

1 BETTS, PATTERSON & MINES P.S.
2 Christopher W. Tompkins (WSBA #11686)
3 CTompkins@bpmlaw.com
4 701 Pike Street, Suite 1400
Seattle, WA 98101-3927

5 BLANK ROME LLP
6 Henry F. Schuelke III (admitted pro hac vice)
7 HSchuelke@blankrome.com
8 1825 Eye St. NW
Washington, DC 20006

9 James T. Smith (admitted pro hac vice)
10 Smith-jt@blankrome.com
11 Brian S. Paszamant (admitted pro hac vice)
12 Paszamant@blankrome.com
13 One Logan Square, 130 N. 18th Street
Philadelphia, PA 19103

14 Attorneys for Defendants

15 UNITED STATES DISTRICT COURT
16 FOR THE EASTERN DISTRICT OF WASHINGTON
17 AT SPOKANE

18 SULEIMAN ABDULLAH SALIM,
19 MOHAMED AHMED BEN SOUD,
20 OBAID ULLAH (as personal
representative of GUL RAHMAN),

21 Plaintiffs,

22 vs.

23 JAMES ELMER MITCHELL and
24 JOHN "BRUCE" JESSEN,

25 Defendants.

NO. 2:15-CV-286-JLQ

DECLARATION OF CHRISTOPHER
W. TOMPKINS IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

DECLARATION OF CHRISTOPHER W.
TOMPKINS IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

1 I, Christopher W. Tompkins, hereby certify under penalty of perjury, that
2 the following is true and correct and within my personal knowledge:

3 1. I am over the age of 18, have personal knowledge of all facts
4 contained in this declaration, and am competent to testify as a witness to those
5 facts.
6

7 2. I am one of the attorneys representing Defendants James Elmer
8 Mitchell and John "Bruce" Jessen (collectively, "Defendants") in the above-
9 captioned action.

10 3. Attached hereto as **Exhibit 1** is a true and correct copy of testimony
11 excerpts taken from the deposition of James Elmer Mitchell dated January 16,
12 2017.

13 4. Attached hereto as **Exhibit 2** is a true and correct copy of testimony
14 excerpts taken from the deposition of John "Bruce" Jessen dated January 20,
15 2017.

16 5. Attached hereto as **Exhibit 3** is a true and correct copy of testimony
17 excerpts taken from the deposition of Jose Rodriguez dated March 7, 2017.

18 6. Attached hereto as **Exhibit 4** is a true and correct copy of testimony
19 excerpts taken from the deposition of John Rizzo dated March 20, 2017.
20

21 7. Attached hereto as **Exhibit 5** is a true and correct copy of testimony
22 excerpts taken from Volume I and Volume II of the deposition of Suleiman
23 Abdullah Salim dated March 14 and 15, 2017.
24
25

DECLARATION OF CHRISTOPHER W.
TOMPKINS IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

1 8. Attached hereto as **Exhibit 6** is a true and correct copy of testimony
2 excerpts taken from Volume I and Volume II of the deposition of Mohamed
3 Ahmed Ben Soud dated January 31 and February 1, 2017.

4
5 9. Attached are true and correct copies of documents produced by the
6 CIA in response to subpoenas issued by Defendants pursuant to 5 U.S.C. § 301
7 and the procedures outlined in United States ex rel. *Touhy v. Ragen*, 340 U.S. 462
8 1951):

- 9 **Exhibit 7.** US Bates 000025-29
10 **Exhibit 8.** US Bates 000061-64
11 **Exhibit 9.** US Bates 000288-313
12 **Exhibit 10.** US Bates 000534-60
13 **Exhibit 11.** US Bates 000602-868
14 **Exhibit 12.** US Bates 001047-53
15 **Exhibit 13.** US Bates 001054-55
16 **Exhibit 14.** US Bates 001061-63
17 **Exhibit 15.** US Bates 001066-67
18 **Exhibit 16.** US Bates 001072-74
19 **Exhibit 17.** US Bates 001075-77
20 **Exhibit 18.** US Bates 001081-98
21 **Exhibit 19.** Duplicate - Omitted
22 **Exhibit 20.** US Bates 001099-100
23
24
25

DECLARATION OF CHRISTOPHER W.
TOMPKINS IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- Exhibit 21.** US Bates 001101
- Exhibit 22.** US Bates 001112-47
- Exhibit 23.** US Bates 001148-57
- Exhibit 24.** US Bates 001158-61
- Exhibit 25.** US Bates 001335-493
- Exhibit 26.** US Bates 001530-38
- Exhibit 27.** US Bates 001542-44
- Exhibit 28.** US Bates 001547-49
- Exhibit 29.** US Bates 001589-90
- Exhibit 30.** US Bates 001591-93
- Exhibit 31.** US Bates 001594
- Exhibit 32.** US Bates 001624-25
- Exhibit 33.** US Bates 001626-28
- Exhibit 34.** US Bates 001631-37
- Exhibit 35.** US Bates 001651-52
- Exhibit 36.** US Bates 001653-54
- Exhibit 37.** US Bates 001663-66
- Exhibit 38.** US Bates 001667-71
- Exhibit 39.** US Bates 001766-69
- Exhibit 40.** US Bates 001770-72
- Exhibit 41.** US Bates 001777-78

