

Steven M. Wilker, OSB No. 911882
Email: steven.wilker@tonkon.com
Tonkon Torp LLP
1600 Pioneer Tower
888 SW 5th Avenue
Portland, OR 97204
Tel.: (503) 802-2040; Fax: (503) 972-3740
Cooperating Attorney for the ACLU Foundation of Oregon

Hina Shamsi (Admitted *pro hac vice*)
Email: hshamsi@aclu.org
Hugh Handeyside (Admitted *pro hac vice*)
Email: hhandeyside@aclu.org
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
Tel.: (212) 549-2500; Fax: (212) 549-2654

Ahilan T. Arulanantham (Admitted *pro hac vice*)
Email: aarulanantham@aclu-sc.org
Jennifer Pasquarella (Admitted *pro hac vice*)
Email: jpasquarella@aclu-sc.org
ACLU Foundation of Southern California
1313 West Eighth Street
Los Angeles, CA 90017
Tel.: (213) 977-9500; Fax: (213) 977-5297

Alan L. Schlosser (Admitted *pro hac vice*)
Email: aschlosser@aclunc.org
Julia Harumi Mass (Admitted *pro hac vice*)
Email: jmass@aclunc.org
ACLU Foundation of Northern California
39 Drumm Street
San Francisco, CA 94111
Tel.: (415) 621-2493; Fax: (415) 255-8437

Alexandra F. Smith (Admitted *pro hac vice*)
Email: asmith@aclu-nm.org
ACLU Foundation of New Mexico
P.O. Box 566
Albuquerque, NM 87103
Tel.: (505) 266-5915; Fax: (505) 266-5916

Mitchell P. Hurley (Admitted *pro hac vice*)
Email: mhurley@akingump.com
Christopher M. Egleson (Admitted *pro hac vice*)
Email: cegleson@akingump.com
Justin H. Bell (Admitted *pro hac vice*)
Email: bellj@akingump.com
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036
Tel.: (212) 872-1011; Fax: (212) 872-1002

Attorneys for Plaintiffs Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdirahman Kariye, Faisal Kashem, Raymond Earl Knaeble, Ayman Latif, Ibraheim Mashal, Amir Mohamed Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Steven Washburn, and Mashaal Rana

William Genego (Admitted *pro hac vice*)
E-mail: bill@genegolaw.com
Law Office of William Genego
2115 Main Street
Santa Monica, California 90405
Tel: (310) 399-3259

Justine Fischer, OSB No. 812241
Email: jfattyor@aol.com
710 SW Madison St., Suite 400
Portland, OR 97205
Tel: (503) 222-4326; Fax: (503) 222-6567

Attorneys for Plaintiff Stephen Persaud

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

AYMAN LATIF, et al., <i>Plaintiffs,</i> v. ERIC H. HOLDER, JR., et al., <i>Defendants.</i>	Case 3:10-cv-00750-BR PLAINTIFFS' RENEWED COMBINED MOTION FOR PARTIAL SUMMARY JUDGMENT
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MOTION

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Plaintiffs Mohamed Sheikh Abdirahman Kariye, Faisal Kashem, Raymond Knaeble, Amir Meshal, Stephen Persaud, and Steven Washburn renew their motion for partial summary judgment challenging the adequacy of Defendants' No Fly List redress procedures under the procedural component of the Fifth Amendment to the Constitution and the Administrative Procedure Act.

The grounds for this Motion are as follows: Defendants' revised No Fly List redress process fails to provide Plaintiffs meaningful notice and a hearing as required under the Constitution and as ordered by this Court. *See* Op. and Order, ECF No. 136. That process affords fewer procedural protections than any system involving a significant liberty or property interest. The undisputed record shows that Defendants refused to provide Plaintiffs with protections that due process mandates, including full notice of the reasons for their placement on the No Fly List, disclosure of the evidence used against Plaintiffs, material and exculpatory evidence, and a live hearing at which Plaintiffs could testify and cross-examine adverse witnesses. Defendants also failed to utilize constitutionally-adequate substantive criteria in determining that Plaintiffs should remain on the No Fly List. The revised procedures therefore violate Plaintiffs' Fifth Amendment right to procedural due process.

