

EXHIBIT 2

Emily Chiang, WSBA No. 50517
echiang@aclu-wa.org
AMERICAN CIVIL LIBERTIES UNION
OF WASHINGTON FOUNDATION
901 Fifth Avenue, Suite 630
Seattle, WA 98164
Phone: 206-624-2184

Dror Ladin (admitted *pro hac vice*)
Steven M. Watt (admitted *pro hac vice*)
Hina Shamsi (admitted *pro hac vice*)
AMERICAN CIVIL LIBERTIES UNION FOUNDATION

Lawrence S. Lustberg (admitted *pro hac vice*)
Kate E. Janukowicz (admitted *pro hac vice*)
Daniel J. McGrady (admitted *pro hac vice*)
Avram D. Frey (admitted *pro hac vice*)
GIBBONS P.C.

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

SULEIMAN ABDULLAH SALIM,
MOHAMED AHMED BEN SOUD, OBAID
ULLAH (AS PERSONAL
REPRESENTATIVE OF GUL RAHMAN),

Plaintiffs,

v.

JAMES ELMER MITCHELL and JOHN
"BRUCE" JESSEN

Defendants.

2:15-CV-286-JLQ

DECLARATION OF
STEVEN M. WATT

1 I, Steven Macpherson Watt, a member of the Bar of the State of New
2 York and admitted *pro hac vice* to the Bar of this Court, declare under penalty of
3 perjury as follows:
4

5
6 1. I am an attorney with the American Civil Liberties Union
7 Foundation, and represent Plaintiffs in this matter.
8

9 2. I submit this declaration in support of Plaintiffs' response to
10 Defendants' Motion to Compel IMEs and Deposition.
11

12 3. In particular, this declaration describes the conversations I have had
13 with Defendants' counsel, Mr. Brian S. Paszamant, regarding Plaintiffs'
14 depositions and independent medical examinations under Federal Rule of Civil
15 Procedure 35 (Physical and Mental Examinations), as well as the on-going
16 efforts by Plaintiffs, Plaintiffs' counsel, and a specialist immigration firm
17 retained by Plaintiffs' Counsel, Maggio-Kattar, to assist Plaintiffs in obtaining
18 visas to enter the United States for depositions, independent medical
19 examinations, and trial. Attached hereto as Exhibit A is a true and correct copy
20 of the entire email chain on these issues.
21
22

23
24 4. This declaration also serves to certify that attached as Exhibit B is
25
26

1 a true and correct copy of an excerpt of Plaintiff Salim's Objections and
2 Responses to Interrogatories, referenced in Plaintiffs' underlying Opposition
3 Brief.
4

5 5. On October 13, 2016, Mr. Brian Paszamant contacted me by phone
6 to ask if we could make all Plaintiffs available for depositions in the United
7 States the following month, in mid to late November 2016, and Plaintiffs Salim
8 and Ben Soud available for independent medical examinations around the same
9 time.
10

11
12 6. I informed Mr. Paszamant that I would need to consult with
13 Plaintiffs on their availability. I also advised Mr. Paszamant that Plaintiffs
14 would need to obtain visas to enter the United States, and asked whether, given
15 the potential obstacles in obtaining visas on such short notice, Defendants may
16 be agreeable to the possibility of conducting depositions and independent
17 medical examinations of Plaintiffs Salim and Ben Soud overseas.
18
19

20 7. Mr. Paszamant advised that Defendants were not amenable to such
21 an alternative.
22

23 8. Since my conversation with Mr. Paszamant in October, and with the
24 assistance of Plaintiffs and senior immigration specialists at Maggio-Kattar, I
25 have diligently pursued the issuance of U.S. visas on Plaintiffs' behalf. These
26 efforts are continuing.

1 9. As described more fully below, Mr. ObaidUllah was issued with a
2 temporary visa by the U.S. Consulate in Kabul on November 20, 2016, but
3 applications on behalf of Plaintiffs Salim and Ben Soud have been denied by
4 U.S. Consulates in Dar es Salaam, Tanzania and Istanbul, Turkey.
5

6 10. Because the issuance of visas to enter the United States is
7 ultimately controlled by the U.S. government, I have repeatedly asked
8 Defendants to consider conducting depositions overseas or by video conference,
9 and independent medical exams of Plaintiffs Salim and Ben Soud overseas, in a
10 mutually agreeable location.
11

12 11. I offered, as a suggestion, two locations that would be more
13 accessible to Plaintiffs: Johannesburg, South Africa or Istanbul, Turkey.
14

15 12. Mr. Paszamant has repeatedly rejected this offer citing security
16 concerns, logistical difficulties, and costs.
17

18
19
20 **Plaintiffs' Efforts to Obtain U.S. Visas**
21

22 13. On October 14, 2016, the day following my conversation with Mr.
23 Paszamant, I contacted Plaintiffs to inform them that Defendants had requested
24 their presence in the United States the next month for depositions, and for
25 Plaintiffs Salim and Ben Soud for independent medical examinations.
26

1 14. I received instructions from Plaintiffs Ben Soud and ObaidUllah to
2 apply for visas on their behalf, and I promptly began their online applications.
3
4

5 **Plaintiff Suleiman Abdullah Salim**
6
7

8 15. I had completed an online visa application on Mr. Salim's behalf on
9 June 18, 2016, and paid the application fee, which allowed me to choose a date
10 for Mr. Salim's interview with the U.S. Consulate in Dar es Salaam. An in-
11 person interview at a Consulate office is a required component of the visa
12 issuance process.
13

14 16. I chose the earliest available date that I was able to travel to Dar es
15 Salaam to accompany Mr. Salim to his interview, for reasons detailed below,
16 which was November 10, 2016.
17

18 17. Mr. Salim suffers from post-traumatic stress disorder and was
19 apprehensive about being interviewed by a representative of the U.S.
20 government, and was specifically concerned that the interview format may cause
21 him undue emotional distress and possibly induce a flashback to his torture in
22 American custody.
23
24

25 18. I believed that accompanying him would alleviate this undue
26

1 emotional strain and allow for a more efficient, and ultimately successful,
2 interview.
3

4 19. Before traveling to Tanzania, on the advice of senior immigration
5 specialists at Maggio+Kattar, I prepared a letter for Mr. Salim to take with him
6 to his interview explaining to the Consular officer the limited purpose of Mr.
7 Salim's intended travel to and stay in the United States.
8

9 20. In particular, I explained that Defendants wished to depose Mr.
10 Salim in the United States in November 2016 and have him medically examined
11 there around the same time. I also explained that we would require Mr. Salim's
12 presence in the United States in late June to early July 2017, for trial, and that
13 Mr. Salim's counsel would be meeting all of his travel and related expenses. I
14 enclosed a copy of this Court's discovery Scheduling Order, ECF No. 59, with
15 the letter.
16
17

18 21. I advised the Consulate that Mr. Salim's sole purpose for travelling
19 to the United States was to pursue this litigation, that he had very strong and
20 substantial familial and business ties to his home country, and that he therefore
21 had no intention of remaining in the United States indefinitely if a visa was
22 issued to him.
23
24

25 22. One of the senior immigration specialists at Maggio-Kattar,
26

1 Ms.Elizabeth Quinn, emailed a copy of my letter to Mr. Anthony Pagliai,
2 Consular Section Chief, Dar es Salaam, in advance of the interview. Ms. Quinn
3 also highlighted the special circumstances of Mr. Salim's application for a visa,
4 and requested that I be permitted to accompany Mr. Salim.
5

6 23. On November 10, 2016, Mr. Salim and I attended at the Consulate
7 for interview. Despite acknowledging advanced receipt of my letter and
8 Maggio-Kattar's email, the officer conducting Mr. Salim's interview refused me
9 permission to join Mr. Salim.
10

11 24. After a brief interview lasting around five minutes, the Consular
12 officer denied Mr. Salim's application for a visa.
13

14 25. He provided Mr. Salim with written notification of his
15 determination. Attached hereto as Exhibit C is a true and correct copy of that
16 notice.
17

18 26. In short, the Consular Officer determined that Mr. Salim was
19 ineligible for a temporary visitor visa under Section 214(b) of the Immigration
20 and Nationality Act, claiming that Mr. Salim had not demonstrated "strong ties
21 to [his] home country that will compel [him] to leave the United States at the
22 end of [his] temporary stay." The notification explained that, though he could
23 not appeal the decision, Mr. Salim could re-apply.
24
25
26

27. Later that same day, on the advice of Maggio-Kattar, I made a

1 second visa application on Mr. Salim's behalf and paid the application fee.

