

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,

3:10-cv-00750-BR

CASE-MANAGEMENT  
ORDER

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.

**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 6<sup>th</sup> day of October, 2014.

  
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ANNA J. BROWN  
United States District Judge