonard is substituted as counsel of record in place of Attorney Justine Fischer Filed by Stephen Durga Persaud (Leonard, ER0737

		Joel) (Entered: 12/18/2015)
01/07/2016	318	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Oral Argument held on December 9, 2015 before Judge Anna J. Brown, Court Reporter Amanda LeGore, telephone number 503-326-8184. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 1/19/2016. Redaction Request due 2/1/2016. Redacted Transcript Deadline set for 2/11/2016. Release of Transcript Restriction set for 4/11/2016. (LeGore, Amanda) (Entered: 01/07/2016)
01/08/2016	319	Supplement Supplemental Memorandum in Support of Defendants' Motion for Summary Judgment. Filed by All Defendants. (Powell, Amy) (Entered: 01/08/2016)
01/08/2016	320	Supplement in Support of Plaintiffs' Renewed Motion for Partial Summary Judgment Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud, Steven William Washburn. (Attachments: # 1 Exhibit A) (Shamsi, Hina) (Entered: 01/08/2016)
03/28/2016	321	Opinion and Order . The Court GRANTS in part and DENIES in part Defendants Combined Cross-Motion 251 for Partial Summary Judgment; DENIES Plaintiffs Renewed Combined Motion 206 for Partial Summary Judgment; and DEFERS RULING on Defendants Cross-Motions (#241, #242, #247, #248, #249, #250) for Partial Summary Judgment regarding individual Plaintiffs and Plaintiffs individual Renewed Motions (#210, #212, #214, #216, #218, #220) for Partial Summary Judgment until Defendants supplement the record with sufficient information to rule on the individual cross-motions. No later than 4/18/2016, the Court directs Defendants to submit to the Court as to each Plaintiff the following: (1) a summary of any material information (including material exculpatory or inculpatory information) that Defendants withheld from the notice letters sent to each Plaintiff and (2) an explanation of the justification for withholding that information, including why Defendants could not make additional disclosures. Plaintiffs' response due no later than 5/9/2016. Signed on 03/28/2016 by Judge Anna J. Brown. See attached 62 page Opinion and Order for full text. (bb) (Entered: 03/28/2016)
04/08/2016	322	Unopposed Motion for Extension of Time to File Supplemental Materials. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 04/08/2016)
04/08/2016	323	ORDER by Judge Anna J. Brown. Granting Motion for Extension of Time 322 to File Supplemental Materials. No later than 5/02/2016, the Court directs Defendants to submit to the Court as to each Plaintiff the following: (1) a summary of any material information (including material exculpatory or inculpatory information) that Defendants withheld from the notice letters sent to each Plaintiff and (2) an explanation of the justification for withholding that information, including why Defendants could not make additional disclosures. Plaintiffs' response due no later than 5/23/2016. (bb) (Entered: 04/08/2016)
04/12/2016	324	Notice of the Death of a Party Filed by Steven William Washburn (Shamsi, Hina) (Entered: 04/12/2016)
04/29/2016	325	Unopposed Motion for Extension of Time to File Supplemental Materials. Filed by All Defendants. (Powell, Amy) (Entered: 04/29/2016)
04/29/2016	326	ORDER: The Court GRANTS Defendants' Second Unopposed Motion (#325) for an Extension of Time to File Supplemental Materials. No later than 5/05/2016, the Court directs Defendants to submit to the Court as to each Plaintiff the following: (1) a summary of any material information (including material exculpatory or inculpatory information) that Defendants withheld from the notice letters sent to each Plaintiff and (2)

