1	BETTS, PATTERSON & MINES P.S	S.
2	Christopher W. Tompkins (WSBA #110	586)
2	CTompkins@bpmlaw.com	
3	701 Pike Street, Suite 1400	
4	Seattle, WA 98101-3927	
	BLANK ROME LLP	
5	Henry F. Schuelke III (admitted pro had	c vice)
6	HSchuelke@blankrome.com	
	600 New Hampshire Ave NW	
7	Washington, DC 20037	
8	James T. Smith (admitted <i>pro hac vice</i> )	
9	Smith-jt@blankrome.com	
9	Brian S. Paszamant (admitted pro hac v	rice)
10	Paszamant@blankrome.com	
11	One Logan Square, 130 N. 18th Street	
	Philadelphia, PA 19103	
12	Attorneys for Defendants Mitchell and	Iessen
13	Tittorney's for Bereindants Tyriconen and	o essen
14	UNITED STATES	S DISTRICT COURT
14	FOR THE EASTERN DI	STRICT OF WASHINGTON
15	AT S	POKANE
16		
	SULEIMAN ABDULLAH SALIM,	NO. 2:15-cv-286-JLQ
17	et al.,	
18	Plaintiffs,	DEFENDANTS' WITNESS LIST
10		
19	VS.	
20	JAMES E. MITCHELL and JOHN	
21	JESSEN,	
	Defendants.	
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25		
	DEEDNO ANDO WHEN DOG A LOT	Ratts Patterson Mines

DEFENDANTS' WITNESS LIST NO. 15-CV-286-JLQ Page| i

139114.00602/104221321v.1

One Convention Place 701 Pike Street, Suite 1400 Seattle, Washington 98101-3927 (206) 292-9988

Defendants Dr. James Elmer Mitchell and Dr. John "Bruce" Jessen (collectively, "<u>Defendants</u>"), by and through their undersigned counsel, hereby serve this witness list pursuant to the Court's July 8, 2016, *Scheduling Order* (the "Scheduling Order") (ECF. No. 59), as further discussed in the Court's October 20, 2016, *Order Setting Document Production Deadline* (the "Document Production Order") (ECF. No. 91).<sup>1</sup>

Discovery is still ongoing. To date, Defendants have not obtained the complete production of documents from the Government and/or a privilege log—both of which are due December 20, 2016. (ECF Nos. 80, 91, 108). Defendants have also not deposed the Government witness(es) identified below, or any heretofore unknown Government witness(es) whose identities could be revealed by the Government's aforementioned production. Nor have Defendants deposed the Plaintiffs. As a result, Defendants respectfully reserve the right to supplement or otherwise amend this list, including the right to withdraw any witness, upon appropriate application to the Court under the terms of the Scheduling Order and/or the Document Production Order, if required.

By identifying the summary topics upon which Plaintiffs may testify,

Defendants do not concede the relevance and/or admissibility of such testimony or

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In relevant part, the Document Production Order states that: "[i]f Defendants determine some of the documents produced by the Government necessitate an amendment to their lay or expert witness lists, they may file a motion to amend the witness list(s) if a demonstration of good cause for the amendment is shown."

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waive any objections thereto. On the contrary, Defendants hereby reserve their objections and the right to challenge the admissibility of such testimony. Defendants further reserve the right to call, live or by deposition, any witnesses identified in Plaintiffs' Witness List. (ECF No. 107). Defendants also reserve the right to call, live or by deposition, and again upon appropriate application to the Court, if required, witnesses not listed below for the purpose of authenticating exhibits, to the extent the parties are unable to reach agreement regarding such issues.

Should any witness whose testimony Defendants anticipate presenting live be unavailable for trial for any reason, Defendants reserve the right to present such witness by deposition testimony.

#### I. FACT WITNESSES.

Defendants hereby identify and incorporate the descriptions regarding the individuals listed as Fact Witnesses on Plaintiffs' Witness List. (ECF No. 107). In addition, Defendants hereby identify the following Fact Witnesses, whose testimony may be elicited live and/or by deposition<sup>2</sup>:

	PLAINTIFFS					
No.	<u>Name</u>	Address	<b>Expected Testimony</b>			
1.	Suleiman Abdullah Salim	Bet Ras Zanzibar, Tanzania	Subject to his deposition, which has not yet occurred, Plaintiff Salim may testify to his rendition, detention			

<sup>&</sup>lt;sup>2</sup> The subject matters identified herein are stated to the best of Defendants' current ability.