2 28. That same day, Maggio-Kattar emailed Mr. Pagliai of the
3 Consulate to ask why Mr. Salim's application had been denied, and to ask that
4 the interviewing officer's determination be reconsidered.
5

6 29. In an email, Mr. Pagliai explained that there was no possible appeal
7 of the determination, and that pursuit of litigation in the United States was not a
8 basis for the issuance of a visa if the applicant could not demonstrate strong and
9 substantial ties to his home country that may overcome the interviewing
10 officer's determination that Mr. Salim intended to remain there. Mr. Pagliai
11 suggested that Mr. Salim make another application.
12

13 30. Upon my return to the United States and in consultation with Mr.
14 Salim and Maggio-Kattar, I arranged a second interview date on Mr. Salim's
15 behalf, November 29, 2016.
16

17 31. Shortly thereafter, Maggio-Kattar contacted Mr. Steve Fabry, the
18 Assistant Legal Advisor for Consular Affairs in the Office of the Legal Adviser
19 at the United States Department of State, by phone and email, and asked that he
20 make representation to the Consulate in Dar es Salaam on Mr. Salim's behalf
21 regarding his second application.
22

23 32. Mr. Fabry said he was aware of the litigation and seemed open to
24 the possibility of intervening on Mr. Salim's behalf.
25

1 33. On November 15, at the request of Mr. Andrew Warden, U.S.
2 Department of Justice, my co-counsel, Dror Ladin, provided Mr. Warden with
3 details of Mr. Salim's application, including the date of Mr. Salim's second
4 interview. Mr. Warden provided this information to relevant government
5 officials in the U.S. State Department.
6

7
8 34. Mr. Warden also provided the State Department with the same
9 information on Plaintiffs Ben Soud and ObaidUllah's applications. Attached
10 hereto as Exhibit D is a true and correct copy of the email exchange between
11 Mr. Warden and Dror Ladin.
12

13 35. I then drafted a second and more detailed letter for Mr. Salim to
14 take with him to his second interview, this time further highlighting the reasons
15 for Mr. Salim's intended temporary travel to the United States: for his
16 deposition, IME, and trial.
17

18 36. I enclosed a copy of this Court's discovery scheduling order,
19 Defendants' Motion to Compel and documents substantiating Mr. Salim's clear
20 intent to return to his family, home and business in Zanzibar.
21

22 37. On November 28, 2016, I emailed a copy of this letter to Mr.
23 Pagliai, and Ms. Pederson of Maggio-Kattar also emailed Mr. Pagliai to remind
24 him of Mr. Salim's interview and the special circumstances of Mr. Salim's visa
25 application.
26

1 38. Mr. Paglai responded that he was aware of Mr. Salim's application
2 and that he would forward my letter to the officer who would be conducting the
3 interview.
4

5 39. On November 29, 2016, Mr. Salim was interviewed for a
6 significantly longer time than during his first interview. The interviewing officer
7 read my letter and documentation and asked Mr. Salim many questions.
8

9 40. At the end, the interviewing officer told Mr. Salim that she was
10 denying him a visa, and provided Mr. Salim with notification to this effect; a
11 copy of the same notice he had received after his first interview.
12

13
14 **Plaintiff Mohamed Ahmed Ben Soud**
15

16
17 41. On October 27, 2016, I completed an online visa application on Mr.
18 Ben Soud's behalf.
19

20 42. As there are presently no U.S. Consular offices in Libya, Mr. Ben
21 Soud's home country, providing visa services, I submitted his online application
22 to the U.S. Consulate in Turkey, which conducts in-person interviews of Libyan
23 citizen applicants.
24

25 43. I paid the application fee on Mr. Ben Soud's behalf and arranged
26

1 for his interview with the U.S. Consulate in Istanbul on November 23, 2016, the
2 first available date.
3

4 44. On November 4, 2016, I flew to Istanbul to meet with Mr. Ben
5 Soud to prepare him for his visa interview and a full and comprehensive medical
6 examination, which was carried out in Istanbul by Dr. Allen Keller.
7

8 45. While in Istanbul, Mr. Ben Soud also began the process of
9 obtaining a Turkish temporary permanent residence permit that would allow him
10 to travel between Libya and Turkey without having to apply for a Turkish entry
11 visa every time we needed to meet with Mr. Ben Soud for the litigation. Mr. Ben
12 Soud recently obtained provisional temporary permanent Turkish resident status
13

14 46. In advance of Mr. Ben Soud's interview, Jan Pedersen of
15 Maggio+Kattar contacted Mr. Roger C. Rigaud, Consular Section Chief of the
16 Istanbul U.S. Consulate, and apprised him of Mr. Ben Soud's application and
17 interview date.
18

19 47. Mr. Rigaud responded that his staff was aware of Mr. Ben Soud's
20 case.
21

22 48. I gave Mr. Ben Soud a letter to take with him to the interview,
23 similar in content to the two I had provided Mr. Salim for his interviews. In
24 particular, the letter explained that Mr. Ben Soud's travel to and stay in the
25 United States was for purposes of this litigation: for his deposition, for an
26

1 independent medical exam, and to attend trial. I enclosed copies of this Court's
2 discovery scheduling order and Defendants' Motion to Compel IMEs and
3 Deposition.
4

5 49. The letter also made clear that Mr. Ben Soud had no intention of
6 remaining in the United States, as demonstrated by his strong and substantial
7 familial and business ties to Libya, including the presence of his wife and their
8 three young children, as well as his job, in Libya.
9

10 50. In support, Mr. Ben Soud brought with him copies of his marriage
11 certificate, children's birth certificates, and a letter from his employer.
12

13 51. On November 23, 2016, Mr. Ben Soud travelled from Libya to
14 Istanbul for his interview. I arranged for a translator to accompany Mr. Ben
15 Soud, but staff at the Consulate refused the translator permission to accompany
16 Mr. Ben Soud.
17

18 52. The interview was conducted in Arabic and, like Mr. Salim's, was
19 brief.
20

21 53. The interviewing officer quickly reviewed the letter and supporting
22 documentation, including court filings from this Court, and subsequently
23 informed Mr. Ben Soud that his application was denied because of his lack of
24 demonstrated ties to Libya, and consequent demonstrated intent not to remain in
25 the United States if issued with a visa.
26

1 54. The interviewing officer provided Mr. Ben Soud with written
2 notification to this effect.
3

4 55. Immediately after the interview had ended, Mr. Ben Soud informed
5 me that his application had been denied. I contacted Maggio-Kattar, who in turn
6 emailed Mr. Rigaud to seek an explanation.
7

8 56. That same day, on the advice of Maggio-Kattar, I made a second
9 online application on Mr. Ben Soud's behalf, again paid the application fee, and
10 selected the first available date for interview, December 5, 2016.
11

12 57. Maggio-Kattar again contacted Mr. Rigaud to make representation
13 on Mr. Ben Soud's behalf.
14
15