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		an explanation of the justification for withholding that information, including why Defendants could not make additional disclosures. Plaintiffs' response due no later than 5/26/2016. Ordered by Judge Anna J. Brown. (dls) (Entered: 04/29/2016)
05/05/2016	327	Supplemental Memorandum in Support of Defendants' Motion for Summary Judgment Filed by All Defendants. (Attachments: # 1 Declaration of Michael Steinbach) (Bowen, Brigham) (Entered: 05/05/2016)
05/05/2016	328	Notice of Lodging Ex Parte, In Camera Materials Filed by All Defendants (Bowen, Brigham) (Entered: 05/05/2016)
05/26/2016	329	Memorandum in Opposition to Defendants' Second Supplemental Memorandum Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud. (Shamsi, Hina) (Entered: 05/26/2016)
07/07/2016	330	Order by Judge Anna J. Brown. The Court makes this record to give notice to Plaintiffs that the Court has by separate Ex Parte Order filed with the Classified Information Security Officer directed Defendants to make a supplemental filing, ex parte and under seal if necessary, no later than August 1, 2016, regarding the materials referenced in Defendants' Notice 328 of Lodging Ex Parte, In Camera Materials. After the Court considers that filing, the Court will determine whether the record is then sufficient for the Court to resolve the parties' pending cross-motions and will inform the parties accordingly. (bb) (Entered: 07/07/2016)
07/19/2016	331	Motion for Extension of Time to file supplemental submission Filed by All Defendants. (Singer, Samuel) (Entered: 07/19/2016)
07/20/2016	332	Scheduling Order by Judge Anna J. Brown. The Court notes Plaintiffs seek to file a response to Defendants' Motion 331 for Extension of Time. The Court directs Plaintiffs to file their response no later than July 25, 2016, at which time the Court will take Defendants' Motion under advisement. (bb) (Entered: 07/20/2016)
07/25/2016	333	Response in Opposition to Motion for Extension of Time to file supplemental submission 331 . Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud. (Shamsi, Hina) (Entered: 07/25/2016)
08/03/2016	334	ORDER by Judge Anna J. Br own. Notwithstanding Plaintiffs' Opposition 333 , which the Court has fully considered, the Court GRANTS Defendants' Motion 331 for Extension of Time to File Supplemental Materials. Defendants' supplemental memorandum is due no later than August 29, 2016. The Court is unable to provide any additional explanation on the record. (bb) (Entered: 08/03/2016)
08/29/2016	335	Notice of Lodging Ex Parte, In Camera Materials Filed by All Defendants (Powell, Amy) (Entered: 08/29/2016)
09/23/2016	336	Notice of Attorney Withdrawal: Alexandra Smith Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal (Shamsi, Hina) (Entered: 09/23/2016)
10/06/2016	337	Order - Based on the Court's Opinion and Order 321 and this Order, the Court now GRANTS Defendants' Cross-Motions 241 , 242 , 247 , 248 , 249 , 250 for Partial Summary Judgment regarding individual Plaintiffs and DENIES Plaintiffs' individual Renewed Motions 210 , 212 , 214 , 216 , 218 , 220 for Partial Summary Judgment. Consistent with the Court's March 28, 2016, Order 321 , the Court directs the parties to submit a single, joint status report no later than October 20, 2016, with a proposed expedited briefing schedule for the Court to consider Defendants' argument that the revisions in the DHS TRIP procedures "effectively abrogate the Ninth Circuit's holdings