1				and the alleged treatment he
2				experienced while in CIA custody. He may testify to
3				the effects of what he endured while in CIA
4				endured while in CIA detention on his physical
5				and mental health, as well
				as his pre-existing conditions and/or injuries.
6				He may testify to his
7				involvement with known terrorist groups prior to his
8				detention by the CIA, and
9				his designation by the CIA
10				as an enemy combatant or similar designation. He
11				may also testify about facts
12				relevant to any affirmative defense Defendants raise at
13				trial, such as the statute of
				limitations
			3 6 1 11 .	limitations.
14	2.	Mohamed Ahmed Ben Soud	Mahallat Shate'e Al-	Subject to his deposition, which has not yet occurred,
14 15	2.		Shate'e Al- Nakhil	Subject to his deposition, which has not yet occurred, Plaintiff Ben Soud may
14	2.		Shate'e Al-	Subject to his deposition, which has not yet occurred, Plaintiff Ben Soud may testify to his rendition,
14 15	2.		Shate'e Al- Nakhil	Subject to his deposition, which has not yet occurred, Plaintiff Ben Soud may testify to his rendition, detention and the alleged treatment he experienced
14 15 16	2.		Shate'e Al- Nakhil	Subject to his deposition, which has not yet occurred, Plaintiff Ben Soud may testify to his rendition, detention and the alleged treatment he experienced while in CIA custody. He
14 15 16 17	2.		Shate'e Al- Nakhil	Subject to his deposition, which has not yet occurred, Plaintiff Ben Soud may testify to his rendition, detention and the alleged treatment he experienced while in CIA custody. He may testify to the effects of what he endured while in
14 15 16 17 18 19	2.		Shate'e Al- Nakhil	Subject to his deposition, which has not yet occurred, Plaintiff Ben Soud may testify to his rendition, detention and the alleged treatment he experienced while in CIA custody. He may testify to the effects of what he endured while in CIA detention on his
14 15 16 17 18 19 20	2.		Shate'e Al- Nakhil	Subject to his deposition, which has not yet occurred, Plaintiff Ben Soud may testify to his rendition, detention and the alleged treatment he experienced while in CIA custody. He may testify to the effects of what he endured while in
14 15 16 17 18 19 20 21	2.		Shate'e Al- Nakhil	Subject to his deposition, which has not yet occurred, Plaintiff Ben Soud may testify to his rendition, detention and the alleged treatment he experienced while in CIA custody. He may testify to the effects of what he endured while in CIA detention on his physical and mental health, as well as his pre-existing conditions and/or injuries.
14 15 16 17 18 19 20 21 22	2.		Shate'e Al- Nakhil	Subject to his deposition, which has not yet occurred, Plaintiff Ben Soud may testify to his rendition, detention and the alleged treatment he experienced while in CIA custody. He may testify to the effects of what he endured while in CIA detention on his physical and mental health, as well as his pre-existing
14 15 16 17 18 19 20 21	2.		Shate'e Al- Nakhil	Subject to his deposition, which has not yet occurred, Plaintiff Ben Soud may testify to his rendition, detention and the alleged treatment he experienced while in CIA custody. He may testify to the effects of what he endured while in CIA detention on his physical and mental health, as well as his pre-existing conditions and/or injuries. He may testify to his involvement with known terrorist groups prior to his
14 15 16 17 18 19 20 21 22	2.		Shate'e Al- Nakhil	Subject to his deposition, which has not yet occurred, Plaintiff Ben Soud may testify to his rendition, detention and the alleged treatment he experienced while in CIA custody. He may testify to the effects of what he endured while in CIA detention on his physical and mental health, as well as his pre-existing conditions and/or injuries. He may testify to his involvement with known

