

January 20, 2011

The Honorable Anna J. Brown
1407 United States Courthouse
1000 Southwest Third Avenue
Portland, Oregon 97204-2902

Re: *Latif v. Holder*, No. 10-cv-750

Judge Brown:

The parties have continued to meet and confer regarding Plaintiffs' Motion to Strike or to Compel Disclosure of Defendants' *Ex Parte* Submissions (Dec. 15, 2010) (dkt # 51) in an attempt to accommodate the interests of both parties while avoiding undue delay to the resolution of this litigation. The parties now believe that, should the case proceed beyond Defendants' Motion to Dismiss, it is likely that the Court will be able to adjudicate the parties' cross-motions for summary judgment without ruling on the Motion to Strike and without prejudice to either party.

Defendants maintain that the Court can resolve the Motion to Dismiss or for Summary Judgment in the government's favor without consideration of the *ex parte* material. Having reviewed Defendants' Opposition and the Second Declaration of Christopher M. Piehota, which set forth in greater detail the nature of the *ex parte* submissions, Plaintiffs are similarly confident that they can prevail on their anticipated cross-motion for summary judgment, and defeat Defendants' motion, even if the Court reviews the *ex parte* submissions. In either event, the Motion to Strike would be moot. Accordingly, the parties agree that it is possible that the Court could resolve the pending motions without first deciding the Motion to Strike. Doing so would be in the interests of judicial efficiency, saving the court and the parties additional time and effort.

In light of this shared understanding, the parties respectfully propose that the Court proceed along the following course, in the event that Defendants' Motion to Dismiss is denied:

- Stay Plaintiffs' Motion to Strike or to Compel Disclosure.
- Proceed with consideration of the Defendants' Motion for Summary Judgment and the Plaintiffs' anticipated cross-motion for partial summary judgment.
- If, and only if, the Court determines that the Defendants' *ex parte* submissions are material and dispositive with respect to resolution of either motion, which may involve *ex parte* review, schedule a status conference to determine whether supplemental briefing and/or a hearing is necessary to resolve the matter.

- In the interim, Plaintiffs' counsel will apply to TSA for a criminal history check and terrorist assessment in a further attempt to narrow or eliminate the issues raised in Plaintiffs' motion.

The parties believe that the process described above is an appropriate and reasonable means for moving the litigation forward. Neither party waives the rights and arguments contained in their respective pleadings.

Counsel are prepared to discuss this proposal and to argue the Motion to Strike at the hearing on Friday, if the Court desires argument.

Sincerely,

s/ Nusrat Choudhury

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