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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

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

Plaintiffs,

vs.

JAMES ELMER MITCHELL and
JOHN "BRUCE" JESSEN,

Defendants.

NO. 2:15-CV-286-JLQ

[PROPOSED] ORDER GRANTING
STIPULATED MOTION RE
RESTRICTIONS ON TRIAL
QUESTIONING, EVIDENCE AND
ARGUMENT

Note on Motion Calendar:
August 21, 9:30 a.m.,
at Spokane Washington

This matter having come before the Court on Plaintiffs Suleiman Abdullah Salim, Mohamed Ahmed Ben Soud and Obaid Ullah (as personal representative of Gul Rahman) ("Plaintiffs") and Defendants James Elmer Mitchell and John "Bruce" Jessen ("Defendants") (jointly, "Parties") Stipulated Motion Re Restrictions on Trial Questioning, Evidence and Argument, and the Court being

ORDER GRANTING STIPULATED
MOTION RE RESTRICTIONS ON TRIAL
QUESTIONING, EVIDENCE AND
ARGUMENT

NO. 2:15-CV-286-JLQ
1159644.DOCX/080217 1142/8360-0001
139114.00602/105995551v.1

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

1 fully advised of all relevant matters, it is hereby ORDERED, ADJUDGED AND
2 DECREED that;

3 The Parties' Stipulated Motion is **GRANTED**.

4 **IT IS FURTHER ORDERED** that:

5 **I. RESTRICTIONS ON QUESTIONING, EVIDENCE**
6 **AND ARGUMENT.**

7 There shall be no questioning, evidence, or argument regarding:

8 1. The fact that Defendants are or may be indemnified by the United States
9 for the costs or defense and/or for any judgment which may be entered; the
10 indemnity agreement between Defendants and the United States; and/or the costs
11 of litigation.

12 2. The number of counsel or the size of the law firms representing the
13 Parties, the location of those counsel, the ACLU's representation of Plaintiffs or its
14 institutional positions, and/or the activities of any counsel or organizations
15 involved in representation of either Plaintiffs or Defendants.

16 3. Any settlement communications between the Parties.

17 4. Criminal investigations or potential criminal charges related to allegedly
18 abusive interrogations conducted by the United States abroad following 9/11/2001,
19 including at Abu Ghraib and/or in the CIA's "Rendition, Detention, and
20 Interrogation Program."
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II. RESTRICTIONS ON QUESTIONING AND EVIDENCE.

There shall be no questioning or evidence regarding:

5. The intentions or state of mind of individuals other than the witness testifying in the absence of a foundation therefore.

6. The intention of the author of a document that was not created by the testifying witness in the absence of a foundation therefore.

7. The credibility or motivation of other witnesses in the absence of a foundation therefor.

8. Expert testimony and opinions not disclosed in reports and/or during depositions, unless the door is opened by the opposing Party on cross-examination or otherwise.

9. Expert testimony or opinions on legal issues regarding the applicability of the Alien Tort Statute, 28 U.S.C. § 1350, and other potentially applicable international laws, treaties, or international consensus or norms, or the definitions of “torture”, “cruel, inhuman, or degrading treatment”, “unauthorized human experimentation” or “war crimes”, or similar terms, except outside of the presence of the jury and for the benefit of the Court. The Parties agree that, to the extent the Court permits use of such legal terms during trial by lay or expert witnesses testifying about the facts of the case, forensic evaluations, or expert matters other than (a) the applicability of the Alien Tort Statute or (b) the definition of the aforementioned terms, an instruction from the Court would be appropriate. Additional issues regarding the use of legal terms and conclusions will be the subject of the Parties’ Motions in Limine.

1 The Parties shall advise their witnesses of the limitations herein in advance
2 of their testimony.

3 If any Party believes that a restriction set forth herein has been waived by
4 the conduct of the other Party, that Party shall first raise the issue with the Court
5 outside the presence of the jury.
6

7 **IT IS SO ORDERED.** The Clerk is hereby directed to enter this Order and
8 furnish copies to counsel.

9 DATED this _____ day of _____, 2017.
10

11 _____
12 Honorable Justin L. Quackenbush
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