

16-1176

IN THE
United States Court of Appeals
FOR THE SECOND CIRCUIT

MUHAMMAD TANVIR, JAMEEL ALGIBHAH, NAVEED SHINWARI,

Plaintiffs-Appellants,

AWAIS SAJJAD,

Plaintiff,

(Caption continued on inside cover)

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOINT APPENDIX
VOLUME I OF II
(Pages JA-1 to JA-166)

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—against—

FNU TANZIN, Special Agent, FBI; SANYA GARCIA, Special Agent, FBI; JOHN LNU, Special Agent, FBI; FRANCISCO ARTUSA, Special Agent, FBI; JOHN C. HARLEY III, Special Agent, FBI; STEVEN LNU, Special Agent, FBI; MICHAEL LNU, Special Agent, FBI; GREGG GROSSOEHMIG, Special Agent, FBI; WEYSAN DUN, Special Agent in Charge, FBI; JAMES C. LANGENBERG, Assistant Special Agent in Charge, FBI; JOHN DOE #1, Special Agent, FBI; JOHN DOE #2, Special Agent, FBI; JOHN DOE #3, Special Agent, FBI; JOHN DOE #4, Special Agent, FBI; JOHN DOE #5, Special Agent, FBI; JOHN DOE #6, Special Agent, FBI,

Defendants-Appellees,

LORETTA E. LYNCH, Attorney General of the United States; JAMES COMEY, Director, Federal Bureau of Investigation; CHRISTOPHER M. PIEHOTA, Director, Terrorist Screening Center; JEH C. JOHNSON, Secretary, Department of Homeland Security; MICHAEL RUTKOWSKI, Special Agent, FBI; WILLIAM GALE, Supervisory Special Agent, FBI; JOHN DOE #7, Special Agent, FBI; JOHN DOE #8, Special Agent, FBI; JOHN DOE #9, Special Agent, FBI; JOHN DOE #10, Special Agent, DHS; JOHN DOE #11, Special Agent, FBI; JOHN DOE #12, Special Agent, FBI; JOHN DOE #13, Special Agent, FBI,

Defendants.

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CLOSED,APPEAL,ECF

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:13-cv-06951-RA**

Tanvir v. Comey et al
Assigned to: Judge Ronnie Abrams
Cause: 28:1331cv Fed. Question: Other Civil Rights

Date Filed: 10/01/2013
Date Terminated: 02/01/2016
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

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Date Filed	#	Docket Text
10/01/2013	<u>1</u>	COMPLAINT against Rand Beers, James Comey, John Doe, Sanya Garcia, John LNU, Christopher M. Piehota, John S. Pistole, "John" Tanzin. (Filing Fee \$ 350.00, Receipt Number 465401078011) Document filed by Muhammad Tanvir.(cde) (Entered: 10/02/2013)
10/01/2013		SUMMONS ISSUED as to Rand Beers, James Comey, John Doe, Sanya Garcia, John LNU, Christopher M. Piehota, John S. Pistole, "John" Tanzin. (cde) (Entered: 10/02/2013)
10/01/2013		Magistrate Judge Ronald L. Ellis is so designated. (cde) (Entered: 10/02/2013)
10/01/2013		Case Designated ECF. (cde) (Entered: 10/02/2013)
10/03/2013	<u>2</u>	ORDER AND NOTICE OF INITIAL CONFERENCE: Initial Conference set for 12/13/2013 at 03:45 PM in Courtroom 1506, 40 Centre Street, New York, NY 10007 before Judge Ronnie Abrams. By December 6, 2013, the parties are ordered to submit a joint letter, not to exceed 5 pages, providing the information further set forth in this Order. By December 6, 2013, the parties are ordered to jointly submit to the Court a proposed case management plan and scheduling order. Plaintiff is ordered to serve Defendants with a copy of this order and to file an affidavit on ECF certifying that such service has been effectuated. (Signed by Judge Ronnie Abrams on 10/3/2013) (tn) (Entered: 10/04/2013)
10/05/2013	<u>3</u>	NOTICE OF APPEARANCE by Ramzi Kassem on behalf of Muhammad Tanvir. (Kassem, Ramzi) (Entered: 10/05/2013)
10/17/2013	<u>4</u>	NOTICE OF APPEARANCE by Susan Shanke Hu on behalf of Muhammad Tanvir. (Hu, Susan) (Entered: 10/17/2013)
12/03/2013	<u>5</u>	NOTICE OF APPEARANCE by Sarah Sheive Normand on behalf of Rand Beers, James Comey, John Doe, Sanya Garcia, John LNU, Christopher M. Piehota, John S. Pistole, "John" Tanzin. (Normand, Sarah) (Entered: 12/03/2013)
12/03/2013	<u>6</u>	LETTER MOTION to Adjourn Conference addressed to Judge Ronnie Abrams from AUSA Sarah S. Normand dated 12/03/2013., LETTER MOTION for Extension of Time to File Answer addressed to Judge Ronnie Abrams from AUSA Sarah S. Normand dated 12/03/2013. Document filed by Rand Beers, James Comey, John Doe, Sanya Garcia, John LNU, Christopher M. Piehota, John S. Pistole, "John" Tanzin.(Normand, Sarah) (Entered: 12/03/2013)

12/05/2013	7	ORDER granting 6 Letter Motion to Adjourn Conference; granting 6 Letter Motion for Extension of Time to Answer re 1 Complaint. Application granted. The conference scheduled for December 13, 2013, is adjourned. After Plaintiff files his amended complaint, the parties shall submit a proposed Revised Scheduling Order as described above. Rand Beers answer due 3/31/2014; James Comey answer due 3/31/2014; Christopher M. Piehota answer due 3/31/2014. (Signed by Judge Ronnie Abrams on 12/5/2013) (cd) (Entered: 12/05/2013)
12/05/2013	8	NOTICE OF APPEARANCE by Diala Shamas on behalf of Muhammad Tanvir. (Shamas, Diala) (Entered: 12/05/2013)
03/07/2014	9	ORDER. The parties shall submit a joint status letter by March 21, 2014. That letter shall state a date by which Plaintiff seeks to file an amended complaint. (Signed by Judge Ronnie Abrams on 3/7/2014) (rjm) (Entered: 03/10/2014)
03/21/2014	10	STATUS REPORT. <i>Joint</i> Document filed by Rand Beers, James Comey, John Doe, Sanya Garcia, John LNU, Christopher M. Piehota, John S. Pistole, Muhammad Tanvir, "John" Tanzin.(Kassem, Ramzi) (Entered: 03/21/2014)
03/24/2014	11	MEMO ENDORSEMENT on re: 10 Status Report filed by James Comey, John LNU, Rand Beers, John Doe, Sanya Garcia, John S. Pistole, "John" Tanzin, Muhammad Tanvir, Christopher M. Piehota. ENDORSEMENT: Plaintiff shall file an amended complaint by April 22, 2014, and Defendants will have sixty days from the filing of any amended complaint to respond. An initial pretrial conference is scheduled for 10:15 a.m. on June 27, 2014. By June 20, 2014, the parties shall file their pre conference submissions, which are described in the Court's October 3, 2013 Order. So ordered. (Amended Pleadings due by 4/22/2014.), (Initial Conference set for 6/27/2014 at 10:15 AM before Judge Ronnie Abrams.) (Signed by Judge Ronnie Abrams on 3/24/2014) (rjm) (Entered: 03/25/2014)
04/22/2014	12	NOTICE OF APPEARANCE by Robert N. Shwartz on behalf of Muhammad Tanvir, Jameel Algibhah, Naveed Shiwnari, Awais Sajjad. (Shwartz, Robert) (Entered: 04/22/2014)
04/22/2014	13	NOTICE OF APPEARANCE by Jennifer R. Cowan on behalf of Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Cowan, Jennifer) (Entered: 04/22/2014)
04/22/2014	14	NOTICE OF APPEARANCE by Rushmi Bhaskaran on behalf of Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Bhaskaran, Rushmi) (Entered: 04/22/2014)
04/22/2014	15	FIRST AMENDED COMPLAINT amending 1 Complaint against James Comey, Sanya Garcia, John LNU, Christopher M. Piehota, "John" Tanzin, Eric H. Holder, Jeh C. Johnson, Francisco Artousa, Michael Rutkowski, William Gale, John C. Harley III, Steven LNU, Michael LNU, Gregg Grosseohmig, Weyсан Dun, James C. Langenberg, John Does 1-9, 11-13, John Doe 10.Document filed by Naveed Shiwnari, Jameel Algibhah, Muhammad Tanvir, Awais Sajjad. Related document: 1 Complaint filed by Muhammad Tanvir. (Shwartz, Robert) (Entered: 04/22/2014)

04/23/2014	16	ORDER. Plaintiff filed his Amended Complaint in this action on April 22, 2014, and by stipulation of the parties, Defendants have until June 23, 2014, to answer or otherwise respond. It is hereby: ORDERED that an initial pretrial conference is scheduled for 4:00 p.m. on July 11, 2014, in Courtroom 1506 of the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York. The parties' joint preconference submissions, described in the Court's October 3, 2013 Order, shall be due by July 3, 2014. Francisco Artousa answer due 6/23/2014; Rand Beers answer due 6/23/2014; James Comey answer due 6/23/2014; John Doe answer due 6/23/2014; John Doe 10 answer due 6/23/2014; John Does 1-9, 11-13 answer due 6/23/2014; Weysan Dun answer due 6/23/2014; William Gale answer due 6/23/2014; Sanya Garcia answer due 6/23/2014; Gregg Grossoehmig answer due 6/23/2014; John C. Harley III answer due 6/23/2014; Eric H. Holder answer due 6/23/2014; Jeh C. Johnson answer due 6/23/2014; John LNU answer due 6/23/2014; Michael LNU answer due 6/23/2014; Steven LNU answer due 6/23/2014; James C. Langenberg answer due 6/23/2014; Christopher M. Piehota answer due 6/23/2014; John S. Pistole answer due 6/23/2014; Michael Rutkowski answer due 6/23/2014; "John" Tanzin answer due 6/23/2014. (Initial Conference set for 7/11/2014 at 04:00 PM in Courtroom 1506, U.S. Courthouse, 40 Centre Street, New York, NY 10007 before Judge Ronnie Abrams.) (Signed by Judge Ronnie Abrams on 4/23/2014) (rjm) (Entered: 04/23/2014)
06/02/2014	17	REQUEST FOR ISSUANCE OF SUMMONS as to The United States of America; Eric H. Holder, Attorney General of the United States; Jeh C. Johnson, Secretary, Department of Homeland Security; Francisco Artousa, Special Agent, FBI; Michael Rutkowski, Special Agent, FBI; William Gale, Supervisory Special Agent, FBI; Gregg Grossoehmig, Special Agent, FBI; Weysan Dun, Special Agent In Charge, FBI; James C. Langenberg, Assistant Special Agent In Charge, FBI, re: 15 Amended Complaint,, Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Shwartz, Robert) (Entered: 06/02/2014)
06/02/2014	18	ELECTRONIC SUMMONS ISSUED as to Francisco Artousa, Weysan Dun, William Gale, Gregg Grossoehmig, Eric H. Holder, Jeh C. Johnson, James C. Langenberg, Michael Rutkowski, U.S. Attorney and U.S. Attorney General. (jom) (Entered: 06/03/2014)
06/11/2014	19	REQUEST FOR ISSUANCE OF SUMMONS as to John C. Harley III, c/o Sarah S. Normand, re: 15 Amended Complaint,, Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Shwartz, Robert) (Entered: 06/11/2014)
06/12/2014	20	ELECTRONIC SUMMONS ISSUED as to John C. Harley III. (lcu) (Entered: 06/12/2014)
06/19/2014	21	LETTER MOTION for Extension of Time addressed to Judge Ronnie Abrams from AUSA Sarah S. Normand dated 06/19/14. Document filed by Francisco Artousa, Rand Beers, James Comey, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, "John" Tanzin.(Normand, Sarah) (Entered: 06/19/2014)

06/20/2014	22	NOTICE OF APPEARANCE by Erol Nazim Gulay on behalf of Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Gulay, Erol) (Entered: 06/20/2014)
06/20/2014	23	LETTER MOTION to Adjourn Conference <i>Regarding Initial Pretrial Conference and in Response to Sarah S. Normand's Letter of June 19, 2014</i> addressed to Judge Ronnie Abrams from Robert N. Shwartz dated June 20, 2014. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir.(Shwartz, Robert) (Entered: 06/20/2014)
06/20/2014	24	ORDER granting 21 Letter Motion for Extension of Time: Application granted. The proposed briefing schedule is approved, and the pretrial conference scheduled for July 11, 2014 is adjourned to August 6, 2014 at 1:00 p.m. The parties' joint preconference submissions described in the Court's October 3, 2013 Order, shall be due by July 30, 2014. (Signed by Judge Ronnie Abrams on 6/20/2014) (tn) (Entered: 06/23/2014)
06/20/2014		Set/Reset Deadlines: Motions due by 7/28/2014. Responses due by 9/29/2014. Replies due by 10/27/2014. (tn) (Entered: 06/23/2014)
06/20/2014		Set/Reset Hearings: Initial Conference set for 8/6/2014 at 01:00 PM before Judge Ronnie Abrams. (tn) (Entered: 06/23/2014)
07/03/2014	25	FIRST LETTER MOTION to Adjourn Conference / <i>Initial Pretrial Conference to July 31, 2014 or such other date convenient to the Court /</i> addressed to Judge Ronnie Abrams from Rushmi Bhaskaran, et al. dated July 3, 2014. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. Return Date set for 8/6/2014 at 01:00 PM.(Bhaskaran, Rushmi) (Entered: 07/03/2014)
07/08/2014	26	ORDER granting 25 Letter Motion to Adjourn Conference. The conference is rescheduled to 5:15 p.m. on July 31, 2014. Submissions are due by 5 p.m. on July 30, 2014. Initial Conference set for 7/31/2014 at 05:15 PM before Judge Ronnie Abrams. (Signed by Judge Ronnie Abrams on 7/8/2014) (lmb) (Entered: 07/08/2014)
07/23/2014	27	NOTICE OF APPEARANCE by Baher Azmy on behalf of Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Azmy, Baher) (Entered: 07/23/2014)
07/23/2014	28	LETTER MOTION for Leave to File Excess Pages <i>and Providing Status Update</i> addressed to Judge Ronnie Abrams from AUSA Ellen Blain dated July 23, 2014. Document filed by Francisco Artousa, Rand Beers, James Comey, Weyan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, "John" Tanzin.(Blain, Jennifer) (Entered: 07/23/2014)
07/24/2014	29	ORDER granting 28 Letter Motion for Leave to File Excess Pages. Application granted. So ordered. (Signed by Judge Ronnie Abrams on 7/24/2014) (tjm) (Entered: 07/25/2014)
07/24/2014	30	

		STIPULATION AND ORDER REGARDING JOHN DOE DEFENDANTS. Plaintiffs and Defendants, by their undersigned counsel, stipulate and agree as follows: The U.S. Attorney's Office shall accept service of process and file a Notice of Appearance as counsel for each of the following Defendants: a. "FNU" (first name unknown) Tanzin; b. John "LNU" (last name unknown); c. Steven "LNU" (last name unknown); d. Michael "LNU" (last name unknown); e. John Doe 1; f. John Doe 2 (who shall proceed for the next phase of this litigation as "John Doe 2/3"); g. John Doe 4; h. John Doe 5; i. John Doe 6; j. John Doe 9; k. John Doe 10; l. John Doe 11; m. John Doe 12; and n. John Doe 13, and as further set forth in this Stipulation and Order. (Signed by Judge Ronnie Abrams on 7/24/2014) (rjm) (Entered: 07/25/2014)
07/25/2014	31	REQUEST FOR ISSUANCE OF SUMMONS as to "FNU" Tanzin; John "LNU"; Steven "LNU"; Michael "LNU"; John Doe 1; John Doe 2/3; John Doe 4; John Doe 5; John Doe 6; John Doe 9; John Doe 10; John Doe 11; John Doe 12; John Doe 13, re: 15 Amended Complaint,, Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Shwartz, Robert) (Entered: 07/25/2014)
07/28/2014	32	ELECTRONIC SUMMONS ISSUED as to John Doe, John Doe 10, John Does 1-9, 11-13, John LNU, Michael LNU, Steven LNU, "John" Tanzin. (laq) (Entered: 07/28/2014)
07/28/2014	33	NOTICE OF APPEARANCE by Sarah Sheive Normand on behalf of Francisco Artousa, Rand Beers, James Comey, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, "John" Tanzin. (Normand, Sarah) (Entered: 07/28/2014)
07/28/2014	34	MOTION to Dismiss for Lack of Jurisdiction . Document filed by Francisco Artousa, Rand Beers, James Comey, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, "John" Tanzin. Responses due by 9/29/2014(Normand, Sarah) (Entered: 07/28/2014)
07/28/2014	35	NOTICE OF APPEARANCE by Jennifer Ellen Blain on behalf of Francisco Artousa, Rand Beers, James Comey, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 07/28/2014)
07/28/2014	36	DECLARATION of Deborah Moore in Support re: 34 MOTION to Dismiss for Lack of Jurisdiction .. Document filed by Francisco Artousa, Rand Beers, James Comey, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski,

		"John" Tanzin. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Normand, Sarah) (Entered: 07/28/2014)
07/28/2014	37	MEMORANDUM OF LAW in Support re: 34 MOTION to Dismiss for Lack of Jurisdiction . . Document filed by Francisco Artousa, Rand Beers, James Comey, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, "John" Tanzin. (Normand, Sarah) (Entered: 07/28/2014)
07/28/2014	38	MOTION to Dismiss . Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin.(Blain, Jennifer) (Entered: 07/28/2014)
07/28/2014	39	MEMORANDUM OF LAW in Support re: 38 MOTION to Dismiss . . Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 07/28/2014)
07/28/2014	40	DECLARATION of Deborah Moore in Support re: 38 MOTION to Dismiss .. Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Blain, Jennifer) (Entered: 07/28/2014)
07/28/2014	41	DECLARATION of Sarah S. Normand in Support re: 38 MOTION to Dismiss .. Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 07/28/2014)
07/28/2014	42	DECLARATION of John Doe 1 in Support re: 38 MOTION to Dismiss .. Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 07/28/2014)
07/28/2014	43	DECLARATION of John Doe 6 in Support re: 38 MOTION to Dismiss .. Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 07/28/2014)
07/28/2014	44	DECLARATION of Weysan Dun in Support re: 38 MOTION to Dismiss .. Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9,

		11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 07/28/2014)
07/28/2014	45	DECLARATION of Gregg Grossoehmig in Support re: 38 MOTION to Dismiss .. Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 07/28/2014)
07/28/2014	46	DECLARATION of John C. Harley, III in Support re: 38 MOTION to Dismiss .. Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 07/28/2014)
07/28/2014	47	DECLARATION of James Langenberg in Support re: 38 MOTION to Dismiss .. Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 07/28/2014)
07/28/2014	48	DECLARATION of Michael LNU in Support re: 38 MOTION to Dismiss .. Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 07/28/2014)
07/28/2014	49	DECLARATION of Steven LNU in Support re: 38 MOTION to Dismiss .. Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 07/28/2014)
07/28/2014	50	DECLARATION of John Doe 12 in Support re: 38 MOTION to Dismiss .. Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 07/28/2014)
07/30/2014	51	LETTER addressed to Judge Ronnie Abrams from Robert N. Shwartz and Sarah S. Normand dated July 30, 2014 re: Joint Status Letter. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Shwartz, Robert) (Entered: 07/30/2014)
07/30/2014	52	AFFIDAVIT OF SERVICE of Summons and Amended Complaint,, John Doe 10 served on 7/28/2014, answer due 6/23/2014; John Does 1-9, 11-13 served on 7/28/2014, answer due 6/23/2014; John LNU served on 7/28/2014, answer due 6/23/2014; Michael LNU served on 7/28/2014, answer due 6/23/2014;

		Steven LNU served on 7/28/2014, answer due 6/23/2014; "John" Tanzin served on 7/28/2014, answer due 6/23/2014. Service was accepted by Lisa Ahearn, Civil Clerk at the U.S. Attorney's Office. Document filed by Naveed Shiwnari; Muhammad Tanvir; Awais Sajjad; Jameel Algibhah. (Shwartz, Robert) (Entered: 07/30/2014)
07/31/2014		Minute Entry for proceedings held before Judge Ronnie Abrams: Initial Pretrial Conference held on 7/31/2014. (arc) (Entered: 08/01/2014)
08/11/2014	53	LETTER addressed to Judge Ronnie Abrams from Rushmi Bhaskaran dated 08/11/2014 re: Plaintiffs write to inform the Court that they will not, at this time, seek leave to amend the First Amended Complaint. Document filed by Muhammad Tanvir.(Bhaskaran, Rushmi) (Entered: 08/11/2014)
08/19/2014	54	LETTER MOTION for Extension of Time to <i>Serve Defendants John Doe 7 and John Doe 8</i> addressed to Judge Ronnie Abrams from Robert N. Shwartz dated August 19th, 2014. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir.(Shwartz, Robert) (Entered: 08/19/2014)
08/20/2014	55	ORDER granting 54 Letter Motion for Extension of Time: APPLICATION GRANTED. (Signed by Judge Ronnie Abrams on 8/20/2014) (tn) (Entered: 08/20/2014)
08/25/2014	56	LETTER MOTION for Local Rule 37.2 Conference <i>and Order permitting Plaintiffs to take limited jurisdictional discovery from eight Defendants</i> addressed to Judge Ronnie Abrams from Robert N. Shwartz dated August 25, 2014. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir.(Shwartz, Robert) (Entered: 08/25/2014)
08/26/2014	57	LETTER MOTION for Extension of Time to File Response/Reply to <i>Plaintiff's August 25, 2014, Letter-Motion</i> addressed to Judge Ronnie Abrams from AUSA Ellen Blain dated August 26, 2014. Document filed by John Does 1-9, 11-13, Weysan Dun, Gregg Grosseohmig, John C. Harley III, Michael LNU, Steven LNU, James C. Langenberg.(Blain, Jennifer) (Entered: 08/26/2014)
08/26/2014	58	ORDER granting 57 Letter Motion for Extension of Time to File Response/Reply re 57 LETTER MOTION for Extension of Time to File Response/Reply to <i>Plaintiff's August 25, 2014, Letter-Motion</i> addressed to Judge Ronnie Abrams from AUSA Ellen Blain dated August 26, 2014. Application Granted. SO ORDERED. Responses due by 9/2/2014. (Signed by Judge Ronnie Abrams on 8/26/2014) (ama) (Entered: 08/26/2014)
08/29/2014	59	NOTICE OF APPEARANCE by Christopher Sean Ford on behalf of Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Ford, Christopher) (Entered: 08/29/2014)
08/29/2014	60	NOTICE OF APPEARANCE by Rebecca Sue Hekman on behalf of Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Hekman, Rebecca) (Entered: 08/29/2014)
08/29/2014	61	NOTICE of Withdrawal of Representation. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Hu, Susan) (Entered: 08/29/2014)

09/02/2014	62	LETTER addressed to Judge Ronnie Abrams from AUSA Ellen Blain dated September 2, 2014 re: Plaintiffs' August 25, 2014, Letter-motion. Document filed by John Does 1-9, 11-13, Weysan Dun, Gregg Grossoehmig, John C. Harley III, Michael LNU, Steven LNU, James C. Langenberg.(Blain, Jennifer) (Entered: 09/02/2014)
09/04/2014	63	LETTER addressed to Judge Ronnie Abrams from Robert N. Shwartz of Debevoise & Plimpton LLP dated 9/4/14 re: jurisdictional discovery. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir.(Shwartz, Robert) (Entered: 09/04/2014)
09/05/2014	64	MEMO ENDORSEMENT on re: 61 Notice (Other) filed by Awais Sajjad, Muhammad Tanvir, Naveed Shiwnari, Jameel Algibhah. ENDORSEMENT: The Clerk of Court is respectfully requested to remove Ms. Hu as counsel of record in this case. SO ORDERED. Attorney Susan Shanke Hu terminated. (Signed by Judge Ronnie Abrams on 9/5/2014) (ajs) (Entered: 09/05/2014)
09/05/2014	65	LETTER RESPONSE in Opposition to Motion addressed to Judge Ronnie Abrams from AUSAs Sarah S. Normand and Ellen Blain dated 09/05/14 re: 56 LETTER MOTION for Local Rule 37.2 Conference <i>and Order permitting Plaintiffs to take limited jurisdictional discovery from eight Defendants</i> addressed to Judge Ronnie Abrams from Robert N. Shwartz dated August 25, 2014. . Document filed by John Does 1-9, 11-13, Weysan Dun, Gregg Grossoehmig, John C. Harley III, Michael LNU, Steven LNU, James C. Langenberg. (Normand, Sarah) (Entered: 09/05/2014)
09/09/2014	66	ORDER granting 56 Letter Motion for Local Rule 37.2 Conference. As set forth within, it is hereby ORDERED that a conference is scheduled for 11 a.m. on September 16, 2014 in Courtroom 1506 of the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY 10007. SO ORDERED. Status Conference set for 9/16/2014 at 11:00 AM in Courtroom 1506, 40 Centre Street, New York, NY 10007 before Judge Ronnie Abrams. (Signed by Judge Ronnie Abrams on 9/9/2014) (ajs) (Entered: 09/10/2014)
09/16/2014		Minute Entry for proceedings held before Judge Ronnie Abrams: Status Conference held on 9/16/2014. (Court Reporter Sam Mauro) (arc) (Entered: 09/16/2014)
09/22/2014	67	LETTER MOTION for Extension of Time <i>re Defendants' Motion to Dismiss</i> addressed to Judge Ronnie Abrams from Robert N. Shwartz dated September 22, 2014. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir.(Shwartz, Robert) (Entered: 09/22/2014)
09/23/2014	68	MEMO ENDORSED ORDER granting 67 Letter Motion for Extension of Time. ENDORSEMENT: SO ORDERED. (Signed by Judge Ronnie Abrams on 9/23/2014) (ajs) (Entered: 09/23/2014)
09/23/2014		Set/Reset Deadlines: Responses due by 11/13/2014. Replies due by 12/18/2014. (ajs) (Entered: 09/23/2014)
09/24/2014	69	TRANSCRIPT of Proceedings re: ARGUMENT held on 9/16/2014 before Judge Ronnie Abrams. Court Reporter/Transcriber: Samuel Mauro, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased

		through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/20/2014. Redacted Transcript Deadline set for 10/30/2014. Release of Transcript Restriction set for 12/29/2014.(McGuirk, Kelly) (Entered: 09/24/2014)
09/24/2014	70	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a ARGUMENT proceeding held on 9/16/2014 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(McGuirk, Kelly) (Entered: 09/24/2014)
11/12/2014	71	LETTER MOTION for Leave to File Excess Pages <i>re Plaintiffs' opposition to Defendants' two motions to dismiss</i> addressed to Judge Ronnie Abrams from Rushmi Bhaskaran dated November 12, 2014. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir.(Bhaskaran, Rushmi) (Entered: 11/12/2014)
11/13/2014	72	ORDER granting 71 Letter Motion for Leave to File Excess Pages. APPLICATION GRANTED. SO ORDERED. (Signed by Judge Ronnie Abrams on 11/13/2014) (ajs) (Entered: 11/13/2014)
11/13/2014	73	MEMORANDUM OF LAW in Opposition re: 34 MOTION to Dismiss for Lack of Jurisdiction ., 38 MOTION to Dismiss . <i>Plaintiffs' Memorandum of Law In Opposition to Defendants' Motions to Dismiss</i> . Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Shwartz, Robert) (Entered: 11/13/2014)
11/13/2014	74	DECLARATION of Rushmi Bhaskaran in Opposition re: 34 MOTION to Dismiss for Lack of Jurisdiction ., 38 MOTION to Dismiss .. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Attachments: # 1 Exhibit A, # 2 Exhibit B (Part 1 of 5), # 3 Exhibit B (Part 2 of 5), # 4 Exhibit B (Part 3 of 5), # 5 Exhibit B (Part 4 of 5), # 6 Exhibit B (Part 5 of 5), # 7 Exhibit C, # 8 Exhibit D (Part 1 of 6), # 9 Exhibit D (Part 2 of 6), # 10 Exhibit D (Part 3 of 6), # 11 Exhibit D (Part 4 of 6), # 12 Exhibit D (Part 5 of 6), # 13 Exhibit D (Part 6 of 6), # 14 Exhibit E, # 15 Exhibit F, # 16 Exhibit G, # 17 Exhibit H, # 18 Exhibit I (Part 1 of 4), # 19 Exhibit I (Part 2 of 4), # 20 Exhibit I (Part 3 of 4), # 21 Exhibit I (Part 4 of 4), # 22 Exhibit J, # 23 Exhibit K, # 24 Exhibit L, # 25 Exhibit M)(Bhaskaran, Rushmi) (Entered: 11/13/2014)
12/03/2014	75	LETTER MOTION for Extension of Time to File Response/Reply addressed to Judge Ronnie Abrams from AUSA Sarah S. Normand dated 12/03/2014. Document filed by Francisco Artousa, Rand Beers, James Comey, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, "John" Tanzin.(Normand, Sarah) (Entered: 12/03/2014)