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1 2 3 4				as an enemy combatant or similar designation. He may also testify about facts relevant to any affirmative defense Defendants raise at trial, such as the statute of limitations.
5	3.	ObaidUllah (as personal	Deputy Ministry of	Subject to his deposition,
6		representative of Gul Rahman)	Ministry of Tvet Karte 4	which has not yet occurred, Plaintiff ObaidUllah may
7		<b>1 (4.11.14.11</b> )	Dehboori	testify as to his uncle, Gul
8			Kabul, Afghanistan	Rahman's, rendition, detention and the alleged
9			Mighamstan	treatment he experienced
10				while in CIA custody. He may testify to the effects of
11				what Gul Rahman endured
12				while in CIA custody on his physical and mental health,
13				as well as his pre-existing conditions and/or injuries.
14				He may testify to Gul
15				Rahman involvement with known terrorist groups prior
16				to his detention by the CIA,
				and his designation by the
17				CIA as an enemy combatant or similar designation. He
18				may also testify about his
19				status as personal
20				representative to Gul Rahman. He may also
21				testify about facts relevant
22				to any affirmative defense Defendants raise at trial,
23				such as the statute of limitations.
24				minutions.

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1	GOVERNMENT			NMENT
1	No.	<u>Name</u>	Address	Expected Testimony
2 3 4 5 6 7	1.	Gina "Doe"	Contactable through Andrew Warden U.S. Department of Justice Civil Division Federal Programs Bench 20 Massachusetts Avenue, N.W.	Subject to her deposition, which has not yet occurred, Gina "Doe" may testify to her role as former Chief of Staff to Jose Rodriguez when he served as the Chief of the CIA's Clandestine Service and former Deputy to Jose Rodriguez when he served as the Director of the CIA's Counterterrorism Center ("CTC"). She may also testify to the scope and
8 9			Washington, D.C. 20530	structure of the CIA's rendition, detention and interrogation program
10 11 12 13 14 15 16 17				(or similar but separate program for medium-value or low-value detainees), Defendants' alleged role and involvement therein, the alleged use of Enhanced Interrogation Techniques (or other interrogation techniques) on detainees, the training and instruction provided to interrogators, the CIA's control over the rendition and interrogation program, the review and approval of the rendition and interrogation
17 18 19 20				program and/or the use of Enhanced Interrogation Techniques on detainees by the Department of Justice and/or other Government entities, communications with the White House and the Executive Branch regarding
<ul><li>21</li><li>22</li><li>23</li><li>24</li></ul>				the rendition, detention, and interrogation program (or similar but separate program for medium-value or low-value detainees) and/or the use of Enhanced Interrogation Techniques on detainees, and the authority granted to Defendants to make recommendations
25				Detendants to make recommendations

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$_{1}\parallel$				regarding detainee interrogations to
				the CIA, and any other matter that
2		T 1 /T	C + 11	may be developed at deposition.
3	2.	John/Jane "Doe"	Contactable through Andrew	Subject to his/her deposition, which has not yet occurred, John/Jane "Doe"
4			Warden	may testify to his/her role as former
5			U.S. Department of Justice Civil	Chief of Special Missions for the CIA's CTC and immediate successor
6			Division Federal	to James Cotsana in that position, who
			Programs Bench	also served as the Chief of the CIA's
7			20	CTC Renditions Group. He/She may
8			Massachusetts	also testify to the scope and structure of the CIA's rendition, detention and
			Avenue, N.W. Washington,	interrogation program (or similar but
9			D.C. 20530	separate program for medium-value or
10				low-value detainees), Defendants'
11				alleged role and involvement therein,
11				the alleged use of Enhanced
12				Interrogation Techniques (or other
13				interrogation techniques) on detainees, the training and instruction provided
				to interrogators, the CIA's control
14				over the rendition and interrogation
15				program, the review and approval of
16				the rendition and interrogation
				program and/or the use of Enhanced
17				Interrogation Techniques on detainees by the Department of Justice and/or
18				other Government entities,
				communications with the White House
19				and the Executive Branch regarding
20				the rendition, detention, and
21				interrogation program (or similar but
				separate program for medium-value or low-value detainees) and/or the use of
22				Enhanced Interrogation Techniques on
23				detainees, and the authority granted to
24				Defendants to make recommendations
24				regarding detainee interrogations to
25				the CIA, and any other matter that

