

Steven M. Wilker, OSB No. 911882
Email: steven.wilker@tonkon.com
Tonkon Torp LLP
1600 Pioneer Tower
888 SW 5th Avenue
Portland, OR 97204
Tel.: (503) 802-2040; Fax: (503) 972-3740
Cooperating Attorney for the ACLU Foundation of Oregon

Hina Shamsi (Admitted *pro hac vice*)
Email: hshamsi@aclu.org
Hugh Handeyside (Admitted *pro hac vice*)
Email: hhandeyside@aclu.org
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
Tel.: (212) 519-2500; Fax: (212) 549-2654

Ahilan T. Arulanantham (Admitted *pro hac vice*)
Email: aarulanantham@aclu-sc.org
Jennifer Pasquarella (Admitted *pro hac vice*)
Email: jpasquarella@aclu-sc.org
ACLU Foundation of Southern California
1313 West Eighth Street
Los Angeles, CA 90017
Tel.: (213) 977-9500; Fax: (213) 977-5297

Alan L. Schlosser (Admitted *pro hac vice*)
Email: aschlosser@aclunc.org
Julia Harumi Mass (Admitted *pro hac vice*)
Email: jmass@aclunc.org
ACLU Foundation of Northern California
39 Drumm Street
San Francisco, CA 94111
Tel.: (415) 621-2493; Fax: (415) 255-8437

Alexandra F. Smith (Admitted *pro hac vice*)
Email: asmith@aclu-nm.org
ACLU Foundation of New Mexico
P.O. Box 566
Albuquerque, NM 87103
Tel.: (505) 266-5915; Fax: (505) 266-5916

Mitchell P. Hurley (Admitted *pro hac vice*)
Email: mhurley@akingump.com
Christopher M. Egleson (Admitted *pro hac vice*)
Email: cegleson@akingump.com
Justin H. Bell (Admitted *pro hac vice*)
Email: bellj@akingump.com
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036
Tel.: (212) 872-1011; Fax: (212) 872-1002

Attorneys for Plaintiffs Salah Ali Ahmed, Nagib Ali Ghaleb, Mohamed Sheikh Abdurahman Kariye, Faisal Kariye, Raymond Earl Knaeble, Ayman Latif, Ibraheim Mashal, Amir Mohamed Meshal, Elias Mustafa Mohamed, Abdullatif Muthanna, Steven Kariye, and Mashaal Rana

William Genego (Admitted *pro hac vice*)
E-mail: bill@genegolaw.com
Law Office of William Genego
2115 Main Street
Santa Monica, CA 90405
Tel: (310) 399-3259; Fax: (310) 392-9029

Justine Fischer, OSB No. 812241
Email: jfattyor@aol.com
710 SW Madison St., Suite 400
Portland, OR 97205
Tel: (503) 222-4326; Fax: (503) 222-6567

Attorneys for Plaintiff Stephen Persaud

BENJAMIN C. MIZER
Acting Assistant Attorney General
Civil Division

DIANE KELLEHER
Assistant Branch Director
Federal Programs Branch

AMY POWELL
amy.powell@usdoj.gov
BRIGHAM J. BOWEN
brigham.bowen@usdoj.gov
ADAM KIRSCHNER
adam.kirschner@usdoj.gov
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20001
Tel: (202) 514-6289
Fax: (202) 616-8470

Attorneys for Defendants

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>	JOINT STATEMENT OF AGREED FACTS RELEVANT TO PLAINTIFF STEPHEN DURGA PERSAUD

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 Plaintiff Stephen Durga Persaud:

1. 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, 2015 Case Management Order (Dkt. No. 152), Defendants conducted a substantive reconsideration of Plaintiff Stephen Persaud’s DHS TRIP complaint.

2. On November 24, 2014, Defendants provided Plaintiff Persaud with a DHS TRIP notification letter, a redacted version of which is submitted as Exhibit A, and which is being filed without redactions pursuant to a proposed protective order and a motion to seal.