DECLARATION OF CHRISTOPHER W.
TOMPKINS IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- Exhibit 42.** US Bates 001821-22
- Exhibit 43.** US Bates 001846-47
- Exhibit 44.** US Bates 001865-70
- Exhibit 45.** US Bates 001923-25
- Exhibit 46.** US Bates 001926-27
- Exhibit 47.** US Bates 001931-34
- Exhibit 48.** US Bates 001999-2000
- Exhibit 49.** US Bates 002006-14
- Exhibit 50.** US Bates 002015-18
- Exhibit 51.** US Bates 002019-23
- Exhibit 52.** US Bates 002027-30
- Exhibit 53.** US Bates 002144-47
- Exhibit 54.** US Bates 002166-68
- Exhibit 55.** US Bates 002169-72
- Exhibit 56.** US Bates 002215-16
- Exhibit 57.** US Bates 002340-42
- Exhibit 58.** US Bates 002343-44
- Exhibit 59.** US Bates 002345-47
- Exhibit 60.** US Bates 002350-55
- Exhibit 61.** US Bates 002356-58
- Exhibit 62.** US Bates 002366-68

DECLARATION OF CHRISTOPHER W.
TOMPKINS IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

1 **Exhibit 63.** US Bates 002372-78

2 **Exhibit 64.** US Bates 002379-81

3 **Exhibit 65.** US Bates 002382-84

4 **Exhibit 66.** US Bates 002595-663

5 **Exhibit 67.** US Bates 002664-708

6
7
8 10. Attached hereto as **Exhibit 68** is a true and correct copy of John
9 Rizzo's letter to J. Gorelick dated May 8, 2009, bates labeled as MJ00023566-58.

10 11. Attached hereto as **Exhibit 69** is a true and correct copy of a
11 *Background Paper on CIA's Combined Use of Interrogation Techniques* dated
12 December 30, 2004 (Exhibit No. 20 to the deposition of James Mitchell)

13 12. Attached hereto as **Exhibit 70** is a true and correct copy of a
14 Disposition Memorandum dated December 6, 2006, bates labeled as
15 MJ00008342-55.

16 13. Attached hereto as **Exhibit 71** is a true and correct copy of excerpts
17 from Plaintiff Suleiman Abdullah Salim's Objections and Responses to
18 Defendants' Interrogatories served in this matter on November 28, 2016.

19 14. Attached hereto as **Exhibit 72** is a true and correct copy of excerpts
20 from Plaintiff Mohamed Ahmed Ben Soud's Objections and Responses to
21 Defendants' Interrogatories served in this matter on November 28, 2016.

22 15. Attached hereto as **Exhibit 73** is a true and correct copy of excerpts
23 from the draft manuscript *Interrogating the Enemy: The Story of the CIA's*
24 *Interrogation of Top al-Qa'ida Terrorists* by James E. Mitchell, Ph.D., with Bill
25

DECLARATION OF CHRISTOPHER W.
TOMPKINS IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

1 Harlow (Exhibit No. 4 to the deposition of James Mitchell, bates labeled as
2 MJ00022577, MJ00022623, MJ00022930).

3
4 16. Attached hereto as **Exhibit 74** is a true and correct copy of excerpts
5 from the transcript from the April 22, 2016 hearing held before the Honorable
6 Justin L. Quackenbush in regards to *Salim, et al v. Mitchell, et al*, 15-CV-296-
7 JLQ.

8 17. Attached are true and correct copies of additional documents
9 produced by the CIA in response to subpoenas issued by Defendants pursuant to 5
10 U.S.C. § 301 and the procedures outlined in United States ex rel. *Touhy v. Ragen*,
11 340 U.S. 462 1951):

12
13 **Exhibit 75** US Bates 000110-17

14 **Exhibit 76** US Bates 001906-07

15 **Exhibit 77** US Bates 001908-10

16 **Exhibit 78** US Bates 001911-14

17 **Exhibit 79** US Bates 001641-47
18

19 I declare under penalty of perjury under the laws of the State of
20 Washington that the foregoing is true and correct.

21 DATED this 22nd day of May, 2017, at Seattle, Washington.

22
23 s/ Christopher W. Tompkins
24 Christopher W. Tompkins, WSBA #11686

25
DECLARATION OF CHRISTOPHER W.
TOMPKINS IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of May, 2017, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

<p>Emily Chiang echiang@aclu-wa.org ACLU of Washington Foundation 901 Fifth Ave, Suite 630 Seattle, WA 98164</p>	<p>Paul Hoffman hoffpaul@aol.com Schonbrun Seplow Harris & Hoffman, LLP 723 Ocean Front Walk, Suite 100 Venice, CA 90291</p>
<p>Andrew I. Warden Andrew.Warden@usdoj.gov Senior Trial Counsel Timothy A. Johnson Timothy.Johnson4@usdoj.gov Trial Attorney United States Department of Justice Civil Division, Federal Programs Branch 20 Massachusetts Ave NW Washington, DC 20530</p>	<p>Steven M. Watt, admitted <i>pro hac vice</i> swatt@aclu.org Dror Ladin, admitted <i>pro hac vice</i> dladin@aclu.org Hina Shamsi, admitted <i>pro hac vice</i> hshamsi@aclu.org ACLU Foundation 125 Broad Street, 18th Floor New York, NY 10007</p>
<p>Avram D. Frey, admitted <i>pro hac vice</i> afrey@gibbonslaw.com Daniel J. McGrady, admitted <i>pro hac vice</i> dmcgrady@gibbonslaw.com Kate E. Janukowicz, admitted <i>pro hac vice</i> kjanukowicz@gibbonslaw.com Lawrence S. Lustberg, admitted <i>pro hac vice</i> llustberg@gibbonslaw.com Gibbons PC One Gateway Center Newark, NJ 07102</p>	<p>Anthony DiCaprio, admitted <i>pro hac vice</i> ad@humanrightslawyers.com Law Office of Anthony DiCaprio 64 Purchase Street Rye, NY 10580</p>

By s/ Shane Kangas
Shane Kangas
skangas@bpmlaw.com
Betts, Patterson & Mines, P.S.

DECLARATION OF CHRISTOPHER W. TOMPKINS IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988