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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

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

STIPULATED MOTION RE
RESTRICTIONS ON TRIAL
QUESTIONING, EVIDENCE AND
ARGUMENT

Note on Motion Calendar:
August 21, 9:30 a.m.,
at Spokane Washington

I. INTRODUCTION AND RELIEF REQUESTED

Plaintiffs Suleiman Abdullah Salim, Mohamed Ahmed Ben Soud and Obaid Ullah (as personal representative of Gul Rahman) (“Plaintiffs”) and Defendants James Elmer Mitchell and John “Bruce” Jessen (“Defendants”) (jointly, “Parties”) jointly request that the Court enter an Order on the topics set forth below limiting questioning, evidence and argument at trial.

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NO. 2:15-CV-286-JLQ

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139114.00602/105995551v.1

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Seattle, Washington 98101-3927
(206) 292-9988

II. RESTRICTIONS ON QUESTIONING, EVIDENCE AND ARGUMENT.

There shall be no questioning, evidence, or argument regarding:

1. The fact that Defendants are or may be indemnified by the United States for the costs or defense and/or for any judgment which may be entered; the indemnity agreement between Defendants and the United States; and/or the costs of litigation.

2. The number of counsel or the size of the law firms representing the Parties, the location of those counsel, the ACLU’s representation of Plaintiffs or its institutional positions, and/or the activities of any counsel or organizations involved in representation of either Plaintiffs or Defendants.

3. Any settlement communications between the Parties.

4. Criminal investigations or potential criminal charges related to allegedly abusive interrogations conducted by the United States abroad following 9/11/2001, including at Abu Ghraib and/or in the CIA’s “Rendition, Detention, and Interrogation Program.”

III. RESTRICTIONS ON QUESTIONING AND EVIDENCE.

There shall be no questioning or evidence regarding:

5. The intentions or state of mind of individuals other than the witness testifying in the absence of a foundation therefore.

6. The intention of the author of a document that was not created by the testifying witness in the absence of a foundation therefore.

1 7. The credibility or motivation of other witnesses in the absence of a
2 foundation therefor.

3 8. Expert testimony and opinions not disclosed in reports and/or during
4 depositions, unless the door is opened by the opposing Party on cross-examination
5 or otherwise.

6 9. Expert testimony or opinions on legal issues regarding the applicability
7 of the Alien Tort Statute, 28 U.S.C. § 1350, and other potentially applicable
8 international laws, treaties, or international consensus or norms, or the definitions
9 of “torture”, “cruel, inhuman, or degrading treatment”, “unauthorized human
10 experimentation” or “war crimes”, or similar terms, except outside of the presence
11 of the jury and for the benefit of the Court. The Parties agree that, to the extent the
12 Court permits use of such legal terms during trial by lay or expert witnesses
13 testifying about the facts of the case, forensic evaluations, or expert matters other
14 than (a) the applicability of the Alien Tort Statute or (b) the definition of the
15 aforementioned terms, an instruction from the Court would be appropriate.
16 Additional issues regarding the use of legal terms and conclusions will be the
17 subject of the Parties’ Motions in Limine.
18

19 The Parties shall advise their witnesses of the limitations herein in advance
20 of their testimony.

21 If any Party believes that a restriction set forth herein has been waived by
22 the conduct of the other Party, that Party shall first raise the issue with the Court
23 outside the presence of the jury.
24

IV. CONCLUSION

The Parties respectfully request that the Court enter an Order on the topics set forth above limiting questioning, evidence and argument at trial.

A proposed order is submitted herewith.

DATED this 2nd day of August, 2017.

GIBBONS PC

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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of August, 2017, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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