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			T	T
1				may be developed at deposition.
	3.	James Cotsana	Contactable	Subject to his deposition, which has
2	J.		through Andrew	not yet occurred, Cotsana may testify
3			Warden	to his position as Chief of the CIA's
3			U.S. Department	CTC Renditions Group. He may also
4			of Justice Civil	testify to the scope and structure of the
ہے			Division Federal	CIA's rendition, detention and
5			Programs Bench	interrogation program (or similar but
6			20	separate program for medium-value or
			Massachusetts	low-value detainees), Defendants'
7			Avenue, N.W.	alleged role and involvement therein,
8			Washington, D.C. 20530	the alleged use of Enhanced Interrogation Techniques (or other
			D.C. 20330	Interrogation Techniques (or other interrogation techniques) on detainees,
9				the training and instruction provided
10				to interrogators, the CIA's control
				over the rendition and interrogation
11				program, the review and approval of
12				the rendition and interrogation
12				program and/or the use of Enhanced
13				Interrogation Techniques on detainees
14				by the Department of Justice and/or
14				other Government entities,
15				communications with the White House
16				and the Executive Branch regarding
16				the rendition, detention, and
17				interrogation program (or similar but
10				separate program for medium-value or
18				low-value detainees) and/or the use of
19				Enhanced Interrogation Techniques on
_				detainees, and the authority granted to Defendants to make recommendations
20				regarding detainee interrogations to
21				the CIA, and any other matter that
				may be developed at deposition.
22		Jose A.	Contactable	Subject to his deposition, which has
23	4.	Rodriguez, Jr.	through Andrew	not yet occurred, Rodriguez may
		<i>5</i> ,	Warden	testify to his role as Chief of the CIA's
24			U.S. Department	Clandestine Service and the Director
25			of Justice Civil	of the CIA's CTC. He may also
-		-	•	•

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1			Division Federal	testify to the scope and structure of the
			Programs Bench	CIA's rendition, detention and
2			20	interrogation program (or similar but
3			Massachusetts	separate program for medium-value or
3			Avenue, N.W.	low-value detainees), Defendants'
4			Washington,	alleged role and involvement therein,
_			D.C. 20530	the alleged use of Enhanced
5				Interrogation Techniques (or other
6			Robert Bennett,	interrogation techniques) on detainees,
			Esq.	the training and instruction provided
7			c/o Hogan	to interrogators, the CIA's control
8			Lovells LLP	over the rendition and interrogation
8			Lovens LLi	program, the review and approval of
9				the rendition and interrogation
10				program and/or the use of Enhanced
10				Interrogation Techniques on detainees
11				by the Department of Justice and/or
				other Government entities,
12				communications with the White House
13				and the Executive Branch regarding the rendition, detention, and
13				interrogation program (or similar but
14				separate program for medium-value or
15				low-value detainees) and/or the use of
13				Enhanced Interrogation Techniques on
16				detainees, and the authority granted to
17				Defendants to make recommendations
17				regarding detainee interrogations to
18				the CIA, and any other matter that
				may be developed at deposition.
19		John A Dizzo	Contactable	
20	5.	John A. Rizzo,	Contactable through Andrew	Subject to his deposition, which has not yet occurred, Rizzo may testify to
		Esq.	Warden	his role as Acting General Counsel to
21			U.S. Department	the CIA and CIA Senior Deputy
22			of Justice Civil	General Counsel. He may also testify
			Division Federal	to the scope and structure of the CIA's
23			Programs Bench	rendition, detention and interrogation
24			20	program (or similar but separate
<b>∠</b> +			Massachusetts	program for medium-value or low-
25			ı	