12/03/2014	76	ORDER granting 75 Letter Motion for Extension of Time to File Response/Reply. APPLICATION GRANTED. SO ORDERED. Replies due by 1/22/2015. (Signed by Judge Ronnie Abrams on 12/3/2014) (ajs) (Entered: 12/03/2014)
12/17/2014	77	LETTER MOTION for Extension of Time <i>to serve Defendants John Doe 7 and John Doe 8</i> addressed to Judge Ronnie Abrams from Erol N. Gulay dated December 17, 2014. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir.(Gulay, Erol) (Entered: 12/17/2014)
12/18/2014	78	ORDER granting 77 Letter Motion for Extension of Time. The deadline to serve John Does 7 and 8 is extended through 30 days after the pending motions to dismiss. SO ORDERED. (Signed by Judge Ronnie Abrams on 12/18/2014) (ajs) (Entered: 12/19/2014)
01/21/2015	79	LETTER MOTION for Leave to File Excess Pages <i>in Support of Motions to Dismiss</i> addressed to Judge Ronnie Abrams from AUSA Ellen Blain dated January 21, 2015. Document filed by Francisco Artousa, Rand Beers, James Comey, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 01/21/2015)
01/21/2015	80	ORDER granting 79 Letter Motion for Leave to File Excess Pages for Defendants' respective reply memoranda of law in further support of their coordinated motions to dismiss the amended complaint. APPLICATION GRANTED. (Signed by Judge Ronnie Abrams on 1/21/2015) (spo) (Entered: 01/21/2015)
01/22/2015	81	REPLY MEMORANDUM OF LAW in Support re: 34 MOTION to Dismiss for Lack of Jurisdiction . . Document filed by Francisco Artousa, Rand Beers, James Comey, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, "John" Tanzin. (Normand, Sarah) (Entered: 01/22/2015)
01/22/2015	82	REPLY MEMORANDUM OF LAW in Support re: 38 MOTION to Dismiss . . Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin. (Blain, Jennifer) (Entered: 01/22/2015)
01/29/2015	83	LETTER MOTION for Conference re: 34 MOTION to Dismiss for Lack of Jurisdiction ., 38 MOTION to Dismiss . //Letter from Robert N. Shwartz of Debevoise & Plimpton LLP to the Honorable Judge Abrams requesting that the Court schedule oral argument on the Defendants' motions to dismiss addressed to Judge Ronnie Abrams from Robert N. Shwartz dated 1/29/15. Document filed by Jameel Algibhah, Naveed Shiwnari, Muhammad Tanvir. (Shwartz, Robert) (Entered: 01/29/2015)

04/08/2015	84	ORDER granting 83 Letter Motion for Conference. Application granted. Oral argument is scheduled for May 14, 2015 at 10:30 a.m. SO ORDERED. Oral Argument set for 5/14/2015 at 10:30 AM before Judge Ronnie Abrams. (Signed by Judge Ronnie Abrams on 4/8/2015) (ajs) (Entered: 04/09/2015)
04/13/2015	85	NOTICE of Revised Redress Procedures. Document filed by James Comey, Eric H. Holder, Jeh C. Johnson, Christopher M. Piehota. (Normand, Sarah) (Entered: 04/13/2015)
04/16/2015	86	LETTER MOTION to Adjourn Conference / <i>Oral Argument</i> addressed to Judge Ronnie Abrams from AUSA Sarah S. Normand dated 04/16/15. Document filed by Francisco Artousa, Rand Beers, James Comey, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, "John" Tanzin.(Normand, Sarah) (Entered: 04/16/2015)
04/16/2015	87	ORDER granting 86 LETTER MOTION to Adjourn Conference/Oral Argument addressed to Judge Ronnie Abrams from AUSA Sarah S. Normand dated 04/16/15. Document filed by Francisco Artousa, Rand Beers, James Comey, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, "John" Tanzin. Application granted. Oral argument is adjourned until June 12, 2015 at 2:00 p.m. So ordered. (Oral Argument set for 6/12/2015 at 02:00 PM before Judge Ronnie Abrams). (Signed by Judge Ronnie Abrams on 4/16/2015) (rjm) (Entered: 04/17/2015)
05/04/2015	88	LETTER addressed to Judge Ronnie Abrams from AUSA Ellen Blain dated May 4, 2015 re: Status Update. Document filed by James Comey, Eric H. Holder, Jeh C. Johnson, Christopher M. Piehota, John S. Pistole. (Attachments: # 1 Supplement Courtesy Copy)(Blain, Jennifer) (Entered: 05/04/2015)
06/01/2015	89	MOTION to Stay <i>Official Capacity Claims</i> . Document filed by Francisco Artousa, Rand Beers, James Comey, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, "John" Tanzin.(Normand, Sarah) (Entered: 06/01/2015)
06/01/2015	90	MEMORANDUM OF LAW in Support re: 89 MOTION to Stay <i>Official Capacity Claims</i> . . Document filed by Francisco Artousa, Rand Beers, James Comey, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, "John" Tanzin. (Normand, Sarah) (Entered: 06/01/2015)
06/03/2015	91	LETTER addressed to Judge Ronnie Abrams from Rushmi Bhaskaran dated June 3, 2015 re: Response to the Government's June 1, 2015 Motion for a

		Limited Stay of Proceedings with Regard to Plaintiffs' Official Capacity Claims. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir.(Bhaskaran, Rushmi) (Entered: 06/03/2015)
06/10/2015	92	LETTER addressed to Judge Ronnie Abrams from Robert N. Shwartz dated June 10, 2015 re: withdrawing Plaintiffs' opposition to the Government's Motion for a Limited Stay of Proceedings, and consenting to a stay. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Shwartz, Robert) (Entered: 06/10/2015)
06/10/2015	93	ORDER deferring ruling on 34 Motion to Dismiss for Lack of Jurisdiction; granting 89 Motion to Stay. In view of the foregoing, Defendant's motion for a stay of the Official Capacity Claims is GRANTED. The Clerk of Court is respectfully directed to terminate the motion pending at Dkt. 89 and stay the motion pending at Dkt. 34. Oral argument on Defendants' motion to dismiss the claims made against them in their personal capacities, see Dkt. 39, will proceed as scheduled on June 12, 2015 at 2 p.m. in Courtroom 1506, 40 Foley Square. SO ORDERED. (Signed by Judge Ronnie Abrams on 6/10/2015) (ajs) (Entered: 06/10/2015)
06/12/2015		Minute Entry for proceedings held before Judge Ronnie Abrams: Oral Argument held on 6/12/2015 re: 38 MOTION to Dismiss . filed by John LNU, John Doe, John Does 1-9, 11-13, James C. Langenberg, Weysan Dun, Gregg Grossoehmig, John C. Harley III, John Doe 10, Sanya Garcia, "John" Tanzin, William Gale, Francisco Artousa, Steven LNU, Michael LNU, Michael Rutkowski. (Court Reporter Sabrina Demidio) (arc) (Entered: 06/12/2015)
06/29/2015	94	TRANSCRIPT of Proceedings re: hearing held on 6/12/2015 before Judge Ronnie Abrams. Court Reporter/Transcriber: Sabrina D'Emidio, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 7/23/2015. Redacted Transcript Deadline set for 8/3/2015. Release of Transcript Restriction set for 10/1/2015.(McGuirk, Kelly) (Entered: 06/29/2015)
06/29/2015	95	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a HEARING proceeding held on 6/12/2015 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(McGuirk, Kelly) (Entered: 06/29/2015)
07/06/2015	96	LETTER addressed to Judge Ronnie Abrams from AUSA Sarah S. Normand dated 07/06/15 re: Second Circuit's Decision in Turkmen v. Hasty. Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, Eric H. Holder, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin.(Normand, Sarah) (Entered: 07/06/2015)

07/14/2015	97	LETTER addressed to Judge Ronnie Abrams from Diala Shamas dated July 14, 2015 re: Second Circuit's Decision in Turkmen v. Hasty. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Shamas, Diala) (Entered: 07/14/2015)
07/14/2015	98	LETTER addressed to Judge Ronnie Abrams from Robert N. Shwartz dated 7/14/15 re: Post Argument Letter. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir.(Shwartz, Robert) (Entered: 07/14/2015)
07/31/2015	99	LETTER addressed to Judge Ronnie Abrams from Rebecca S. Hekman dated July 31, 2015 re: Withdrawal of RS Hekman from case. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir. (Hekman, Rebecca) (Entered: 07/31/2015)
07/31/2015	100	LETTER addressed to Judge Ronnie Abrams from AUSA Ellen Blain dated July 31, 2015 re: Plaintiffs' July 14, 2015, Letters. Document filed by Francisco Artousa, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grossoehmig, John C. Harley III, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Michael Rutkowski, "John" Tanzin.(Blain, Jennifer) (Entered: 07/31/2015)
07/31/2015	101	MEMO ENDORSEMENT on re: 99 Letter filed by Awais Sajjad, Muhammad Tanvir, Naveed Shiwnari, Jameel Algibhah, re: Withdrawal of RS Hekman from case. ENDORSEMENT: SO ORDERED. Attorney Rebecca Sue Hekman terminated. (Signed by Judge Ronnie Abrams on 7/31/2015) (ajs) (Entered: 07/31/2015)
08/14/2015	102	LETTER addressed to Judge Ronnie Abrams from Christopher S. Ford dated August 14, 2015 re: Withdrawal of Christopher S. Ford. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shiwnari, Muhammad Tanvir.(Ford, Christopher) (Entered: 08/14/2015)
08/18/2015	103	MEMO ENDORSEMENT on re: 102 Letter filed by Awais Sajjad, Muhammad Tanvir, Naveed Shiwnari, Jameel Algibhah, re: Withdrawal of Christopher S. Ford. ENDORSEMENT: SO ORDERED. Attorney Christopher Sean Ford terminated. (Signed by Judge Ronnie Abrams on 8/18/2015) (ajs) (Entered: 08/18/2015)
09/03/2015	104	OPINION & ORDER #105808 re: 38 MOTION to Dismiss filed by John LNU, John Doe, John Does 1-9, 11-13, James C. Langenberg, Weysan Dun, Gregg Grossoehmig, John C. Harley III, John Doe 10, Sanya Garcia, "John" Tanzin, William Gale, Francisco Artousa, Steven LNU, Michael LNU, Michael Rutkowski. Although federal law imposes limits on the investigative tactics federal officials may employ in seeking to keep this nation safe, it also establishes limits on the manner in which an individual may vindicate his rights should those tactics cross the line. For the reasons stated, the law does not permit Plaintiffs to seek damages against the Agents in their personal capacities either under Bivens or RFRA. Accordingly, the Agents' motion to dismiss is GRANTED and the claims against FNU Tanzin, Sanya Garcia, Francisco Artousa, John LNU, Michael Rutowski, William Gale, John C. Harley III, Steven LNU, Michael LNU, Gregg Grossoehmig, Weysan Dun, James C.

		Langenberg, John Does 1-6 and 9-13 in their personal capacities are dismissed. The Court on its own motion also dismisses all personal capacity claims against John Does 7 and 8. See Hecht v. Commerce Clearing House, Inc., 897 F.2d 21, 26 n.6 (2d Cir. 1990). As previously noted, this opinion does not address the viability of Plaintiffs' official capacity claims and thus expresses no opinion on the merits of their arguments concerning the manner in which individuals are added to the No Fly List or the mechanisms for challenging such inclusion. The parties are directed to submit a joint letter to the Court within 30 days advising how they wish to proceed with respect to those claims. (As further set forth in this Order.) (Signed by Judge Ronnie Abrams on 9/3/2015) (kko) Modified on 9/3/2015 (soh). (Entered: 09/03/2015)
10/05/2015	105	LETTER addressed to Judge Ronnie Abrams from Robert N. Shwartz dated October 5, 2015 re: official capacity claims. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shinwari, Muhammad Tanvir.(Shwartz, Robert) (Entered: 10/05/2015)
12/14/2015	106	MEMO ENDORSEMENT on re: 105 Letter re: Official capacity claims, filed by Awais Sajjad, Muhammad Tanvir, Naveed Shinwari, Jameel Algibhah. ENDORSEMENT: On December 11, 2015, the Second Circuit Court of Appeals denied a petition to rehear en bane the panel decision in Turkmen v. Hasty, on which this Court relied in its September 3, 2015 Opinion & Order. In light of this development, the parties shall submit a joint letter no later than December 18, 2015 indicating whether they still plan to submit a proposed order and judgment to the Court and, if so, when they expect to make such a submission. So ordered. (Signed by Judge Ronnie Abrams on 12/14/2015) (spo) (Entered: 12/15/2015)
12/18/2015	107	NOTICE OF APPEARANCE by Naz Ahmad on behalf of Jameel Algibhah, Awais Sajjad, Naveed Shinwari, Muhammad Tanvir. (Ahmad, Naz) (Entered: 12/18/2015)
12/18/2015	108	LETTER addressed to Judge Ronnie Abrams from Shayana Kadidal dated 12/18/2015 re: Joint letter submitting competing proposed orders and judgments from Plaintiffs and Defendants. Document filed by Jameel Algibhah, Francisco Artousa, Rand Beers, James Comey, John Doe, John Doe 10, John Does 1-9, 11-13, Weysan Dun, William Gale, Sanya Garcia, Gregg Grosseohmig, John C. Harley III, Eric H. Holder, Jeh C. Johnson, John LNU, Michael LNU, Steven LNU, James C. Langenberg, Loretta E. Lynch, Christopher M. Piehota, John S. Pistole, Michael Rutkowski, Awais Sajjad, Naveed Shinwari, Muhammad Tanvir, "John" Tanzin. (Attachments: # 1 Plaintiffs' proposed order, # 2 Government's proposed order)(Kadidal, Shayana) (Entered: 12/18/2015)
12/28/2015	109	ORDER: The Court agrees with Defendants that Plaintiffs' proposed order is unnecessarily overinclusive. To the extent members of the public seek information regarding why Plaintiffs agreed to voluntarily dismiss their official capacity claims without prejudice, they may review the December 18 letter and other filings made in this lawsuit. The Court currently takes no position regarding the viability of Plaintiffs' possible motion for attorneys' fees and costs. Because the parties agree that Plaintiffs' official capacity claims against

		Defendants may be dismissed without prejudice, the Court so dismisses them. The Clerk of Court is respectfully directed to enter final judgment in favor of Defendants. Plaintiffs may have until January 29, 2016 to move for attorneys' fees and costs. If no motion is filed by that date, this action will be terminated on the docket. (As further set forth in this Order.) (Signed by Judge Ronnie Abrams on 12/28/2015) (spo) (Entered: 12/28/2015)
01/29/2016	110	NOTICE of (letter responding to Dec. 28, 2015 order of Court setting deadline for Plaintiffs to move for attorneys' fees and costs). Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shinwari, Muhammad Tanvir. (Kadidal, Shayana) (Entered: 01/29/2016)
02/01/2016	111	ORDER: On September 3, 2015, the Court dismissed Plaintiffs' individual capacity claims against Defendants FNU Tanzin, Sanya Garcia, Francisco Artusa, John LNU, Michael Rutkowski, William Gale, John C. Harley III, Steven LNU, Michael LNU, Gregg Grosseohmig, Weysan Dun, James C. Langenberg, and John Does 1-13. See Dkt. 104. On December 28, 2015, the Court-on consent of the parties-dismissed without prejudice Plaintiffs' remaining official capacity claims. See Dkt. 109. The December 28 Order noted that unless Plaintiffs moved for attorneys' fees and costs by January 29, 2016, "this action will be terminated on the docket." Id. at 3. On January 29, 2016, Plaintiffs informed the Court that they "will not seek an award of fees and costs at this stage of the litigation." Dkt. 110. The Clerk of Court is accordingly respectfully directed to enter final judgment in favor of Defendants and to terminate this action. (Signed by Judge Ronnie Abrams on 2/1/2016) (cf) (Entered: 02/01/2016)
02/01/2016		Terminate Transcript Deadlines (cf) (Entered: 02/01/2016)
02/01/2016		Transmission to Judgments and Orders Clerk. Transmitted re: 111 Order to the Judgments and Orders Clerk. (cf) (Entered: 02/16/2016)
02/17/2016	112	CLERK'S JUDGMENT: That for the reasons stated in the Court's Order dated February 1, 2016, final judgment is hereby entered in favor of Defendants and the action is terminated. (Signed by Clerk of Court Ruby Krajick on 2/17/2016) (Attachments: # 1 Notice of Right to Appeal, # 2 Notice of Right to Appeal) (dt) (Entered: 02/17/2016)
04/18/2016	113	NOTICE OF APPEAL from 112 Clerk's Judgment,. Document filed by Jameel Algibhah, Awais Sajjad, Naveed Shinwari, Muhammad Tanvir. Filing fee \$ 505.00, receipt number 0208-12196892. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. (Attachments: # 1 Exhibit A - 2-17-16 Judgment)(Cowan, Jennifer) (Entered: 04/18/2016)
04/18/2016		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 113 Notice of Appeal,. (nd) (Entered: 04/18/2016)
04/18/2016		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for 113 Notice of Appeal, filed by Awais Sajjad, Muhammad Tanvir, Naveed Shinwari, Jameel Algibhah were transmitted to the U.S. Court of Appeals. (nd) (Entered: 04/18/2016)

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Description:	Docket Report	Search Criteria:	1:13-cv-06951-RA
Billable Pages:	21	Cost:	2.10

JUDGE ABRAMS

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

MUHAMMAD TANVIR,

Plaintiff,

v.

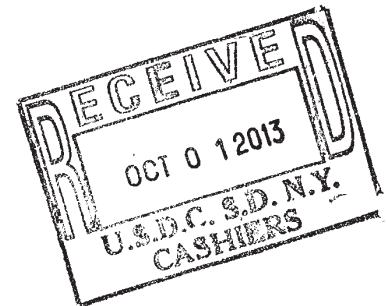
JAMES COMEY, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION;
CHRISTOPHER M. PIEHOTA, DIRECTOR, TERRORIST SCREENING CENTER; RAND BEERS, ACTING SECRETARY, DEPARTMENT OF HOMELAND SECURITY; JOHN S. PISTOLE, ADMINISTRATOR, TRANSPORTATION SECURITY ADMINISTRATION; "JOHN" TANZIN, SPECIAL AGENT, FBI; SANYA GARCIA, SPECIAL AGENT, FBI; JOHN "LNU", SPECIAL AGENT, FBI; "JOHN DOE", SPECIAL AGENT, FBI

Defendants.

13 CV 6951

COMPLAINT

Civil Action No.



INTRODUCTION

1. This is an action for declaratory relief, injunctive relief, and damages under *Bivens*, seeking to remove Muhammad Tanvir, a lawful permanent resident of the United States, from the federal government's No Fly List, and to challenge the FBI's practice of abusing this U.S. government watch list to force American Muslims into serving as informants against their own communities. Mr. Tanvir is one of many individuals whom Federal Bureau of Investigation (FBI) agents have placed on the No Fly List in retaliation for their refusal to work as informants against their communities and to submit to questioning. FBI agents have also unlawfully coerced individuals into cooperating and serving as informants by promising to take them off the No Fly List.

2. Defendants create, maintain and implement a blacklist that prevents individuals named on it from boarding a flight to, from or over the United States under any circumstances (barring waiver from the government). The No Fly List—one among several government watch lists—purports to be filled with the names of individuals too dangerous to fly under any circumstances, with any degree of additional search and scrutiny, but not worthy of arrest and criminal process.
3. Plaintiff Muhammad Tanvir, a lawful permanent resident, was denied the right to board flights, deprived of his right to travel, and wrongly stigmatized as a security threat. Yet the government did not inform him of any reason why he presented a risk to civil aviation, and continues to deny him any after-the-fact explanation for his listing, and any meaningful assurance that his name is definitively cleared from the No Fly List.
4. Mr. Tanvir was placed on the No Fly List after he was approached by FBI agents and asked to serve as an informant in his predominantly Muslim community. He refused. Subsequently, he was suddenly and without notice banned from flying. After his listing, he reached out to those same FBI agents to clear up what he presumed was an error that led to his placement on the No Fly List. Instead of providing that explanation or opportunity, FBI agents offered to help him get off the No Fly List—but only in exchange for relaying information about his community. Mr. Tanvir again refused.
5. Mr. Tanvir has been prevented from flying despite the fact that he does not present any threat to aviation security. Instead, defendants sought to exploit the draconian burden posed by the No Fly List—including the inability to travel for work, or to visit family overseas—in order to coerce him into serving the FBI as a spy within American Muslim communities and places of worship.

JURISDICTION AND VENUE

6. This court has jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. § 702. Declaratory relief is available pursuant to the Declaratory Judgments Act, 28 U.S.C. § 2201.
7. This Court is a proper venue for this action pursuant to 28 U.S.C. § 1391(e)(1) because defendants are officers and employees of the United States or its agencies operating under color of law, and a substantial part of the events or omissions giving rise to the claims have occurred and are occurring in this judicial district.

PARTIES

8. Plaintiff Muhammad Tanvir is a lawful permanent resident who resides in Queens, New York. He has lived in the United States since 2002 and has been married since March 2, 2006. Because of his placement on the No Fly List, Mr. Tanvir was unable to visit his ailing mother for over two years. Mr. Tanvir has never been convicted of a crime nor does he pose any threat to aviation safety.
9. Defendant James B. Comey is the Director of the Federal Bureau of Investigation (FBI). The FBI is one of the agencies responsible for nominating individuals to government watch lists, known collectively as the Terrorist Screening Database (TSDB), and which includes the No Fly List. The FBI oversees the Terrorist Screening Center (TSC), which maintains the TSDB. When an individual on the No Fly List participates in the limited redress process known as Department of Homeland Security Traveler Redress Inquiry Program (“DHS TRIP”) to challenge his inclusion on the No Fly List, if that individual was nominated by the FBI, then the FBI coordinates with TSC in determining whether an individual should remain on the watch lists. Defendant Comey is sued in his official capacity.

10. Defendant Christopher M. Piehota is the Director of the TSC. The TSC is responsible for maintaining the No Fly List and for reviewing and accepting nominations from originating agencies such as the FBI. The TSC is also responsible for removing individuals from the No Fly List when requested by the nominating agency. In addition, in the redress process, the TSC is responsible for making the final determination whether to remove an individual from a watch list. Defendant Piehota is sued in his official capacity.
11. Defendant Rand Beers is the Acting Secretary of the Department of Homeland Security (DHS). The DHS maintains and administers the TRIP program and is the point of contact for individuals seeking redress for being unable to fly. The DHS is also responsible for overseeing the establishment of a timely and fair redress process for individuals who believe they were wrongly identified as a threat. Defendant Beers is sued in his official capacity.
12. Defendant John S. Pistole is the Administrator of the Transportation Security Administration (TSA). The TSA is a screening agency responsible for implementing the No Fly List at airports. The TSA receives the List from the TSC without the underlying, classified intelligence, and it in turn implements the List at the airport, determining whether an individual should be denied boarding. The TSA is responsible for implementing the results of the DHS TRIP process and for taking corrective action if a traveler has been misidentified. *See* 49 U.S.C. § 44903(j)(2)(G)(i). Defendant Pistole is sued in his official capacity.
13. Defendant “John” Tanzin (first name unknown) is a Special Agent with the FBI.¹ He is sued in his individual and official capacity.
14. Defendant Sanya Garcia is a Special Agent with the FBI.² She is sued in her individual and official capacity.

¹ Possible alternative spellings could include “Tanzen,” “Tenzin,” or “Tenzen.” Also, it is unclear whether Tanzin is the agent’s first or last name.

15. Defendant “John LNU” (last name unknown) is a Special Agent with the FBI. He is sued in his individual and official capacity.
16. Defendant “John Doe” is a Special Agent with the FBI. He is sued in his individual and official capacity.

FACTUAL ALLEGATIONS

Background on the FBI’s Use of Informants in American Muslim Communities

17. In the past decade, the FBI has engaged in a policy and practice of targeting American Muslim communities for suspicionless surveillance and intelligence-gathering, without any factual basis to believe that specific violations or threats to national security exist. These law enforcement policies and practices have included the aggressive recruitment of and deployment of informants in Muslim communities, organizations, and houses of worship.
18. The identification and recruitment of informants, known in FBI parlance as Confidential Human Sources, is an important part of FBI agents’ intelligence collection duties. The FBI maintains over 15,000 informants, a number that excludes unofficial informants. Many of them are tasked with infiltrating American Muslim communities.
19. Over the past decade, FBI recruitment of informants has significantly expanded. A November 2004 Presidential Directive required an increase in “human source development and management.” In a 2007 statement before the Senate Select Committee on Intelligence, Defendant Pistole described the FBI response to this directive, which includes changes to the policies intended to “enhance the FBI’s ability to share human intelligence information within its organization and will encourage [Special Agents] to open and operate new Human Sources.” The FBI’s 2008 fiscal year budget authorization request includes funding for a

² Possible alternative spellings could include “Sania,” “Sonya,” or “Sonia.”

program to track and manage the growing number of informants. Many of these informants are recruited from and placed among Muslim communities.

20. FBI informants are often tasked with infiltrating mosques and participating in religious-based activities. For example, in Orange County, FBI agents sent an informant, Craig Monteilh, to various Southern California mosques to pose as a convert to Islam. Court documents and sworn testimony describe how he was tasked to infiltrate religious activities and to record religious lectures, discussion groups and classes, and other religious and cultural events occurring in mosques. In order to accomplish this, Mr. Monteilh publicly converted to Islam in front of a crowd of hundreds. Another FBI informer was asked to secretly tape conversations of the Muslim community and to go into a mosque in Lodi, California.
21. FBI agents have a number of investigative techniques at their disposal as they identify and recruit informants. Some of these are laid out in the FBI's 2011 Domestic Investigations and Operations Guide ("DIOG"), which implement the 2008 Attorney General's Guidelines for Domestic FBI Operations, which govern the FBI's conduct in criminal, national security, and counter-intelligence assessments and investigations. *See* Fed. Bureau of Investigation, Domestic Intelligence Operations Guide § 4.3(C)(2), *available at* [http://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20\(DIOG\)](http://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20(DIOG)).
22. The DIOG allows for six types of "assessments" of individuals or groups. An assessment is a low-level investigation that does not require factual predication, or a factual indication of criminal wrongdoing. According to data obtained by investigative journalists through Freedom of Information Act requests, from 2009 to 2011, FBI agents opened 42,888

assessments of people or groups to see whether they were terrorists or spies;41,056 of the assessments yielded no indication of terrorist activity.

23. According to the DIOGs, an FBI agent opens a “Type 5” assessment when determining whether or not an individual is suited to become an informant. Agents may conduct investigations on a particular individual to determine whether he is suitable as a Confidential Human Source (“CHS”); they may also conduct investigations without any specific individual in mind, in order to identify individuals with “placement and access to particular information.”
24. A Type 5 assessment may be based in part on religion or activities protected by the First Amendment.
25. Once an individual is identified, the DIOGs allow the FBI agent to evaluate the “background, authenticity, and suitability of a particular potential” informant, and to recruit a suitable informant. If the recruitment is successful, the Type 5 Assessment must be closed. If it is not successful, “either because the individual declines to become a CHS or a determination is made not to continue the recruitment,” the assessment must also be closed. But unless such a determination is reached, the assessment may remain open.
26. A 2005 FBI Office of Investigator General Report evaluating FBI compliance with the Attorney General’s Guidelines on the Use of Confidential Informants has found one or more compliance errors in 87 percent of the informant files the Inspector General examined.³ The Report also found serious compliance deficiencies with provisions in the Guidelines relating to approval, monitoring, documentation, and notification of confidential informants. The

³ OFFICE OF INSPECTOR GEN., DEP’T OF JUSTICE, THE FEDERAL BUREAU OF INVESTIGATION’S COMPLIANCE WITH THE ATTORNEY GENERAL’S INVESTIGATIVE GUIDELINES 7 (2005), *available at* <http://www.justice.gov/oig/special/0509/final.pdf>.

Report noted that FBI personnel felt that the Guidelines' requirements were cumbersome and onerous.

27. To recruit informants, FBI agents often resort to exploiting Muslim individuals' vulnerabilities. Civil rights organizations have documented instances where FBI agents have threatened Muslim individuals with withholding their immigration benefits, or to facilitate immigration benefits – a practice that is not allowed under the Attorney General's Guidelines Regarding the Use of Confidential Human Sources.⁴ One FBI training presentation obtained by civil liberties organizations on recruiting informants in the Muslim community suggested that agents exploit "immigration vulnerabilities" because Muslims in the U.S. are "an immigrant community."
28. Civil rights organizations have also reported that a wide variety of government interactions with Muslim individuals, such as interactions with Customs and Border Patrol upon entering the United States, will lead to subsequent and unrelated attempts to recruit those individuals as informants.
29. Muslim individuals have also been threatened with prosecution, often on minor, non-dangerous charges, if they refuse to become informants.

The No Fly List

30. The Terrorist Screening Center (TSC), which is administered by the FBI, develops and maintains the federal government's consolidated Terrorist Screening Database (TSDB), the federal government's terrorist watch list. In September 2003, Attorney General John Ashcroft established the TSC to consolidate the federal government's approach to terrorism screening. Although the TSA, Customs and Border Patrol, and various other front-line

⁴ DEP'T. OF JUSTICE, THE ATTORNEY GENERAL'S GUIDELINES REGARDING THE USE OF CONFIDENTIAL HUMAN SOURCES 245, *available at* <https://www.fas.org/irp/agency/doj/fbi/chs-guidelines.pdf>.

agencies that engage in screening of individuals for varied purposes may use records provided by the TSC, it is the TSC that maintains and controls the TSDB.