The undisputed record also shows that Defendants' revised redress procedures violate the Administrative Procedure Act because they are unconstitutional and therefore contrary to law in violation of APA Section 706(2)(B), 5 U.S.C. § 706(2)(B), and constitute arbitrary and capricious agency action under APA Section 706(2)(A), 5 U.S.C. § 706(2)(A).

The grounds for this Motion are set forth more fully in the Memorandum of Points and Authorities in Support of Plaintiffs' Renewed Combined Motion for Partial Summary Judgment; the parties' Joint Statement of Agreed Facts Relevant to All Plaintiffs (ECF No. 173); the Plaintiff-Specific Joint Statements of Agreed Facts (ECF Nos. 175-180); the Plaintiff-Specific Renewed Motions for Partial Summary Judgment; the Declaration of Hugh Handeyside; and all other papers filed herewith.

LR 7-1 CERTIFICATION

The parties made a good faith effort through written correspondence and telephone conferences to resolve the dispute pursuant to LR 7-1 and have been unable to do so.

Dated: April 17, 2015

Steven M. Wilker, OSB No. 911882
Email: steven.wilker@tonkon.com
Tonkon Torp LLP
1600 Pioneer Tower
888 SW 5th Avenue
Portland, OR 97204
Tel.: (503) 802-2040; Fax: (503) 972-3740
Cooperating Attorney for the ACLU
Foundation of Oregon

s/ Hina Shamsi

Hina Shamsi (Admitted *pro hac vice*)
Email: hshamsi@aclu.org
Hugh Handeyside (Admitted *pro hac vice*)
Email: hhandeyside@aclu.org
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor

s/ William Genego

William Genego (Admitted *pro hac vice*)
E-mail: bill@genegolaw.com
Law Office of William Genego
2115 Main Street
Santa Monica, California 90405
Tel: (310) 399-3259

New York, NY 10004
Tel.: (212) 549-2500; Fax: (212) 549-2654

Ahilan T. Arulanantham (Admitted *pro hac vice*)
Email: aarulanantham@aclu-sc.org
Jennifer Pasquarella (Admitted *pro hac vice*)
Email: jpasquarella@aclu-sc.org
ACLU Foundation of Southern California
1313 West Eighth Street
Los Angeles, CA 90017
Tel.: (213) 977-9500; Fax: (213) 977-5297

Alan L. Schlosser (Admitted *pro hac vice*)
Email: aschlosser@aclunc.org
Julia Harumi Mass (Admitted *pro hac vice*)
Email: jmass@aclunc.org
ACLU Foundation of Northern California
39 Drumm Street
San Francisco, CA 94111
Tel.: (415) 621-2493; Fax: (415) 255-8437

Alexandra F. Smith (Admitted *pro hac vice*)
Email: asmith@aclu-nm.org
ACLU Foundation of New Mexico
P.O. Box 566
Albuquerque, NM 87103
Tel.: (505) 266-5915; Fax: (505) 266-5916

Mitchell P. Hurley (Admitted *pro hac vice*)
Email: mhurley@akingump.com
Christopher M. Egleson (Admitted *pro hac vice*)
Email: cegleson@akingump.com
Justin H. Bell (Admitted *pro hac vice*)
Email: bellj@akingump.com
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036
Tel.: (212) 872-1011; Fax: (212) 872-1002

Attorneys for Plaintiffs Salah Ali Ahmed, Nagib

Justine Fischer, OSB No. 812241
Email: jfattyor@aol.com
710 SW Madison St., Suite 400
Portland, OR 97205
Tel: (503) 222-4326; Fax: (503) 222-6567

Attorneys for Plaintiff Stephen Persaud

*Ali Ghaleb, Mohamed Sheikh Abdirahman
Kariye, Faisal Kashem, Raymond Earl Knaeble,
Ayman Latif, Ibraheim Mashal, Amir Mohamed
Meshal, Elias Mustafa Mohamed, Abdullatif
Muthanna, Steven Washburn, and Mashaal Rana*

CERTIFICATE OF SERVICE

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

s/ Hina Shamsi

Hina Shamsi