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6. John Fredman, Esq.  Contactable through Andrew Warden U.S. Department of Justice Civil Division Federal Programs Bench 20 Massachusetts Avenue, N.W. Washington, D.C. 20530  John Fredman, Esq.  Contactable through Andrew Warden U.S. Department to his role as Chief Cou Senior Attorney, CIA General Counsel, Assi Director of National In Special Programs, a Assistant to the Director may also testify to the detention and interroga (or similar but separate)			Avenue, N.W. Washington, D.C. 20530  Robert Bennett, Esq. c/o Hogan Lovells LLP	value detainees), Defendants' alleged role and involvement therein, the alleged use of Enhanced Interrogation Techniques (or other interrogation techniques) on detainees, the CIA's control over the rendition and interrogation program, the review and approval of the rendition and interrogation program and/or the use of Enhanced Interrogation Techniques on detainees by the Department of Justice and/or other Government entities, communications with the White House and the Executive Branch regarding the rendition, detention, and interrogation program (or similar but separate program for medium-value or low-value detainees) and/or the use of Enhanced Interrogation Techniques on detainees, and the authority granted to Defendants to make recommendations regarding detainee interrogations to the CIA, and any other matter that may be developed at deposition.
·	6.	· ·	through Andrew Warden U.S. Department of Justice Civil Division Federal Programs Bench 20 Massachusetts Avenue, N.W. Washington, D.C. 20530	Subject to his deposition, which has not yet occurred, Fredman may testify to his role as Chief Counsel to CTC, Senior Attorney, CIA Office of General Counsel, Assistant Deputy Director of National Intelligence for

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McCool, Esq.	and involvement therein, the alleged
c/o Mallon &	use of Enhanced Interrogation
McCool	Techniques (or other interrogation
	techniques) on detainees, the CIA's
	control over the rendition and
	interrogation program, the review and
	approval of the rendition and
	interrogation program and/or the use
	of Enhanced Interrogation Techniques
	on detainees by the Department of
	Justice and/or other Government
	entities, communications with the
	White House and the Executive
	Branch regarding the rendition,
	detention, and interrogation program
	(or similar but separate program for
	medium-value or low-value detainees)
	and/or the use of Enhanced
	Interrogation Techniques on detainees,
	and the authority granted to
	Defendants to make recommendations
	regarding detainee interrogations to
	the CIA, and any other matter that
	may be developed at deposition.

	DEFENDANTS			
No.	<u>Name</u>	Address	<b>Expected Testimony</b>	
1	John Bruce	Spokane,	Defendant Jessen will testify to the	
1.	Jessen	Washington	design, development, and	
		c/o Blank Rome	implementation, and safeguards	
		LLP	included in the CIA's rendition,	
			detention and interrogation program	
			for Abu Zubaydah and other high-	
			value detainees, Defendants' alleged	
			role and involvement therein, the	
			scope and structure of the CIA's	
			program, Defendants' contractual	
			obligations to the CIA to provide	

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			recommendations with respect to the
			interrogation of detainees that were
			then carried out by CIA employees,
			the CIA's control over the rendition
			and interrogation program, the review
			and approval of the rendition,
			detention and interrogation program
			and/or the use of Enhanced
			Interrogation Techniques on detainees
			by the Department of Justice and/or
			other Government entities,
			Defendants' alleged involvement in
			the interrogations of Gul Rahman, the
			methodology applied in providing
			recommendations to the CIA with
			respect to detainee interrogations and
			the inapplicability of the "learned
			helplessness" theory, as well as
			testimony relevant to affirmative
			defenses Defendants intend to raise at
			trial. Defendant Jessen is a PhD.
			psychologist with significant practical
			experience, and the testimony of
			Defendant Jessen may include
			testimony based on his knowledge,
			•
			skill, experience, training or
	T 121	T 10 T 1	education.
2.	James Elmer	Land O Lakes,	Defendant Mitchell will testify to the
	Mitchell	Florida	design, development, implementation,
		c/o Blank Rome	and safeguards included in the CIA's
		LLP	rendition, detention and interrogation
			program for Abu Zubaydah and other
			high-value detainees, Defendants'
			alleged role and involvement therein,
			the scope and structure of the CIA's
			program, Defendants' contractual
			obligations to the CIA to provide
			recommendations with respect to the
			interrogation of detainees that were
			then carried out by CIA employees,
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the CIA's control over the rendition and interrogation program, the review of the approval rendition, detention and interrogation program Enhanced and/or the ofuse Interrogation Techniques on detainees by the Department of Justice and/or other Government entities. Defendants' alleged involvement in the interrogations of Gul Rahman, the methodology applied in providing recommendations to the CIA with respect to detainee interrogations and the inapplicability of the "learned helplessness" theory, as well testimony relevant to affirmative defenses Defendants intend to raise at trial. Defendant Mitchell is a PhD. psychologist with significant practical experience, and the testimony of Defendant Mitchell may include testimony based on his knowledge, training skill. experience, education.