31. The No Fly List is a subset of this master watch list. Individuals named on the No Fly List will be categorically barred from boarding an aircraft for (at minimum) flights that originate, terminate, or pass over the United States, absent a specific waiver from the government. The No Fly List is thus distinct from another list—known as the Selectee List—used to identify passengers who will be subject to a higher level of scrutiny at TSA security screening checkpoints and at customs on return from international travel. Individuals on the Selectee List are not barred from boarding but are forced to submit to additional searches before doing so.
32. A number of federal agencies may nominate individuals to the TSC for inclusion on the consolidated TSDB watch list. The FBI and the National Counterterrorism Center are the primary agencies responsible for making nominations to the TSDB. When the FBI nominates an individual for inclusion, the TSC makes the final decision on whether the nominated individual purportedly meets the minimum requirements for inclusion on the watch list as a “known or suspected terrorist,” based on a summary of underlying information provided by an FBI case agent.
33. Nominations to the TSDB are supposed to be based on a “reasonable suspicion” that the individual is a known or suspected terrorist derived from the totality of the information reviewed. According to TSC, the nominator’s “[m]ere guesses or ‘hunches’” are insufficient, as are race, ethnicity, nationality, religion, or protected First Amendment speech or association; instead, “reasonable suspicion requires articulable facts which, taken together with rational inferences, reasonably warrant the determination that an individual ‘is known or

suspected to be, or has been engaged in conduct constituting, in preparation for, in aid of or related to, terrorism and terrorist activities.” As of 2007, TSC rejected only approximately one percent of nominations to the TSDB.

34. The FBI also nominates individuals to be included specifically on the No Fly List. Additional underlying “derogatory information” is required if a nominator suggests the inclusion of an individual not only on the TSDB but on the No Fly List as well. Although the operation of the No Fly List suggests that individuals placed on it must somehow present threats to aviation security that cannot be mitigated if allowed to board an airplane, the government has not specified publicly what standards or criteria are applied to determine whether an individual on the consolidated TSDB watch list will additionally be placed on the No Fly List. The TSDB reportedly contains 875,000 names as of May 2013. Data provided to Congress in 2009 indicated that 1600 names were added to the watch list every day. The No Fly List contained approximately 21,000 individuals as of February 2012, including approximately 500 United States citizens.
35. The TSC disseminates watch list data in a variety of forms to a variety of agencies including the Transportation Security Administration, which uses TSC-provided data to screen travelers for commercial flights. Such information is also disseminated to cooperating governments for use by their agencies.
36. The TSC provides the No Fly List to the TSA for use in pre-screening airline passengers. Because the data disseminated to the TSA is unclassified, the list provided includes only identifiers such as name, date of birth, etc. and not the underlying information provided by the nominator to purportedly justify inclusion.

37. The TSA screens travelers by conducting a name-based search of a passenger prior to boarding. If that person has been placed on the No Fly List by the TSC, he or she will be denied boarding.

Abuse of the No Fly List to Pressure Individuals to Become Informants

38. FBI agents have used placement on the No Fly List as a way to pressure individuals to work as informants. According to publicly available information, the FBI has placed individuals on the No Fly List as a way to pressure them to submit to questioning by government agents. The FBI has also conditioned removal from the No Fly List upon agreeing to work for or submit to questioning by government agents.

39. Mr. Yonas Fikre, a United States Citizen, has filed a lawsuit in federal court alleging that FBI agents placed him on the No Fly List in order to coerce him into becoming a government informant. According to the complaint, on or about April 21, 2010, his wife called him in Sudan, where he was pursuing a business opportunity, and told him that she received a call from the U.S. Embassy in Khartoum asking that Mr. Fikre contact a United States Embassy official, Mr. Noordeloos. Mr. Fikre called Mr. Noordeloos, who invited him to the U.S. Embassy in Khartoum. When Mr. Fikre arrived at the Embassy he was subjected to an interrogation and prevented from leaving the room. FBI Agent Noordeloos also told Fikre that he wanted him to work with the Agents on a “case” that was developing. Agent Noordeloos asked Fikre to come in the next day. Fikre agreed because he wanted to leave. The next day, Fikre called Agent Noordeloos to tell him that he was not interested in serving as an informant. Agent Noordeloos was upset, and told Fikre that when he wanted to travel back to the United States, he would have to go to the U.S. embassy. On June 15, 2010, Mr. Fikre traveled to the United Arab Emirates, where he was stripped of his passport and

tortured. Ultimately, he was unable to return to the United States because he had been placed on the No Fly List.

40. Michael Migliore, a dual citizen of the USA and Italy, had traveled by ship to Europe because he was on the U.S. government's No Fly List. Mr. Migliore believes he was placed on the List after he refused to be interviewed by the FBI without an attorney present.

41. In June 2012, Mr. Kevin Iraniha was boarding a flight home to San Diego on Frontier Airlines with his two brothers and father when he was informed that he was on the No Fly List. Mr. Iraniha went to the U.S. Embassy in Costa Rica. Once there, he was questioned extensively by FBI agents about his religious beliefs, his attendance and contacts at mosques in Costa Rica. Mr. Iraniha states that he felt pressured to speak to the FBI agents.

42. In June 2009, Mr. Amir Meshal was denied boarding at Newark International Airport and was informed that he was on the No Fly list. In October 2010, an FBI agent offered to remove Mr. Meshal from the No Fly list if he agreed to serve as a government informant. Mr. Abe Mashal, an Illinois resident, was prevented from boarding a flight from Chicago, and told that he was on the No Fly List. Later that same day, FBI agents came to his home and questioned him. A few months later, the same agents asked him to become an undercover informant, promising to remove him from the No Fly List if he agreed to spy for the government.

43. Mr. Nagib Alo Ghaleb, a naturalized U.S. Citizen residing in San Francisco, traveled to Yemen in 2010 to visit his wife and children. Upon his return to the U.S., an FBI agent informed him at the Frankfurt airport in Germany that he would not be allowed back into the U.S. As a result, Mr. Ghaleb returned to Yemen and sought assistance from the U.S. Embassy. The U.S. officials in Yemen pressured him to submit to questioning by the FBI

agents. The FBI agents offered to help Mr. Ghaleb if he would work with them. They offered to arrange for him to fly back to the United States immediately if he would agree to tell them who the “bad guys” were in Yemen and in San Francisco, and provide names of individuals from his mosque and his community. Mr. Ghaleb declined to work as a government informant. When he again attempted to board a flight to the U.S. and was refused boarding, an FBI agent again informed him that he would be taken off the No Fly List if he would agree to become an FBI informant in the California Yemeni community

The Redress Process

44. Individuals, even U.S. citizens and LPRs, receive no notice that they have been placed in the TSDB or on the No Fly List.
45. An individual who has been barred from boarding an aircraft due to apparent placement on the No Fly List has no avenue for redress with the TSC, the government entity responsible for adding individuals to the list, maintaining their inclusion on the list, or removing them from the list. TSC does not accept redress inquiries directly from the public, nor does it provide final orders or disposition letters to individuals who have submitted redress inquiries.
46. The only avenue of relief available to individuals who find themselves unable to fly is the TRIP program, which is administered by DHS. DHS is responsible for establishing and implementing the redress procedures for individuals who are denied boarding, as well as for establishing the administrative appeals process for redress determinations. The TSA is responsible for implementing the results of the TRIP process.
47. Individuals may submit a DHS TRIP Traveler Inquiry Form by mail, e-mail or by submitting an online form. When the inquiry is filed electronically, the system automatically provides a

Redress Control Number to help monitor the progress of the inquiry (and to serve as additional identifying information for any future travel). When filing is done via hard-copy, the traveler receives a Redress Control Number at the conclusion of the DHS TRIP review.

48. If the inquiring individual's name is an exact or near match to an identity in the TSDB, DHS TRIP submits redress inquiries to the TSC, which makes the final decision as to whether any action should be taken (including removal from the list). The TSC has provided no public information about how it makes such decisions, other than to state that TSC "coordinates with" the agency that originally nominated the individual to be included in the TSDB during its review of whether the individual should continue to remain in the TSDB. However, the TSC is the final arbiter of whether an individual's name will be retained or removed from the list.
49. TSC's process for making this determination is entirely closed. There is no hearing or other further opportunity for the complaining individual to participate. Once the TSC makes a final determination regarding a particular individual's status on the watch lists, including the No Fly List, the TSC advises DHS that it has completed its process. DHS TRIP then responds to the individual with a letter that neither confirms nor denies the existence of any terrorist watch list records relating to the individual. The letter does not set forth any basis for inclusion in a terrorist watch list, does not state how the government has resolved the complaint at issue, and does not specify whether an individual will be permitted to fly in the future. Thus, the only "process" available to individuals who are prevented from boarding commercial flights is to submit their names and other identifying information to a government entity that has no authority to provide redress and to hope that an unspecified government agency corrects an error or changes its mind.

50. As a general matter of policy, the government provides no confirmation of whether or not a person is on the No Fly List, at any stage of the nomination or redress processes, even where presence on the no Fly List has already been confirmed by individual federal officers or airline employees.

Plaintiff Muhammad Tanvir

51. Plaintiff Muhammad Tanvir is a lawful permanent resident who resides in Queens, New York. He has lived in the United States since 2002 and has been married since March 2, 2006.

52. Mr. Tanvir was first questioned by FBI special agents in approximately February 2007 at his workplace, a “99 Cents” store in the Bronx. There, Defendants FBI Special Agent “John” Tanzin and another FBI agent questioned him about an old acquaintance who they believed had attempted to enter the United States illegally through Mexico. After the FBI agents finished questioning Mr. Tanvir, they asked him if he would be willing to relay information to them about the American Muslim community.

53. Two days later, Mr. Tanvir received a phone call from Agent Tanzin, and again asked if there was anything about the American Muslim community that Mr. Tanvir could share with the FBI. Mr. Tanvir replied that he did not know of anything that would concern law enforcement.

54. In 2008, Mr. Tanvir visited his wife and family in Pakistan.

55. On his return flight in late 2008, U.S. government officials escorted Mr. Tanvir off the airplane, led him to a private investigation room, searched his baggage, and questioned him for five (5) hours before confiscating his passport. The officials ultimately allowed Mr.

Tanvir to enter the United States, but they held onto Mr. Tanvir's passport and told him to pick it up a month later.

56. Shortly after this trip, FBI agents began aggressively attempting to recruit Mr. Tanvir to work for them as a government informant.
57. On January 26, 2009, Defendants Tanzin and another FBI agent, Defendant "John Doe" came to see Mr. Tanvir at his workplace, a "99 Cents" store in Queens. The FBI agents asked Mr. Tanvir to come with them to Manhattan.
58. Mr. Tanvir agreed to accompany Defendants, and was driven from Queens to the FBI's New York offices at 26 Federal Plaza in Manhattan.
59. At 26 Federal Plaza, Defendants informed Mr. Tanvir that they had been following him. They even showed him surveillance photos of himself standing on a New York City subway platform. The FBI agents then told Mr. Tanvir that he was special, hardworking, and that they wanted him to work for them.
60. The Defendant FBI agents offered Mr. Tanvir incentives, such as facilitating his wife's and family's visits from Pakistan to the United States and helping his aging parents in Pakistan go on religious pilgrimage to Saudi Arabia.
61. The FBI agents also threatened Mr. Tanvir by stating that if he did not work for them, they would not give him back his passport and that if he tried to pick up his passport at the airport, he would be deported to Pakistan.
62. Mr. Tanvir was terrified by the agents' threats and cried at the meeting. He pleaded with them. He asked them to not deport him because his family depends on him financially. He told the agents that he believed working as an informant would be dangerous. The Defendant FBI agents told him to not repeat their discussion with anyone.

63. During that same FBI interview, the FBI agents also asked Mr. Tanvir whether he had attended any Taliban training camps, and whether he knew of any training camps near the village where he was raised. Mr. Tanvir responded that he never attended any training camps and didn't know of the whereabouts of any such camps.
64. The next day, Agent Tanzin called Mr. Tanvir and told him that he was authorizing the release of his passport since Mr. Tanvir was cooperating with the agents.
65. On January 28, 2009, Mr. Tanvir picked up his passport from John F. Kennedy airport. Mr. Tanvir asked the DHS officials why they withheld his passport, and they replied that it was due to an investigation that has since been cleared.
66. Two days later, Agent Tanzin informed Mr. Tanvir that DHS was able to return his passport because he ordered its release. During this call, Agent Tanzin again asked Mr. Tanvir to work as an informant for the government.
67. Over the course of the next few weeks, Mr. Tanvir received multiple phone calls and visits from Defendants Tanzin and John Doe at his workplace. The FBI agents repeatedly asked Mr. Tanvir whether he had decided to work for them as a confidential informant.
68. Defendants told Mr. Tanvir that they wanted him to gather information on criminal activities. Further, the agents stated that they were generally interested in people from the "Desi" (South Asian) communities. Mr. Tanvir repeatedly told the FBI agents that if he knew of any criminal activities he would tell them but that he did not want to proactively seek out such information nor spy on any communities generally.
69. Mr. Tanvir did not want to work as an informant because he felt that it was a dangerous job not only for himself, but for his entire community. He was concerned about the dangers of prolonged and repeated interactions with federal government agents, and his resulting

vulnerability to potential criminal or immigration retaliatory acts. Based on the way the agents pressured Mr. Tanvir to tell them about criminal activity that he knew nothing about, or even that did not exist, he was also worried that if he agreed to be an informant, he would be required to monitor and potentially entrap innocent individuals in his community. For Mr. Tanvir, spying and eavesdropping on others, especially when they have done nothing wrong, is fundamentally incompatible with his moral and religious beliefs.

70. Due to these repeated visits and calls, Mr. Tanvir felt intimidated and harassed. Mr. Tanvir spoke to a relative who had been in the United States longer than he had, and was told that he was under no obligation to continue speaking with the FBI agents, and that in fact it would be safer for him not to engage with them. Based on his relative's advice, he stopped answering Defendants' phone calls.

71. Eventually, Defendants again visited Mr. Tanvir at his workplace and asked him why he was no longer answering their phone calls. Mr. Tanvir explained that he had answered all of their questions on multiple occasions and that he no longer had anything to tell them. The FBI agents then asked him to take a polygraph test. When Mr. Tanvir declined to take the test, the FBI agents threatened to arrest him. Mr. Tanvir responded that if they arrested him, he would obtain an attorney.. After this encounter, Defendants Tanzin and John Doe ceased attempting to recruit Mr. Tanvir.

72. In January 2010, Mr. Tanvir traveled to Pakistan to visit his wife and parents. During this time, Agent Tanzin visited Mr. Tanvir's sister at her workplace and questioned her about Mr. Tanvir's travel.

73. The FBI agents had Mr. Tanvir's itinerary and wanted to know why Mr. Tanvir had flown on Kuwait Airways instead of Pakistan International Airlines.

74. Mr. Tanvir's sister replied that Mr. Tanvir had found a cheaper airfare on the Kuwaiti airline. She also told the FBI agents that she was not comfortable speaking with them.
75. Mr. Tanvir returned to the United States and took a job as a truck driver, as this work generated more income even though it required significant travel.
76. In October 2010, while Mr. Tanvir was in Atlanta for work, he received word that his mother was visiting New York from Pakistan. Mr. Tanvir planned to fly from Atlanta to New York City. When he arrived at the check-in counter at the airport, airline officials told him that he was not allowed to fly.
77. Two unknown FBI agents approached Mr. Tanvir at the airport and told him to call the New York FBI agents he had originally been in touch with.
78. The two unknown FBI agents then drove Mr. Tanvir to the nearby bus station where he could take a New York-bound bus.
79. Mr. Tanvir called Defendant Tanzin while waiting at the bus station. However, Agent Tanzin told Mr. Tanvir that he was no longer assigned to his case, but that he should cooperate with the FBI agent who would be contacting him.
80. Two days after Mr. Tanvir arrived in New York City by bus, Defendant FBI agent Sanya Garcia called him and told him that she wanted to speak with him and ask him some more questions.
81. Upon information and belief, Agent Garcia knew about Agent Tanzin's prior failed attempts to recruit Mr. Tanvir as an informant, and his subsequent placement of Mr. Tanvir on the No Fly List in retaliation for his refusal to become an informant.

82. Frustrated, Mr. Tanvir told Agent Garcia that he had answered the FBI's questions on multiple occasions and that he was not interested in further questioning, and hung up the phone.
83. Almost a year later, Mr. Tanvir reached out to the Department of Homeland Security (DHS) to see whether he would be allowed to board a plane. DHS instructed Mr. Tanvir to file a DHS TRIP complaint.
84. Mr. Tanvir filed a TRIP complaint on September 27, 2011.
85. In October 2011, Mr. Tanvir purchased plane tickets to Pakistan for himself and his wife. The date of travel was booked for November 3, 2011. On November 2, 2011, the day before Mr. Tanvir and his wife were set to fly, Defendant Garcia called Mr. Tanvir. She told him that he would not be allowed to fly the next day.
86. When Mr. Tanvir asked why, Agent Garcia told him that it was because he hung up on her the last time she had tried to question him.
87. Agent Garcia again demanded that Mr. Tanvir meet with her as a precondition before she could allow him to fly out the following day. Because Mr. Tanvir wanted to fly to visit his ailing mother, he agreed to meet with her and another FBI agent, Defendant "John LNU," at a restaurant.
88. At that meeting, Defendants Garcia and Roe subjected Mr. Tanvir to the same questions Defendant Tanzin had repeatedly asked on multiple occasions, including questions about his family, his religious and political beliefs, and whether he had any military training,
89. After the meeting, Defendants Garcia and Roe advised Mr. Tanvir that they would try to permit him to fly again by obtaining a one-time waiver to enable him to visit his ailing

mother, but that it would take some weeks. As a condition, Mr. Tanvir had to agree to meet with the agents upon his return.

90. Mr. Tanvir begged Agent Garcia to let him fly the next day with his wife.
91. Agent Garcia stated that she might be able to do so, but an FBI agent would have to accompany him.
92. The next day, Agent Garcia called Mr. Tanvir and told him that he would not be permitted to fly on that day. She wanted him to come to the FBI headquarters to take a polygraph test. When Mr. Tanvir's cousin asked if he could accompany Mr. Tanvir to the polygraph test, Agent Garcia refused.
93. At that point, Mr. Tanvir contacted the Creating Law Enforcement Accountability & Responsibility (CLEAR) project of Main Street Legal Services, Inc., at CUNY School of Law to represent him in connection with his interactions with the FBI.
94. Mr. Tanvir's attorneys reached out to the FBI agents, but the agents did not want to speak to his attorneys. Mr. Tanvir's attorneys offered to meet with the FBI agents to resolve his placement on the No Fly List, but the agents rejected their proposals. The agents directed the attorneys to the FBI legal counsel's office, which in turn directed them to the TRIP process. Mr. Tanvir had already tried TRIP and it had not provided him with any redress.
95. The FBI agents no longer contacted Mr. Tanvir after he obtained legal representation, and no longer sought to recruit him to work as an informant for them.
96. This confirmed Mr. Tanvir's suspicion that the FBI had placed him on the No Fly List in retaliation for his refusal to work for them as an informant, and as a way to coerce him to agree to work as an informant with promises of permanent, or even temporary, removal from the No Fly List.

97. On December 10, 2011, Mr. Tanvir again attempted to visit his mother, whose health continued to deteriorate.
98. At John F. Kennedy (JFK) Airport, Mr. Tanvir was informed by the airline carrier's employees that they could not issue him a boarding pass because he was on the No Fly List.
99. On April 16, 2012, Mr. Tanvir received a response to his TRIP complaint. The letter noted that "no changes or corrections are warranted at this time."
100. On May 17, 2012, Mr Tanvir's attorneys wrote a letter to the FBI's legal counsel. The letter described Mr. Tanvir's predicament and the FBI's retaliatory actions, and it also stated that Mr. Tanvir was prepared to take legal action. Neither Mr. Tanvir nor his attorneys have heard back from the FBI in response to that letter.
101. On May 23, 2012, Mr. Tanvir appealed his TRIP determination. Mr. Tanvir also requested the releasable materials upon which the TRIP determination was based.
102. In November 2012, Mr. Tanvir again purchased a ticket to visit his sick mother in Pakistan.
103. On November 28, 2012, Mr. Tanvir arrived at JFK airport and was not allowed to board.
104. An FBI agent who introduced herself as Janet Ambrisco approached Mr. Tanvir and his attorney from CLEAR at the check-in area and informed them that in order to be removed from the No Fly List, Mr. Tanvir would have to meet with Defendant Garcia.
105. Mr. Tanvir's attorney attempted to speak with Agent Garcia but she did not return their calls. Eventually, Ms. Dawn Bruno from the FBI's legal counsel office in New York informed Mr. Tanvir's attorneys that Ms. Garcia was no longer interested in speaking with Mr. Tanvir.

106. On March 28, 2013, Mr. Tanvir received a letter from DHS which noted that it supersedes the April 16, 2012 TRIP response. The letter stated that Mr. Tanvir's experience "was most likely caused by a misidentification against a government record or by random selection," and that the Government has "made updates" to records. As a result, the letter stated, Mr. Tanvir's request for releasable materials was moot and would not be processed by DHS.
107. The DHS letter did not state whether Mr. Tanvir had previously been placed on the No Fly List, whether he had been granted a temporary waiver permitting his travel on a single occasion, or whether Mr. Tanvir would be now permitted to board flights. As a result, Mr. Tanvir purchased another ticket and attempted to travel again. On June 27, 2013, Mr. Tanvir was allowed to board a flight to Pakistan.
108. Mr. Tanvir's placement on the No Fly List prevented him from visiting his sick mother in Pakistan, causing him great distress.
109. Mr. Tanvir also suffered economic loss because of his placement on the No Fly List, including but not limited to loss of income and expenses and fees related to the purchase of airline tickets.
110. Upon information and belief, Defendants Comey, Piehota, Beers, and Pistole knew about, should have known of, or willfully or recklessly ignored U.S. government agents' misuse of the No Fly List for purposes other than ensuring aviation safety.

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

Violation of the First Amendment: Retaliation

(Against all Defendants)

111. Plaintiff MUHAMMAD TANVIR incorporates by reference each and every allegation contained in the paragraphs above.
112. By placing Mr. Tanvir on the No Fly List because of his refusal to work for or speak to Defendants, to disclose his political affiliations, and to associate with others, Defendants retaliated against Mr. Tanvir for exercising his protected rights in violation of the First Amendment to the United States Constitution.
113. Defendants Comey, Pihota, Beers and Pistole supervised, willfully or recklessly disregarded, or failed to remedy FBI agents' policy and practice of using the No Fly List to retaliate against Mr. Tanvir when he refused to work as an informant or to submit to interrogation.
114. Defendants' unlawful actions caused Mr. Tanvir emotional distress, deprivation of his constitutional rights, damage to his reputation, and material loss.

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment: Retaliation

(Against all Defendants)

115. Plaintiff MUHAMMAD TANVIR incorporates by reference each and every allegation contained in the paragraphs above.
116. By placing Mr. Tanvir on the No Fly List because of his refusal to be questioned by Defendants about his own religious and political beliefs and activities, and his refusal to

continue to submit to repeated questioning by agents, Defendants retaliated against Plaintiff for exercising his privilege against self-incrimination, in violation of the Fifth Amendment to the United States Constitution.

117. Defendants Comey, Piehota, Beers and Pistole supervised, willfully or recklessly disregarded, or failed to remedy FBI agents' policy and practice of using the No Fly List to retaliate against Mr. Tanvir when he refused to work as an informant or to submit to interrogation.
118. Defendants' unlawful actions caused Mr. Tanvir emotional distress, deprivation of his constitutional rights, damage to his reputation, and material loss.

THIRD CLAIM FOR RELIEF

Violation of the First Amendment: Right to Associate

(Against all Defendants)

119. Plaintiff MUHAMMAD TANVIR incorporates by reference each and every allegation contained in the paragraphs above.
120. By conditioning Mr. Tanvir's removal from the No Fly List on becoming an informant, associating with others, and disclosing his political and religious affiliations, Defendants impermissibly coerced Mr. Tanvir to associate in violation of the First Amendment to the United States Constitution.
121. Defendants Comey, Piehota, Beers and Pistole supervised, willfully or recklessly disregarded, or failed to remedy FBI agents' policy and practice of using the No Fly List to coerce Mr. Tanvir into working as an informant or submitting to questioning in violation of his right not to associate.

122. Defendants' unlawful actions caused Mr. Tanvir emotional distress, deprivation of his constitutional rights, damage to his reputation, and material loss.

FOURTH CLAIM FOR RELIEF

Violation of the First Amendment: Freedom of Speech

(Against all Defendants)

123. Plaintiff MUHAMMAD TANVIR incorporates by reference each and every allegation contained in the paragraphs above.
124. By conditioning Mr. Tanvir's removal from the No Fly List on becoming an informant and on regularly speaking with U.S. government officials, Defendants impermissibly coerced Mr. Tanvir to speak in violation of the First Amendment to the United States Constitution.
125. Defendants Comey, Piehota, Beers and Pistole supervised, willfully or recklessly disregarded, or failed to remedy FBI agents' policy and practice of using the No Fly List to coerce Mr. Tanvir into working as an informant or submitting to questioning in violation of his right not to speak.
126. Defendants' unlawful actions caused Mr. Tanvir emotional distress, deprivation of his constitutional rights, damage to his reputation, and material loss.

FIFTH CLAIM FOR RELIEF

Violation of the First Amendment: Establishment Clause

(Against all Defendants)

127. Plaintiff MUHAMMAD TANVIR incorporates by reference each and every allegation contained in the paragraphs above.

128. By instructing Mr. Tanvir to report on activity and opinions within predominantly Muslim communities after learning about Mr. Tanvir's religious beliefs and practices, and conditioning Mr. Tanvir's removal from the No Fly List on his accession to those demands, Defendants impermissibly endorsed or promoted religion and coerced Mr. Tanvir to engage in religious activity in violation of the Establishment Clause of the First Amendment to the United States Constitution.
129. Defendants Comey, Piehota, Beers and Pistole supervised, willfully or recklessly disregarded, or failed to remedy FBI agents' policy and practice of using the No Fly List to coerce Mr. Tanvir into working as an informant or submitting to questioning, such that they impermissibly endorsed or promoted religion and coerced Mr. Tanvir to engage in religious activity in violation of the Establishment Clause.
130. Defendants' unlawful actions caused Mr. Tanvir emotional distress, deprivation of his constitutional rights, damage to his reputation, and material loss.

SIXTH CLAIM FOR RELIEF

Violation of the First Amendment: Free Exercise of Religion

(Against all Defendants)

131. Plaintiff MUHAMMAD TANVIR incorporates by reference each and every allegation contained in the paragraphs above.
132. By instructing Mr. Tanvir to report on activity and opinions within predominantly Muslim communities after learning about Mr. Tanvir's religious beliefs and practices, and conditioning Mr. Tanvir's removal from the No Fly List on his accession to those demands, Defendants placed a substantial burden on Mr. Tanvir's practice of Islam without rational

basis in violation of the Free Exercise Clause of the First Amendment to the United States Constitution.

133. Defendants Comey, Piehota, Beers and Pistole supervised, willfully or recklessly disregarded, or failed to remedy FBI agents' policy and practice of using the No Fly List to coerce Mr. Tanvir into working as an informant or submitting to questioning, such that they placed a substantial burden on Mr. Tanvir's practice of Islam without rational basis in violation of the Free Exercise Clause.
134. Defendants' unlawful actions caused Mr. Tanvir emotional distress, deprivation of his constitutional rights, damage to his reputation, and material loss.

SEVENTH CLAIM FOR RELIEF

Violation of the Fifth Amendment: Procedural Due Process

(Against all Defendants)

135. Plaintiff MUHAMMAD TANVIR incorporates by reference each and every allegation contained in the paragraphs above.
136. Mr. Tanvir has a liberty interest in travel free from unreasonable burdens within, to, and from the United States.
137. Mr. Tanvir has a right to be free from being falsely stigmatized as an individual associated with terrorist activity.
138. Mr. Tanvir has a liberty interest in non-attainder. Defendants singled out Mr. Tanvir for punishment by restricting his ability to travel by air and falsely associating him with individuals known or suspected to be involved in terrorism. The burdens placed on Mr. Tanvir were disproportionate to any legitimate government purpose.

139. By failing to inform Mr. Tanvir of his placement on the list and the bases for being on the list, and failing to provide Mr. Tanvir with a meaningful opportunity to contest his placement on the list, Defendants deprived Mr. Tanvir of protected liberty interests without affording him due process of law in violation of the Fifth Amendment to the United States Constitution.
140. Defendants' unlawful actions caused Mr. Tanvir emotional distress, deprivation of his constitutional rights, damage to his reputation, and material loss.

