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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**

AYMAN LATIF, et al.,  <i>Plaintiffs,</i>	Case 3:10-cv-00750-BR
v.  ERIC H. HOLDER, JR., et al.,  <i>Defendants.</i>	<b>JOINT COMBINED STATEMENT OF AGREED FACTS RELEVANT TO ALL PLAINTIFFS</b>

In accordance with the Court’s Case Management Order dated February 13, 2015 (Dkt. No. 168), the parties have conferred and hereby submit the following Joint Statement of Agreed Facts Relevant to All Plaintiffs:

1. The Terrorist Screening Center (“TSC”) develops and maintains the federal Government’s consolidated Terrorist Screening Database (“TSDB”). The TSC has a multi-agency staff and is administered by the Federal Bureau of Investigation (“FBI”). The TSC provides identity information concerning known or suspected terrorists from the TSDB to other Government agencies that use that information for screening purposes.
2. TSC accepts nominations for inclusion in the TSDB when they satisfy two requirements. First, the biographic information associated with a nomination must contain sufficient identifying data so that a person being screened or encountered can be matched to or disassociated from a watchlisted person in the TSDB. Second, the facts and circumstances pertaining to the nomination must satisfy minimum substantive derogatory criteria for inclusion in the TSDB. Homeland Security Presidential Directives Nos. 6, 11, and 24 generally require nominations to meet a “reasonable suspicion” standard of review.
3. Nominations to the TSDB are generally accepted based on a “reasonable suspicion” that the individual is a known or suspected terrorist derived from the totality of the information reviewed. For watchlisting purposes, TSC’s standard is that “reasonable suspicion requires articulable intelligence or information which, taken together with rational inferences from those facts, 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.”
4. The No Fly List is a subset of the TSDB.
5. Nominations to the No Fly List must meet additional substantive criteria, above what is required for inclusion in the larger TSDB. More specifically, any individual, regardless

of citizenship, may be placed on the No Fly List if the TSC determines that he or she represents:

- a. A threat of committing an act of international terrorism (as defined in 18 U.S.C. § 2331(1)) or an act of domestic terrorism (as defined in 18 U.S.C. § 2331(5)) with respect to an aircraft (including a threat of air piracy, or threat to an airline, passenger, or civil aviation security); or
  - b. A threat of committing an act of domestic terrorism (as defined in 18 U.S.C. § 2331(5)) with respect to the homeland; or
  - c. A threat of committing an act of international terrorism (as defined in 18 U.S.C. § 2331(1)) against any U.S. Government facility abroad and associated or supporting personnel, including U.S. embassies, consulates and missions, military installations (as defined by 10 U.S.C. § 2801(c)(4)), U.S. ships, U.S. aircraft, or other auxiliary craft owned or leased by the U.S. Government; or
  - d. A threat of engaging in or conducting a violent act of terrorism and who is operationally capable of doing so.
6. The Government has defined or further elucidated some of the terms used in the criteria for placement on the No Fly List in the Watchlisting Guidance, which it has disseminated solely within the U.S. Government watchlisting and screening communities.
  7. The TSC provides the No Fly List to the Transportation Security Administration (“TSA”), a component of the Department of Homeland Security (“DHS”), for use in pre-screening airline passengers.
  8. The Department of Homeland Security Traveler Redress Inquiry Program (“DHS TRIP”) is the mechanism for individuals to seek redress for travel-related difficulties experienced at airports or while crossing U.S. borders. DHS TRIP is intended to permit inquiry, and, when appropriate, address situations in which:
    - a. travelers believe their travel difficulties may be the result of a watchlist misidentification;
    - b. travelers believe they have faced problems at ports of entry;
    - c. travelers believe they have been unfairly or incorrectly delayed, denied boarding, or identified for additional screening or inspection at transportation hubs as a result of, *inter alia*, being incorrectly placed on a watchlist.
  9. A traveler who experiences difficulties (including denied or delayed boarding) may submit a DHS TRIP Traveler Inquiry Form, after which the traveler will receive a Redress Control Number to help monitor the progress of the inquiry. The traveler may provide the Redress Control Number to air carriers the next time he or she attempts to travel.
  10. On the DHS TRIP Traveler Inquiry Form, travelers are prompted to describe their particular experience, produce documentation related to the subject inquiry (depending on the inquiry), provide at least one piece of government-issued photo identification, and provide contact information to which a response will be directed.

