

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

_____)	
AMIR MESHAL,)	
)	
Plaintiff,)	
)	
v.)	No. 09-cv-2178 (EGS)
)	
CHRIS HIGGINBOTHAM, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

**DEFENDANTS’ RESPONSE TO PLAINTIFF’S
NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendants Steve Hersem, Chris Higginbotham, John Doe 1, and John Doe 2 (collectively, the “Defendants”) respectfully submit this Response to the Notice of Supplemental Authority filed by Plaintiff Amir Meshal on August 22, 2011. In that Notice, Meshal alerted the Court to decisions in *Vance v. Rumsfeld*, 653 F.3d 591 (7th Cir. 2011), and *Doe v. Rumsfeld*, No. 1:08–CV–1902, 2011 WL 3319439 (D.D.C. Aug. 2, 2011) – decisions which Meshal claims are relevant to the Court’s consideration of the Defendants’ Motion to Dismiss Plaintiff’s Amended Complaint on special factors and qualified immunity grounds. Specifically, Meshal claims that both cases support his argument that the Defendants are not entitled to qualified immunity with respect to their alleged conduct related to Meshal’s detention, interrogation, and transfer between countries in 2007. This Response is submitted to inform the Court that on October 28, 2011, the Seventh Circuit granted a petition for rehearing *en banc* in *Vance v. Rumsfeld* and ordered that the panel opinion and judgment cited by Meshal be vacated. *See Vance v. Rumsfeld*, Nos. 10-1687 and 10-2442, Document No. 70 (7th Cir. Oct. 28, 2011). In addition, the decision in *Doe v. Rumsfeld* has been appealed to the United States Court of Appeals for the District of Columbia

Circuit. *See Doe v. Rumsfeld*, No. 11-5209 (D.C. Cir. Aug. 22, 2011). The appeal is currently being briefed.

Respectfully submitted,

Dated: December 1, 2011

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