EIGHTH CLAIM FOR RELIEF

Unlawful Agency Action in Violation of the Administrative Procedure Act,
5 U.S.C. §§ 702, 706

(Against all Defendants)

141. Plaintiff MUHAMMAD TANVIR incorporates by reference each and every allegation contained in the paragraphs above.
142. Defendants' placement of Mr. Tanvir on the No Fly List when Mr. Tanvir does not present a threat to aviation security, and Defendants' failure to provide Mr. Tanvir with meaningful notice of his placement on the No Fly List and the bases for being on the list, and a meaningful opportunity to challenge his placement on the No Fly List is arbitrary, capricious, an abuse of discretion, and contrary to constitutional rights, power, privilege or immunity, and should be set aside as unlawful pursuant to 5 U.S.C. § 706.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment against Defendants as follows:

1. Declaring that the policies, practices, acts, and omissions of Defendants described here are unlawful and violate Plaintiff's rights under the Constitution of the United States and the Administrative Procedure Act;

2. Ordering Defendants to remove Plaintiff's name from the No Fly List and other U.S. government watch lists, and to provide Plaintiff with notice that his name has been removed;
3. Enjoining Defendants and their agents, employees, successors, and all others acting in concert with them, from subjecting Plaintiff to the unconstitutional and unlawful practices described here;
4. Ordering Defendants sued in their official capacity to provide a constitutionally adequate legal mechanism affording Plaintiff with meaningful notice of his placement on the No Fly List and of the grounds for his inclusion on the No Fly List, and a meaningful opportunity to contest his placement on the No Fly List before a neutral decision-maker;
5. Requiring the promulgation of guidelines prohibiting the abuse of the No Fly List for purposes other than the promotion of aviation safety, including for the unlawful purpose of pressuring individuals to become informants;
6. Awarding Plaintiff compensatory and punitive damages;
7. Awarding Plaintiff's counsel reasonable attorneys' fees and litigation costs, including but not limited to fees, costs, and disbursements pursuant to 28 U.S.C. § 2412; and
8. Granting such other and further relief as the Court deems just and proper.

Dated: October 1, 2013

Respectfully submitted,



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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MUHAMMAD TANVIR; JAMEEL
ALGIBHAH; NAVEED SHINWARI;
AWAIS SAJJAD,

Plaintiffs,

v.

ERIC H. HOLDER, ATTORNEY GENERAL
OF THE UNITED STATES; JAMES
COMEY, DIRECTOR, FEDERAL BUREAU
OF INVESTIGATION; CHRISTOPHER M.
PIEHOTA, DIRECTOR, TERRORIST
SCREENING CENTER; JEH C. JOHNSON,
SECRETARY, DEPARTMENT OF
HOMELAND SECURITY; “FNU” TANZIN,
SPECIAL AGENT, FBI; SANYA GARCIA,
SPECIAL AGENT, FBI; FRANCISCO
ARTOUSA, SPECIAL AGENT, FBI; JOHN
“LNU”, SPECIAL AGENT, FBI; MICHAEL
RUTKOWSKI, SPECIAL AGENT, FBI;
WILLIAM GALE, SUPERVISORY SPECIAL
AGENT, FBI; JOHN C. HARLEY III,
SPECIAL AGENT, FBI; STEVEN “LNU”,
SPECIAL AGENT, FBI; MICHAEL “LNU”,
SPECIAL AGENT, FBI; GREGG
GROSSOEHMIG, SPECIAL AGENT, FBI;
WEYSAN DUN, SPECIAL AGENT IN
CHARGE, FBI; JAMES C. LANGENBERG,
ASSISTANT SPECIAL AGENT IN
CHARGE, FBI; “JOHN DOES 1-9, 11-13”,
SPECIAL AGENTS, FBI; “JOHN DOE 10”,
SPECIAL AGENT, DHS,

Defendants.

FIRST AMENDED COMPLAINT

Case No. 13-CV-6951

ECF Case

INTRODUCTION

1. In retaliation for the exercise of their constitutional rights, the United States government has deprived Plaintiffs Muhammad Tanvir, Jameel Algibhah, Naveed Shinwari and Awais Sajjad of their right to travel freely and wrongly stigmatized them without justification and without due process of law by placing them on the No Fly List.
2. The No Fly List is supposed to be limited to individuals who are determined to be such significant threats to aviation safety that it is too dangerous to allow them on any commercial flight to, from or over the United States regardless of the extent of pre-boarding searches.
3. Instead, shielded from public and, to a large extent, judicial scrutiny, and lacking effective controls and supervision, the No Fly List has swelled to approximately 21,000 names as of February 2012, including approximately 500 United States citizens and an unknown number of lawful permanent residents. On information and belief, the number of people on the No Fly List is even larger today.
4. Plaintiffs are among the many innocent people who find themselves swept up in the United States government's secretive watch list dragnet. Defendants have used the No Fly List to punish and retaliate against Plaintiffs for exercising their constitutional rights. Plaintiffs declined to act as informants for the Federal Bureau of Investigation ("FBI") and to spy on their own American Muslim communities and other innocent people.
5. Inclusion on the No Fly List severely burdens Plaintiffs and significantly interferes with their constitutional right to travel freely. Plaintiffs, like the thousands of other individuals on the No Fly List, lack any effective due process protections to challenge their

- placement on the No Fly List and the deprivation of their constitutional rights that results from that placement.
6. The Attorney General of the United States, the Secretary of the Department of Homeland Security (“DHS”), and the directors of the FBI and Terrorist Screening Center (“TSC”), (collectively, the “Agency Defendants”) each play a part in creating, maintaining, implementing and supervising the No Fly List.
 7. The Agency Defendants have not articulated or published any meaningful standards or criteria governing the placement of individuals on the No Fly List. Defendants have not informed any Plaintiff of the basis for his inclusion on the No Fly List. Defendants have even denied the Plaintiffs after-the-fact explanations for their inclusion on the List or an opportunity to contest their inclusion before an impartial decision-maker.
 8. Certain FBI Special Agents and other government agents (collectively, the “Special Agent Defendants”), identified below, exploited the significant burdens imposed by the No Fly List, its opaque nature and ill-defined standards, and its lack of procedural safeguards, in an attempt to coerce Plaintiffs into serving as informants within their American Muslim communities and places of worship. The Special Agent Defendants retaliated against Plaintiffs by placing or retaining them on the No Fly List when they refused to serve as informants.
 9. Because of institutional and supervisory pressure to increase the number of confidential informants in American Muslim communities, FBI agents, including the Special Agent Defendants, have used the No Fly List to retaliate against and coerce individuals in these communities who, like Plaintiffs, have refused to become informants but do not pose a threat to aviation safety.

10. The Agency Defendants tolerated and failed to remedy a pattern and practice among FBI and other United States government Special Agents, including the Special Agent Defendants, of unlawfully exploiting the lack of due process surrounding the No Fly List to retaliate against individuals, including Plaintiffs, who exercised their constitutional rights.
11. In order to vindicate their rights, Plaintiffs seek declaratory, injunctive and monetary relief under the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 702, 706; the Religious Freedom Restoration Act of 1993 (“RFRA”), 42 U.S.C. § 2000bb *et seq.*; and *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). Plaintiffs seek, *inter alia*, (i) to remove their names from the United States government’s “No Fly List,” (ii) declaratory and injunctive relief against the individuals who placed or kept them on the No Fly List without cause and in retaliation for their assertion of constitutional rights in refusing to serve as informants, (iii) declaratory and injunctive relief against the government officials responsible for maintaining a No Fly List that lacks due process and permits misuse, and (iv) monetary relief for damages they suffered as a result of their placement and maintenance on the No Fly List because they refused to act as informants for the FBI.

JURISDICTION AND VENUE

12. This Court has jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. § 702. This Court has the authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202; the RFRA, 42 U.S.C. § 2000bb-1(c); and the APA, 5 U.S.C. § 702. This Court has the authority to compel agency action that has been unlawfully withheld or unreasonably delayed, and to hold unlawful and set aside agency actions

under 5 U.S.C. § 706. Monetary damages are available pursuant to RFRA, 42 U.S.C. § 2000bb-1(c), and *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

13. This Court is a proper venue for this action pursuant to 28 U.S.C. § 1391(e)(1) because Defendants are officers and employees of the United States or its agencies operating under color of law, and a substantial part of the events or omissions giving rise to the claims have occurred and are occurring in this judicial district.

PARTIES

14. Plaintiff Muhammad Tanvir is a lawful permanent resident of the United States whose most recent residence in the United States was in Corona, Queens, New York. Mr. Tanvir is Muslim. Mr. Tanvir was placed on the No Fly List after he declined multiple requests by FBI agents to serve as an informant in his Muslim community. He declined to do so because it would have violated his sincerely held religious beliefs. He also felt that he had no relevant information to share. After he learned that he had been placed on the No Fly List, he was told to contact the same FBI agents to clear up what he presumed was an error that led to his placement on the No Fly List. Instead, the FBI agents offered to help him get off the List—but only in exchange for relaying information about his community. Mr. Tanvir again refused. Mr. Tanvir does not pose, has never posed, and has never been accused of posing, a threat to aviation safety.
15. Plaintiff Jameel Algibhah is a United States citizen who resides in the Bronx, New York. Mr. Algibhah is a Muslim. Mr. Algibhah was placed on the No Fly List after he declined a request from FBI agents to attend certain mosques, to act “extremist,” and to participate in online Islamic forums and report back to the FBI agents. After Mr. Algibhah learned

- that he was on the No Fly List, the same FBI agents again visited him, telling him that only they could remove his name from the No Fly List if he agreed to act as an informant. Mr. Algibhah again exercised his constitutional right to refuse to become an informant and he remains on the No Fly List. Because of his placement on the No Fly List, Mr. Algibhah has been unable to visit his wife and three young daughters in Yemen since 2009. Mr. Algibhah does not pose, has never posed, and has never been accused of posing, a threat to aviation safety.
16. Plaintiff Naveed Shinwari is a lawful permanent resident of the United States who resides in West Haven, Connecticut. Mr. Shinwari is a Muslim. Mr. Shinwari was placed or maintained on the No Fly List after he refused a request from FBI agents to be an informant on his Muslim community. Subsequently, he was prevented from boarding a flight to Orlando, Florida, where he had found work. Following his placement on the No Fly List, the same FBI agents approached Mr. Shinwari, told him they were aware of his inability to board his flight, and again asked him to work as an informant. Mr. Shinwari again refused. Because of his placement on the No Fly List, Mr. Shinwari's work has been disrupted and he has been unable to visit his wife and family in Afghanistan since 2012. Mr. Shinwari does not pose, has never posed, and has never been accused of posing, a threat to aviation safety.
17. Plaintiff Awais Sajjad is a lawful permanent resident of the United States who resides in Jersey City, New Jersey. Mr. Sajjad is a Muslim. Mr. Sajjad was prevented from flying because he was on the No Fly List. After he sought to be removed from the List, he was approached by FBI agents and subjected to extensive interrogation, including a polygraph test, after which he was asked to work as an informant for the FBI. Mr. Sajjad had no

- relevant information to share, so he refused. Because of his placement on the No Fly List, Mr. Sajjad has been unable to visit his family in Pakistan, including his ailing 93-year old grandmother, since February 2012. Mr. Sajjad does not pose, has never posed, and has never been accused of posing, a threat to aviation safety.
18. Defendant Eric H. Holder, Jr. is the Attorney General of the United States and the head of the United States Department of Justice, which oversees the FBI. In turn, the FBI administers the TSC, which is tasked with maintaining the No Fly List. All of the Plaintiffs were pressured to become informants and placed on the No Fly List by FBI Special Agents. Defendant Holder is sued in his official capacity.
 19. Defendant James B. Comey is the Director of the FBI. The FBI administers the TSC. The FBI is also one of the agencies empowered to “nominate” individuals for placement on the No Fly List. If an individual who has been placed on the No Fly List challenges his or her inclusion on the List, the FBI coordinates with the TSC to determine whether the individual should remain on the List. The FBI also has an ongoing responsibility to notify the TSC of any changes that could affect the validity or reliability of information used to “nominate” someone to the No Fly List. All of the Plaintiffs were pressured to become informants by FBI Special Agents. Defendant Comey is sued in his official capacity.
 20. Defendant Christopher M. Piehota is the Director of the TSC. The TSC is responsible for coordinating the government’s approach to terrorism screening and the dissemination of information collected in the Terrorist Screening Database (“TSDB”), which is used in the terrorism screening process. The TSC is responsible for reviewing and accepting nominations to the No Fly List from agencies, including the FBI and for maintaining the

- List. The TSC is responsible for making the final determination whether to add or remove an individual from the No Fly List. Defendant Piehota is sued in his official capacity.
21. Defendant Jeh C. Johnson is the Secretary of Homeland Security and serves as the head of the Department of Homeland Security (“DHS”). The DHS is responsible for developing and coordinating the implementation of a comprehensive strategy to protect the United States from threats and attacks. The DHS is additionally charged with establishing and implementing the Traveler Redress Inquiry Program (“TRIP”) redress procedures for individuals, which is the sole and wholly inadequate mechanism for, *inter alia*, filing a complaint about placement on the No Fly List. Defendant Johnson is sued in his official capacity.
 22. Defendant “FNU” (first name unknown) Tanzin is a Special Agent with the FBI.¹ He is sued in his individual and official capacity.
 23. Defendant Sanya Garcia is a Special Agent with the FBI.² She is sued in her individual and official capacity.
 24. Defendant John “LNU” (last name unknown) is a Special Agent with the FBI. He is sued in his individual and official capacity.
 25. Defendant Francisco Artousa is a Special Agent with the FBI. He is sued in his individual and official capacity.³

¹ Possible alternative spellings could include “Tanzen,” “Tenzin,” or “Tenzen.” Also, it is unclear whether Tanzin is the agent’s first or last name.

² Possible alternative spellings could include “Sania,” “Sonya,” or “Sonia.”

³ Possible alternative designations could be “Frankie” or “Frank,” and possible alternative spelling of his last name “Artusa.”

26. Defendant Michael Rutkowski is a Special Agent with the FBI.⁴ He is sued in his individual and official capacity.
27. Defendant William Gale is a Supervisory Special Agent with the FBI. He is being sued in his individual and official capacity.
28. Defendant John C. Harley III is a Special Agent with the FBI. He is sued in his individual and official capacity.
29. Defendant Steven LNU (last name unknown) is a Special Agent with the FBI. He is sued in his individual and official capacity.
30. Defendant Michael LNU (last name unknown) is a Special Agent with the FBI. He is sued in his individual and official capacity.
31. Defendant Gregg Grossoehmig is a Special Agent with the FBI. He is sued in his individual and official capacity.
32. Special Agent in Charge Weysan Dun is a Special Agent with the FBI. He is sued in his individual and official capacity.
33. Assistant Special Agent in Charge James C. Langenberg is a Special Agent with the FBI. He is sued in his individual and official capacity.
34. Defendants “John Doe” 1 through 9 and 11 through 13 are Special Agents with the FBI. They are sued in their individual and official capacities.
35. Defendant “John Doe” 10 is an Agent with DHS. He is sued in his individual and official capacity.

⁴ Possible alternative spellings could include “Rotkowski.”

FACTUAL ALLEGATIONS

The FBI's Use of Informants in American Muslim Communities

36. In the past twelve years, the FBI has engaged in widespread targeting of American Muslim communities for surveillance and intelligence-gathering. These law enforcement policies and practices have included the aggressive recruitment and deployment of informants, known as "Confidential Human Sources," in American Muslim communities, organizations, and houses of worship.
37. Since 2001, FBI recruitment of informants has significantly expanded. A November 2004 Presidential Directive required an increase in "human source development and management." In 2007, then-Deputy Director of the FBI John Pistole testified before the United States Senate Select Committee on Intelligence that in response to this directive, the FBI "will encourage [Special Agents] to open and operate new Human Sources." The FBI's 2008 fiscal year budget authorization request included funding for a program to track and manage the growing number of such informants. Many of these informants are recruited from and deployed among American Muslim communities.
38. To recruit informants, FBI agents often resort to exploiting individual vulnerabilities. FBI agents have threatened American Muslims with interfering with their immigration status, or offered to assist with their immigration status – practices that are prohibited under the Attorney General's Guidelines Regarding the Use of Confidential Human Sources, which states: "No promises can be made, except by the United States Department of Homeland Security, regarding the alien status of any person or the right of any person to enter or remain in the United States." American Muslims have also been

threatened with prosecution, often on minor, non-violent charges, if they refuse to become informants.

39. However improper these practices may be, they differ in kind from the increasingly common abuse challenged in this lawsuit: retaliation against those who refuse to become informants by placing them on the No Fly List. Withholding immigration benefits or bringing criminal charges against American Muslims can be challenged and resolved under known legal standards through procedurally adequate administrative or judicial proceedings. Unlike those situations, the No Fly List operates under unknown standards and a vague set of criteria with a process that provides no opportunity to learn of the purported bases for placement on the List or to respond to such claims. This secretive process is conducted with no impartial determination on the merits, and without regard to the possibly retaliatory or unduly coercive motives of the field agents who place people on the No Fly List.

The No Fly List

40. The TSC, which is administered principally by the FBI, develops and maintains the TSDB, which includes the No Fly List. The TSDB is the federal government's centralized database that includes information about all individuals who are supposedly known to be or reasonably suspected of being involved in terrorist activity. The TSC maintains and controls the Database and shares the information in it (including the names of individuals on the No Fly List) with federal, state, and local law enforcement agencies. The TSC also provides the No Fly List to the Transportation Security Administration ("TSA") and to airline representatives, which screen individual passengers before boarding, as well as to cooperating foreign governments for use by their agencies.

41. The FBI is one of the primary agencies responsible for making “nominations” to the TSDB, though a number of other federal agencies may also “nominate” individuals. To be nominated for inclusion in the TSDB, there is supposed to be “reasonable suspicion” that the individual is a “known or suspected terrorist.” It is up to each nominating agency to interpret this definition and decide when a person meets the “reasonable suspicion” standard for being a known or suspected terrorist and should be nominated to the Database. The TSC makes the final decision on whether an individual should be placed on the No Fly List.
42. To be properly placed on the No Fly List, an individual must not only be a “known or suspected terrorist,” but there must be some additional “derogatory information” demonstrating that the person “pose[s] a threat of committing a terrorist act with respect to an aircraft.”
43. Beyond this, little information about the No Fly List has been made public, including its exact size. The government refuses to publish or otherwise disclose the standard or criteria for inclusion on the No Fly List or what additional “derogatory information” is sufficient to deprive someone of their ability to fly on commercial airlines.
44. Inclusion on the No Fly List imposes severe and onerous consequences on individuals. Individuals on the No Fly List are indefinitely barred from boarding an aircraft for flights that originate from, terminate in, or pass over the United States.
45. The TSDB also includes other watch lists, which identify people who are subject to less severe and intrusive restrictions. For example, individuals on the Selectee List are subject to extensive pre-boarding physical screening but are allowed to travel by air. The very existence of the Selectee List, which is not the subject of a challenge in this lawsuit,

- implicitly reflects the government's recognition that the No Fly List, with its much more restrictive effect, is supposed to be limited to individuals who present so great a threat to aviation safety that no degree of pre-boarding examination and inspection is sufficient to obviate the perceived threat.
46. Absent a meaningful articulated standard for inclusion on the No Fly List and an adequate set of procedural safeguards, the government has broadened the grounds for inclusion on the No Fly List at least twice: in February 2008 and again in May 2010, according to an audit report published in March 2014 by the Office of the Inspector General of the United States Department of Justice (the "OIG Report").
47. Despite the narrow purpose intended for the No Fly List, it has grown significantly in recent years. Upon information and belief, in 2009, there were approximately 3,400 individuals on the No Fly List and by February 2012, over 21,000 people were on it. Moreover, on information and belief, the TSC rarely rejects any of the names proposed for the TSDB. The entire TSDB reportedly contained 875,000 names as of May 2013.
48. According to the OIG Report, the TSC itself has found that shortly after the attempted attack on a Northwest Airlines flight on December 25, 2009, many individuals were temporarily placed on the No Fly List who did not qualify for inclusion on it.
49. It is unknown how many of the approximately 21,000 individuals on the No Fly List have been added in error. In a recent case, a federal district court found that a professor was added to the No Fly List because an FBI agent checked the wrong boxes on the nominating form. *Ibrahim v. Dep't of Homeland Security*, No. 3:06-cv-0545 (WHA), *Notice of Compliance with Court's February 3, 2014 Order* (attaching *Findings of Fact, Conclusions of Law, and Order for Relief*), at 9 (N.D. Cal. Feb. 6, 2014). Despite this

- admitted ministerial mistake, the government refused to confirm that the professor had been removed from the List until being ordered to do so by the court eight years later.
50. When the TSC provides the No Fly List to the TSA for use in pre-screening airline passengers on commercial flights, the TSA receives certain identifying information for individuals on the No Fly List, including name and date of birth, but not any of the information based upon which that person's name was included on the No Fly List.
51. The fact that an individual is on the No Fly List is provided to, or accessible by, airline personnel who process an individual's request for a boarding pass.
52. The TSA screens travelers by conducting a name-based search of a passenger prior to boarding. This search is conducted when an individual attempts to obtain a boarding pass, not when the individual purchases a ticket. If an individual is on the No Fly List, he or she will be allowed to purchase a ticket but then will be denied boarding.
53. Upon information and belief, airlines generally do not provide refunds or reimbursement for tickets when a purchaser is denied boarding because of their inclusion on the No Fly List.

Waivers and Redress Process

54. No one—not even United States citizens or lawful permanent or temporary alien residents—receives notice when they are added to the TSDB or the No Fly List. Individuals effectively learn of their placement on the No Fly List when they are denied a boarding pass at the airport by airline representatives who, after identifying an individual's name on the No Fly List, are frequently joined by TSA agents or other airport security or law enforcement personnel.

55. There is no formal process for seeking a waiver to allow an individual on the No Fly List to fly but, upon information and belief, occasionally after being denied the right to board a flight, United States citizens and lawful permanent residents stranded abroad have been granted permission to board a single flight to the United States. These waivers are typically obtained after the individual who is on the No Fly List reaches out to legal counsel, consular officers or other United States government officials for assistance after being prevented from boarding their flight back to the United States from a foreign country.
56. The OIG Report found that a host of challenges—including poor recordkeeping practices and the complex, multiparty nature of the No Fly List’s administration—makes ensuring the removal of individuals from the No Fly List extremely difficult.
57. Individuals added to the No Fly List have no procedurally adequate notice and opportunity to be heard or to challenge their placement. The only avenue available to individuals who have been barred from flying is the TRIP program. DHS is responsible for the TRIP procedures and the administrative appeals from such determinations.
58. If the name of the individual seeking redress is an exact or near match to a name on the No Fly List, DHS submits the TRIP inquiry to the TSC, which makes the final decision as to whether any action should be taken. The TSC’s process for making this determination is entirely secret. There is no hearing or other opportunity for the aggrieved individual to participate. The TSC has refused to provide any information about the standards it uses or how it makes such decisions, other than to state that during its review the TSC “coordinates with” the agency that originally nominated the individual to be included in

- the TSDB. Once the TSC makes a final determination regarding a particular individual's status on the No Fly List, the TSC advises DHS of its decision.
59. DHS will neither confirm nor deny the existence of any No Fly List records relating to an individual. Instead, DHS sends a letter to the TRIP applicant stating whether or not any such records related to the individual have been "modified." The letter does not state how the government has resolved the complaint and does not state whether an individual remains on the No Fly List or will be permitted to fly in the future.
60. Appeal from the TRIP determination is a similarly secret process and, in the end, the appellant is still not told whether they remain on the No Fly List. Thus, the only "process" available to individuals who are prohibited from boarding commercial flights is to submit their names and other identifying information and hope that an unspecified government agency corrects an error or changes its mind. Because the TRIP process never clearly informs the individual of the outcome, they only learn if they are still on the No Fly List by purchasing another airline ticket and trying to travel again.
61. After the TRIP administrative appellate process is complete, there is no way to request a reassessment of the basis for inclusion on the No Fly List nor, upon information and belief, is there any automatic periodic review process to reassess whether any changed circumstances warrant removal of an individual from the No Fly List.
62. As a general matter of policy, the United States government will never voluntarily confirm in writing that a person is on or off the No Fly List, even if individual federal officers or airline employees have told an individual that they cannot board a flight because they are on the List.

Abuse of the No Fly List to Pressure Individuals to Become Informants

63. The processes related to the No Fly List promulgated and maintained by the Agency Defendants—from “nomination” to implementation to redress—are shrouded in secrecy and ripe for abuse.
64. The Special Agent Defendants have exploited these flaws and used the No Fly List to coerce Plaintiffs to become informants for the FBI, not for the stated purpose of keeping extremely dangerous individuals from flying on commercial airlines. This impermissible abuse of the No Fly List has forced Plaintiffs to choose between their constitutionally-protected right to travel, on the one hand, and their First Amendment rights on the other.
65. Many American Muslims, like many other Americans, and many followers of other religions, have sincerely held religious and other objections against becoming informants in their own communities, particularly when they are asked to inform on the communities as a whole rather than specific individuals reasonably suspected of wrongdoing. Acting as an informant would require them to lie and would interfere with their ability to associate with other members of their communities on their own terms. For these American Muslims, the exercise of Islamic tenets precludes spying on the private lives of others in their communities.
66. The FBI uses the No Fly List to coerce American Muslims into becoming informants and to retaliate against them when they exercise constitutionally protected rights.
67. Upon information and belief, the Agency Defendants promulgated, encouraged and tolerated a pattern and practice of aggressively recruiting and deploying informants in American Muslim communities, which the Special Agent Defendants implemented by

exploiting the unarticulated and vague standards and the lack of procedural safeguards pertaining to the No Fly List.