11. The Plaintiffs in this action each filed a DHS TRIP inquiry, and each received a determination letter in response.
12. The original determination letters that the Plaintiffs received in response to their DHS TRIP inquiries neither confirmed nor denied whether the Plaintiffs were in the TSDB or on the No Fly List, nor did the letters provide any further details about why the Plaintiffs were or were not in the TSDB or on the No Fly List. The determination letters also did not provide any assurances about the Plaintiffs' ability to undertake future travel.
13. In 2014, after the issuance of this Court's June 2014 Memorandum Opinion and Order (Dkt. No. 136), the Government advised the Court that it was undertaking a revision of its existing redress process. In connection with that effort in this case, and in accordance with the Court's October 3, 2014 Case Management Order (Dkt. No. 152), the DHS TRIP inquiries of the Plaintiffs remaining on the No Fly List were reopened.
14. On October 10, 2014, the Government informed the Court and seven of the Plaintiffs in this matter that as of that date, the seven Plaintiffs were not on the No Fly List. The notification that those seven Plaintiffs were not on the No Fly List stated that Defendants "make no other representations with respect to past or future travel." Dkt. No 153-1.
15. The Government reevaluated the DHS TRIP inquiries for the six Plaintiffs on the No Fly List: Faisal Kashem, Mohamed Sheikh Abdirahman Kariye, Raymond Knaeble, Amir Meshal, Stephen Persaud, and Steven Washburn.
16. The Government provided these six Plaintiffs with DHS TRIP notification letters. The notification letters to Faisal Kashem, Raymond Knaeble, Amir Meshal, Stephen Persaud, and Steven Washburn were dated November 24, 2014. The notification letter to Mohamed Sheikh Abdirahman Kariye was dated November 26, 2014.
17. The November 2014 DHS TRIP notification letters informed the Plaintiffs of their status on the No Fly List, stated what the Government identified as the applicable substantive criterion for each individual, and provided an unclassified summary that included reasons for the placement of each individual on the No Fly List.
18. The November 2014 DHS TRIP notification letters did not disclose all of the reasons or information that the Government relied upon in determining that the six Plaintiffs should remain on the No Fly List.
19. The November 2014 DHS TRIP notification letters informed each Plaintiff that the Government was "unable to provide additional disclosures" regarding each Plaintiff's placement on the No Fly List.
20. The November 2014 DHS TRIP notification letters did not discuss the presence or absence of information not reflected in the letters that might be in the Government's possession contravening a Plaintiff's placement on the No Fly List.
21. In some cases, the November 2014 DHS TRIP notification letters referenced prior statements allegedly made by Plaintiffs to Government officials. The November 2014

DHS TRIP notification letters did not provide the Plaintiffs with their full prior statements.

22. The November 2014 DHS TRIP notification letters did not confirm or deny whether any particular surveillance techniques were used to procure information that formed a basis for including the Plaintiffs on the No Fly List.
23. The November 2014 DHS TRIP notification letters invited the individuals to respond by written submission on or before December 15, 2014.
24. By letter dated December 5, 2014, counsel for Plaintiffs wrote to counsel for Defendants seeking additional information and procedures. Dkt. No. 167-1.
25. By letter dated December 14, 2014, counsel for Defendants advised counsel for Plaintiffs that they believed the notification letters and revised redress process were appropriate. Dkt. No. 167-2
26. On December 15, 2014, Plaintiffs Faisal Kashem, Raymond Knaeble, and Steven Washburn submitted responses to the DHS TRIP notification letters. Plaintiff Mohamed Sheikh Abdirahman Kariye submitted a response to his DHS TRIP notification letter on December 16, 2014. Plaintiff Amir Meshal submitted a response to his DHS TRIP notification letter on December 18, 2014. Plaintiff Stephen Persaud submitted a response to his DHS TRIP notification letter on January 8, 2015.
27. The Government assessed the Plaintiffs' responses and the Acting Administrator of TSA thereafter issued final determinations. The final TSA determinations regarding the redress inquiries submitted by Faisal Kashem, Mohamed Sheikh Abdirahman Kariye, Raymond Knaeble, Amir Meshal, and Steven Washburn were dated January 21, 2015. The final TSA determination regarding Stephen Persaud's redress inquiry was dated January 28, 2015.
28. The Government's re-evaluation of the Plaintiffs' DHS TRIP inquiries did not include a hearing at which live witness testimony could be presented or witnesses cross-examined.
29. The TSA Administrator's final determinations concluded that each of the six Plaintiffs should remain on the No Fly List.

Dated: March 13, 2015

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**CERTIFICATE OF SERVICE**

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

*s/ Hina Shamsi*