16 **Parole Requests for Plaintiffs Salim and Ben Soud**

17 58. In addition to continuing to seek visas for Messers. Salim and Ben
18 Soud to enter the United States, with the assistance of Jan Pederson of Maggio-
19 Kattar, I have recently begun applications for parole requests to the U.S.
20 Citizens and Immigration Services, to allow them to enter the United States to
21 participate in this litigation. These applications are extraordinary forms of relief
22 and only became possible after the denial of Messers. Salim's and Ben Soud's
23 visas.
24
25
26

Plaintiff ObaidUllah

DECLARATION OF STEVEN WATT
Page | 13

AMERICAN CIVIL LIBERTIES
UNION OF WASHINGTON
FOUNDATION
901 Fifth Ave, Suite 630
Seattle, WA 98164
(206) 624-2184

1 59. On October 27, 2016, I completed an online visa application on Mr.
2 ObaidUllah's behalf, paid the application fee and arranged an interview for him
3 with the U.S. Consulate in Kabul on November 7, 2016.
4

5 60. In advance of his interview I prepared a letter for Mr. ObaidUllah
6 to bring with him to his interview. That letter was similar in content to those that
7 I had drafted for Plaintiffs Salim and Ben Soud, and in particular explained that
8 Defendants had requested that Mr. ObaidUllah appear for deposition in the
9 United States.
10

11 61. I also spoke with Mr. ObaidUllah in advance of his interview date
12 to prepare him for his interview.
13

14 62. On November 7, 2016, Mr. ObaidUllah attended at the U.S.
15 Embassy in Kabul for interview.
16

17 63. On November 9, 2016, the interviewing officer, Mr. Sergey
18 Troitsky, Visa Chief, Consular Section, emailed the representing attorney at
19 Maggio-Kattar.
20

21 64. Mr. Troitsky explained that, before making a determination, he
22 wished to get a better understanding of the litigation, Mr. ObaidUllah's role in
23 the proceedings, and the need for Mr. ObaidUllah to travel to the United States
24 for deposition.
25

26 65. On November 14, 2016, after my return from Dar es Salaam and

1 Istanbul, I spoke with Mr. Troitsky. I explained to him Mr. ObaidUllah's role in
2 the litigation and Defendants' insistence that his deposition take place in the
3 United States. I also explained that we would need Mr. ObaidUllah in the
4 United States for a two-week trial that was scheduled to begin on June 26, 2017.

5
6 66. Mr. Troitsky said that he would recommend that Mr. ObaidUllah be
7 issued with a U.S. entry visa that would be for purposes of the litigation only,
8 and would expire after conclusion of the trial.
9

10 67. A visa containing these provisions was issued to Mr. ObaidUllah on
11 November 20, 2016.
12

13 68. I have recently contacted Mr. ObaidUllah to coordinate his travel to
14 the United States for deposition in January 2017, and I will contact the
15 Defendants to schedule the exact date and time.
16

17
18 **IMEs for Plaintiffs Salim and Ben Soud**
19

20 69. When Mr. Paszamant first contacted me regarding Plaintiffs'
21 depositions, we also spoke about independent medical examinations for
22 Plaintiffs Salim and Ben Soud. In our subsequent email exchange it was always
23 understood that the independent medical examinations would be conducted
24 around the same time as depositions, and that both would be contingent on
25 Plaintiffs Salim and Ben Soud obtaining U.S. visas.
26

1 70. Given our lack of control over, and the unpredictability of the visa
2 issuance process, I have repeatedly suggested that Defendants consider taking
3 Plaintiffs' depositions overseas or by video-conference and that the independent
4 medical examinations of Plaintiffs Salim and Ben Soud be conducted overseas,
5 at an agreeable location.
6

7
8 71. Plaintiffs have suggested Johannesburg, South Africa and Istanbul,
9 Turkey as safe and accessible overseas locations for both depositions and
10 independent medical examinations.
11

12 72. Defendants have rejected both of these offered locations citing
13 security concerns with Istanbul, and logistical and costs associated with overseas
14 depositions and independent medical examinations.
15

16 73. Specifically in relation to independent medical examinations,
17 Defendants cite concerns with availability of equipment and facilities outside the
18 United States.
19

20 74. However, even a preliminary inquiry into medical facilities and
21 qualified medical personnel in Johannesburg and Istanbul does not bear this out.
22

23 75. There are a large number of medico-legal (forensic) specialists in
24 South Africa, registered with the Health Professions Council of South Africa,
25 searchable online: <http://isystems.hpcs.co.za/iregister/> (CATEGORY:
26 Pathology - Forensic).

1 76. Johannesburg also has some of the best hospitals in the continent
2 including The Wits Donald Gordon Medical Centre (<http://www.dgmc.co.za/>),
3 which is more than fully equipped to carry out the medical examinations that
4 Defendants seek.

5
6 77. On November 29, 2016, I communicated with Laurel Baldwin-
7 Ragaven, MDCM, FCFP (SA), FCFP (Canada), Professor of Family Medicine at
8 the University of the Witwatersrand, Johannesburg. I asked her if the medical
9 equipment and personnel identified by Defendants' experts as necessary to
10 conduct Plaintiffs' IMEs were available in South Africa, and Johannesburg
11 specifically.

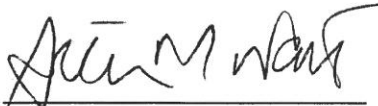
12
13 78. Dr. Baldwin-Ragaven confirmed that they were, and not only in
14 Johannesburg, but also in Durban and Cape Town. Dr. Baldwin-Ragaven added
15 that there are literally hundreds of medical professionals in the country suitably
16 qualified to perform the examinations, including forensic pathologists who are
17 familiar with documenting torture as well as other specialists to evaluate
18 particular sequelae affecting different parts of the body (including orthopedic
19 surgeons)

20 79. As to Turkey, Istanbul is home to a hospital that is widely regarded
21
22
23
24
25
26

1 as the best in Turkey, American Hospital
2 (<http://www.americanhospitalistanbul.com/Default.aspx>). (<http://www.americanh>
3 [ospitalistanbul.com/Default.aspx](http://www.americanhospitalistanbul.com/Default.aspx)).
4

5 80. American Hospital provides the full range of advanced medical
6 testing sought by Defendants. There are forensic specialists and orthopedic
7 surgeons on staff, and many of the staff are qualified and trained in the United
8 States.
9

10
11
12 I declare under penalty of perjury that the foregoing is true and correct.
13

14 
15 Steven M. Watt

16 Dated: November 30, 2016
17

18 New York, New York
19
20
21
22
23
24
25
26

EXHIBIT A

Steven Watt

From: Paszamant, Brian <Paszamant@BlankRome.com>
Sent: Tuesday, November 29, 2016 5:54 PM
To: Steven Watt
Cc: llustberg@gibbonslaw.com; Hina Shamsi; Janukowicz, Kate E. (KJanukowicz@gibbonslaw.com); Frey, Avram D. (AFrey@gibbonslaw.com); Daniel J. McGrady (dmcgrady@gibbonslaw.com); Smith, James; Chris Tompkins (ctompkins@bpmlaw.com); Schuelke III, Henry F.; Dror Ladin
Subject: RE: Plaintiffs' Depositions and IMEs

Steven,

Thank you for the email and the update. Please keep us posted as to Messrs. Salim and Ben Soud's efforts to secure entry into the United States.

In terms of Mr. ObaidUllah, we would prefer to conduct his deposition on the East Coast, preferably in Philadelphia, New York or Washington, D.C. if you are amenable to that. In terms of venue, Blank Rome has offices in each of these locations and would gladly host the deposition. In terms of timing, could you please give us a sense as to the earliest Mr. ObaidUllah would be able to attend a deposition in the aforementioned locations, or another location in the United States if that would enable him to attend a deposition on an earlier date? With this information, we will check our calendars for our availability.