3. The DHS TRIP notification letter informed Plaintiff Persaud that he is on the No Fly List because he had been “identified as an individual who ‘may be a threat to civil aviation or national security.’ 49 U.S.C. § 114(h)(3)(A).”

4. The DHS TRIP notification letter to Plaintiff Persaud further stated that “it has been determined that you are an individual who represents a threat of

engaging in or conducting a violent act of terrorism and who is operationally capable of doing so.”

5. The DHS TRIP notification letter to Plaintiff Persaud also provided “an unclassified summary that includes reasons supporting” his placement on the No Fly List.

6. The DHS TRIP notification letter to Plaintiff Persaud did not disclose all of the reasons or information that the Government relied upon in determining that he should remain on the No Fly List.

7. The DHS TRIP notification letter informed Plaintiff Persaud that the Government was “unable to provide additional disclosures” regarding his placement on the No Fly List.

8. The DHS TRIP notification letter to Plaintiff Persaud did not discuss the presence or absence of information not reflected in the letters that might be in the Government’s possession contravening Plaintiff Persaud’s placement on the No Fly List.

9. The DHS TRIP notification letter did not provide Plaintiff Persaud with his full prior statements or the full prior statements by other individuals, which statements were referenced in the notification letter and on which the Government relied in determining that he should remain on the No Fly List.

10. The DHS TRIP notification letter did not confirm or deny whether any particular surveillance techniques were used to procure information that formed a basis for including Plaintiff Persaud on the No Fly List.

11. The DHS TRIP notification letter invited Plaintiff Persaud to respond by written submission on or before December 15, 2014.

12. By letter dated December 5, 2014, counsel for Plaintiff Persaud wrote to counsel for the Defendants seeking additional information and procedures. (Dkt. No. 167-1)

13. By letter dated December 14, 2014, counsel for the Defendants advised counsel for Plaintiffs that they believed the notification letters and revised redress program were appropriate. (Dkt. No. 167-2.)

14. On January 5, 2015, Plaintiff Persaud submitted a response to the DHS TRIP notification letter. A redacted version of the response is submitted as Exhibit B, and is being filed without redactions pursuant to a proposed protective order and a motion to seal.

15. The Government assessed Plaintiff Persaud's response and on January 28, 2015, the Acting Administrator of the TSA issued a final determination which is being submitted as Exhibit C.

16. The Government's reconsideration of Plaintiff Persaud's DHS TRIP complaint did not include a hearing at which live testimony could be presented or witnesses cross-examined.

///

///

///

///

///

///

///

17. The TSA Administrator's final determination concluded that Plaintiff Persaud should remain on the No Fly List.

Dated: March 13, 2015

/s/ William Genego

William Genego (Admitted *pro hac vice*)
E-mail: bill@genegolaw.com
Law Office of William Genego
2115 Main Street
Santa Monica, CA 90405
Tel: (310) 399-3259; Fax: (310) 392-9029

Justine Fischer, OSB No. 812241
Email: jfattyor@aol.com
710 SW Madison St., Suite 400
Portland, OR 97205
Tel: (503) 222-4326; Fax: (503) 222-6567

Attorneys for Plaintiff Stephen Persaud

BENJAMIN C. MIZER
Acting Assistant Attorney General

DIANE KELLEHER
Assistant Branch Director
Federal Programs Branch

s/Brigham Bowen

AMY POWELL
amy.powell@usdoj.gov
BRIGHAM J. BOWEN
brigham.bowen@usdoj.gov
SAM SINGER
samuel.m.singer@usdoj.gov
ADAM KIRSCHNER
adam.kirschner@usdoj.gov
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20001
Tel: (202) 514-6289
Fax: (202) 616-8470

Attorneys for Defendants

CERTIFICATE OF SERVICE

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

/s/ William Genego