Plaintiff Muhammad Tanvir

68. Plaintiff Muhammad Tanvir is a lawful permanent resident of the United States whose most recent residence in the United States was in Corona, Queens, New York. He has been married since March 2, 2006. Mr. Tanvir's wife, son, and parents live in Pakistan. Mr. Tanvir has never been convicted of a crime or arrested. Mr. Tanvir does not pose, has never posed, and has never been accused of posing, a threat to aviation safety.
69. In early February 2007, Mr. Tanvir was approached by the FBI at his workplace, a 99-cents store in the Bronx. FBI Special Agent Defendant FNU Tanzin and another FBI agent, Defendant "John Doe #1," questioned Mr. Tanvir there for approximately thirty minutes. They asked him about an old acquaintance whom the FBI agents believed had attempted to enter the United States illegally.
70. Two days later, Mr. Tanvir received a phone call from Agent Tanzin. He was asked what people in the Muslim community generally discussed, and whether there was anything that he knew about within the American Muslim community that he "could share" with the FBI. Mr. Tanvir said that he did not know of anything that would concern law enforcement.
71. In July 2008, Mr. Tanvir visited his wife and family in Pakistan. In late December 2008, Mr. Tanvir returned to New York. At the airport, Mr. Tanvir was escorted by United States government agents off the airplane. Mr. Tanvir's baggage was searched, and he was escorted by the agents to a waiting room where he waited for five hours before the agents confiscated his passport. Mr. Tanvir was eventually allowed to enter the United

- States, but the government officials retained his passport and gave him a January 28, 2009 appointment with DHS to pick it up.
72. Shortly after this experience, FBI agents resumed their attempts to recruit Mr. Tanvir to work for them as an informant.
73. On January 26, 2009, a few days before Mr. Tanvir was scheduled to pick up his passport from DHS, Agent Tanzin and another FBI Special Agent, Defendant “John Doe #2,” came to see Mr. Tanvir at his new workplace, a different store in Queens. The FBI agents asked Mr. Tanvir to come with them to Manhattan.
74. Mr. Tanvir agreed to accompany the agents, and was driven by the agents from Queens to the FBI’s New York offices at 26 Federal Plaza in Manhattan.
75. At 26 Federal Plaza, Mr. Tanvir was brought into an interrogation room and questioned for approximately an hour. The FBI agents asked Mr. Tanvir about terrorist training camps near the village where he was raised, and whether he had any Taliban training. The agents also referred to the fact that at his previous job as a construction worker, Tanvir would rappel from higher floors while other workers would cheer him on. They asked him where he learned how to climb ropes. Mr. Tanvir responded that he never attended any training camps and did not know the whereabouts of any such camps. He also explained to the FBI agents that he grew up in a rural area, where he regularly climbed trees and developed rope-climbing skills.
76. Towards the end of the interrogation, the FBI agents told Mr. Tanvir they recognized that he was “special,” “honest,” and “a hardworking person.” They told him that they wanted him to work for them as an informant. In particular, the agents asked him to travel to Pakistan and work as an informant. The agents offered Mr. Tanvir incentives for his

- compliance with their requests, such as facilitating his wife's and family's visits from Pakistan to the United States, financially assisting his aging parents in Pakistan to go on religious pilgrimage to Saudi Arabia, and providing him with money.
77. The incentives did not sway Mr. Tanvir, who reiterated—again—that he did not want to become an informant. In response, the FBI agents threatened Mr. Tanvir, warning him that if he declined to work as an informant, then he would not receive his passport and that if he tried to pick up his passport at the airport he would be deported to Pakistan.
78. Mr. Tanvir was terrified by the agents' threats. He cried and pleaded with the FBI agents not to deport him because his family depended on him financially. He also told them he had not done anything wrong and was afraid to work in Pakistan as a United States government informant as it seemed like it would be a very dangerous undertaking. The FBI agents replied that they were willing to send him to Afghanistan instead. Mr. Tanvir explained that he was similarly concerned about his safety if he were to become an informant in Afghanistan. The FBI agents instructed him to think about it and cautioned him not to repeat their discussion with anyone.
79. The next day, Agent Tanzin called Mr. Tanvir and asked him whether he had thought more about becoming an informant. Agent Tanzin then threatened Mr. Tanvir, telling him that he would authorize the release of Mr. Tanvir's passport if Mr. Tanvir agreed to become an informant, but if he did not, Mr. Tanvir would be deported if he went to the airport to pick up his passport. Mr. Tanvir told Agent Tanzin that nothing had changed since they last spoke, and again declined to work as an informant.
80. On January 28, 2009, Mr. Tanvir nevertheless headed to John F. Kennedy International Airport to pick up his passport, accompanied by his relatives. The DHS officials were

- asked why they withheld his passport, and they replied that it was due to an investigation that had since been cleared.
81. The next day, Agent Tanzin called Mr. Tanvir and told him that he had facilitated the release of Mr. Tanvir's passport, having told "them" to release his passport because Mr. Tanvir was "cooperative" with the FBI.
82. Mr. Tanvir's repeated and consistent refusal to work as an FBI informant did not stop the agents from continuing to try to pressure him into becoming an informant. Over the course of the next three to four weeks, Mr. Tanvir received multiple phone calls and visits from Agent Tanzin and Agent John Doe #1 at his workplace. At times, the agents would call from their car outside Mr. Tanvir's workplace and ask him to meet them in the car.
83. Mr. Tanvir left work and entered the agents' car the first three times he received their calls. The FBI agents repeatedly asked whether he had decided to work for them as an informant, or whether he had obtained any information for them. The agents told Mr. Tanvir that they wanted him to gather information, and that they were specifically interested in people from the "Desi" (South Asian) communities.
84. Mr. Tanvir repeatedly told the FBI agents that if he knew of any criminal activity he would tell them, but that he would not become an informant or seek out such information proactively. Mr. Tanvir did not wish to work as an informant, in part, because he had sincerely held religious and personal objections to spying on innocent members of his community. Mr. Tanvir believed that if he agreed to become an informant, he would be expected to engage with people within his community in a deceptive manner, monitor, and potentially entrap innocent people, and that those actions would interfere with the relationships he had developed with those community members. Through their repeated

- visits and calls, the FBI agents harassed and intimidated Mr. Tanvir due to his refusal to become an informant. The FBI agents placed significant pressure on Mr. Tanvir to violate his sincerely held religious beliefs, substantially burdening his exercise of religion.
85. Mr. Tanvir eventually reached out to a relative for advice, and was told that, in the United States, he was under no obligation to speak to the government. Relieved to learn that he was not required to speak with the FBI agents every time that they contacted him, Mr. Tanvir stopped answering the agents' phone calls.
86. Eventually, Agent Tanzin and Agent John Doe #2 again visited Mr. Tanvir at his workplace and asked him why he was no longer answering their phone calls. Mr. Tanvir explained that he had answered all of their questions on multiple occasions, that he no longer had anything to tell them, and that he was busy with work and did not wish to speak with them.
87. Despite Mr. Tanvir's clear refusal to speak to them, the FBI agents then asked Mr. Tanvir to take a polygraph test. Mr. Tanvir declined to submit to the test, prompting the FBI agents to threaten to arrest him. Mr. Tanvir responded that if they arrested him, he would obtain an attorney. The agents left without arresting Mr. Tanvir.
88. In July 2009, Mr. Tanvir traveled to Pakistan to visit his wife and parents. While Mr. Tanvir was abroad, Special Agents Tanzin and Defendant "John Doe #3" visited his sister at her workplace in Queens and questioned her about Mr. Tanvir's travel. The FBI agents wanted to know why Mr. Tanvir had flown on Kuwait Airways instead of Pakistan International Airlines. Mr. Tanvir's sister replied that Kuwait Airways was less expensive, and told the FBI agents that she was uncomfortable speaking with them.

89. Mr. Tanvir subsequently returned to the United States in January 2010 and took a job as a truck driver. Even though it required significant travel, this work paid better than Mr. Tanvir's previous jobs. Mr. Tanvir's new job required him to drive trucks for long distances across the United States and take flights back to New York after completing the deliveries.
90. Upon information and belief, Mr. Tanvir was placed on the No Fly List by Agents Tanzin and/or Defendants John Does #1-3 at some time during or before October 2010 because he refused to become an informant against his community and refused to speak or associate further with the agents.
91. In October 2010, while Mr. Tanvir was in Atlanta for work, he received word that his mother was visiting New York from Pakistan. Mr. Tanvir made plans to fly from Atlanta to New York City. When he arrived at the check-in counter at the Atlanta airport, airline officials told him that he was not allowed to fly. Two unknown FBI agents then approached Mr. Tanvir at the airport and told him that he should contact the FBI agents in New York with whom Mr. Tanvir had originally spoken. The two unknown FBI agents then drove Mr. Tanvir to a nearby bus station where he boarded a bus bound for New York City.
92. While waiting in Atlanta for the bus, Mr. Tanvir called Agent Tanzin, who told Mr. Tanvir that he was no longer assigned to Mr. Tanvir. Agent Tanzin told Mr. Tanvir to "cooperate" with the FBI agent who would be contacting him soon.
93. Mr. Tanvir traveled by bus from Atlanta to his home in New York. This trip took him approximately 24 hours.

94. Two days after Mr. Tanvir returned to New York City by bus, FBI Special Agent Sanya Garcia called Mr. Tanvir and told him that she wanted to speak with him. Agent Garcia stated that she could help him get off the No Fly List if he met with her and answered her questions. Mr. Tanvir told Agent Garcia that he had answered the FBI's questions on multiple occasions and that he would not answer additional questions or meet with her.
95. Mr. Tanvir subsequently quit his job as a truck driver, in part because he was unable to fly back to New York after completing long-distance, one-way deliveries, as the job required.
96. Upon information and belief, Agent Garcia knew about the prior failed attempts by her colleagues, Special Agents Tanzin and Defendants John Doe #1-3, to recruit Mr. Tanvir as an informant, and their subsequent placement of Mr. Tanvir on the No Fly List in retaliation for his decision not to become an informant.
97. Mr. Tanvir filed a TRIP complaint on September 27, 2011.
98. In October 2011, Mr. Tanvir purchased plane tickets to Pakistan for himself and his wife for travel on November 3, 2011.
99. On November 2, 2011, the day before Mr. Tanvir and his wife were scheduled to fly, Agent Garcia called Mr. Tanvir. She told him that he would not be allowed to fly the next day. When Mr. Tanvir asked why, Agent Garcia told him that it was because he hung up on her the last time she had tried to question him by phone, and she told him that she still wanted to meet with him.
100. Agent Garcia told Mr. Tanvir that she would only allow him to fly to Pakistan if he met with her and answered her questions. Because Mr. Tanvir wanted to fly to Pakistan to visit his ailing mother, he agreed to meet her and another FBI Special Agent, Defendant John LNU, at a restaurant in Corona, Queens.

101. At the restaurant, Special Agents Garcia and Defendant John LNU asked Mr. Tanvir the same questions that Agents Tanzin, Defendants John Doe #1, John Doe #2 and John Doe #3 had already asked him on multiple occasions. These included questions about his family and about his religious and political beliefs. Mr. Tanvir answered the agents' questions because he believed that he was required to do so in order to be allowed to fly to Pakistan to see his mother.
102. After the meeting, Special Agents Garcia and John LNU advised Mr. Tanvir that they would try to permit him to fly again by obtaining a one-time waiver that would enable him to visit his ailing mother, but that it would take some weeks for them to process the waiver. Agent Garcia told Mr. Tanvir that he would only be allowed to fly on Delta Airlines. When Mr. Tanvir asked if he could keep his ticket on Pakistan International Airlines, Agent Garcia told him that would take her more time to process. Agent Garcia also told Mr. Tanvir that he would only be allowed to fly to Pakistan if he agreed to meet with and speak to her upon his return to the United States.
103. Mr. Tanvir begged Agents Garcia and John LNU to let him fly the next day with his wife. Agent Garcia stated that he might be allowed to take the flight, but that an FBI agent would have to accompany him.
104. The next day, however, Agent Garcia called Mr. Tanvir and told him that he would not be permitted to fly. She further stated that Mr. Tanvir would not be allowed to fly in the future until he agreed to come to FBI headquarters and submit to a polygraph test. As a result, Mr. Tanvir had to cancel his flight, obtaining only partial credit from the airline for the ticket's price, and his wife traveled alone to Pakistan.

105. At that point, Mr. Tanvir decided to retain counsel to represent him in his interactions with the FBI.
106. Mr. Tanvir's counsel reached out to Agents Garcia and John LNU in the hope of facilitating the removal of Mr. Tanvir's name from the No Fly List, but the agents refused to speak with counsel.
107. The agents directed Mr. Tanvir's counsel to legal counsel at the FBI's New York office. Mr. Tanvir's counsel spoke to counsel from that office, who pointed them to the TRIP process. Mr. Tanvir had already submitted a TRIP complaint, and it had not led to any redress.
108. Mr. Tanvir was not and is not a "known or suspected terrorist" or a potential or actual threat to civil aviation. The Special Agent Defendants who dealt with Mr. Tanvir, including Agent Tanzin and Agent Garcia, had no basis to believe that Mr. Tanvir was a "known or suspected terrorist" or potential or actual threat to civil aviation. Had Mr. Tanvir actually presented a threat to aviation safety, Agent Garcia would not, and could not, have offered to remove Mr. Tanvir from the List merely in exchange for his willingness to become an informant. Yet, knowing that Mr. Tanvir was wrongfully placed on the No Fly List for his prior refusals to become an informant, Agent Garcia kept him on the No Fly List to retaliate against Mr. Tanvir's exercise of his constitutionally protected rights and to coerce him into serving as an informant.
109. Mr. Tanvir again purchased a ticket to fly to Pakistan on December 10, 2011 in the hope of visiting his mother, whose health continued to deteriorate, but was again denied boarding at the airport and was told that he was on the No Fly List.

110. On April 16, 2012, Mr. Tanvir received a response to his TRIP complaint. The letter did not confirm that Mr. Tanvir was on the No Fly List, nor did it offer any justification for Mr. Tanvir's placement on the No Fly List. The letter simply noted, in part, that "no changes or corrections are warranted at this time."
111. On May 17, 2012, Mr. Tanvir's counsel wrote to FBI counsel again. The letter described Mr. Tanvir's predicament and the FBI's retaliatory actions. It also stated that Mr. Tanvir was prepared to take legal action. To date, neither Mr. Tanvir nor his counsel have received a response to that letter from the FBI.
112. On May 23, 2012, Mr. Tanvir appealed his TRIP determination. Mr. Tanvir also requested the releasable materials upon which his TRIP determination was based.
113. In November 2012, Mr. Tanvir purchased another ticket from Saudi Arabian Airlines to visit his sick mother in Pakistan. He was again denied boarding at JFK airport on the day of his flight. FBI Special Agent Janet Ambrisco approached Mr. Tanvir and his counsel at the check-in area and informed them that Mr. Tanvir would not be removed from the No Fly List until he met with Agent Garcia. Agent Ambrisco directed Tanvir to call Agent Garcia, telling him that she was waiting for his call.
114. On March 28, 2013, Mr. Tanvir received a letter from DHS which noted that it superseded the April 16, 2012 TRIP response. The letter stated, in part, that Mr. Tanvir's experience "was most likely caused by a misidentification against a government record or by random selection," and that the United States government had "made updates" to its records. As a result, the letter stated, Mr. Tanvir's request for releasable materials was moot and would not be processed by DHS. The DHS letter did not state whether Mr. Tanvir had been removed from the No Fly List or whether he would now be permitted to

- board flights. DHS's letter offered no clarification on whether he had been granted a temporary waiver permitting his travel on only a single occasion. Mr. Tanvir decided to try to attempt to travel once more and purchased another ticket.
115. On June 27, 2013, Mr. Tanvir boarded a flight and flew to Pakistan on Pakistan International Airlines. Mr. Tanvir does not know whether he was able to fly to Pakistan due to a one-time waiver by the agents or whether they have finally removed him from the No Fly List. Absent confirmation that he has been removed from the No Fly List, Mr. Tanvir believes that his name remains on it.
116. Mr. Tanvir's placement on the No Fly List caused him to quit his job as a truck driver and prevented him from visiting his sick mother in Pakistan. He continues to fear harassment by FBI agents in the United States, which causes him and his family great distress.
117. Mr. Tanvir also suffered economic loss because of his placement on the No Fly List, including but not limited to loss of income and expenses and fees related to the purchase of airline tickets.

Plaintiff Jameel Algibhah

118. Plaintiff Jameel Algibhah is a United States citizen who resides in the Bronx, New York. He has lived in the United States since 1996, when he was fourteen years old. He has been married since 2001. His wife and three daughters, ages eleven, eight, and six, live in Yemen. Prior to being placed on the No Fly List in approximately 2010, Mr. Algibhah visited them at least once every year for several months. Mr. Algibhah does not pose, has never posed, and has never been accused of posing, a threat to aviation safety.

119. On or around December 17, 2009, FBI Special Agents Francisco “Frank” Artousa and Defendant “John Doe #4” came to Mr. Algibhah’s uncle’s store, where Mr. Algibhah used to work, and asked for Mr. Algibhah.
120. Mr. Algibhah came to the store to meet the agents, and at their request he accompanied them to their van, where they proceeded to ask him questions about his friends, his acquaintances, other Muslim students who attended his college, and the names of Muslim friends with whom he worked at a hospital library, one of several jobs he held as a college student. The agents also asked Mr. Algibhah where he worships on Fridays, and asked for additional personal information. Despite being deeply uncomfortable with the FBI agents’ questions, Mr. Algibhah answered them to the best of his ability.
121. The agents then asked Mr. Algibhah if he would work for them as an informant. The agents first asked Mr. Algibhah if he would become an informant for the FBI, and infiltrate a mosque in Queens. When Mr. Algibhah declined to do so, the agents then asked Mr. Algibhah to participate in certain online Islamic forums and “act like an extremist.” When Mr. Algibhah again declined, the agents asked Mr. Algibhah to inform on his community in his neighborhood. The FBI agents offered Mr. Algibhah money and told him that they could bring his family from Yemen to the United States very quickly if he became an informant. Mr. Algibhah again told the FBI agents that he would not become an informant.
122. Mr. Algibhah declined to work as an informant because he believed that it was dangerous, and because it violated his sincerely held personal and religious beliefs. Mr. Algibhah was morally and religiously opposed to conducting surveillance and reporting to the authorities on the innocent activities of people in his American Muslim community. Mr.

Algibhah believed that if he agreed to become an informant, he would be expected to engage with his community members in a deceptive manner, monitor, and entrap innocent people, and that those actions would interfere with the relationships he had developed with those community members. The FBI agents placed significant pressure on Mr. Algibhah to violate his sincerely held religious beliefs, substantially burdening his exercise of religion.

123. Despite Mr. Algibhah's refusal, Agent Artousa gave Mr. Algibhah his card, and told him to "think about it some more."
124. Upon information and belief, Mr. Algibhah was placed on the No Fly List by Agents Artousa and Defendant John Doe #4 at some time after he was first contacted by these FBI agents, because he declined to become an informant against his community and declined to speak or associate further with the agents.
125. The first time Mr. Algibhah tried to travel by air after he refused the FBI's efforts to recruit him as an informant, he was denied boarding. On May 4, 2010, Mr. Algibhah learned that he had been placed on the No Fly List when he went to John F. Kennedy International Airport to check in with a travel companion for a flight to Yemen on Emirates Airlines. Mr. Algibhah intended to visit his wife and three daughters in Yemen. At the Emirates Airlines check-in counter, he was denied boarding by airline personnel. Shortly thereafter, numerous government officials came to the check-in area and surrounded him. The officials questioned Mr. Algibhah about his travels to Yemen. Despite Mr. Algibhah's cooperation, and without informing him of any basis for his interrogation, the officials told Mr. Algibhah that he would not be able to board, and directed him to the TRIP complaint process. The person with whom Mr. Algibhah was

- traveling has since distanced himself from Mr. Algibhah as a direct result of the incident at the airport.
126. Shortly after the incident at the airport, Mr. Algibhah filed a TRIP complaint.
 127. Mr. Algibhah repeatedly followed up with the DHS, calling the designated TRIP hotline several times over the next months. After receiving no response for several months, missing his wife and children, Mr. Algibhah purchased another ticket for a flight to Yemen on Emirates Airlines on September 19, 2010. Again, he was prevented from boarding the flight when he arrived at the airport, and was not provided with any reason.
 128. DHS responded to Mr. Algibhah's TRIP complaint in a letter dated October 28, 2010. The letter stated that a review has been performed and that "it has been determined that no changes or corrections are warranted at this time." The letter did not provide Mr. Algibhah with any information about whether or not he was on the No Fly List, or what basis existed for such a restriction on his constitutional right to travel.
 129. On November 12, 2010, Mr. Algibhah submitted a request for the releasable materials upon which his TRIP determination was made in order to enable him to file an appeal.
 130. After submitting this request, Mr. Algibhah did not hear back from DHS. Mr. Algibhah sent several letters to officials at DHS, but did not receive a response. In January 2012, frustrated by the lack of response from the authorities through the TRIP process and by his continued inability to fly, Mr. Algibhah sought help from his elected representatives. The offices of United States Congressman Jose E. Serrano and Senator Charles Schumer each reached out to the TSA on Mr. Algibhah's behalf. As of the date of this Amended Complaint, Mr. Algibhah has not yet received a response from TRIP regarding his request.

131. In June 2012, Agent Artousa and a new FBI agent, Defendant “John Doe #5,” stopped Mr. Algibhah while he was driving his car told him they wanted to speak with him. Mr. Algibhah told Agent Artousa that after the last time that Agent Artousa questioned him, Mr. Algibhah had been placed on the No Fly List. Agent Artousa denied placing Mr. Algibhah on the No Fly List, but informed Mr. Algibhah that he would take Mr. Algibhah off of the No Fly List in one week’s time should their present conversation “go well” and should Mr. Algibhah work for them. John Doe #5 told Mr. Algibhah that “the Congressmen can’t do shit for you; we’re the only ones who can take you off the list.”
132. Mr. Algibhah answered the agents’ questions because he believed he was required to do so in order to have his name removed from the No Fly List. Agents Artousa and John Doe #5 asked Mr. Algibhah questions about his religious practices, his community, his family, his political beliefs, and the names of websites he visited. They asked him where he went to mosque and asked him about the types of people who go to his mosque. They also asked him specific information, such as whether he knew people from the region of Hadhramut in Yemen.
133. After this interrogation, the FBI agents again told Mr. Algibhah that they wanted him to access some Islamic websites for them. They asked for his e-mail address and told him that they would provide him with the names of websites, and that he would need to access them and “act extremist.” Mr. Algibhah understood these requests to be conditions that he needed to satisfy to have his name removed from the No Fly List.
134. In order to end the lengthy and intimidating interaction with the FBI agents, Mr. Algibhah told the agents that he needed time to consider their request that he work as an informant. Mr. Algibhah did not want to become an informant, but in the hope of being removed

from the No Fly List, he assured the agents that he would work for them as soon as they took him off the No Fly List. Agent Artousa responded that he “didn’t need to worry,” removing his name would only take one week. Approximately ten days later, Agent Artousa called Mr. Algibhah and told him that he was working on removing Mr. Algibhah’s name from the No Fly List, but that it would take a month or more to do so and that he would have to meet with Mr. Algibhah one more time. Agent Artousa reiterated that it would be very helpful if Mr. Algibhah decided to become an informant. Agent Artousa also told Mr. Algibhah that only the FBI could remove his name from the No Fly List. Mr. Algibhah told Agent Artousa to call before he came, but Agent Artousa neither called nor ever came.

135. Mr. Algibhah was not and is not a “known or suspected terrorist” or a potential or actual threat to civil aviation. The Special Agent Defendants who dealt with Mr. Algibhah, including Artousa and John Doe #5, had no basis to believe that Mr. Algibhah was a “known or suspected terrorist” or potential or actual threat to civil aviation. Had Mr. Algibhah actually presented a threat to aviation safety, Agents Artousa and John Doe #5 would not, and could not, have offered to remove Mr. Algibhah from the List merely in exchange for his willingness to become an informant. Yet, knowing that Mr. Algibhah was wrongfully placed on the No Fly List, Agents Artousa and Defendant John Doe #5, kept him on the No Fly List to retaliate against Mr. Algibhah’s exercise of his constitutionally protected rights and to coerce him into becoming an informant.
136. After this third attempt by the FBI agents to use the No Fly List to coerce him into becoming an informant, Mr. Algibhah retained legal counsel in late June 2012. His counsel spoke to Agent Artousa that month, who confirmed that the FBI could be “of

- assistance” in removing Mr. Algibhah from the No Fly List, and mentioned again that he wanted Mr. Algibhah to go on Islamic websites, looking for “radical, extremist types of discussions,” and “perhaps more aggressive information gathering.”
137. On or about August 28, 2012, Mr. Algibhah’s neighbor was visited by the FBI and asked about Mr. Algibhah. FBI agents also went to two stores in his neighborhood asking about Mr. Algibhah.
138. In November 2012, Mr. Algibhah, through his counsel, informed Agent Artousa that he would only speak with the FBI on the condition that he be removed from the No Fly List and allowed to travel to Yemen. In response, Agent Artousa said that he would speak with his supervisors to look into this possibility and would inform Mr. Algibhah’s counsel of their response.
139. FBI Agent Artousa did not immediately respond to Mr. Algibhah’s request via his counsel. Mr. Algibhah did not hear from the FBI for approximately six to seven months. On or about May 29, 2013, Agent Artousa again reached out to Mr. Algibhah, telling him that Agent Artousa was still interested in helping Mr. Algibhah get off the No Fly List and that he wanted to meet with him. Mr. Algibhah told Agent Artousa that he should contact Mr. Algibhah’s counsel about the matter.
140. That same day, Mr. Algibhah’s counsel reached out to Agent Artousa, who informed counsel that he was simply reaching out to Mr. Algibhah to “touch base” regarding the matters he had previously discussed with him. Agent Artousa stated he was still interested in speaking with Mr. Algibhah. Counsel asked Agent Artousa whether there were any developments on Mr. Algibhah’s case that triggered this renewed attempt at

- questioning. The agent replied that there was none, reiterating that Mr. Algibhah was not in any trouble, and that he was trying to bring the matter to a conclusion.
141. Mr. Algibhah has not heard from Agent Artousa since. Mr. Algibhah believes that he remains on the No Fly List.
 142. On multiple occasions over the course of the past few years, Mr. Algibhah's American Muslim relatives and acquaintances have reported to him that they have been approached by government agents, including FBI agents, at their places of work or at the airport, and extensively questioned about Mr. Algibhah. This has caused Mr. Algibhah to be viewed in his community as someone targeted by law enforcement, resulting in his alienation, stigmatization, and loss of employment. Since the FBI's attempts to recruit Mr. Algibhah as an informant, members of Mr. Algibhah's community have taken to distancing themselves from him. In turn, Mr. Algibhah has also distanced himself from Muslim organizations, from his mosque and from many in his community. He no longer speaks with people in his mosque or his community because he is worried that they will report what he says to the FBI.
 143. Mr. Algibhah, who is very close to his daughters and wife, typically visited them in Yemen at least once every year. Mr. Algibhah has not seen his family since April or May 2009, the last time he was able to travel to Yemen successfully. He has attempted to fly to Yemen two times since then, and has been denied boarding each time. Upon information and belief, Mr. Algibhah remains on the No Fly List.
 144. Mr. Algibhah's placement on the No Fly List has caused him severe emotional distress. Mr. Algibhah has also suffered economic loss because of his placement on the No Fly

List, including but not limited to loss of income and expenses and fees related to the purchase of airline tickets.

Plaintiff Naveed Shinwari

145. Plaintiff Naveed Shinwari is a lawful permanent resident of the United States and has lived in the United States since 1998, when he was 14 years old. He currently lives in West Haven, Connecticut. Mr. Shinwari has been married since January 2012. His wife resides in Afghanistan. Mr. Shinwari earned a Bachelor of Science degree from Southern Connecticut State University in Public Health in May 2008. He has worked for a temp agency, placed on assignment in North Haven, Connecticut, since April 2013. Mr. Shinwari has never been convicted of a crime or arrested. Mr. Shinwari does not pose, has never posed, and has never been accused of posing, a threat to aviation safety.
146. On February 26, 2012, after getting married in Afghanistan, Mr. Shinwari was traveling with his mother, who is a United States citizen, back home to the United States. They flew from Kabul, Afghanistan to Dubai, United Arab Emirates en route to Omaha, Nebraska, where they were residing at the time. They flew from Kabul to Dubai but were then prevented from boarding their connecting Emirates Airlines flight to Houston, Texas. Airport security officials confiscated Mr. Shinwari's Afghan passport and instructed him to wait in the terminal. After several hours of waiting, airport security officials returned the passport and told Mr. Shinwari that he needed to visit the United States embassy before he would be allowed to fly.
147. That night, after Mr. Shinwari and his mother obtained temporary visas to stay in the United Arab Emirates and checked into a Dubai hotel, Mr. Shinwari received a phone call

- from FBI Special Agent Steven LNU. Agent Steven LNU told Mr. Shinwari to meet him the next day at the United States consulate in Dubai.
148. The next day, February 27, 2012, Mr. Shinwari went to the consulate. When he arrived, Agent Steven LNU and FBI Special Agent John C. Harley III took Mr. Shinwari into an interrogation room, and instructed Mr. Shinwari to “tell [them] everything.” Mr. Shinwari replied he had no idea why he had been prevented from flying. Agents Harley and Steven LNU proceeded to interrogate Mr. Shinwari for three to four hours. Agents Harley and Steven LNU asked Mr. Shinwari whether he had associated with any “bad guys” while in Afghanistan, whether he had visited any training camps, where he had stayed during his trip, and whether he had traveled to Pakistan. The agents also asked Mr. Shinwari about his religious activities, including which mosque he attends, and more general questions about his origin and background. During the interrogation, the agents sometimes used language that Mr. Shinwari found threatening, and at times Mr. Shinwari felt coerced to speak. Believing that he had to provide the agents information in order to return to the United States, Mr. Shinwari answered all of the agents’ questions. Mr. Shinwari provided documents to Agents Harley and Steven LNU, including his driver’s license and other identification papers, which the agents photocopied.
149. At several points during the interrogation, Agents Harley and Steven LNU asked Mr. Shinwari to take a lie detector test. They said that if he took the test, it would help him to be able to return home to the United States. Mr. Shinwari declined to take the test, believing he had already been truthful in his answers.
150. At the end of the interrogation, Agents Harley and Steven LNU said they needed to confer with “higher-ups in [Washington] D.C.” before allowing Mr. Shinwari to fly back

- to the United States. Mr. Shinwari returned to his hotel, where he faxed and e-mailed the agents several more documents that they had requested, including his marriage certificate, information about the group of people with whom he had traveled, and the locations where he stayed during his trip to Afghanistan.
151. Mr. Shinwari and his mother waited in Dubai for two more days, not knowing if they would be permitted to return home. Finally, on February 29, 2012, Agent Harley e-mailed Mr. Shinwari to inform him that they had received the “go-ahead” for him to fly home to the United States, but only if he flew on a United States-based airline. That day, Mr. Shinwari was able to purchase a ticket and, on March 1, 2012, he boarded an American Airlines flight from Dubai to the United States with his mother.
152. When Mr. Shinwari and his mother arrived at Dulles International Airport, in Virginia, United States Customs and Border Protection agents thoroughly searched his bags and belongings. Following this additional screening, two FBI special agents from the FBI’s Omaha field office—Michael LNU and Gregg Grossoehmig—approached Mr. Shinwari at Dulles International Airport and escorted him to an interrogation room.
153. Mr. Shinwari was then subjected to additional interrogation. Agents Michael LNU and Grossoehmig interrogated Mr. Shinwari for two hours at Dulles. The FBI agents asked Mr. Shinwari substantially the same questions that he was asked in Dubai by Agents Harley and Steven LNU. Specifically, Agents Michael LNU and Grossoehmig said that they wanted to “verify” everything that he told Agents Harley and Steven LNU in Dubai. The agents told Mr. Shinwari that FBI agents would visit him when he returned to Omaha.