Thank you in advance.

BP

Brian S. Paszamant | Blank Rome LLP

One Logan Square 130 North 18th Street | Philadelphia, PA 19103-6998
Phone: 215.569.5791 | Fax: 215.832.5791 | Email: Paszamant@BlankRome.com

From: Steven Watt [mailto:swatt@aclu.org]
Sent: Tuesday, November 29, 2016 3:31 PM
To: Paszamant, Brian <Paszamant@BlankRome.com>
Cc: llustberg@gibbonslaw.com; Hina Shamsi <hshamsi@aclu.org>; Janukowicz, Kate E. (KJanukowicz@gibbonslaw.com) <KJanukowicz@gibbonslaw.com>; Frey, Avram D. (AFrey@gibbonslaw.com) <AFrey@gibbonslaw.com>; Daniel J. McGrady (dmcgrady@gibbonslaw.com) <dmcgrady@gibbonslaw.com>; Smith, James <Smith-jt@BlankRome.com>; Chris Tompkins (ctompkins@bpmlaw.com) <ctompkins@bpmlaw.com>; Schuelke III, Henry F. <HSchuelke@BlankRome.com>; Dror Ladin <dladin@aclu.org>
Subject: RE: Plaintiffs' Depositions and IMEs

Brian:

I write to update you on our clients' on-going efforts to obtain U.S. visas to travel to the United States for their depositions, and for IMEs of Messrs. Salim and Ben Soud:

Mr. ObaidUllah was issued a visa by the U.S. Consulate in Kabul on November 20, 2016. We will make arrangements with him to travel to the United States for his depositions on or before January 27, 2017. We should coordinate the exact venue, date, and time at your earliest opportunity.

Messrs. Salim and Ben Soud have both been denied U.S. visas at this stage. The U.S. Consulate in Dar es Salaam has denied Mr. Salim a visa on two occasions: on November 10, 2016, following an in-person interview and again today after another interview. Mr. Ben Soud's application was likewise denied after interview at the U.S. Consulate in Istanbul on November 23, 2016. We have made a second application on his behalf, and have a provisional date for a second interview on December 5, the first date that was available.

We have sought the government's assistance to secure visas, and will continue to do so. We are also exploring other possible options to obtain entry to the United States for Messrs. Salim and Ben Soud. In the meantime, we would again urge you to give serious consideration to taking their depositions either overseas, or by videolink, and to conducting their IMEs in Johannesburg, South Africa and Istanbul, Turkey. As we've previously stated, overseas or videolink depositions in or from Johannesburg and Istanbul are feasible, as are IMEs. We have made some preliminary inquiries in regards to the latter and identified both facilities and qualified medical professionals in both cities where the IMEs you envision could easily be conducted. Given the difficulties we are experiencing with regard to these depositions and IMEs, which are clearly beyond our control, we believe that it is important to consider (or reconsider) these types of alternatives.

Thank you.

Steven

From: Paszaman, Brian [<mailto:Paszaman@BlankRome.com>]

Sent: Tuesday, November 15, 2016 1:33 PM

To: Steven Watt

Cc: llustberg@gibbonslaw.com; Hina Shamsi; Janukowicz, Kate E. (KJanukowicz@gibbonslaw.com); Frey, Avram D. (AFrey@gibbonslaw.com); Daniel J. McGrady (dmcgrady@gibbonslaw.com); Smith, James; Chris Tompkins (ctompkins@bpmlaw.com); Schuelke III, Henry F.; Dror Ladin

Subject: RE: Plaintiffs' Depositions and IMEs

Steven,

Thank you for the email and for identifying Plaintiffs' position that the email chain is not "Confidential". I do, however, want to ensure that I am clear with regard to Plaintiff Salim's intent related to his claimed rectal injuries. Please confirm whether Plaintiffs intend to refrain from seeking to introduce at trial any evidence and/or argument concerning: (1) Plaintiff Salim's rectal injuries; and (2) the actions purportedly resulting in such alleged injuries.

Thank you in advance.

BP

Brian S. Paszaman | Blank Rome LLP

One Logan Square 130 North 18th Street | Philadelphia, PA 19103-6998

Phone: 215.569.5791 | Fax: 215.832.5791 | Email: Paszaman@BlankRome.com

From: Steven Watt [<mailto:swatt@aclu.org>]

Sent: Tuesday, November 15, 2016 12:56 PM

To: Paszaman, Brian <Paszaman@BlankRome.com>

Cc: llustberg@gibbonslaw.com; Hina Shamsi <hshamsi@aclu.org>; Janukowicz, Kate E. (KJanukowicz@gibbonslaw.com) <KJanukowicz@gibbonslaw.com>; Frey, Avram D. (AFrey@gibbonslaw.com) <AFrey@gibbonslaw.com>; Daniel J. McGrady (dmcgrady@gibbonslaw.com) <dmcgrady@gibbonslaw.com>; Smith, James <Smith-jt@BlankRome.com>; Chris Tompkins (ctompkins@bpmlaw.com) <ctompkins@bpmlaw.com>; Schuelke III, Henry F.

<HSchuelke@BlankRome.com>; Dror Ladin <dladin@aclu.org>

Subject: RE: Plaintiffs' Depositions and IMEs

Brian,

You first raised Defendants' vision of an invasive rectal examination of Mr. Salim on Friday. As you are aware, Mr. Salim neither alleges that Defendants directly inflicted his rectal injuries, nor that Defendants' design for the torture program involved the systematic infliction of such injuries. To the extent you have good faith questions about the injuries "that appear to constitute Plaintiffs' claimed damages," Plaintiffs are willing to confer with you at a mutually agreeable time. If Defendants would prefer to set aside the conferral obligation regarding the disproportionate and irrelevant IMEs you seek, Plaintiffs will respond at the appropriate time.

To your second question: (1) Plaintiffs do not at this time consent to lifting the "Confidential" designation of medical reports; (2) Plaintiffs do not consider this email chain confidential.

Steven

From: Paszamant, Brian [<mailto:Paszamant@BlankRome.com>]

Sent: Tuesday, November 15, 2016 9:59 AM

To: Steven Watt

Cc: llustberg@gibbonslaw.com; Hina Shamsi; Janukowicz, Kate E. (KJanukowicz@gibbonslaw.com); Frey, Avram D. (AFrey@gibbonslaw.com); Daniel J. McGrady (dmcgrady@gibbonslaw.com); Smith, James; Chris Tompkins (ctompkins@bpmlaw.com); Schuelke III, Henry F.; Dror Ladin

Subject: RE: Plaintiffs' Depositions and IMEs

Steven,

The contemplated IMEs are not designed to harass. Plaintiffs have alleged significant physical and psychological injuries in their Complaint against the Defendants. However, thus far, we have received only the Medical Report authored by Dr. Crosby regarding Plaintiff Salim's alleged injuries and a Medical Report authored by Dr. Sertel regarding Plaintiff Soud's alleged injuries. We have not received any underlying records to support Plaintiffs' allegations or the conclusions drawn in the Reports. In fact, Dr. Sertel makes mention that an x-ray of Plaintiff Soud's left foot was taken and an audiometry test was administered, however neither has been provided. The IMEs that we propose are necessitated based on the lack of medical records provided to us, the injuries that appear to constitute Plaintiffs' claimed damages as identified within the Complaint and the aforementioned Reports, and the sound advice of our retained doctors. The proposed IMEs are meant to assess all of the alleged injuries, including Plaintiff Salim's alleged rectal injuries, an injury noted repeatedly within Dr. Crosby's Report. See Crosby Report at 3, 4, 5, 7, 8.