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		that this Court has jurisdiction to continue to adjudicate Plaintiffs' remaining claims." Opinion and Order 321 at 61-62; Latif, 2016 WL 1239925, at *20. IT IS SO ORDERED. Signed on 10/6/2016 by Judge Anna J. Brown. (ecp) (Entered: 10/11/2016)
10/19/2016	338	Consent Motion for Extension of Time to File Joint Status Report . Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud. (Shamsi, Hina) (Entered: 10/19/2016)
10/19/2016	339	ORDER by Judge Anna J. Brown. Granting Motion for Extension of Time 338 . Joint Status Report to include a proposed briefing schedule to address the Court's jurisdiction to adjudicate Plaintiffs' remaining claims is now due 10/25/16. (bb) (Entered: 10/19/2016)
10/25/2016	340	Joint Status Report . Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud. (Shamsi, Hina) (Entered: 10/25/2016)
11/15/2016	341	Joint Status Report . Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 11/15/2016)
11/22/2016	342	Order by Judge Anna J. Brown. The Court GRANTS the parties' request to file a supplemental status report on or before 11/29/16. (bb) (Entered: 11/22/2016)
11/29/2016	343	Joint Status Report . Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 11/29/2016)
11/30/2016	344	Order by Judge Anna J. Brown. The Court grants the joint request 343 of the parties for additional time to continue their conferral regarding jurisdictional issues, and the Court directs the parties to file no later than Noon on December 12, 2016, an updated Joint Status Report with a proposed schedule for next steps to move this matter forward. (bb) (Entered: 11/30/2016)
12/12/2016	345	Joint Status Report . Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal. (Shamsi, Hina) (Entered: 12/12/2016)
12/20/2016	346	Scheduling Order by Judge Anna J. Brown. The Court largely agrees with the parties' proposals in their Joint Status Report 345 . Accordingly, the Court orders as follows: The parties' joint statement of agreed facts as to this Court's ongoing jurisdiction is due no later than December 20, 2016. Defendants' anticipated motion to dismiss for lack of subject-matter jurisdiction and memorandum in support (which may not exceed 35 pages in length) are due no later than January 18, 2017. Plaintiffs' response memorandum (which may not exceed 35 pages in length) and anticipated jurisdictional discovery motion and memorandum in support (which may not exceed 10 pages in length) are due no later than February 13, 2017. Defendants' reply memorandum in support of the motion to dismiss (which may not exceed 20 pages) and response memorandum to Plaintiffs' jurisdictional discovery motion (which may not exceed 10 pages) are due no later than March 6, 2017. The Court directs the parties to ensure the pleadings related to Defendants' anticipated motion to dismiss and Plaintiffs' anticipated jurisdictional discovery motion are filed separately in order to ensure a clear record. (rr) (Entered: 12/20/2016)
12/20/2016	347	Stipulation re Scheduling,,,,, 346 - Stipulations Regarding Jurisdiction by Terrorist Screening Center, United States Department of Justice. Filed by Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 12/20/2016)
01/18/2017	348	Motion to Dismiss for Lack of Jurisdiction . Oral Argument requested. Filed by Terrorist Screening Center, Federal Bureau of Investigation, United States Department of Justice. (Bowen, Brigham) (Entered: 01/18/2017)