154. As a result of these interrogations by Agents Harley, Steven LNU, Michael LNU and Gregg Grossoehmig, Mr. Shinwari and his mother arrived in Omaha on March 2, 2012, six days later than expected, having missed the flights for which they had paid. Mr. Shinwari has not been reimbursed for the cost of booking these additional flights.
155. Approximately one week after he returned home to Omaha, Agent Michael LNU, the same agent who interrogated Mr. Shinwari at Dulles International Airport, and FBI Special Agent John Doe #6, appeared at Mr. Shinwari's home. Over the course of an hour, they subjected him to questions similar to the ones posed in his prior interrogations. Mr. Shinwari truthfully answered these questions again.
156. In addition to questioning Mr. Shinwari, Agents Michael LNU and John Doe #6 said that they knew Mr. Shinwari was unemployed and would pay him if he became an informant for the FBI. Mr. Shinwari understood from the context of the questioning that the agents wanted him to inform on the American Muslim community in Omaha, American Muslim communities in other parts of the United States, and Muslims in other countries. Mr. Shinwari told the agents that he would not act as an informant.
157. Mr. Shinwari declined to work as an informant because he believed that it was dangerous, and because it violated his sincerely held personal and religious beliefs. Mr. Shinwari was morally and religiously opposed to conducting surveillance and reporting to the authorities on the innocent activities of people in his American Muslim community. Mr. Shinwari believed that if he agreed to become an informant, he would be expected to engage with his community members in a deceptive manner, monitor, and entrap innocent people, and that those actions would interfere with the relationships he had developed with those community members. The FBI agents placed significant pressure

- on Mr. Shinwari to violate his sincerely held religious beliefs, substantially burdening his exercise of religion.
158. On March 11, 2012, Mr. Shinwari attempted to obtain a boarding pass at Eppley Airfield for a flight from Omaha to Orlando, where he had obtained a temporary job, but was told by an airline agent that his ticket could not be processed. Police officers then approached Mr. Shinwari while he was standing at the ticket counter and told him that he was on the No Fly List. The officers then escorted Mr. Shinwari out of the airport.
159. Upon information and belief, Mr. Shinwari was placed and/or maintained on the No Fly List because he refused the FBI's requests to work as an informant for them against members of his community.
160. Mr. Shinwari's placement on the No Fly List greatly distressed him and upended his life. Mr. Shinwari was unable to take the job in Orlando, and consequently was unable to pay his bills. In addition, Mr. Shinwari's placement on the No Fly List meant that he could no longer visit his wife and extended family—grandparents, seven uncles, six aunts, cousins, and in-laws—in Afghanistan, nor his father, who suffers from heart disease, in Virginia.
161. On March 12, 2012, Mr. Shinwari sent an e-mail to Agent Harley seeking help in getting removed from the No Fly List. Agent Harley did not respond. The following day, March 13, 2012, Agents Michael LNU and John Doe #6 again visited Mr. Shinwari at his home in Omaha. Mr. Shinwari again understood the FBI agents to be asking him to become a confidential FBI informant, and again offering him financial compensation. Agents Michael LNU and John Doe #6 also offered to "help" Mr. Shinwari if he agreed to become an informant, stating in words or substance: "The more you help us, the more we can help you." Mr. Shinwari understood the agents were suggesting that, in exchange for

- agreeing to become an informant, they would remove him from the No Fly List. Despite being mired in financial difficulties and wanting to be removed from the No Fly List, Mr. Shinwari would not agree to become an informant. He told the agents that he believed becoming an informant would put his family in danger. Mr. Shinwari also told the agents that if he had any knowledge about dangerous individuals, he would report that to the FBI and did not need any financial incentives to do so.
162. Following this encounter, Mr. Shinwari contacted counsel in Omaha for help in getting off of the No Fly List. On or about March 21, 2012, Mr. Shinwari and his counsel met with Special Agent in Charge Weysan Dun and Assistant Special Agent in Charge James C. Langenberg at the FBI's Omaha Division.
163. Agents Dun and Langenberg began the meeting by asking Mr. Shinwari to think about the reasons why he may have been placed on a watch list. Mr. Shinwari said that he did not know. The agents then asked Mr. Shinwari about videos of religious sermons that he had watched on the internet. Mr. Shinwari responded that he watched the videos to educate himself about his faith.
164. Following this line of questioning, Agents Dun and Langenberg refused to confirm or deny his No Fly List status but told him that he could potentially get a one-time waiver to travel in an emergency. Mr. Shinwari believed the agents offered him the waiver in exchange for all of the information he had provided them about himself. Mr. Shinwari believed the offer of a waiver was provided as a "reward" for his agreement to submit to questioning and to encourage him to provide more information.
165. On March 18, 2013, Mr. Shinwari sent Agent Langenberg an e-mail asking about whether he could obtain a waiver to fly to Afghanistan. Agent Langenberg never replied.

166. Mr. Shinwari was not and is not a “known or suspected terrorist” or a potential or actual threat to civil aviation. The Special Agents who dealt with Mr. Shinwari had no basis to believe that Mr. Shinwari was a “known or suspected terrorist” or potential or actual threat to civil aviation. Had Mr. Shinwari actually presented a threat to aviation safety, Agents Michael LNU and John Doe #6 would not, and could not, have offered to remove Mr. Shinwari from the List merely in exchange for his willingness to become an informant. Yet, knowing that Mr. Shinwari was wrongfully placed on the No Fly List, the Special Agents who interacted with Mr. Shinwari kept him on the No Fly List in order to retaliate against Mr. Shinwari’s exercise of his constitutionally protected rights and to coerce him into becoming an informant.
167. Mr. Shinwari filed a TRIP complaint on February 26, 2012. DHS responded to Mr. Shinwari’s TRIP complaint almost fifteen months later in a letter dated June 4, 2013. The letter did not confirm that Mr. Shinwari was on the No Fly List, nor did it offer any justification for Mr. Shinwari’s placement on the No Fly List. The letter stated, in part, that “no changes or corrections are warranted at this time.”
168. Mr. Shinwari filed a second TRIP complaint on December 9, 2013. DHS responded to Mr. Shinwari’s TRIP complaint in a letter dated December 24, 2013. The letter stated, in part, that Mr. Shinwari’s experience “was most likely caused by a misidentification against a government record or by random selection,” and that the United States government had “made updates” to its records. The DHS letter did not state whether Mr. Shinwari had been removed from the No Fly List or whether he would now be permitted to board flights. DHS’s letter offered no clarification on whether he had been granted a temporary waiver permitting his travel on only a single occasion.

169. On March 19, 2014, for the first time since returning to the United States from Kabul, Afghanistan in March 2012, Mr. Shinwari was able to board a flight, and he flew from Hartford, Connecticut to Omaha, Nebraska and returned on March 31. This is the first time Mr. Shinwari had attempted to fly since being denied a boarding pass on March 11, 2012. Mr. Shinwari does not know whether he remains on the No Fly List and he fears further harassment and retaliation by government agents. Absent confirmation that he has been removed from the No Fly List, Mr. Shinwari believes that his name remains on it.
170. Mr. Shinwari's placement on the No Fly List prevented him from visiting his wife, grandparents, uncle and extended family in Afghanistan since February 2012, causing him great personal distress and emotional trauma. Mr. Shinwari's placement on the List also made it difficult for him to travel to Virginia to visit his father, who suffers from heart disease. Finally, his placement on the No Fly List prevented Mr. Shinwari from obtaining employment in Orlando.
171. Mr. Shinwari suffered economic loss because of his placement on the No Fly List, including but not limited to the loss of expected employment income from his job in Orlando, and approximately \$4,000 in expenses and fees related to the purchase of airline tickets and booking of hotel rooms. In addition, because of the harassment and retaliation he has suffered at the hands of government agents, Mr. Shinwari is reluctant to attend religious services, attending his local mosque less frequently, and to share his religious and political views with others.

Plaintiff Awais Sajjad

172. Plaintiff Awais Sajjad is a lawful permanent resident of the United States, and has resided in the United States in Brooklyn, New York since May 2009 and sometimes stays at his sister's home in New Jersey to be closer to work. Upon arriving in the United States, Mr. Sajjad obtained a certificate in medical assistance. He now works twelve-hour shifts at a convenience store while also caring for his brother-in law, a cancer patient. Mr. Sajjad has never been convicted of a crime or arrested. He does not pose, has never posed, and has never been accused of posing, a threat to aviation safety.
173. On September 14, 2012, Mr. Sajjad attempted to board a Pakistan International Airlines flight from John F. Kennedy International Airport in order to visit his ailing father and his 91-year old grandmother in Pakistan. At the check-in counter, the airline official spoke with someone on the phone and provided Mr. Sajjad's passport information and description. Shortly thereafter, two FBI agents, John Doe #7 and John Doe #8 approached Mr. Sajjad at the counter.
174. Mr. Sajjad felt embarrassed and ashamed because the other passengers could see that he was the subject of law enforcement attention. He felt that they were staring at him.
175. Agents Doe #7 and Doe #8 asked Mr. Sajjad to accompany them to a small, windowless interrogation room. They told him that if he spoke with their supervisor, he might allow Mr. Sajjad to board his flight as there was still some time before the flight's departure. The agents assured Mr. Sajjad that they would try to help him if he went with them.
176. In the back room, Mr. Sajjad was introduced to a plainclothes FBI supervisory special agent, John Doe #9, and a uniformed DHS special agent, John Doe #10. Agent John Doe #9 informed Mr. Sajjad that he would not be allowed to travel because he was on the No-

Fly List. The FBI supervisory special agent, John Doe #9, questioned Mr. Sajjad extensively about his background, friends, and family. They asked Mr. Sajjad who accompanied him to the airport that day, and asked for their phone numbers. They asked him for his best friends' names, and whether he had any girlfriends. He was asked whether he had any military training or ever sought to enlist for terrorism training. Mr. Sajjad answered all of their questions truthfully. He told them he had never had any kind of training and had never been in trouble with the law. Mr. Sajjad was then told that if he wished to have his name removed from the No Fly List, he would have to file a TRIP complaint.

177. During the interrogation, Agents John Doe #7-10 repeatedly reassured Mr. Sajjad that they would be willing to help him get off the No Fly List and gave him the impression that such assistance would be provided if he agreed to their requests.
178. On September 14, 2012, the same day that he was denied boarding, Mr. Sajjad filed a TRIP complaint.
179. On approximately October 24, 2012, Defendant FBI Agent Michael Rutkowski, accompanied by Agent "John Doe #11" and an interpreter, visited Mr. Sajjad's sister's house in New Jersey, when Mr. Sajjad returned from work. The FBI agents said that they were following up on Mr. Sajjad's TRIP complaint. Mr. Sajjad was relieved, believing that he would be removed from the No Fly List. Mr. Sajjad allowed the agents to enter his home. Once inside Mr. Sajjad's home, the agents asked Mr. Sajjad many questions, including questions about his last trip to Pakistan in 2011, why he went and which cities he visited on that trip. Mr. Sajjad replied that he went to Pakistan to attend his brother's wedding.

180. While still at Mr. Sajjad's house, Agents Rutkowski and John Doe #11 told Mr. Sajjad that because he was a good man from a good family, they wanted him to work for them, in exchange for which they could provide him with United States citizenship and a salary. Mr. Sajjad declined their offer to work for the FBI, replying that he did not need any assistance from the FBI—he had a job that paid him enough and would soon be eligible for citizenship.
181. Mr. Sajjad understood that Agents Rutkowski and John Doe #11 were asking him to work as an informant for the FBI, and declined to do so because he believed it was dangerous and because he was opposed to conducting surveillance on the innocent activities of people in his American Muslim community and reporting that information to the authorities. Mr. Sajjad believed that if he agreed to work for the FBI, he would be expected to act as an informant in his community and engage with others in a deceptive manner to monitor and entrap them and that those actions would interfere with the relationships that he had developed with those community members.
182. Agents Rutkowski and John Doe #11 then asked Mr. Sajjad to go with them to the FBI headquarters in Newark, New Jersey to undergo a polygraph test. The agents assured Mr. Sajjad that taking the polygraph test would help remove his name from the No Fly List. Although he did not know what a polygraph test was, Mr. Sajjad agreed to accompany the agents because he believed that the polygraph test was part of their investigation into his TRIP complaint and completing it was necessary to have his name removed from the No Fly List.
183. Agents Rutkowski and John Doe #11 drove Mr. Sajjad to the FBI headquarters in Newark. On the way, they asked Sajjad whether he had watched bomb-making videos on

- YouTube, to which he replied that he had not, that he only watches movies and music videos. The agents also asked Mr. Sajjad questions about his job and salary, and whether Mr. Sajjad believed he made enough money.
184. At the FBI headquarters, another FBI agent, “John Doe #12,” conducted the polygraph examination on Mr. Sajjad through a translator. Mr. Sajjad was very frightened. He did not know what a polygraph test was. They attached multiple wires to different parts of his body. He was told to remain very still and not even move his eyes, and to answer their questions. They then asked him many questions, including whether he loved the United States of America, whether he loved Pakistan and whether he would ever do anything that might bring shame to his family. They also asked whether he had signed up for or taken military training in Pakistan and whether he had ever used any guns. Mr. Sajjad replied, truthfully, that he had never done so.
185. After an hour of questions, Agent John Doe #12 stepped out of the room and returned with Agents Rutkowski and John Doe #11. They told Mr. Sajjad that the machine detected that he was lying. Mr. Sajjad replied that he was not lying. Agent John Doe #11 responded that if Mr. Sajjad did not provide answers, they would be forced to “use alternative methods.” Mr. Sajjad replied that his answers were truthful and would not change no matter what methods the agents used.
186. Agent Rutkowski and Agent John Doe #11 proceeded to interrogate Mr. Sajjad for approximately three more hours.
187. The agents then drove Mr. Sajjad to his sister’s home in New Jersey. In the car, Agent Rutkowski apologized for taking Mr. Sajjad’s time and engaged him in conversation, but also continued to question him, including inquiries about his religious practices, what

- mosque he attends, and whether the United States or Pakistan would win if the two countries competed in cricket or soccer.
188. At some time over the next several weeks, Agent Rutkowski and an unidentified FBI agent went to Mr. Sajjad's sister's home in Jersey City and questioned her about Mr. Sajjad. In addition, unknown agents from the United States Embassy in Islamabad contacted Mr. Sajjad's father in Pakistan and asked that he come to the embassy to answer questions about Mr. Sajjad. Mr. Sajjad's father declined. Mr. Sajjad's father was told that he would be questioned once he arrived in the United States. Mr. Sajjad's father arrived at John F. Kennedy airport on November 2, 2013. Approximately 15 days later, Agent Rutkowski and an unidentified FBI agent came to Mr. Sajjad's sister's house to question Mr. Sajjad's father.
189. On December 5, 2012, Mr. Sajjad received a response to his TRIP complaint. The response stated that after consulting with other federal agencies "no changes or corrections [in his status] are warranted at this time."
190. In January 2013, Mr. Sajjad retained counsel to represent him in his interactions with the FBI and to assist him in clearing his name from the No Fly List. On February 8, 2013, through counsel, Mr. Sajjad filed a TRIP appeal.
191. On March 13, 2013, Mr. Sajjad's counsel called Agent Rutkowski. Agent Rutkowski said that if Mr. Sajjad wanted the FBI to help him get off the No Fly List, he would have to answer the FBI's questions, including the ones Mr. Sajjad allegedly failed on the polygraph exam, but he would not specify which questions those were. Mr. Sajjad declined to submit to additional questioning. On May 6, 2013, Mr. Sajjad's counsel spoke to FBI Agent Rutkowski's supervisor, William Gale, over the phone. When asked

- if the agency was contacting Mr. Sajjad because they wanted to recruit him as an informant, Agent Gale responded that he “would not get into it over the phone,” and that should not be construed as a “yes” or a “no.”
192. On April 4, 2014, FBI Agent Rutkowski and an unknown agent “John Doe #13” approached Mr. Sajjad while he was standing outside his sister’s home in New Jersey, and asked Mr. Sajjad to accompany them to a nearby diner in their car. The agents told Mr. Sajjad that they were here to help him and talk about his situation. Taken by surprise, Mr. Sajjad felt pressured to comply. At the diner, the agents told Mr. Sajjad that they wanted to help him travel to Pakistan, but that unless he helped them, they could not do anything for him. They asked him hypothetical questions regarding what he would do if he were to find out that any of his relatives or friends were involved in a terrorist attack. When Mr. Sajjad responded that he would inform the police, they accused him of only telling them what he thought they wanted to hear. Agent John Doe #13 told Mr. Sajjad to “shut up” and said he did not believe what Mr. Sajjad was saying. The agents also questioned Mr. Sajjad about his religious practices, asking him where he prays, whether his father is religious, whether his deceased mother was religious, and whether Mr. Sajjad considered himself to be a Wahhabi Muslim.
193. The agents repeatedly insisted that the only way Mr. Sajjad would get off the No Fly List and be able to travel to Pakistan was if he answered all of the agents’ questions, and they reminded him that they had the power to decide if he was on the No Fly List. Mr. Sajjad said that he was trying to be helpful by coming with the agents. Agent John Doe #13 told Mr. Sajjad that he had no choice but to come with the agents when they asked. Finally, the agents told Mr. Sajjad that they would return on the following Monday to subject him

- to another polygraph examination, and that in the meantime, they expected him to ask his friends and relatives if any of them had an affiliation with a Pakistani organization that the United States had designated as a foreign terrorist group. During the conversation, Agent John Doe #13 told Mr. Sajjad that he had been watching Mr. Sajjad for the last two years and knew that Mr. Sajjad did not do anything wrong and was not a “terrorist” or a threat to America.
194. During this lengthy encounter, Mr. Sajjad answered the agents’ questions because he felt obligated to do so. Mr. Sajjad was frightened by the agents, and told them so.
195. Mr. Sajjad was not and is not a “known or suspected terrorist” or a potential or actual threat to civil aviation. Agents Rutkowski and John Does #7-13 had no basis to believe that Mr. Sajjad was a “known or suspected terrorist” or a potential or actual threat to civil aviation. Had Mr. Sajjad actually presented a grave threat to aviation safety, Agents Rutkowski and John Does #7-13 would not, and could not, have offered to remove him from the List merely in exchange for his taking and passing a polygraph test and working as an FBI informant. Yet, knowing that Mr. Sajjad was wrongfully placed on the No Fly List, Agents Rutkowski and John Does #7-13 kept him on the No Fly List in order to pressure and coerce Mr. Sajjad to become an FBI informant and, when he refused, used the No Fly List to retaliate against Mr. Sajjad’s exercise of his constitutionally protected rights. Upon information and belief, Mr. Sajjad remains on the No Fly List.
196. Since Mr. Sajjad’s placement on the No Fly List, he has been unable to visit his family, including his 93-year old grandmother who raised him after his mother passed away, and with whom he is very close. Because of his brother-in-law’s serious illness, Mr. Sajjad needs to be able to travel to assist with the family’s affairs. The FBI agents’ ongoing

attempts to question Mr. Sajjad, combined with his continued placement on the No Fly List have caused Mr. Sajjad significant and ongoing anxiety and distress.

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

Retaliation in Violation of Plaintiffs' First Amendment Rights

(Against Agency Defendants in their official capacities and Special Agent Defendants in their individual capacities and official capacities)

197. Plaintiffs Muhammad Tanvir, Jameel Algibhah, Naveed Shinwari, and Awais Sajjad incorporate by reference each and every allegation contained in the paragraphs above.
198. Plaintiffs are present or have the legal right to be present in the United States.
199. Plaintiffs each met with Special Agent Defendants in the hope of being removed from the No Fly List and Special Agent Defendants used the No Fly List to attempt to pressure Plaintiffs to sacrifice their First Amendment rights. When Special Agent Defendants asked Plaintiffs to become informants, Plaintiffs refused.
200. By declining to act as informants within their communities, Plaintiffs repeatedly and validly exercised their First Amendment rights to freedom of speech and association. By declining to become informants on the basis of deeply held religious beliefs, Plaintiffs Tanvir, Algibhah, and Shinwari repeatedly and validly exercised their First Amendment right to freedom of religion.
201. Rather than using the No Fly List as they were authorized to do—to restrict the travel of individuals who are a genuine threat to aviation safety—Special Agent Defendants knowingly, intentionally, and unlawfully placed Plaintiffs on the No Fly List, or maintained Plaintiffs on the No Fly List, because Plaintiffs refused to act as informants. In doing that, Defendants forced Plaintiffs to choose between their First Amendment

- rights and their liberty interest in travel. Special Agent Defendants knowingly, intentionally, and unlawfully retaliated against Plaintiffs, and continue to retaliate against Plaintiffs for their exercise of their constitutional rights to freedom of speech, association, and religion, in violation of Plaintiffs' First Amendment rights under the United States Constitution.
202. Agency Defendants, acting in their official capacity and under color of authority, were and remain responsible for promulgating, implementing, maintaining, administering, supervising, compiling, or correcting the No Fly List. Agency Defendants are tolerating and failing to remedy a pattern and practice among Special Agent Defendants of using the No Fly List to unlawfully retaliate against Plaintiffs for the exercise of their constitutionally protected rights, in violation of the First Amendment to the United States Constitution.
203. Upon information and belief, Plaintiffs remain on the No Fly List. Plaintiffs' continued presence on the No Fly List is a result of their exercise of their First Amendment rights. By maintaining each Plaintiff's name on the No Fly List, Defendants continue to retaliate against Plaintiffs for the exercise of their First Amendment rights. Absent injunctive relief, upon information and belief, Plaintiffs will continue to suffer from this retaliatory placement on the No Fly List, and Agency Defendants will continue to maintain a pattern and practice that permits Special Agent Defendants' use of the No Fly List to retaliate against Plaintiffs' exercise of their First Amendment rights.
204. Defendants' unlawful actions are imposing an immediate and ongoing harm on Plaintiffs and have caused Plaintiffs deprivation of their constitutional rights, emotional distress, damage to their reputation, and material and economic loss.

SECOND CLAIM FOR RELIEF

Violation of the Religious Freedom Restoration Act (RFRA)

(Against Defendants FNU Tanzin, Sanya Garcia, John LNU, Francisco Artousa, John C. Harley III, Steven LNU, Michael LNU, Gregg Grossoehmig, Weysan Dun, James C. Langenberg, John Does #1-6 in their official and individual capacities)

205. Plaintiffs Muhammad Tanvir, Jameel Algibhah, and Naveed Shinwari incorporate by reference each and every allegation contained in the paragraphs above.
206. Plaintiffs are present or have the legal right to be present in the United States.
207. Plaintiffs sincerely believe that informing to the government on innocent people violates their core religious beliefs, including the proscription on bearing false witness against one's neighbor by engaging in relationships and religious practices under false pretenses, and by betraying the trust and confidence of one's religious community.
208. These are fundamental and important tenets of Plaintiffs' religious beliefs because of the central roles that trust, honesty, and good faith play in their religious communities.
209. Defendants instructed and pressured Plaintiffs to infiltrate their religious communities as government informants, to spy and eavesdrop on other Muslims' words and deeds—regardless of whether these people were suspected of wrongdoing—and to report their observations to the FBI.
210. Defendants forced Plaintiffs into an impermissible choice between, on the one hand, obeying their sincerely held religious beliefs and being subjected to the punishment of placement or retention on the No Fly List, or, on the other hand, violating their sincerely held religious beliefs in order to avoid being placed on the No Fly List or to secure removal from the No Fly List.

211. By forcing Plaintiffs into this impermissible choice between their sincerely held religious beliefs and the threat of retaliation and punishment, Defendants placed a substantial burden on Plaintiffs' exercise of their sincerely held religious beliefs in violation of RFRA, 42 U.S.C. § 2000bb-1(a).
212. The United States government has no compelling interest in requiring Plaintiffs to inform on their religious communities.
213. Requiring Plaintiffs to inform on their religious communities is not the least restrictive means of furthering any compelling governmental interest.
214. By attempting to recruit Plaintiffs as confidential government informants by resorting to the retaliatory or coercive use of the No Fly List, the Special Agent Defendants substantially burdened Plaintiffs' sincerely held religious beliefs in violation of RFRA.
215. Defendants' unlawful actions are imposing an immediate and ongoing harm on Plaintiffs and have caused Plaintiffs emotional distress, deprivation of their constitutional and statutory rights, damage to their reputation, and material and economic loss.

THIRD CLAIM FOR RELIEF

Violation of the Fifth Amendment: Procedural Due Process

(Against Agency Defendants in their official capacities)

216. Plaintiffs Muhammad Tanvir, Jameel Algibhah, Naveed Shinwari, and Awais Sajjad incorporate by reference each and every allegation contained in the paragraphs above.
217. Plaintiffs are present or have the legal right to be present in the United States.
218. Plaintiffs have a liberty interest in travel free from unreasonable burdens within, to, and from the United States.

219. Plaintiffs have a right to be free from being falsely stigmatized as individuals associated with “terrorist” activity and from having these associational falsehoods disseminated widely to government agencies, airline carriers, and foreign governments.
220. Plaintiffs’ placement or continued listing on the No Fly List has adversely affected their liberty interest in travel and their right to be free from false stigmatization by the government.
221. Defendants, acting in their official capacity and under color of authority, were and remain responsible for promulgating, implementing, maintaining, administering, supervising, compiling, or correcting the No Fly List.
222. By failing to articulate and publish a clear standard and criteria for inclusion on the No Fly List, to inform Plaintiffs of their placement on the No Fly List and the bases for being on the No Fly List, and to provide Plaintiffs with a meaningful opportunity to challenge their placement on the No Fly List, Agency Defendants facilitated the Special Agent Defendants’ abuse of the No Fly List and deprived Plaintiffs of protected liberty interests without affording them due process of law in violation of the Fifth Amendment to the United States Constitution.
223. Defendants will continue to violate Plaintiffs’ rights to due process if Plaintiffs are not afforded the relief demanded below.
224. Defendants’ unlawful actions are imposing an immediate and ongoing harm on Plaintiffs and have caused Plaintiffs emotional distress, deprivation of their constitutional rights, damage to their reputation, and material and economic loss.

FOURTH CLAIM FOR RELIEF

Unlawful Agency Action in Violation of the Administrative Procedure Act,
5 U.S.C. §§ 702, 706

(Against Agency Defendants in their official capacities)

225. Plaintiffs Muhammad Tanvir, Jameel Algibhah, Naveed Shinwari, and Awais Sajjad incorporate by reference each and every allegation contained in the paragraphs above.
226. Plaintiffs are present or have the legal right to be present in the United States.
227. Defendants' failure to provide Plaintiffs with constitutionally adequate notice of the bases for their placement on the No Fly List and a meaningful opportunity to challenge their continued inclusion on the No Fly List is arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law, and contrary to constitutional rights, power, privilege, or immunity, and should be set aside as unlawful pursuant to 5 U.S.C. § 706.
228. Because Plaintiffs do not present, and have never presented, a threat to aviation safety, Defendants' placement and continued inclusion of Plaintiffs on the No Fly List is arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law, and contrary to constitutional rights, power, privilege, or immunity, and should be set aside as unlawful pursuant to 5 U.S.C. § 706(1).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request judgment against Defendants as follows:

1. Declaring that the policies, practices, acts, and omissions of Defendants described here are unlawful and violate Plaintiffs' rights under the Constitution of the United States, the Religious Freedom Restoration Act, and the Administrative Procedure Act;
2. Ordering Defendants to remove Plaintiffs' names from the No Fly List, and to provide Plaintiffs with notice that their names have been removed;
3. Enjoining Defendants and their agents, employees, successors, and all others acting in concert with them, from subjecting Plaintiffs to the unconstitutional and unlawful practices described in this complaint;
4. Ordering Defendants sued in their official capacity to provide a constitutionally adequate mechanism affording Plaintiffs with meaningful notice of the standards for inclusion on the No Fly List; meaningful notice of their placement on the No Fly List and of the grounds for their inclusion on the No Fly List, and a meaningful opportunity to contest their placement on the No Fly List before a neutral decision-maker;
5. Requiring the promulgation of guidelines prohibiting the abuse of the No Fly List for purposes other than the promotion of aviation safety, including for the unlawful purpose of retaliating against or coercively pressuring individuals to become informants;
6. Awarding Plaintiffs compensatory and punitive damages;

7. Awarding Plaintiffs' counsel reasonable attorneys' fees and litigation costs, including but not limited to fees, costs, and disbursements pursuant to 28 U.S.C. § 2412; and
8. Granting such other and further relief as the Court deems just and proper.

Dated: April 22, 2014

Respectfully submitted,

/s/ Ramzi Kassem

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

USDC-SDNY
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MUHAMMAD TANVIR; JAMEEL
ALGIBHAH; NAVEED SHINWARI;
AWAIS SAJJAD,

Plaintiffs,

v.

ERIC H. HOLDER, ATTORNEY GENERAL
OF THE UNITED STATES; JAMES
COMEY, DIRECTOR, FEDERAL BUREAU
OF INVESTIGATION; CHRISTOPHER M.
PIEHOTA, DIRECTOR, TERRORIST
SCREENING CENTER; JEH C. JOHNSON,
SECRETARY, DEPARTMENT OF
HOMELAND SECURITY; "FNU" TANZIN,
SPECIAL AGENT, FBI; SANYA GARCIA,
SPECIAL AGENT, FBI; FRANCISCO
ARTOUSA, SPECIAL AGENT, FBI; JOHN
"LNU", SPECIAL AGENT, FBI; MICHAEL
RUTKOWSKI, SPECIAL AGENT, FBI;
WILLIAM GALE, SUPERVISORY SPECIAL
AGENT, FBI; JOHN C. HARLEY III,
SPECIAL AGENT, FBI; STEVEN "LNU",
SPECIAL AGENT, FBI; MICHAEL "LNU",
SPECIAL AGENT, FBI; GREGG
GROSSOEHMIG, SPECIAL AGENT, FBI;
WEYSAN DUN, SPECIAL AGENT IN
CHARGE, FBI; JAMES C. LANGENBERG,
ASSISTANT SPECIAL AGENT IN
CHARGE, FBI; "JOHN DOES 1-9, 11-13",
SPECIAL AGENTS, FBI; "JOHN DOE 10",
SPECIAL AGENT, DHS,

Defendants.