To the extent that Plaintiffs do not intend to pursue at trial claims for some or all of the injuries alleged in the Complaint and/or the aforementioned Reports, please advise me promptly. Based upon any such advice Defendants will consider their need for medical examinations (including testing) in this area(s). Absent Plaintiffs' indication of such a limitation(s), Defendants continue to require the examinations and testing identified below and will promptly move the Court to compel such examinations and testing to be performed within the United States.

Defendants are amenable to providing the Court with this entire email chain, inclusive of this email and any future continuation of this chain. But this, as well as Plaintiffs' designation of the aforementioned Reports as "Confidential" pursuant to the parties' Confidentiality Agreement ("Agreement") raises an issue and a question for Plaintiffs. Specifically, as you may recall, the Agreement (at Section 4.3) establishes a procedure for filing under seal documents designated in this fashion and contemplates a meet and confer in advance of any such filing. With this in mind, please

advise me promptly whether Plaintiffs: (1) will withdraw their designation with regard to some or all of the aforementioned Reports; and (2) consider this email chain "Confidential". To the extent that Plaintiffs continue to consider either of the aforementioned items "Confidential", please advise as Defendants contemplate filing each of these items along with their motion and will do so in accordance with the procedure contemplated by the Agreement's Section 4.3. Pursuant to Section 4.3, Defendants will not oppose Plaintiffs' effort to have one or more of these items filed under seal, but look to Plaintiffs to promptly prepare the appropriate filing(s). The Court must be presented with the Reports and the information contained therein so that it may understand the breadth and scope of Plaintiffs' claimed injuries and Defendants' resultant need for the contemplated examinations and testing.

Separately, thank you for your agreement concerning the expert report extension. Defendants are amenable to affording Plaintiffs' the two-week extension that you identify below.

Given the timing sensitivities associated with these issues, I ask that you please get back to me by 1 p.m. East Coast time today with Plaintiffs' position concerning the foregoing. Thank you in advance.

BP

Brian S. Paszamant | Blank Rome LLP

One Logan Square 130 North 18th Street | Philadelphia, PA 19103-6998

Phone: 215.569.5791 | Fax: 215.832.5791 | Email: Paszamant@BlankRome.com

From: Steven Watt [<mailto:swatt@aclu.org>]

Sent: Monday, November 14, 2016 5:10 PM

To: Paszamant, Brian <Paszamant@BlankRome.com>

Cc: llustberg@gibbonslaw.com; Hina Shamsi <hshamsi@aclu.org>; Janukowicz, Kate E. (KJanukowicz@gibbonslaw.com) <KJanukowicz@gibbonslaw.com>; Frey, Avram D. (AFrey@gibbonslaw.com) <AFrey@gibbonslaw.com>; Daniel J. McGrady (dmcgrady@gibbonslaw.com) <dmcgrady@gibbonslaw.com>; Smith, James <Smith-jt@BlankRome.com>; Chris Tompkins (ctompkins@bpmlaw.com) <ctompkins@bpmlaw.com>; Schuelke III, Henry F. <HSchuelke@BlankRome.com>; Dror Ladin <dladin@aclu.org>

Subject: RE: Plaintiffs' Depositions and IMEs

Brian,

First, you state inaccurately that Plaintiffs have made a "representation" that they will be afforded entry to the United States by a date certain. Plaintiffs have made no such representation. Nor could they. As Plaintiffs have explained and as you are aware, it is the U.S. government that determines if and when non-citizens may enter the United States. Plaintiffs are diligently pursuing entry to the United States. While Plaintiffs have confidence in that process, they do not control its outcome.

Second, Plaintiffs do not agree to the IMEs you describe below. The barrage of examinations you "envision" are not remotely proportionate to the needs of the case or relevant to the matters in dispute. Your demand that Mr. Salim submit to an invasive examination by a rectal surgeon is perhaps the clearest example of that and seems to us to be nothing more than designed to harass.

Third, as to possible timing, Plaintiffs consent to Defendants seeking an extension of their expert witness deadline with respect to any IMEs that are ordered but delayed due to U.S. visa approval timelines. Any such extension, however, must be accompanied by a two-week extension for Plaintiffs' rebuttal reports, running from the date the defendants' expert reports on the IME reports are produced.

Finally, Plaintiffs again suggest that Defendants consider conducting depositions and IMEs in another country, or, in relation to depositions only, taking them by video-link.

If Defendants intend to seek relief from the Court, Plaintiffs ask that this entire email thread be appended to Defendants' motion.

Steven

From: Paszamant, Brian [<mailto:Paszamant@BlankRome.com>]

Sent: Friday, November 11, 2016 9:49 AM

To: Steven Watt

Cc: llustberg@gibbonslaw.com; Hina Shamsi; Janukowicz, Kate E. (KJanukowicz@gibbonslaw.com); Frey, Avram D. (AFrey@gibbonslaw.com); Daniel J. McGrady (dmcgrady@gibbonslaw.com); Smith, James; Chris Tompkins (ctompkins@bpmlaw.com); Schuelke III, Henry F.; Dror Ladin

Subject: RE: Plaintiffs' Depositions and IMEs

Steven,

We have been thinking about the situation relating to Plaintiffs' depositions and IMEs since I received your last email. Defendants believe that they are entitled to conduct Plaintiffs' depositions and the IMEs of Plaintiffs Salim and Soud in the United States. They are amenable to waiting until the first two weeks of January to conduct these efforts in light of the current discovery deadline and your representation that Plaintiffs will be afforded entry into the United States well in advance of that deadline. Doing so will require adjustments in the current scheduling deadlines, as referenced below.

At this point, Defendants envision having Plaintiffs Salim and Soud examined by, at a minimum, an orthopedist, an internist and a psychiatrist given their claimed injuries as gleaned from the complaint and medical records produced during discovery. Defendants also envision having Plaintiff Salim examined by a rectal surgeon given his claimed rectal injuries as identified within medical reports produced during discovery.

Defendants have been advised by their experts that Plaintiffs Salim and Soud will need to undergo certain tests in connection with these examinations. For example, it is expected that such Plaintiffs will need to submit to standard laboratory tests as well as x-rays and MRIs. In addition, it is expected that Plaintiff Salim will need to have a colonoscopy and endoscopic procedures to evaluate his claimed rectal injuries which will require that he be sedated to minimize discomfort. We ask that Plaintiffs agree to this proposed scope of examination.

If we adopt this timeline, Defendants will require relief from their current December 12, 2016 expert report deadline. Specifically, Defendants intend to request that the Court enter an Order providing that Plaintiffs' depositions and IMEs will occur at a mutually agreeable location in the United States prior to January 17, 2017, and affords Defendants until the latter of two-weeks after an IME or deposition is completed within which to produce a Fed.R.Civ.P. 26(a)(2)(B) report from each of their experts that conducts an IME. If we cannot agree on a scope for the IMEs, we will raise that issue in the motion, or at a later time. I write to explore whether the parties can agree, or whether Defendants will need to file a motion.

Please advise me no later than COB on Monday of Plaintiffs' position with regard to these items.