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01/18/2017	349	Supplemental Declaration of Deborah O. Moore in Support of Defendants' Motion to Dismiss. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Related document(s): Motion to Dismiss/Lack of Jurisdiction 348 .) (Bowen, Brigham) (Entered: 01/18/2017)
01/18/2017	350	Declaration of Timothy P. Groh in Support of Defendants' Motion to Dismiss. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Related document(s): Motion to Dismiss/Lack of Jurisdiction 348 .) (Bowen, Brigham) (Entered: 01/18/2017)
02/10/2017	351	Memorandum in Opposition to Motion to Dismiss for Lack of Jurisdiction 348 Oral Argument requested. Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud. (Shamsi, Hina) (Entered: 02/10/2017)
02/10/2017	352	Motion for Discovery and/or Inspection Regarding Jurisdiction. Oral Argument requested. Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud. (Shamsi, Hina) (Entered: 02/10/2017)
02/10/2017	353	Declaration of Hugh Handeyside . Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud. (Related document(s): Motion For Discovery/Inspection 352 .) (Shamsi, Hina) (Entered: 02/10/2017)
03/06/2017	354	Reply to Motion to Dismiss for Lack of Jurisdiction 348 Oral Argument requested. Filed by Federal Bureau of Investigation, Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 03/06/2017)
03/06/2017	355	Response in Opposition to Motion for Discovery and/or Inspection Regarding Jurisdiction 352 Oral Argument requested. Filed by Terrorist Screening Center, United States Department of Justice. (Bowen, Brigham) (Entered: 03/06/2017)
04/21/2017	356	OPINION AND ORDER. The Court GRANTS Defendants' Motion #(348) to Dismiss for Lack of Jurisdiction, which the Court construes as a Motion for Summary Judgment, and DENIES Plaintiffs' Motion #(352) for Leave to Conduct Limited Jurisdictional Discovery. The Court directs the parties to confer and to submit to the Court no later than May 12, 2017, a proposed form of judgment that summarizes the Court's disposition of all issues litigated to date and that separately identifies those as to which the Court concludes it lacks jurisdiction to proceed. After the Court enters its concluding judgment, the Court will then consider any petition(s) for attorneys' fees. IT IS SO ORDERED. Signed on 4/21/2017 by Judge Anna J. Brown. (pvh) (Entered: 04/21/2017)
05/12/2017	357	Joint Notice of Filing Proposed Form of Judgment Filed by All Defendants (Attachments: # 1 Proposed Document Proposed Form of Judgment) (Powell, Amy) (Entered: 05/12/2017)
06/09/2017	358	Final Judgment. Signed on 6/9/2017 by Judge Anna J. Brown. (ecp) (Entered: 06/12/2017)
06/28/2017	359	Consent Motion for an Order Setting the Deadline to Seek an Award of Attorneys' Fees and Costs. Filed by All Plaintiffs. (Shamsi, Hina) (Entered: 06/28/2017)
07/06/2017	360	ORDER: The Court GRANTS the parties' Consent Motion (# 359) for an Order Setting the Deadline to Seek an Award of Attorneys' Fees and Costs. In light of the complexity of this case, the numerous Plaintiffs, and the largely joint nature of the representation of the Plaintiffs, the Court finds good cause to address attorneys' fees in a comprehensive manner after final judgment as to all Plaintiffs and after all appeals are exhausted.

		Accordingly, to the extent that any Plaintiff(s) intend to seek an award of attorneys' fees, the Court directs such Plaintiffs to file a single, comprehensive motion for attorneys' fees no later than 30 days after the entry of final judgment as to all Plaintiffs and the exhaustion of all appeals. (jy) (Entered: 07/06/2017)
08/07/2017	361	Notice of Attorney Withdrawal: Catherine Wagner, Alan Schlosser, Julia Harumi Mass, and Mitchell Hurley Filed by All Plaintiffs (Shamsi, Hina) (Entered: 08/07/2017)
08/07/2017	362	Notice of Appeal to the 9th Circuit Filing fee \$505 collected; Agency Tracking ID 0979-5106446: . Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud. (Attachments: # 1 Exhibit 1) (Shamsi, Hina) (Entered: 08/07/2017)
08/09/2017		USCA Case Number and Notice confirming Docketing Record on Appeal re Notice of Appeal 362 . Case Appealed to 9th Cir cuit Court of Appeals Case Number 17-35634 assigned. (jtj) (Entered: 08/09/2017)
08/24/2017	363	Transcript Designation and Order Form for the hearing held on 3/17/2014 before Judge Anna J. Brown. Court Reporter: Amanda LeGore. regarding Notice of Appeal, 362 . Filed by Mohamed Sheikh Abdirahm Kariye, Faisal Nabin Kashem, Raymond Earl Knaeble, IV, Amir Meshal, Stephen Durga Persaud. Transcript is due by 9/25/2017. (Attachments: # 1 Attachment List of Designated Transcripts) (Shamsi, Hina) (Entered: 08/24/2017)
09/22/2017	364	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Oral Argument held on March 17, 2014 before Judge Anna J. Brown, Court Reporter Amanda LeGore, telephone number 503-326-8184. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 9/29/2017. Redaction Request due 10/13/2017. Redacted Transcript Deadline set for 10/23/2017. Release of Transcript Restriction set for 12/21/2017. (LeGore, Amanda) (Entered: 09/22/2017)

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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2017, I electronically filed the foregoing volume of the Excerpts of Record with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Dated: December 15, 2017

/s/ Hina Shamsi
Hina Shamsi