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING JOHN DOE
DEFENDANTS**

Case No. 13-CV-6951

ECF Case

WHEREAS, the Plaintiffs in the above-captioned matter filed the First Amended Complaint (“the Amended Complaint”) on April 22, 2014;

WHEREAS the Amended Complaint asserts claims against the Attorney General of the United States, the Director of the Federal Bureau of Investigation, the Director of the Terrorist Screening Center, and the Secretary of Homeland Security, in their official capacities (the “Agency Defendants”);

WHEREAS, the Amended Complaint also asserts claims against 25 individual Defendants, in their official and individual capacities. Seventeen of the 25 individual Defendants are identified in the Amended Complaint with a first name unknown (“FNU”) or a last name unknown (“LNU”) or by a “John Doe” pseudonym (collectively all 17 such Defendants are referred to herein as the “John Doe Defendants”);

WHEREAS, Plaintiffs seek disclosure of the identities of the John Doe Defendants;

WHEREAS, Defendants object to disclosure of the identities of the John Doe Defendants at this stage of the action;

WHEREAS, the Agency Defendants have identified 14 of the 17 John Doe Defendants, as described in paragraph 1 below, and each of those 14 individuals has sought and been granted representation in this case by the U.S. Department of Justice pursuant to 28 C.F.R. § 50.15;

WHEREAS, the United States Attorney’s Office for the Southern District of New York represents the 14 John Doe Defendants described in paragraph 1 below, and is authorized to enter into this Stipulation on behalf of those 14 Defendants;

ACCORDINGLY, Plaintiffs and Defendants, by their undersigned counsel, stipulate and agree as follows:

1. The U.S. Attorney's Office shall accept service of process and file a Notice of Appearance as counsel for each of the following Defendants:

- a. "FNU" (first name unknown) Tanzin;
- b. John "LNU" (last name unknown);
- c. Steven "LNU" (last name unknown);
- d. Michael "LNU" (last name unknown);
- e. John Doe 1;
- f. John Doe 2 (who shall proceed for the next phase of this litigation as "John Doe 2/3");
- g. John Doe 4;
- h. John Doe 5;
- i. John Doe 6;
- j. John Doe 9;
- k. John Doe 10;
- l. John Doe 11;
- m. John Doe 12; and
- n. John Doe 13.

2. Each Defendant identified in paragraph 1 above may proceed in this litigation under the pseudonyms specified in the Amended Complaint through the earlier of: (a) the serving of an answer, or (b) the resolution of a motion to dismiss filed by each such Defendant, including any interlocutory appellate proceedings, as set forth more fully

below.¹ Thereafter, Plaintiffs reserve the right to seek discovery of the identities of the John Doe Defendants, and all Defendants reserve the right to assert any and all objections to such discovery.

3. Until such time described in the first sentence of paragraph 2 above, Defendants shall not be required to disclose the identity of any John Doe Defendant identified in paragraph 1, and Plaintiffs shall not seek the identity of any such John Doe Defendant. This Stipulation shall not otherwise affect the scope or the timing of discovery, if any, in this action.

4. This Stipulation is not intended to suggest in any way that the John Doe Defendants engaged in the conduct alleged in the Amended Complaint. Likewise, this Stipulation is not intended to suggest in any way that the Plaintiffs pose a threat to the John Doe Defendants or to aviation safety.

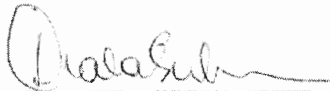
5. By entering into this Stipulation, and by accepting service of process and filing a notice of appearance as provided in paragraph 1, the John Doe Defendants identified in paragraph 1 do not waive, and hereby expressly preserve, any and all applicable defenses, including but not limited to personal jurisdictional defenses, to the claims asserted against them in the Amended Complaint. However, should service be made by mailing a copy of the summons and Amended Complaint to the U.S. Attorney's Office for the Southern District of New York, attention Sarah S. Normand and Ellen

¹ This Stipulation is not intended to express any view as to the existence or nonexistence of appellate jurisdiction or the appropriateness of any interlocutory appeal.

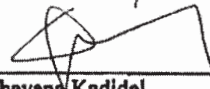
Blain, the John Doe Defendants identified in paragraph 1 will not assert insufficient process or insufficient service of process as a defense.

6. Likewise, Plaintiffs do not waive and hereby expressly preserve any and all arguments in support of their claims against the John Doe Defendants, and any and all counterarguments to the John Doe Defendants' defenses.

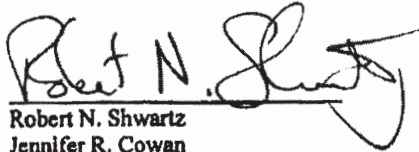
Dated: New York, New York
July 23, 2014



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IT IS SO ORDERED.



RONNIE ABRAMS
United States District Judge

7/24/14

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

.....X
MUHAMMAD TANVIR; JAMEEL
ALGIBHAH; NAVEED SHINWARI;
AWAIS SAJJAD,

Plaintiffs,

Docket No. 13 Civ. 6951 (RA)

v.

NOTICE OF MOTION

ERIC H. HOLDER, ATTORNEY GENERAL
OF THE UNITED STATES *et al*,

Defendants.

..... X

PLEASE TAKE NOTICE that, upon the accompanying (1) Memorandum of Law in Support of the Individual Capacity Defendants’ Motion to Dismiss the First Amended Complaint, (2) the Declaration of Deborah Moore, and exhibits thereto, (3) the Declaration of Sarah S. Normand, (4) the Declaration of Steven LNU, (5) the Declaration of Michael LNU, (6) the Declaration of John C. Harley III, (7) the Declaration of Gregg Grossoehmig, (8) the Declaration of Weysan Dun, (9) the Declaration of James C. Langenberg, (10) the Declaration of John Doe 1, (11) the Declaration of John Doe 6, and (12) the Declaration of John Doe 12, defendants FNU

Tanzin, Sanya Garcia, Francisco Artusa, John LNU, Michael Rutkowski, William Gale, John C. Harley III, Steven LNU, Michael LNU, Gregg Grossoehmig, Weysan Dun, James C. Langenberg, and John Does 1-6 and 9-13, to the extent they are sued in their individual capacities, by their attorney, Preet Bharara, United States Attorney for the Southern District of New York, hereby move this Court for an order dismissing the First Amended Complaint pursuant to Rule 12(b)(1), Rule 12(b)(6) and, as to certain defendants, Rule 12(b)(2) of the Federal Rules of Civil Procedure.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court's memo-endorsed Order dated June 20, 2014, responsive papers, if any, shall be served no later than September 29, 2014, and reply papers, if any, shall be served by October 2, 2014.

Dated: New York, New York
July 28, 2014

Respectfully submitted,

PREET BHARARA

United States Attorney for the
Southern District of New York

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E9gntana Argument

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----x

3 MUHAMMAD TANVIR, et al.,

4 Plaintiffs,

5 v.

13 Civ. 6951 (RA)

6 JAMES COMEY, et al.,

7 Defendants.

8 -----x

New York, N.Y.
September 16, 2014
11:00 a.m.

11 Before:

12 HON. RONNIE ABRAMS,

13 District Judge

14 APPEARANCES

15 DEBEVOISE & PLIMPTON
Attorneys for Plaintiffs

16 BY: ROBERT N. SHWARTZ
CHRISTOPHER S. FORD

17 and
18 CUNY SCHOOL OF LAW
Attorneys for Plaintiffs

19 BY: DIALA SHAMAS
and
20 CENTER FOR CONSTITUTIONAL RIGHTS
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21 BY: SHAYANA A. KADIDAL
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23 SARAH SHEIVE NORMAND
ELLEN BLAIN
24 Assistant United States Attorneys

25

E9gntana

Argument

1 (In open court)

2 (Case called)

3 THE COURT: As you all know, we are here because
4 plaintiffs pursuant to Local Rule 37.2 have requested a
5 conference to discuss their request to take certain
6 jurisdictional discovery with respect to eight of the agent
7 defendants being sued in their individual capacities.

8 The government opposes the discovery request. I have
9 read all your letters first of all. I will hear from both of
10 you or all of you to the extent a number of different
11 plaintiff's counsel would like to be heard.

12 Just so we are all on the same page I want to be clear
13 that we are only talking about discovery with respect to the
14 seven agents who are the subject of Mr. Shinwari's allegation
15 is that correct, as well as John Doe No. 12, who is one of the
16 agents who is the subject plaintiff Sajjad's allegations; is
17 that right?

18 MR. SHWARTZ: That's correct, your Honor.

19 THE COURT: Thank you.

20 MR. SHWARTZ: Those are the only defendants who have
21 filed a motion to dismiss on grounds of lack of personal
22 jurisdiction and also filed declarations in support thereof.

23 THE COURT: Thank you.

24 If at any time I mispronounce anyone's name, I do hope
25 you will correct me. Thank you.

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Argument

1 Would you like to begin, Mr. Shwartz.

2 MR. SHWARTZ: Yes, please, your Honor. Thank you for
3 affording us this conference. I won't repeat everything we
4 have said in our letters, but I want to just remind the Court
5 that the essence of this aspect of the case is that the
6 allegation is that these FBI agents, among others, abused the
7 no-fly list by either placing plaintiffs on the no-fly list or
8 keeping them on the no-fly list after they had facts that made
9 them realize that was not an appropriate placement, and they
10 did so in retaliation for those plaintiffs refusing to become
11 informants in their own Muslim American communities. That's
12 the essence of this aspect of the complaint against these and
13 other defendants.

14 I want to focus now on just some of the allegations in
15 the complaint, the reasonable inferences that we think can and
16 should be drawn at this stage of the proceedings in favor of
17 the plaintiffs, and the specific aspects of discovery that we
18 seek, limited to the issue of in personam jurisdiction of these
19 eight people precisely to assist the Court in having a fuller
20 record to decide what would be a dispositive motion on the
21 motion to dismiss and seeking information that is uniquely
22 within the exclusive control of the government.

23 Let me start with Mr. Shinwari. The allegations in
24 the complaint identify instances where FBI agents reached out
25 to him in Dubai, in Virginia, and in Omaha, Nebraska, all with

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Argument

1 essentially the same message or a coordinated message. We
2 think it is a reasonable inference that those FBI agents were
3 not acting independently of each other.

4 THE COURT: Where do you say that in the complaint?

5 Where is there an allegation in the complaint
6 regarding concerted action or coordination?

7 MR. SHWARTZ: There is no express allegation in the
8 complaint, your Honor. I will stand corrected by my colleagues
9 about the concerted action.

10 It arises from the hard facts that are alleged about
11 how, first in Dubai and then in Virginia and then in Omaha,
12 different agents spoke to Mr. Shinwari, in some instances
13 indicating there would be follow-up discussions at the next
14 port of call, and they were all addressing the same set of
15 issues.

16 We think, given the nature of the FBI, it is a
17 perfectly reasonable inference that these agents were
18 coordinating with each other, and not just randomly,
19 independently selecting Mr. Shinwari to approach and to
20 interview or interrogate.

21 We don't have internal documentation that shows these
22 FBI agents communicating with each other, although we would
23 seek that in the limited discovery that we are seeking here.
24 But it certainly is a reasonable inference to draw that these
25 agents were acting as part of a coordinated single

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Argument

1 investigation of Mr. Shinwari, and that one of the aspects that
2 we would seek discovery on is where and who was coordinating
3 and controlling that investigation.

4 Some of this I think is reasonable inferences from the
5 manner in which the FBI does business; some of those are public
6 statements by the FBI in terms of their ongoing efforts at
7 counterterrorism, and certainly post-9/11 the high emphasis
8 that the bureau has publicly stated on numerous occasions about
9 the sharing and pooling of information, not only within the FBI
10 but among other law enforcement agencies.

11 THE COURT: Do you have any cases that stand for the
12 proposition that jurisdictional discovery is appropriate based
13 on not an allegation in the complaint, but merely an inference?

14 MR. SHWARTZ: Yes, your Honor.

15 I would be happy to get you cases, but there are lots
16 of cases that recognize that in evaluating the complaint at
17 this stage of the proceedings, the Court is obliged not only to
18 accept the allegations in the complaint as true, but also to
19 accept all reasonable inferences that can be drawn from --

20 THE COURT: From those allegations. But, again, you
21 have to make the inference from the allegation. So it goes
22 back to the initial question, which is, what is the allegation
23 here that leads you to that inference that there's this
24 connection to New York?

25 MR. SHWARTZ: Just by way of some examples with

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Argument

1 regards to Shinwari.

2 THE COURT: Sure.

3 MR. SHWARTZ: Agent Harley and Steven LNU, who are two
4 of the eight agents that we are discussing this morning, in
5 paragraph 150 of the complaint said they needed to confer with
6 higher-ups before allowing Mr. Shin wary to fly.

7 At paragraph 151, Agent Harley advised Mr. Shinwari
8 that he had received or they had received the go-ahead for him
9 to allow Mr. Shinwari to make the next leg of his flight.

10 I think in paragraph 152, after he flew from Dubai to
11 Virginia, other agents appeared, approached Mr. Shinwari, and
12 escorted him, indicating they wanted to verify what he had
13 previously told Harley and Steven LNU in Dubai.

14 I could continue, your Honor, but all of those facts
15 are consistent with an inference that there was coordination
16 among those agents, separate and apart from I think the
17 reasonable inferences that can be drawn about the FBI's
18 operating practices that arise from the totality of the facts
19 here. There was clearly a number of agents in different
20 locations that were approaching and interviewing or
21 interrogating Mr. Shinwari in a relatively short period of time
22 on the same topic.

23 We think the inference from that that there is a
24 coordinated single investigation relating to Mr. Shinwari is a
25 reasonable one to draw. In fact, it seems to me any other

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Argument

1 inference would be unreasonable. It would require believing
2 that seven different agents in three different locations just
3 happened to decide separately and unrelated to each other that
4 Mr. Shinwari was somebody they wanted to interrogate on the
5 same topic.

6 THE COURT: Why does the inference with regard to
7 coordination lead you to a New York nexus?

8 MR. SHWARTZ: I couldn't hear the last part.

9 THE COURT: Why does an inference regarding
10 coordination necessarily lead you to a New York nexus?

11 MR. SHWARTZ: Well, it doesn't necessarily lead us to
12 a New York nexus I will be candid to acknowledge, your Honor.
13 Nor are we required to necessarily demonstrate that there is a
14 New York nexus just for jurisdictional discovery.

15 We do know from the FBI's public filings that the New
16 York office purports to be the key field office for
17 counterterrorism. We do know that the FBI agents here were
18 coordinating, and what we are exploring is where that
19 coordination was coming from.

20 We have reason to believe, as I said, from the New
21 York field office's key role that it may well be the New York
22 office. Likewise, it isn't just where the control and
23 coordination was coming from, where requests for information,
24 where direction or guidance as to what the FBI agents should be
25 doing in different locations.

E9gntana

Argument

1 Likewise, it is perfectly reasonable to infer that FBI
2 agents operating in Dubai, Virginia, or Omaha would not just
3 have interviewed Mr. Shinwari and then put their notes in their
4 file cabinet. They would have prepared an internal report and
5 they would have circulated it. We don't know, and there's no
6 way, frankly, that any of the plaintiffs could possibly know to
7 whom those agents circulated their reports.

8 We do believe it was part of a concerted, coordinated
9 effort, and the limited jurisdictional discovery we are seeking
10 here would demonstrate whether that was to New York or
11 elsewhere.

12 The connection for Mr. Sajjad is just geographically
13 easier because the agents were less dispersed in his case. The
14 one agent before the Court on this narrow question today, Doe
15 12, was based in Newark, New Jersey, was actually purporting to
16 be a polygrapher, and was dealing directly with agents from New
17 York who had brought Mr. Sajjad there and interacted with him.

18 We don't know the details of how Doe 12 privately
19 dealt with his brother agents in New York. But, given the fact
20 that Mr. Sajjad was directed there or agreed to go to this
21 particular office for the polygraph in the course of dealing
22 with New York-based agents, the obvious connection is even
23 clearer there.

24 The limited discovery that we seek would clarify and
25 give the Court a fuller record about where the coordination and

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Argument

1 control was coming from, where the request for information,
2 direction or guidance to the agents who were acting with
3 regards to Shinwari and Sajjad was coming from, where they sent
4 their reports of their dealings with Shinwari, and the role
5 that they played with regards to the decision to oppose or to
6 retain Mr. Shinwari and Mr. Sajjad on the no-fly list.

7 I think in evaluating the reasonableness of the
8 jurisdictional discovery, the Court needs to consider not only
9 the expansive nature of the long-arm statute in New York -- and
10 I want to come to that -- but also the reality of where this
11 information exclusively lied.

12 If the Court were to say the plaintiff needs to
13 affirmatively allege in the complaint that he knows this agent
14 sent a report to New York or that this agent received direction
15 in New York, then it becomes an impossible standard. Clearly,
16 the threshold for jurisdictional discovery is not supposed to
17 be so high to make it impossible.

18 We are not talking about expansive discovery, and we
19 are certainly not talking about discovery that intrudes on the
20 agent's identity, consistent with the stipulation, or otherwise
21 intrudes on the merits of the case.

22 But with regards to the nature of the contacts the
23 agents that did deal with Shinwari had with others known, some
24 known to us, and it is alleged in the complaint, but clearly
25 the complaint recognizes there are other agents who no doubt

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Argument

1 were involved at one point or another with regards to each of
2 the four plaintiffs simply unknown to the plaintiffs, at this
3 time at least.

4 But for purposes of demonstrating the in personam
5 jurisdiction of individual defendants that we at least knew
6 enough to identify because of their direct interactions with
7 the plaintiffs, we are seeking the limited discovery,
8 jurisdictional discovery that would identify a fuller record of
9 their contacts with the New York.

10 I just want to bring a few cases to the Court's
11 attention. One of them is a peculiar set of facts but one that
12 is I think is quite illustrative here. It is a case, Kronish
13 v. U.S. The full cite for the record is 150 F.3d 112 (2d Cir.
14 1998). The essence of the case was the plaintiff alleged, sued
15 civilly a CIA agent who had allegedly drugged him with LSD in
16 Paris unbeknownst to the plaintiff, and then he suffered
17 consequences as a result.

18 The district court found, and the Second Circuit
19 affirmed, jurisdiction in New York for that LSD drugging in
20 Paris on the basis of the fact that there was efforts by the
21 defendant to lay the groundwork for what he subsequently did in
22 Paris in New York. To the extent that he received reports from
23 LSD researchers who were based in New York, the agent is not
24 alleged to have been based in New York. But the LSD
25 researchers that he consulted with and received regular

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Argument

1 reports, according to the Court decision, were based in New
2 York. He also had meetings in New York with these LSD
3 researchers. And the Court simply said that was enough because
4 it was part of laying the groundwork -- that's the Court's
5 phrase -- laying the groundwork for what was subsequently
6 action taken allegedly taken by that CIA agent against the
7 plaintiff in Paris.

8 I think the declarations here are quite instructive.
9 Because, one, they are carefully and narrowly drafted. Five of
10 them acknowledge there were contacts with New York, although
11 they say it was on official business, not for the purpose of
12 dealing with this plaintiff, and in periods of time which they
13 define. Actually, they don't define it, but they talk about
14 narrow periods of time. We think that the periods of time may
15 be too narrowly drawn in those declarations. We would
16 certainly want to explore that.

17 We also don't accept the notion that there was no
18 contact with agents in New York or official business in New
19 York with regards to either of the two national programs that
20 are involved here. One is the national program of expanding
21 human resources in the American Muslim community. The other is
22 the no-fly list, both of which were ongoing projects. The New
23 York office certainly had a major role in both of those, the
24 American Muslim community in New York is one of the largest
25 American Muslim communities in the United States.

E9gntana

Argument

1 But the focus of those declarations that I think is
2 important putting aside bank accounts and taxes and owning real
3 property, which we don't believe is a real issue here, they
4 focus on physical presence, whether the defendants were
5 physically present in New York and ignore all the other types
6 of contacts with New York that could be germane to a long-arm
7 analysis and personal jurisdiction analysis.

8 I think the law is quite clear that physical contact,
9 physical presence in New York is not required. The Supreme
10 Court has recently spoken to this issue, and the New York Court
11 of Appeals has consistently spoken to this issue. The Supreme
12 Court in *Walden v. Fiore*, which I believe is cited in one of
13 the letters, but I can give your Honor the citation again, it
14 is 134 S.Ct. 1121 (2014). It was a *Bivens* action against
15 Georgia-based agents in Nevada.

16 While personal jurisdiction in Nevada was not found in
17 that case, Justice Thomas, writing for a unanimous court, said
18 and, I quote, "Although physical presence in the forum is not a
19 prerequisite to jurisdiction, physical entry into the state
20 either by the defendant in person or through an agent, goods,
21 mail, or some other means is certainly a relevant contact."

22 The declarations don't speak to any of those other
23 relevant contacts other than physical presence. We think we
24 are entitled to explore with the agents who put those
25 declarations in to refute personal jurisdiction what other

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Argument

1 forms of contact they had, as is typically done among FBI
2 agents, with New York.

3 We think that will provide a fuller record to the
4 Court, and by its nature it is information that the plaintiffs
5 simply have -- it's not as if the plaintiffs could have
6 independently secured that information prior to filing a
7 complaint. It is just beyond the pale.

8 Likewise, the New York Court of Appeals, speaking
9 specifically about the long-arm statute here under the CPLR
10 that is before the Court today has consistently recognized that
11 personal presence is not a prerequisite. A case which I don't
12 believe is in the letters is Kreutter v. McFadden Oil Corp.,
13 that's 71 N.Y.2d 460, 467. That is 1988 case by New York's
14 highest court in which they did find personal jurisdiction with
15 regards to some of the defendants, applying and referring to
16 CPLR 302. The court stated, and again I quote, "It is a
17 single-act statute and proof of one transaction in New York is
18 sufficient to invoke jurisdiction, even though the defendant
19 never entered New York, so long as the defendant's activities
20 here were purposeful, and there is a substantive relationship
21 between the transaction and the claim asserted."

22 So we don't have to establish and we don't seek
23 through discovery just learning what times the defendants were
24 physically present and I think much of the government's letter
25 focuses on the absence of physical presence.

E9gntana

Argument

1 We seek all contacts which the courts both, the
2 Supreme Court and for these purposes the New York Court of
3 Appeals has recognized is sufficient to satisfy 301(a)(2). The
4 Kreutter v. McFadden case has been consistently followed, but
5 most recently it was followed in a case that I thought was
6 particularly apt, in Deutsche Bank Securities Inc. v. Montana
7 Board of Investment. The citation is 7 N.Y.3d 65, 71 at 206,
8 where, citing McFadden favorably, the Court said that
9 projecting oneself into New York electronically or
10 telephonically can be sufficient.

11 THE COURT: Let's go back to the standard for
12 jurisdictional discovery. The government says you've got to
13 show to New York nexus now. Take John Doe 12, for example.
14 They say you must show a New York connection with him in order
15 to get discovery. There are no facts regarding a connection to
16 New York with regard to any of these defendants at this point,
17 right?

18 MR. SHWARTZ: I would disagree. And to use John Doe
19 12, the example you just mentioned, I think the plaintiff's
20 location is not an irrelevant factor in determining whether the
21 defendant projected into New York. The defendant John Doe 12
22 operating in Newark, New Jersey, had agents, presumably
23 including the New York-based agents that dealt with, that had
24 been dealing with Mr. Sajjad at that point, arranged for him to
25 go there for what purported to be a polygraph examination.

E9gntana

Argument

1 It is not unreasonable in those circumstances, where
2 we know that New York field office or agents based in New York
3 were interrogating Mr. Sajjad, were soliciting and securing Doe
4 12's assistance, and were provided some assistance, we don't
5 know the full dimensions of his contacts with those New
6 York-based agents in furtherance of their investigation of
7 Mr. Sajjad.

8 The circumstances with regards to Mr. Shinwari are
9 admittedly more attenuated because Mr. Shinwari at the time was
10 living in Omaha, Nebraska. He subsequently moved to the
11 metropolitan New York area and is based in Connecticut.

12 There is an ongoing nature to the harm that he suffers
13 being on the no-fly list, but at the time he was based in Omaha
14 and he was traveling through Dubai, Virginia, and Omaha.

15 We don't have anything in the complaint that
16 specifically has a New York-based agent conveying instructions
17 to any of those agents in those far-flung locations, and we
18 don't have anything in the complaint that currently identifies
19 their sharing that information with anyone in New York.

20 But all that is required is that there be a colorable
21 basis to believe that discovery may provide a personal
22 jurisdiction or evidence of personal jurisdiction.

23 We are not seeking expansive jurisdiction here. We
24 are trying to recognize that there is a clear inference that
25 these agents were operating in a coordinated way, and we know

E9gntana

Argument

1 that New York office plays more than just a nominal role in
2 counterterrorism. We are seeking to see whether the directions
3 that were given and the information that was secured and
4 presumably passed on was controlled and coordinated and shared
5 with the New York office.

6 That may be sufficient for personal jurisdiction. We
7 don't have that record. If after we have that record, your
8 Honor, we find that jurisdiction is insufficient, or if we
9 disagree and your Honor finds it deficient, you will have a
10 full record on which you can make a dispositive ruling. But to
11 deny the jurisdictional discovery in these circumstances is
12 basically to set the bar to a point where the plaintiffs can't
13 possibly meet it.

14 THE COURT: When you are relying on the colorable
15 claim of jurisdiction, you are relying on a Southern District
16 cases, Great Ship India, among others, correct, and not on the
17 Second Circuit's Universal Trading, recognizing that's just a
18 summary order? Is that right?

19 MR. SHWARTZ: Universal Trading is a summary order. I
20 think both parties brought it to the court's attention for
21 different reasons in their letters.

22 THE COURT: You are not relying on that standard, on
23 the standard set forth in Universal Trading?

24 MR. SHWARTZ: Universal has a number of things, your
25 Honor, that it says. I am not sure which specific --

E9gntana

Argument

1 THE COURT: Well, it says, among other things, that
2 the standard for awarding jurisdictional discovery is low.
3 Plaintiffs need only plead legally sufficient allegations of
4 jurisdiction and may do so through their own affidavits and
5 supporting materials containing an averment of facts that, if
6 credited, would suffice to establish jurisdiction over the
7 defendants.

8 MR. SHWARTZ: Right. Universal was dealing with the
9 ultimate issue on the merits of whether personal jurisdiction
10 had been established and whether the motion to dismiss on that
11 ground should be denied. We have not yet put in our opposition
12 papers, and our opposition papers may well contain affidavits
13 and other supporting material in support of our position.

14 THE COURT: The sentence I just read was the standard
15 for awarding jurisdictional discovery. I mean, my
16 understanding is that you say defendants are conflating the two
17 standards, the standard for pleading and the standard for
18 jurisdictional discovery. I guess my question is, is it the
19 Second Circuit that's conflating it, or is it the defendants?
20 But ultimately it seems like you are relying on the Southern
21 District cases and the articulation therein.

22 MR. SHWARTZ: I think the Second Circuit has also
23 recognized the low threshold for jurisdictional discovery.

24 THE COURT: The low threshold I think you are right.
25 I think the question that I am asking is what is that low

E9gntana

Argument

1 threshold? How do you articulate it?

2 MR. SHWARTZ: I believe it's been articulated in
3 several places, including Universal, a colorable claim with a
4 basis for jurisdiction. I will find the exact language for
5 you.

6 THE COURT: I know that that language is in Southern
7 District cases. If it is in a Southern District case, just let
8 me know that. But, in any event, I'm happy to hear the
9 remainder of your argument.

10 MR. SHWARTZ: Your Honor, I think I have made the
11 points that I wanted to make both in terms of the issues that
12 the declarations themselves raise, which I think is further
13 support for considering jurisdictional discovery on the
14 totality of the contacts of these eight agents in New York, not
15 just the rather selected contacts that are included in the
16 declaration. While I understand there are cases in which
17 courts have refused jurisdictional discovery while considering
18 the defendants' declarations, when you review those cases and
19 the facts there, they hardly support considering the
20 declarations and denying jurisdictional discovery in the facts
21 before us, where the information that is being sought is
22 exclusively and uniquely within the defendants' possession.

23 I think that having eight defendants here come before
24 the Court, not only with their motion to dismiss on in personam
25 jurisdiction grounds, but also with declarations that in a

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1 highly selective manner assert certain facts and ignore others
2 that would be pertinent and highly germane to the Court's
3 determination on whether there is in personam jurisdiction is
4 untoward, inconsistent with fundamental fairness. And the few
5 instances where courts have considered declarations while
6 denying jurisdictional discovery or totally inapposite.

7 I could go into some of the details of those, but if
8 your Honor is familiar with those cases, those are instances
9 where the party in question, the defendant in question was a
10 foreign corporation involved in a commercial transaction that
11 had no connections to New York and where the plaintiff had as
12 much access to the defendant's contacts, much more access to
13 the defendant's contacts than anything that these plaintiffs
14 could possibly hope to have with regards to the internal
15 operations of the FBI.

16 And yet these declarations purport to deal exactly
17 with that topic, what these particular FBI agents were doing
18 internally or not doing internally, in a way that's rather
19 selective and wholly silent on other factors that the courts
20 have consistently said are a relevant context that the cases I
21 just mentioned provide.