BP

Brian S. Paszamant | Blank Rome LLP

One Logan Square 130 North 18th Street | Philadelphia, PA 19103-6998

Phone: 215.569.5791 | Fax: 215.832.5791 | Email: Paszamant@BlankRome.com

From: Steven Watt [<mailto:swatt@aclu.org>]

Sent: Thursday, October 27, 2016 7:27 PM

To: Paszamant, Brian <Paszamant@BlankRome.com>

Cc: llustberg@gibbonslaw.com; Hina Shamsi <hshamsi@aclu.org>; Janukowicz, Kate E. (<KJanukowicz@gibbonslaw.com> <KJanukowicz@gibbonslaw.com>); Frey, Avram D. (<AFrey@gibbonslaw.com> <AFrey@gibbonslaw.com>); Daniel J. McGrady (<dmcgrady@gibbonslaw.com> <dmcgrady@gibbonslaw.com>); Smith, James <Smith-jt@BlankRome.com>; Chris Tompkins (<ctompkins@bpmlaw.com> <ctompkins@bpmlaw.com>); Schuelke III, Henry F. <HSchuelke@BlankRome.com>; Dror Ladin <dladin@aclu.org>

Subject: RE: Plaintiffs' Depositions and IMEs

Brian:

As I said in my last email, we have been diligently pursuing U.S. entry visas, including by engaging a specialist immigration firm, and have been working on the process since June. Since our last email exchange we have completed the online visa application process for all three of our clients and secured interview dates for two of them in early November – a U.S. Embassy interview is a prerequisite to issuance of a visa. We are pressing to arrange an interview date for the third client expeditiously, and hope for a November date also.

We will notify you as soon as their visa decisions have been issued. Given the uncertainty of when our clients will be able to lawfully enter the United States (and although we are confident that we will be able to work this out in advance of the discovery cutoff on February 17, 2017), we reiterate our offer of depositions at mutually agreeable locations outside the United States that are more easily and quickly accessible to our clients. As an alternative to Tanzania, Mr. Salim can travel to South Africa for his deposition; and Messers ObaidUllah and Ben Soud to Turkey (Istanbul) for their depositions. Fed. R. Civ. P. 28(b) makes explicit provision for overseas depositions and many courts have permitted plaintiffs' depositions and even trial testimony to be taken abroad. South Africa and Turkey are parties to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters, so both permit U.S. depositions. As an alternative, we reiterate our offer of deposition via videoconferencing. Video depositions are not uncommon, especially in litigations brought under the Alien Tort Statute where plaintiffs reside overseas. Courts that have allowed video depositions have not been troubled by the concerns you raise with such depositions.

As to independent medical examinations of Messers Salim and Ben Soud: the first time you suggested the prospect of conducting these examinations was when we spoke on October 13. Our clients are willing to undergo examination at a mutually agreeable location in the United States, once their U.S. entry visas have been approved and they are able to travel here. In the interests of time, however, we reiterate our offer to have these examinations conducted overseas, for example, in South Africa and Turkey.

Steven

From: Paszamant, Brian [<mailto:Paszamant@BlankRome.com>]

Sent: Tuesday, October 25, 2016 10:31 AM

To: Steven Watt

Cc: Smith, James; Chris Tompkins; Schuelke III, Henry F.; Dror Ladin; Lustberg, Lawrence S; Hina Shamsi; Janukowicz, Kate E. (<KJanukowicz@gibbonslaw.com>); Frey, Avram D. (<AFrey@gibbonslaw.com>); Daniel J. McGrady (<dmcgrady@gibbonslaw.com>)

Subject: RE: Plaintiffs' Depositions and IMEs

Steven,

Plaintiffs chose to file suit in the United States, presumably understanding that they would need to take necessary actions to support their lawsuit, including appearing for depositions, mental and physical examinations, and trial. Your suggestion that defendants bear the burdens and expense of travel to Tanzania or Turkey – even if those countries permit depositions to be taken in connection with US lawsuits – is not agreeable or appropriate. Among other concerns, there have been recent bombings in Istanbul and, longer ago, in Dar es Salaam. Moreover, our experience with videoconference depositions is that they pose significant challenges even when there are not language barriers, as there will be in this case, including decreased spontaneity and an inability to assess a deponent's demeanor, among others, and we are not agreeable to conducting these very important depositions by video conferencing.

Our position is bolstered by the fact that Plaintiffs assert claims for significant physical and emotional injuries, and we desire Rule 35 examinations in connection with those claims. Even if we could overcome the problems raised by conducting depositions in the Mid-east, or by long distance technology, we anticipate that Messrs. Salim's and Soud's Rule 35 examinations will be extensive. Defendants have no reason to believe that their experts are available to travel to Istanbul or Dar es Salaam to conduct those examinations, let alone that they will be able to obtain appropriate clearances, privileges, certifications etc. to conduct them in those cities. Nor should defendants be required to bear the additional expense of travel by their experts even if all the other aforementioned issues could be overcome. Since Plaintiffs will have to travel to the US for their Rule 35 examinations in any event, their depositions should be conducted in the US as well.

Please advise as to the current status of Plaintiffs' visa applications, and when it is anticipated, based on the best information available, that a decision will be rendered with regard to each of their applications. Also, could you please advise when these applications were submitted, and why this potentially lengthy process was not begun at least by the time this lawsuit was filed?

We look forward to hearing from you.

BP

Brian S. Paszamant | Blank Rome LLP

One Logan Square 130 North 18th Street | Philadelphia, PA 19103-6998

Phone: 215.569.5791 | Fax: 215.832.5791 | Email: Paszamant@BlankRome.com

From: Steven Watt [<mailto:swatt@aclu.org>]

Sent: Monday, October 24, 2016 3:41 PM

To: Paszamant, Brian <Paszamant@BlankRome.com>

Cc: Smith, James <Smith-jt@BlankRome.com>; Chris Tompkins <ctompkins@bpmlaw.com>; Schuelke III, Henry F.

<HSchuelke@BlankRome.com>; Dror Ladin <dladin@aclu.org>; Lustberg, Lawrence S <LLustberg@gibbonslaw.com>;

Hina Shamsi <hshamsi@aclu.org>; Janukowicz, Kate E. (<KJanukowicz@gibbonslaw.com>)

<KJanukowicz@gibbonslaw.com>; Frey, Avram D. (<AFrey@gibbonslaw.com> <AFrey@gibbonslaw.com>; Daniel J.

McGrady (<dmcgrady@gibbonslaw.com> <dmcgrady@gibbonslaw.com>)

Subject: RE: Plaintiffs' Depositions and IMEs

Brian:

I've never suggested that there would be any issues with our clients' applications for U.S. entry visas. However, as you know, as non-U.S. citizens, from non-visa-waiver countries, our clients will have to obtain visas before coming here, and the decision whether to grant such visas is made by the U.S. government. We have begun the

process on their behalf, and we will keep you apprised of our progress; certainly, we will let you know as soon as we receive the visa decisions.

As to alternative countries for conduct of their depositions, and IMEs for Messers Salim and Ben Soud, we have been considering Tanzania (Dar es Salaam) and Turkey (Istanbul). Mr. Salim is a Tanzanian citizen, and travel to Turkey is likely to be more quickly obtainable for Messers Ben Soud and ObaidUllah than to the United States. Let us know your thoughts on having depositions in those places, or as I mentioned before, by such other technology as videoconferencing, as an alternative.

Thank you.

Steven

From: Paszamant, Brian [<mailto:Paszamant@BlankRome.com>]

Sent: Friday, October 21, 2016 3:56 PM

To: Steven Watt

Cc: Smith, James; Chris Tompkins; Schuelke III, Henry F.; Dror Ladin; Lustberg, Lawrence S; Hina Shamsi; Janukowicz, Kate E. (KJanukowicz@gibbonslaw.com); Frey, Avram D. (AFrey@gibbonslaw.com); Daniel J. McGrady (dmcgrady@gibbonslaw.com)

Subject: RE: Plaintiffs' Depositions and IMEs

Steven,

Thank you for the email. When we spoke last Thursday, you inquired whether Defendants would be amenable to conducting Plaintiffs' depositions overseas and I advised that Defendants did not wish to do so. Your email below is the first mention of any visa issues that Plaintiffs may be confronting.