#### II. EXPERT WITNESSES.

Defendants hereby identify and incorporate the descriptions regarding the individuals listed as Expert Witnesses on Plaintiffs' Witness List. (ECF No. 107). In addition, Defendants hereby identify the following Expert Witnesses:

No.	<u>Name</u>	Address	<b>Expected Testimony</b>
1	Professor	Hofstra University, Maurice	Professor Julian G. Ku may
1.	Julian G. Ku	A. Deane School of Law	testify to the matters set
		c/o Blank Rome LLP	forth in his expert report,
			submitted on December 12,
			2016.
	Roger Pitman,	Massachusetts General	Roger Pitman, M.D. may
۷.	M.D.	Hospital	respond to the matters set

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1			c/o Blank Rome LLP	forth in Plaintiffs' expert
2				reports. He may also testify to the matters set forth in his
				own expert report once he
3				has had an opportunity to
4				personally examine the
5				Plaintiffs Salim and Ben
				Soud, which has not yet occurred.
6	3.	Joseph D.	NYU Hospital for Joint	Joseph D. Zuckerman, M.D.
7	J.	Zuckerman,	Diseases	may respond to the matters
8		M.D.	c/o Blank Rome LLP	set forth in Plaintiffs' expert reports. He may also testify
9				to the matters set forth in his
				own expert report once he
10				has had an opportunity to
11				personally examine the Plaintiffs Salim and Ben
12				Soud, which has not yet
				occurred.
13	4.	Joseph J.	Bellevue Hospital Center	Joseph Carter, M.D. may
14		Carter, M.D., M.B.A.	c/o Blank Rome LLP	respond to the matters set forth in Plaintiffs' expert
15		141.15.71.		reports. He may also testify
16				to the matters set forth in his
				own expert report once he
17				has had an opportunity to personally examine the
18				Plaintiffs Salim and Ben
19				Soud, which has not yet
				occurred.
20	TTT I	Dogoverstions		

#### III. Reservations.

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Defendants reserve the right to supplement this list of witnesses to identify additional fact and/or expert witnesses, to be named at a later date, as discovery is continuing in this matter.

DEFENDANTS' WITNESS LIST

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Betts Patterson Mines One Convention Place 701 Pike Street, Suite 1400 Seattle, Washington 98101-3927

(206) 292-9988

- 2. Defendants reserve the right to call any fact or expert witness identified by plaintiff, or revealed in pretrial discovery.
- 3. Defendants reserve the right to elicit, in pretrial discovery or through direct or cross-examination at trial, expert testimony from any qualified witness and/or from experts identified by other parties to this action.
- 4. Defendants reserve the right to call records custodians, or other qualified witnesses, as necessary to lay a sufficient foundation for the authentication and admission of documentary evidence at trial.
- 5. Defendants reserve the right to supplement this list to include witnesses to rebut the testimony of any witness whom any of the parties subsequently discloses.
- 6. Defendants reserve the right to call any fact witness listed above as an expert witness, as appropriate, to the extent permitted by applicable Rules of Evidence.

DATED this 12th day of December, 2016.

BETTS, PATTERSON & MINES, P.S.

By: <u>s/Christopher W. Tompkins</u>
Christopher W. Tompkins, WSBA #11686
<a href="mailto:ctompkins@bpmlaw.com">ctompkins@bpmlaw.com</a>
701 Pike St, Suite 1400
Seattle, WA 98101

James T. Smith, admitted *pro hac vice*<a href="mailto:smith-jt@blankrome.com">smith-jt@blankrome.com</a>
Brian S. Paszamant, admitted *pro hac vice*<a href="mailto:paszamant@blankrome.com">paszamant@blankrome.com</a>
Blank Rome LLP
130 N 18th Street
Philadelphia, PA 19103

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1	Henry F. Schuelke III, admitted <i>pro hac vice</i> <u>hschuelke@blankrome.com</u>
2	Blank Rome LLP
3	600 New Hampshire Ave NW
	Washington, DC 20037
4	Attorneys for Defendants Mitchell and Jesser
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#### **CERTIFICATE OF SERVICE**

I hereby certify that on the 12th day of December, 2016, 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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