22 THE COURT: Thank you very much.

23 Ms. Normand.

24 MS. NORMAND: Thank you, your Honor. Sarah Normand on
25 behalf of the defendants. Together with my colleague Ellen

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1 Blain we represent the eight out-of-state agents who have
2 asserted the defense of personal jurisdiction. I would like to
3 point out from the outset that these are not claims against the
4 government. These are personal capacity claims seeking to
5 recover monetary damages from these individual agents.

6 I would also like to note that at the outset that
7 there is no disagreement as to a key point, and that is that
8 there are no facts alleged anywhere in the amended complaint or
9 even in the plaintiff's application to the court that any one
10 of these individual agents had any connection with New York.

11 THE COURT: Is it a fair inference to assume that
12 these agents coordinated with the New York office, with a big
13 hub of the New York office?

14 MS. NORMAND: It is not a fair inference, your Honor.

15 First of all, let me step back. For purposes of
16 evaluating personal jurisdiction and whether discovery is
17 appropriate, the courts have said over and over that conclusory
18 allegations are not sufficient. Speculation is not sufficient,
19 and I would add several courts have said that argumentative
20 inferences may not be drawn in favor of the plaintiffs on a
21 jurisdictional motion. So you have to look at what the facts
22 are that are alleged and what reasonable inferences can be
23 drawn from those facts.

24 Let's start with the agents who are alleged to have
25 communicated or interacted with Shinwari. As my colleague

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1 noted, those two of those agents were located in Dubai. They
2 interviewed plaintiff in Dubai. Two of the agents who are
3 based in Omaha are alleged to have interacted with Shinwari in
4 Dulles, in Virginia, and the other four agents, two of whom
5 were also at Dulles are located in Omaha and interacted with
6 Shinwari only in Omaha.

7 Let's assume that they were all communicating with
8 each other at one time or another with regard to Mr. Shinwari.
9 There's no fact, nothing to suggest that any of these agents at
10 any time did anything to create a substantial relationship with
11 New York to take any action relating to New York.

12 THE COURT: Plaintiffs argue that that information is
13 exclusively within the defendants' control.

14 MS. NORMAND: That may be so, your Honor. But the
15 plaintiff still bears a burden. These are individual claims,
16 and there are, in fact, substantial burdens of subjecting
17 individual agents to the jurisdiction of this court for
18 purposes of ordering discovery.

19 In order to obtain that benefit, the plaintiffs have
20 to allege some facts which, if true, and if they had alleged
21 facts they would have to be credited, nonconclusory
22 nonspeculative facts. They have to allege facts that, if true,
23 would lead the Court to believe that it is likely to have
24 jurisdiction. There are no such facts in this case.

25 Let me address the notion that there is an allegation

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1 of a national program.

2 There are vague and conclusory allegations in the
3 complaint about a national program to recruit informants from
4 the Muslim community. There are arguably allegations, although
5 completely conclusory, to suggest that there is some sort of
6 national program to use the no-fly list to retaliate against
7 people who won't be informants.

8 There's nothing in the complaint to suggest that that
9 national program is coordinated out of New York or that any of
10 these individuals in the course of in the course of actively
11 participating in this program -- again, a conclusory
12 allegation -- had any contact with anyone in New York or took
13 any actions that would be significant enough to subject them to
14 personal jurisdiction in New York.

15 FBI agents have to communicate with each other all the
16 time to share information. The mere fact that they communicate
17 with each other does not subject them to jurisdiction in
18 another state.

19 Just having an e-mail or a telephone call or sending a
20 report to an agent in another state would not subject you to
21 personal jurisdiction in that state. With regard to New York
22 in particular you would have to satisfy each of the elements of
23 the long-arm statute, and then you would also have to satisfy
24 the requirements of the due process clause.

25 So, even if there is some fair inference that the

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1 agents who interacted with Mr. Shinwari were communicating with
2 each other, there's no allegation whatsoever, no factual basis
3 from which a reasonable inference could be drawn that they
4 communicated with people in New York, and, even if they did,
5 that wouldn't be sufficient to subject them to personal
6 jurisdiction.

7 THE COURT: Do you have any authority for that
8 proposition, essentially that the sharing of information, if
9 properly alleged, is categorically insufficient to ground
10 personal involvement essentially under Iqbal?

11 MS. NORMAND: I don't think I would make the statement
12 that it would be categorically insufficient in any case to
13 subject someone to jurisdiction. But all that's been alleged
14 here is, let's take, for example, the agents in Dubai. They
15 interviewed the plaintiff Mr. Shinwari in Dubai according to
16 the complaint.

17 Let's assume they had communications with the agents
18 in Omaha. Their actions were taken in Dubai. Let's say that
19 they also communicated with someone in New York. Let's say
20 they sent a report of their interview to someone in New York,
21 or even were instructed by someone in New York to conduct that
22 interview. Again, that's complete speculation. There's
23 absolutely no basis to believe that, but let's assume that that
24 happened.

25 Let's walk through the long-arm statute. It wouldn't

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1 satisfy the long-arm statute. It wouldn't be the transaction
2 of business in New York from which the cause of action arises.
3 It wouldn't be a tortious act in New York.

4 The agent's actions would be in Dubai, not in New
5 York. It wouldn't be a tortious act outside New York causing
6 injury in New York, because there's nothing in the complaint
7 that suggests Mr. Shinwari ever went to New York. There
8 wouldn't be a persistent course of conduct in New York,
9 substantial revenue from New York, substantial revenue from
10 interstate commerce, and, of course, this case doesn't involve
11 real property from New York.

12 So it's not enough just to say that somebody took an
13 action that has some tangential or minor overlap with New York,
14 someone spoke to someone in New York. That is not enough for
15 jurisdiction under the long-arm statute.

16 It's certainly not enough for jurisdiction under the
17 due process clause. To look at the Walden case, for example,
18 the Supreme Court there made very clear that in order to
19 exercise personal jurisdiction over a defendant who is out of
20 state, the defendant himself must create a substantial
21 relationship with the forum state.

22 So let's assume again that the agent in Dubai was
23 sending a report or circulating information. These are facts
24 that my colleague has indicated he would like to explore in
25 discovery -- or even received an instruction from someone in

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1 New York. The actions he took were to interview the plaintiff
2 in Dubai. That doesn't create a substantial relationship with
3 New York.

4 Relatedly, the Walden case makes clear that the
5 actions have to be actions taken by the defendant himself with
6 regard to the forum state. It is not enough that the plaintiff
7 at some point went to the forum state.

8 Again, there's no allegation that Mr. Shinwari ever
9 went to New York. But it is not enough that the plaintiff went
10 to the forum state, and it's not enough that some third party
11 in the allegations had a connection with New York. The Walden
12 case that makes that clear. What is required is that the
13 defendant himself create a substantial relationship with the
14 state of New York.

15 I would also like to talk a little bit about John doe
16 No. 12. Who, while certainly geographically closer than the
17 agents in Dubai and Omaha, what is important about the
18 allegations with regard to John Doe 12 is that they are
19 extremely limited.

20 He is alleged only to have administered a polygraph
21 examination in New Jersey. After administering that polygraph
22 examination, according to the complaint, he left the room, and
23 he came back in with two other agents, also agents in New
24 Jersey, and spoke to the plaintiff. It's not clear who
25 communicated the results of the polygraph, but at one point one

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1 or more of those three agents communicated the polygraph
2 results to the plaintiff, Mr. Sajjad.

3 That's the extent of the allegations in the complaint
4 with regard to John doe No. 12. Again, accepting those
5 allegations as true, and drawing all reasonable inferences in
6 the plaintiff's favor, that doesn't show any transaction of
7 business in New York, it doesn't show any tortious act in New
8 York, it doesn't show any injury in New York, it doesn't have
9 to do with real property, of course, and it doesn't show for
10 purposes of the due process clause that John Doe No. 12 himself
11 created any relationship with New York, much less a substantial
12 relationship.

13 The fact that Mr. Sajjad himself lives in New York,
14 although the complaint is a little unclear on this, in one
15 place it alleges that he lives in New York and in another place
16 it alleges that he lives in New Jersey, but let's assume he
17 lives in New York. The fact that Mr. Sajjad lives in New York
18 doesn't create a relationship between John Doe No. 12 and New
19 York. It has to be the purposeful, intentional conduct of the
20 defendant that creates jurisdiction.

21 THE COURT: I don't want to interrupt you. Feel free
22 to complete anything that you would like to argue. You make
23 what I think is an interesting proposal in your letter as an
24 alternative.

25 MS. NORMAND: Yes.

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1 THE COURT: Which is to essentially hold this Rule
2 12(b)(2) motion in abeyance pending the Court's decision on the
3 remainder of the motions to dismiss.

4 I just wanted to ask you. I understand that the
5 plaintiffs are amenable to such a request, and, Mr. Shwartz
6 you'll correct me if I'm wrong, but their view is that if we
7 are going to put it off we should put it off until the end of
8 summary judgment. I'm just wondering what would be the harm be
9 in doing that from your perspective.

10 MS. NORMAND: I understood the plaintiffs' proposal
11 was that the these defendants would in the interim be subject
12 to discovery on the merits and would only raise their personal
13 jurisdiction defense at the end of the discovery.

14 THE COURT: Mr. Shwartz, is that correct? Was that
15 your position?

16 MR. SHWARTZ: In part, yes. Just if I can amplify
17 briefly. I don't mean to interrupt Ms. Normand.

18 THE COURT: If you can speak into the mic, it is often
19 difficult to hear in here.

20 Thank you.

21 MR. SHWARTZ: What we want to avoid is three rounds of
22 briefing on dispositive motions, two rounds on motions to
23 dismiss, and one round on summary judgment.

24 I understood the government's argument for abeyance
25 was that they were optimistic that your Honor would ultimately

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1 rule on other grounds that these defendants should be dismissed
2 from the case.

3 We don't agree with that, but assuming for the moment
4 that they were correct, they would accomplish what they seek by
5 our suggestion of holding any surviving defendants for
6 asserting lack of personal jurisdiction until after summary
7 judgment, when obviously discovery would have been completed.

8 If they are wrong about knocking out the claims
9 against these individual defendants on other grounds, we don't
10 want to have a series of motions to dismiss, but we're
11 perfectly content to let them preserve this defense and have
12 the Court take it up when there is a full record after
13 discovery, which presumably would be at the time of motions for
14 summary judgment.

15 So our suggestion gave the government part of what
16 they were seeking, which is they were suggesting this was all
17 going to be moot because they are going to win on other grounds
18 on motions to dismiss.

19 THE COURT: But why should they be subject to full
20 discovery if they may have a very valid basis to dismiss for
21 lack of personal jurisdiction?

22 MR. SHWARTZ: Well, our preference is that we resolve
23 the motion to dismiss on lack of personal jurisdiction at this
24 time, but we seek a full record for the Court's benefit on that
25 issue, which is why we are seeking limited jurisdictional

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1 discovery.

2 Our counterproposals was in response to the
3 government's alternative seeking to deny us that discovery,
4 which is to hold it off. But if it's going to be held in
5 abeyance, we don't want to create a third and unnecessary round
6 of briefing on motions to dismiss. We suggested that in those
7 circumstances it would be held off until all discovery was
8 completed when there would be a motion for summary judgment.

9 THE COURT: Thank you.

10 MR. SHWARTZ: I would just point out, unlike in some
11 of the cases before the court, in this instance these are FBI
12 agents. They are subject to the jurisdiction of a district
13 court, whether it's in the Southern District of New York, the
14 District of New Jersey, Virginia, Omaha, Washington, D.C.

15 We are trying to find a practical solution here rather
16 than sort of filing separate complaints in those jurisdictions
17 and then moving to transfer and consolidate them for the
18 convenience of the courts and the administration of justice.

19 We thought the simplest way was to simply get the
20 jurisdictional discovery that we are seeking here, which
21 frankly we don't think it's going to be expansive, especially
22 since it is really a matter of filling in the gaps created by
23 the eight declarations here, five of which admit contacts with
24 New York although purport to be on things other than this
25 particular case.

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1 THE COURT: Thank you.

2 Ms. Normand, just as to this point, it seems like the
3 discovery that they are seeking, to the extent I were to grant
4 it, overlaps with some of the discovery on the merits in terms
5 of plaintiff seeking where decisions were made, what the
6 communications were. So why wouldn't it make sense to do that
7 all at once if we were going to do it at all?

8 MS. NORMAND: It doesn't make sense for several
9 reasons.

10 First of all, these agents on this record are not
11 subject to the jurisdiction of the Court. To subject them to
12 any discovery would be an extreme burden, given the lack of
13 showing of jurisdiction.

14 It would also be particularly burdensome and
15 inappropriate in this case because each of these agents has
16 asserted qualified immunity. The Supreme Court has made clear
17 over and over that once a qualified immunity issue is raised,
18 until the threshold immunity question is resolved, discovery
19 should not be allowed.

20 The Supreme Court has also said the court must
21 exercise its discretion so that officials are not subjected to
22 unnecessary and burdensome discovery or trial proceedings if
23 the defendant does plead the immunity defense. And, if the
24 defendant does plead the immunity defense, the district court
25 should resolve that threshold question before it permits

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1 discovery. That's Crawford v. Britton, 523 U.S. 574 at 597 and
2 598. That is a 1998 Supreme Court case.

3 These cases are legion. The Supreme Court has said
4 this over and over. It is manifestly unfair to subject these
5 individual FBI agents to discovery when they are not subject to
6 the jurisdiction of the court based on the record before the
7 court. There's no reason to believe that they would be subject
8 to jurisdiction of the court, and they have asserted a
9 qualified immunity.

10 I would add that the assertion of the jurisdiction for
11 purposes of discovery would be particularly inappropriate here,
12 because these are Bivens claims. The Supreme Court in Ashcroft
13 v. Iqbal made clear that, when you have a Bivens claim, it's
14 not sufficient to allege that the defendant participated in
15 some program generally, acted in concert with others, engaged
16 in a conspiracy to take some action.

17 You must allege, in order to satisfy Rule 8 under
18 Iqbal, personal involvement in the conduct that is at issue,
19 and conclusory allegations of conspiracy or concerted action
20 are not sufficient. Under Iqbal that makes abundantly clear
21 that the showing that has been made here as to personal
22 jurisdiction is insufficient.

23 As my colleague also noted, we made the argument in
24 our motion that there is no Bivens claim or RFRA claim, the
25 only two types of claims asserted against the individuals in

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1 their personal capacity.

2 We realize the Court hasn't ruled on that issue and
3 the plaintiffs haven't had an opportunity to brief it, but
4 there is a real possibility, and we think it is a very strong
5 possibility, that there is no legal claim against these
6 individuals. It would be extremely unfair to subject them to
7 any discovery at all when in fact there is a good chance
8 there's no claim.

9 Let me also add, and I think the Court alluded to it,
10 it's quite clear that, notwithstanding the label of limited
11 discovery, the discovery that they are seeking is going to
12 overlap very substantially with the merits.

13 If I understand correctly, they are seeking discovery
14 as to communications between and among agents in various
15 offices across the country and in other countries about these
16 plaintiffs, what was known and what was communicated.

17 They want discovery about the alleged national program
18 to recruit Muslims as informants. In fact, today he talked
19 about two national programs, that one, and another national
20 program involving the no-fly list. And their letter describes
21 discovery about the "steps taken by these individual agents."

22 That discovery is likely to be highly problematic for
23 a number of reasons. There are other cases in other parts of
24 the country where discovery of that nature has been sought, and
25 that discovery has involved in many cases classified

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1 information and information that is subject to the law
2 enforcement and the state secrets privilege.

3 I want be to be very clear that I am not asserting
4 today that any information in this case is subject to the state
5 secrets privilege, and the reason I am not doing that is that
6 is a very unique and different privilege. It could only be
7 asserted by the head of the agency in question. Here involving
8 the FBI, it would be the Attorney General himself. The
9 Attorney General would have to assert that privilege only after
10 personal consideration of the matter. But the Attorney General
11 has done that in at least two cases to date in response to
12 discovery requests that are not different from substantially
13 different from what's requested here.

14 THE COURT: That is in the Ibrahim and Muhammad cases
15 in California and Virginia.

16 MS. NORMAND: That is right. There is also a deadline
17 of, I believe, today to also determine if it will be asserted
18 any third case called Tarhuni.

19 Again, I am not in a position to say that would
20 happen, but we certainly have to be prepared for the
21 possibility that it would happen. I think it's just not
22 accurate to say that this discovery would be limited and not
23 burdensome.

24 So, for all of these reasons, to get back to the
25 Court's earlier question about our alternative proposal, if the

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1 Court is at all inclined to do anything other than deny the
2 application, we think a stay or holding this motion in abeyance
3 is by far the preferable way to proceed.

4 It protects the rights of the individuals whose
5 individual rights are very much at stake. It avoids having to
6 get into very difficult and thorny privilege issues. And
7 there's really no prejudice to the plaintiffs.

8 I understand that they don't want to have successive
9 motions, and I appreciate that in the ordinary case. But they
10 have, in fact, sued all of these, I think it's 25 individual
11 agents under Bivens and RFRA for monetary damages.

12 Those agents have significant rights. While it may be
13 the case that we have to wait until the Court rules on the
14 motions, if the Court rules in favor of the defendants on a
15 legal ground, this entire issue will be moot and we won't have
16 to address it. If the Court does make some other determination
17 and some or all of the claims go forward, then at that point
18 the Court can immediately look to the jurisdictional issue.

19 None of this will have any bearing whatsoever on the
20 plaintiffs' ability to fly. What we are talking about here
21 today is personal jurisdiction over the individual claims. It
22 has nothing do with the individual capacity claims, which
23 relate to the plaintiffs current actual alleged status on the
24 no-fly list.

25 THE COURT: All right.

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1 MS. NORMAND: If I could just make one last point --

2 THE COURT: Yes, sure.

3 MS. NORMAND: -- having to do with the declarations.

4 I do want to point out that, while we have submitted
5 declarations in this case, that's by no means an unusual way of
6 proceeding in a motion for personal jurisdiction asserting a
7 personal jurisdiction defense.

8 There are legions of cases where defendants submit
9 declarations. It happened in the Universal Trading, it
10 happened in the Walden case, where the defendants submitted
11 declarations.

12 Those declarations look a lot like the ones in this
13 case, where they try to cover the basis of the long-arm statute
14 and explain why none of those bases are implicated. Those
15 declarations make clear that three of the agents had never
16 traveled to New York for any purpose except for one who had a
17 connecting flight at one point. Two agents haven't traveled to
18 New York during the relevant period, during the period of the
19 allegations, or in the last four years. The remaining three
20 agents have only had occasional contacts with New York, and
21 none relating to this case.

22 While it's true that in some cases physical presence
23 in New York is not sufficient, what is required is that you
24 have facts to believe that any of the bases of a long-arm
25 statute are met. Here there is simply no factual basis to

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1 believe that that is the case, nor is there any factual basis
2 to believe that discovery would reveal such contacts.

3 Thank you very much.

4 THE COURT: All right. Thank you.

5 I think this argument was very helpful. I want to
6 thank the lawyers for both sides. Ultimately I think the most
7 prudent course of action is to follow the government's
8 alternative proposal that was mentioned in your letter, and
9 defer the Rule 12(b)(2) aspect of the motion to dismiss pending
10 the Court's resolution of the other aspects of the individual
11 agents' motion.

12 As I noted earlier, in one of plaintiffs' letters,
13 they indicated that they are amenable to such a request,
14 provided consideration of the personal jurisdiction question
15 occurs at the end of discovery in the case, presumably of the
16 summary judgment phase.

17 What I am going to do is I am going defer
18 consideration of the Rule 12(b)(2) aspect of the motion to
19 dismiss until the balance of the motions are resolved.

20 In deciding a pretrial motion to dismiss for lack of
21 personal jurisdiction, a district court has considerable
22 procedural leeway. I'm just going to cite the *Dorchester v.*
23 *Banco* case, from the Second Circuit last year 722 F.3d 84. In
24 a case such as this one, with multiple defendants over some of
25 whom the court indisputably has personal jurisdiction, and in

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1 which all defendants collectively challenge the legal
2 sufficiency of the plaintiffs' cause of action, a court may
3 address first the facial challenge to the underlying cause of
4 action. And I'm citing the Chevron case, 667 F.3d 247,
5 footnote 17. That's from the circuit in 2012.

6 This is particularly true when the personal
7 jurisdiction challenges are based on factual allegations that
8 are at this early posture still under development.

9 Here, as the government I think rightly notes, if the
10 individual agents succeed on Bivens and RFRA or the qualified
11 immunity argument raised by all of the agents, the personal
12 jurisdiction arguments raised by the subset of the eight agents
13 will be moot. Furthermore, as the government also rightly
14 notes, discovery at this juncture may raise a host of difficult
15 privilege and other issues that may well be unnecessary to
16 address.

17 And, as we discussed a moment ago, I'm mindful that
18 the government has asserted various privileges in the course of
19 discovery in the two ongoing cases and concerning the no-fly
20 list. I am looking at the declarations of Eric Holder and in
21 the Ibrahim case in the Northern District of California and in
22 the Mohamed case in the Eastern District of Virginia, and it
23 seems like those issues may be raised shortly in a third case.

24 In light of my deferring consideration of the Rule
25 12(b)(2) aspects of the motion to dismiss, I'm also going to

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1 defer consideration of plaintiffs' motion for jurisdictional
2 discovery until the balance of the agents' individual motions
3 to dismiss are resolved. Once those issues are resolved, and
4 in the event that the agents' motion is denied, I anticipate
5 scheduling a conference promptly to discuss next steps
6 including a discovery as may be appropriate so we can address
7 the remainder of those arguments at that time.

8 So that's my ruling. Does anyone have any questions?
9 We are set on the schedule going forward, correct? I believe
10 that plaintiffs' opposition is due September 29. Is that
11 right?

12 MR. SHWARTZ: That was the date, your Honor.
13 Ms. Normand and I have had discussions and, subject to working
14 out the timetable for the reply papers, which in principle we
15 have agreed would obviously need to be pushed off, we
16 anticipate that the opposition papers would be filed -- I don't
17 remember the exact date, Sarah.

18 MS. NORMAND: I think you we said November 13 was the
19 date.

20 MR. SHWARTZ: That's right. November 13 with a date
21 yet to be fixed in December probably for the reply papers.
22 That's what is contemplated in the discussions that counsel
23 have had prior to today.

24 THE COURT: OK. So the opposition would be due
25 November 13 under this proposal -- and the reply? I'm sorry.

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1 I didn't hear you. December?

2 MS. NORMAND: December 18 would be the date that we
3 would request if the Court grants the request to move the
4 opposition dates to November 13, and we don't have any
5 objection to that.

6 MR. SHWARTZ: Yes. Just to be clear, we clearly are
7 on common ground in finding a new date for the reply and a date
8 of Ms. Normand's choosing. It is just that she just broached
9 that with me before we started conference. I need to check
10 with my co-counsel. I'm quite confident that that we will be
11 pick a date that is suitable for my cocounsel as well as the
12 government for the reply papers, as we have for other
13 deadlines.

14 THE COURT: In light of the complexity of the case, I
15 will put off the schedule. Why don't you submit a joint letter
16 to me with those dates, either confirming that it's November 13
17 and December 18, or, if there are alternative dates you would
18 like to propose, proposing those.

19 With regard to page limits, why don't you address that
20 as well. I think the government is entitled to 75 pages for
21 the individual agents' motion to dismiss and 35 for the agency
22 motion to dismiss.

23 So you should address those as well in your letter.

24 Is there anything else that we need to address?

25 MS. NORMAND: Not for the government, your Honor.

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1 MR. SHWARTZ: Not at this time, your Honor, no.

2 THE COURT: One thing I actually wanted to ask is, I
3 granted plaintiffs' request back in August for an extension of
4 time to serve John Does 7 and 8. Those are two of the agents
5 who allegedly approached Mr. Sajjad at JFK. Is that correct?

6 MR. SHWARTZ: Yes, your Honor.

7 THE COURT: Are you any closer to identifying them?

8 MR. SHWARTZ: Not to my knowledge. Subject to
9 checking, I don't believe we have. We have in the past been
10 able to identify certain agents, certain defendants with the
11 assistance of the U.S. Attorney's Office, but my last report is
12 they have exhausted all reasonable efforts with regard to those
13 two individuals. Subject to our coming up with some additional
14 information that either permits us independently to identify
15 them or to share that information with the government that in
16 theory might facilitate their identifying those two as they
17 have others, we don't have any more specific progress to
18 report.

19 THE COURT: All right.

20 If there's nothing else, then we are adjourned.

21 MR. SHWARTZ: Thank you, your Honor.

22 MS. NORMAND: Thank you, your Honor.

23 (Adjourned)

24

25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MUHAMMAD TANVIR, JAMEEL
ALGIBHAH, NAVEED SHINWARI, and
AWAIS SAJJAD,

Plaintiffs,

v.

ERIC H. HOLDER, ATTORNEY GENERAL
OF THE UNITED STATES, *et al.*,

Defendants.

13 Civ. 6951 (RA)

ECF CASE

**DECLARATION OF RUSHMI BHASKARAN IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS**

I, Rushmi Bhaskaran, hereby declare as follows:

1. I am associated with Debevoise & Plimpton LLP, counsel to Plaintiffs Muhammad Tanvir, Jameel Algibhah, Naveed Shinwari and Awais Sajjad. I am admitted to practice in the Southern District of New York.
2. I submit this declaration in support of Plaintiffs' Memorandum of Law in Opposition to Defendants' July 28, 2014 Motions to Dismiss.
3. Attached hereto are true and correct full copies of certain documents referenced in Plaintiffs' opposition brief.
4. Attached as Exhibit A is a true and correct copy of Defendants' Objections and Responses to Plaintiff's First Set of Interrogatories, filed in *Mohamed v. Holder*,

case number 1:11-cv-00050, in the United States District Court for the Eastern District of Virginia, dated April 7, 2014.

5. Attached as Exhibit B is a true and correct copy of the Declaration of Christopher M. Piehota, Deputy Director for Operations for the Terrorist Screening Center, filed in *Latif v. Holder*, case number 3:10-cv-00750-BR, in the United States District Court for the District of Oregon, dated November 17, 2010.

6. Attached as Exhibit C is a true and correct copy of the Declaration of Cindy A. Coppola, Acting Deputy Director for Operations of the Terrorist Screening Center, filed in *Arjmand v. Department of Homeland Security*, case number 12-71748, in the United States Court of Appeals for the Ninth Circuit, dated February 19, 2013.

7. Attached as Exhibit D is a true and correct copy of the “Audit of the Federal Bureau of Investigation’s Management of Terrorist Watchlist Nominations,” issued by the United States Department of Justice Office of the Inspector General, dated March 25, 2014.

8. Attached as Exhibit E is a true and correct copy of the Findings of Fact, Conclusions of Law, and Order for Relief entered in *Ibrahim v. Department of Homeland Security*, case number C 06-00545 WHA, by the United States District Court for the Northern District of California, dated February 6, 2014.

9. Attached as Exhibit F is a true and correct copy of an order entered in *Mohamed v. Holder*, case number 11-1924, by the United States Court of Appeals for the Fourth Circuit, dated May 28, 2013.

10. Attached as Exhibit G is a true and correct excerpt of testimony by Timothy J. Healy, the Director of the Terrorist Screening Center, in a hearing titled “Five Years After the Intelligence Reform and Terrorism Prevention Act (IRTPA): Stopping Terrorist Travel,” before the Senate Committee on Homeland Security and Governmental Affairs, dated December 9, 2009. Mr. Healy’s testimony appears on pages 89 through 95 of the hearing report.

11. Attached as Exhibit H is a true and correct copy of the Memorandum of Understanding on the Integration and Use of Screening Information to Protect against Terrorism, between and among the Secretary of State, the Attorney General, the Secretary of Homeland Security, and the Director of Central Intelligence, dated September 16, 2003.

12. Attached as Exhibit I is a true and correct copy of the Declaration of Cindy A. Coppola, Acting Deputy Director for Operations of the Terrorist Screening Center, filed in *Latif v. Holder*, case number 3:10-cv-00750-BR, in the United States District Court for the District of Oregon, dated February 13, 2013.

13. Attached as Exhibit J is a true and correct copy of the Memorandum of Understanding on Terrorist Watchlist Redress Procedures, between and among the Department of Justice, the Federal Bureau of Investigation, the Terrorist Screening Center, the Department of Homeland Security, the Department of State, the Office of the Director of National Intelligence, the National Counterterrorism Center, the Central Intelligence Agency, the Department of Defense, and the Department of Treasury, dated October 24, 2007.

14. Attached as Exhibit K is a true and correct copy of the Supplemental Joint Status Report, filed in *Latif v. Holder*, case number 3:10-cv-00750-BR, in the United States District Court for the District of Oregon, dated September 3, 2014.

15. Attached as Exhibit L is a true and correct copy of a letter from Sarah S. Normand, Assistant United States Attorney, to Robert N. Shwartz, counsel for Plaintiffs, dated November 5, 2014.

16. Attached as Exhibit M is a true and correct copy of an order entered in *Mohamed v. Holder*, case number 1:11-cv-00050 (AJT/TRJ), by the United States District Court for the Eastern District of Virginia, dated October 30, 2014.

17. I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
November 13, 2014

/s/ Rushmi Bhaskaran
Rushmi Bhaskaran