Please keep us advised as to the status of Plaintiffs' visas. In the meantime, could you please advise what locations outside the United States you may be contemplating so that Defendants can properly consider your inquiry below?

Thank you in advance.

BP

Brian S. Paszamant | Blank Rome LLP

One Logan Square 130 North 18th Street | Philadelphia, PA 19103-6998

Phone: 215.569.5791 | Fax: 215.832.5791 | Email: Paszamant@BlankRome.com

From: Steven Watt [<mailto:swatt@aclu.org>]

Sent: Friday, October 21, 2016 1:34 PM

To: Paszamant, Brian <Paszamant@BlankRome.com>

Cc: Smith, James <Smith-jt@BlankRome.com>; Chris Tompkins <ctompkins@bpmlaw.com>; Schuelke III, Henry F. <HSchuelke@BlankRome.com>; Dror Ladin <dladin@aclu.org>; Lustberg, Lawrence S <LLustberg@gibbonslaw.com>; Hina Shamsi <hshamsi@aclu.org>; Janukowicz, Kate E. (KJanukowicz@gibbonslaw.com) <KJanukowicz@gibbonslaw.com>; Frey, Avram D. (AFrey@gibbonslaw.com) <AFrey@gibbonslaw.com>; Daniel J. McGrady (dmcgrady@gibbonslaw.com) <dmcgrady@gibbonslaw.com>

Subject: RE: Plaintiffs' Depositions and IMEs

Brian:

As I informed you last week when you first raised the question of Plaintiffs' depositions, Plaintiffs do not currently possess visas to enter the United States. We have already begun the process of securing all the Plaintiffs visas. One of our clients is awaiting a visa interview date. For two others, we have begun the online visa application processes and are retaining a specialist immigration law firm to further the process.

However, because Plaintiffs control neither the speed nor the outcome of the U.S. government visa process, would Defendants agree to hold depositions and medical examinations of Messrs. Salim and Ben Soud at mutually convenient locations outside the United States—in countries that our clients can access more easily and quickly; or alternatively, with regard to depositions, to have them taken via video-link?

Steven

Steven M. Watt

Senior Staff Attorney

American Civil Liberties Union

125 Broad St., New York, NY 10004

■ o 212.519.7870 ■ swatt@aclu.org

■ m 917.312.6989 ■ f 212.549.2680

www.aclu.org  



Because Freedom Can't Protect Itself

This message may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply email that this message has been inadvertently transmitted to you and delete this email from your system.

From: Paszamant, Brian [<mailto:Paszamant@BlankRome.com>]

Sent: Wednesday, October 19, 2016 5:18 PM

To: Steven Watt

Cc: Smith, James; Chris Tompkins; Schuelke III, Henry F.; Dror Ladin; Lustberg, Lawrence S

Subject: Plaintiffs' Depositions and IMEs

Steven,

Any progress with regard to mid/late November dates for Plaintiffs' depositions and dates close in time for the IMEs of the two living detainee Plaintiffs? As I mentioned when we spoke last Thursday, we are working under the assumption that these activities will occur in or around Spokane, but we are willing to consider other mutually agreeable locales in the Continental U.S. if you have any proposal in this regard.

BP

Brian S. Paszamant | Blank Rome LLP

One Logan Square 130 North 18th Street | Philadelphia, PA 19103-6998

Phone: 215.569.5791 | Fax: 215.832.5791 | Email: Paszamant@BlankRome.com

This message and any attachments may contain confidential or privileged information and are only for the use of the intended recipient of this message. If you are not the intended recipient, please notify the sender by return email, and delete or destroy this and all copies of this message and all attachments. Any unauthorized disclosure, use, distribution, or reproduction of this message or any attachments is prohibited and may be unlawful.

EXHIBIT B

Emily Chiang, WSBA No. 50517
echiang@aclu-wa.org
AMERICAN CIVIL LIBERTIES UNION
OF WASHINGTON FOUNDATION
901 Fifth Avenue, Suite 630
Seattle, WA 98164
Phone: 206-624-2184

Dror Ladin (admitted *pro hac vice*)
Steven M. Watt (admitted *pro hac vice*)
Hina Shamsi (admitted *pro hac vice*)
AMERICAN CIVIL LIBERTIES UNION FOUNDATION

Lawrence S. Lustberg (admitted *pro hac vice*)
Kate E. Janukowicz (admitted *pro hac vice*)
Daniel J. McGrady (admitted *pro hac vice*)
Avram D. Frey (admitted *pro hac vice*)
GIBBONS P.C.

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

SULEIMAN ABDULLAH SALIM,
MOHAMED AHMED BEN SOUD,
OBAID ULLAH (as personal
Representative of GUL RAHMAN),

Plaintiffs,

vs.

JAMES ELMER MITCHELL and
JOHN "BRUCE" JESSEN,

Defendants.

No. 2:15-CV-286-JLQ

**PLAINTIFF SULEIMAN ABDULLAH
SALIM'S OBJECTIONS AND RESPONSES
TO DEFENDANTS' INTERROGATORIES**

Pursuant to Federal Rules of Civil Procedure 26 and 33, Plaintiff Suleiman Abdullah Salim ("Plaintiff" or "Mr. Salim") hereby submits the following responses and objections to the Interrogatories served by Defendants James Elmer Mitchell and John "Bruce" Jessen

(c) of a gastrointestinal nature; (d) of the rectum¹; (e) due to extreme cold; (f) of the ears; and (g) due to lacerations of the skin.

As a result of his inclusion in the Program and/or Defendants' acts or omissions, including the clearly foreseeable results thereof, Mr. Salim currently suffers from chronic post-traumatic stress disorder (PTSD) that also fits the criteria for complex PTSD; major depression; right third and fourth digit contractures; chronic back and shoulder pain with intermittent lower back pain and occasional sciatica of the right leg; dizziness that is sometimes accompanied by tension headaches; chronic nasal congestion/obstruction; chronic tinnitus and damage to both eardrums; right knee pain and swelling; abdominal pain with gas, bloating, and occasional urge to vomit; generalized dental pain and discomfort; decreased sexual function; rectal pain with intermittent swelling and occasional rectal bleeding; and eye pain, which may or may not be the result of Mr. Salim's inclusion in the Program and which requires further medical examination. As a result of his inclusion in the Program and/or Defendants' acts or omissions, Mr. Salim has a heightened risk of developing traumatic brain injury (TBI) attributable to repeated head trauma. Mr. Salim already suffers from symptoms of TBI including dizziness, headaches, tinnitus, and decreased memory and concentration.

Research on survivors of torture and sufferers of chronic PTSD also makes clear that Mr. Salim is at heightened risk for development of metabolic syndrome, Dyslipidemia, Alzheimer's disease, hypertension, diabetes, high cholesterol, atherosclerotic heart disease, vascular dementia, and stroke.

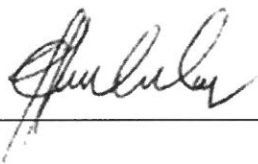
¹ Though Mr. Salim identifies rectal injury as occurring during his rendition, detention, torture and other cruel, inhuman, and degrading treatment as a result of his inclusion in the Program, and includes this injury in his answers to Interrogatories, he is unaware of any facts that would establish the Defendants' responsibility for that injury and accordingly does not here pursue damages for this injury.

CERTIFICATION

I, Suleiman Abdullah Salim, hereby certify that, to the best of my knowledge and belief, the foregoing answers to Defendants' Interrogatories are accurate. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: November 28, 2016

By: _____

A handwritten signature in black ink, appearing to read 'Suleiman', is written over a horizontal line.

