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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

SULEIMAN ABDULLAH SALIM,
MOHAMED AHMED BEN SOUD, OBAID
ULLAH (AS PERSONAL
REPRESENTATIVE OF GUL RAHMAN),

Plaintiffs,

v.

JAMES ELMER MITCHELL and JOHN
"BRUCE" JESSEN

Defendants.

No. 2:15-cv-286-JLQ

**DECLARATION OF
HINA SHAMSI, ESQ IN
SUPPORT OF
PLAINTIFFS'
MOTION TO EXTEND
CERTAIN DEADLINES
OR IN THE
ALTERNATIVE TO
COMPEL**

Without Oral Argument
March 1, 2017

DECLARATION OF HINA SHAMSI, ESQ.
No. 2:15-cv-286-JLQ

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1 I, Hina Shamsi, a member of the Bar of the State of New York and
2 admitted *pro hac vice* to the Bar of this Court, declare under penalty of perjury
3 as follows:
4

5 1. I am the Director of the National Security Project at the American
6 Civil Liberties Union and co-counsel for Plaintiffs Suleiman Abdullah Salim,
7 Mohamed Ahmed Ben Soud, and Obaidullah (as personal representative of Gul
8 Rahman) (collectively, “Plaintiffs”) in the above-captioned action. I submit this
9 declaration in support of Plaintiffs’ Motion to Extend Certain Deadlines or in the
10 Alternative to Compel.
11
12

13 2. On November 16, 2016, Defendants moved to compel independent
14 medical examinations and depositions of Plaintiffs. *See* ECF No. 97.
15

16 3. After that motion was fully briefed, this Court held that “[i]f the
17 Defendants elect to take in-person depositions of the Plaintiffs, the parties shall
18 confer regarding whether there is [a] mutually agreeable alternative location for
19 the depositions and exams outside of the United States in a locale where Salim
20 and Soud may perhaps have better success obtaining entry.” *See* ECF No. 124
21 at 7.
22

23
24 4. In the Order on the Motion to Compel, this Court recognized that
25 Plaintiffs made “reasonable efforts to obtain permission to enter the United
26

1 States for their depositions and examinations, but have been denied that
2 permission by the United States government.” See ECF No. 124 at p. 2.
3
4 Unfortunately, Plaintiff Salim has still not been able to obtain a visa and his
5 parole request to the U.S. Citizenship and Immigration Services was denied.
6 See ECF No. 131 at ¶ 7.
7

8 5. As noted in the parties’ joint status report on their efforts to meet
9 and confer, the parties agreed that Plaintiffs Salim and Ben Soud’s depositions
10 and examinations would take place in Dominica starting on January 29 and
11 continuing during the week of January 30, 2017. See ECF No. 131 at ¶ 2; see
12 also ECF No. 133 at ¶ 2.
13

14 6. Plaintiff Salim left Zanzibar on January 22, 2017 with all travel
15 documents in order and carrying copies of relevant court orders, the parties’
16 status report related to his deposition and medical examination in Dominica, our
17 travel expert’s analysis of why visas were not necessary in Dominica or at any
18 of his transit points (our travel expert routed Plaintiff Salim to take that into
19 account), and a cover letter of explanation from counsel.
20
21

22 7. Anticipating that Plaintiff Salim would need to rest and recover
23 after a long journey, especially given his mental health needs, my colleague
24 Steven Watt and I traveled to Dominica early so we could settle him in and help
25
26

1 ensure all would go as smoothly as possible for his deposition and medical
2 examinations.
3

4 8. Over the course of traveling for over 72 hours, Plaintiff Salim was
5 denied boarding multiple times through no fault of his own.

6 9. Plaintiff Salim made extraordinary efforts to travel to
7
8 Dominica. His original route was Zanzibar → Dar es Salaam → Abu Dhabi →
9 Paris → St. Marten → Dominica. On reaching Dar es Salaam, an immigration
10 official informed our client that he could not board a flight to Abu
11 Dhabi. According to the immigration official, Plaintiff Salim required transit
12 visas for Paris and St. Marten, which is incorrect, and denied him boarding on
13 that basis. After spending the night in Dar es Salaam and at the airport, Plaintiff
14 Salim was forced to return to Zanzibar the next day. Even before his return, we
15 sought immediately to re-route him and purchased another ticket routed from
16 Zanzibar through Oman (at an additional cost of almost \$5,000).
17
18
19

20 10. Plaintiff Salim caught the next flight he could get on for Oman on
21 January 24, 2017. After some hours of transit in Oman, he flew to Abu
22 Dhabi. In Abu Dhabi he was stopped, questioned harshly by airline officials
23 about the multiple transit points on his route, held at the transfer point pending
24 an hours-long airline investigation, and forced to miss his connecting
25
26

1 flight. This stop was also erroneous, as the airline finally acknowledged, but
2 Plaintiff Salim could no longer guarantee that he could board and continue on
3 the next legs of his itinerary.
4

5 11. After all these experiences, which include multiple nights spent in
6 airports and hours of hostile questioning, Plaintiff Salim was suffering
7 considerable distress. He is committed to appearing for his deposition and
8 examination, but the number of transit points required to get him to Dominica
9 made travel impossible to guarantee and dangerous to his mental well-being.
10

11 12. We immediately informed Defendants of these unfortunate events
12 and have conferred with our travel expert regarding alternative locations for
13 Plaintiff Salim's deposition and medical examinations.
14

15 13. Plaintiff Salim has been able to successfully travel to South Africa
16 recently, and the parties are exploring the possibility of conducting his
17 deposition and medical examinations in Johannesburg or Cape Town.
18

19 14. Alternatively, Plaintiffs have renewed their request that
20 Defendants' counsel conduct Mr. Salim's deposition via videoconference. As
21 this Court stated in the Order on the Motion to Compel Independent Medical
22 Examinations and Depositions, "Defendants have not demonstrated video
23
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1 depositions would be unworkable” and “a video deposition of Salim and Soud
2 may be the most reasonable alternative.” *See* ECF No. 124 at 5, 6.
3

4 15. The parties will continue to explore alternatives for Plaintiff
5 Salim’s deposition and medical examinations.

6 Dated: January 31, 2017

7 s/ Hina Shamsi
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15 *Attorney for Plaintiffs*

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2017, I caused to be electronically filed and served the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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