Name: Suleiman Abdullah Salim

CERTIFICATE OF SERVICE

I hereby certify that on November 28, 2016, I caused to be served a copy of the foregoing
on the following individuals via email:

Brian S. Paszamant:
Paszamant@blankrome.com

Christopher W. Tompkins:
Ctompkins@bpmlaw.com

Ann E. Querns
aquerns@blankrome.com

Attorneys for Defendants

/s/ Lawrence S. Lustberg
Lawrence S. Lustberg, admitted *pro hac vice*
llustberg@gibbonslaw.com

EXHIBIT C



DATE:

Dear Applicant:

☐ This is to inform you that you have been found ineligible for a nonimmigrant visa under Section 214(b) of the U.S. Immigration and Nationality Act. A denial under Section 214(b) means that you were not able to demonstrate that your intended activities in the United States would be consistent with the classification of the nonimmigrant visa for which you applied.

☐ While nonimmigrant visa classifications each have their own unique requirements, one requirement shared by many of the nonimmigrant visa categories is for the applicant to demonstrate that he/she has a residence in a foreign country which he/she has no intention of abandoning. Applicants usually meet this requirement by demonstrating that they have strong ties overseas that indicate that they will return to a foreign country after a temporary visit to the United States. Such ties include professional, work, school, family, or social links to a foreign country. You have not demonstrated that you have the ties that will compel you to return to your home country after your travel to the United States.

Today's decision cannot be appealed. However, you may reapply at any time. If you decide to reapply, you must submit a new application form and photo, pay the visa application fee again, and make a new appointment to be interviewed by a consular officer. If you choose to reapply, you should be prepared to provide information that was not presented in your original application, or to demonstrate that your circumstances have changed since that application.

Sincerely,

Consular Officer



Tarehe:

Mpendwa Mwombaji:

☐ Tunasikitika kwamba huna sifa ya kukupatia viza isiyo ya kuhamia kwa mujibu wa kifungu 214(b) cha sheria ya uhamiaji na utaifa ya marekani chini ya kifungu 214(b) kuna maanisha kwamba hukuweza kufikia vigezo vya kupata aina ya viza isiyo ya kuhamia ambayo umeomba.

☐ Viza ambayo siyo ya kuhamia mahitaji yake ni ya tofauti kuna vigezo ambavyo waombaji viza ambayo siyo ya kuhamia wanatakiwa kuonyesha wanayo makazi ya kudumu nchini nchini kwao. Waombaji wanatakiwa kuonyesha wana ufungamano wenye nguvu ni taaluma, ajira, elimu, familia au uhusiano wa kijamii na nchi utokayo, hujaonesha kwamba una ufungamano huo wenye nguvu utakao kufanya urudi nchini mwako baada ya safari yako ya marekani.

Uamuzi huu wa leo huwezi kukatiwa rufaa. Hata hivyo unaweza kutuma maombi yako upya kama una ushahidi wa ziada wa kudhibitisha sifa za kuomba viza lwapo utaamua kuomba upya, ni lazima uwasilishe fomu na picha upya, ulipie ada ya maombi ya viza na pia itabidi ufanyiwe usaili. Kama utaamua kuomba upya, ni lazima ujiandae kuwasilisha maelezo ambayo hukuyawasilisha katika maombi yako ya awali, au uonyeshe na uthibitisha kwamba mazingira yako ya sasa yamebadilika tangu yalipofanyika maombi yako ya awali. Hakuna uhakika kwamba utapata majibu tofauti. Ni usaili mpya pekee ndio utakaoamua.

Kwa maelezo zaidi, tafadhali rejea tovuti yetu <http://tanzania.usembassy>

Wako,

Afisa Uhamiaji
Idara ya Viza ya kuhamia

EXHIBIT D

Steven Watt

From: Dror Ladin
Sent: Wednesday, November 30, 2016 6:45 PM
To: Steven Watt
Subject: FW: Consulate information in Salim v. Mitchell

From: Warden, Andrew (CIV) [<mailto:Andrew.Warden@usdoj.gov>]
Sent: Wednesday, November 16, 2016 5:28 PM
To: Dror Ladin
Cc: Hina Shamsi; 'LLustberg@gibbonslaw.com' (LLustberg@gibbonslaw.com)
Subject: RE: Consulate information in Salim v. Mitchell

Dror:

Thanks very much. I've been in touch with appropriate folks at the State Dept about this matter and I have explained to them the litigation reasons for the visa applications.

Best,
Andrew

Andrew I. Warden
U.S. Department of Justice
Civil Division, Federal Programs Branch
Tel: (202) 616-5084

From: Dror Ladin [<mailto:dladin@aclu.org>]
Sent: Wednesday, November 16, 2016 1:04 PM
To: Warden, Andrew (CIV) <AWarden@CIV.USDOJ.GOV>
Cc: Hina Shamsi <hshamsi@aclu.org>; 'LLustberg@gibbonslaw.com' (LLustberg@gibbonslaw.com)
<LLustberg@gibbonslaw.com>
Subject: RE: Consulate information in Salim v. Mitchell

Andrew,
Thanks for your quick response.

The spellings and DOBs are:
Suleiman Abdulla Salum, DOB: Sept. 25, 1971
Mohamed Ahmed Mohamed Ben Soud, DOB: March 22, 1969
Obaidullah Sulaimankhail, DOB: Jan. 9, 1991

Also, as an update, we received word from the Kabul consulate that Obaidullah's visa will likely be granted within the coming days.

Best,
Dror

From: Warden, Andrew (CIV) [<mailto:Andrew.Warden@usdoj.gov>]
Sent: Tuesday, November 15, 2016 11:31 PM
To: Dror Ladin

Cc: Hina Shamsi; 'LLustberg@gibbonslaw.com' (LLustberg@gibbonslaw.com)

Subject: RE: Consulate information in Salim v. Mitchell

Dror:

Thanks very much. If you have it handy, would you also please send me the exact spelling of Plaintiffs' names that they used to complete their applications and their dates of birth?

Thanks,
Andrew

Andrew I. Warden
U.S. Department of Justice
Civil Division, Federal Programs Branch
Tel: (202) 616-5084

From: Dror Ladin [mailto:dladin@aclu.org]

Sent: Tuesday, November 15, 2016 4:41 PM

To: Warden, Andrew (CIV) <AWarden@CIV.USDOJ.GOV>

Cc: Hina Shamsi <hshamsi@aclu.org>; 'LLustberg@gibbonslaw.com' (LLustberg@gibbonslaw.com)
<LLustberg@gibbonslaw.com>

Subject: Consulate information in Salim v. Mitchell

Andrew,

Thanks for speaking with us today. Below is information regarding the entry visas Plaintiffs have sought. We would appreciate if the Department of Justice could confirm the pending litigation and trial dates with the consulates listed below.

Thanks,
Dror

Plaintiff Salim: First DS 160 was completed on June 18, and his first interview was at the American Embassy, Dar es Salaam, Tanzania, on November 10 at 9:00 am local time. His visa was denied that day on the grounds that he was "not able to demonstrate that [his] intended activities in the United States would be consistent with the classification of the nonimmigrant visa" for which he had applied. His second DS 160 was complete on November 10 and the second interview date is pending.

Plaintiff Ben Soud: DS 160 was completed on October 27 and his appointment at the embassy in Istanbul, Turkey is on November 23, at 9:00 am local time.

Plaintiff Obaidullah: DS 160 was completed on October 27. His interview at the US embassy in Kabul, Afghanistan was on November 7th, at 7:30 am local time.

Dror Ladin

Staff Attorney

National Security Project

American Civil Liberties Union

125 Broad St., New York, NY 10004

■ 212.284.7303 ■ dladin@aclu.org

www.aclu.org



BECAUSE FREEDOM CANT PROTECT ITSELF

This message may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply email that this message has been inadvertently transmitted to you and delete this email from your system.