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**UNITED STATES DISTRICT COURT
 DISTRICT OF OREGON**

AYMAN LATIF, <i>et al.</i> , <i>Plaintiffs,</i>	Case 3:10-cv-00750-BR
v. ERIC H. HOLDER, JR., <i>et al.</i> , <i>Defendants.</i>	DEFENDANTS' NOTICE OF WITHDRAWAL

DEFENDANTS' NOTICE OF WITHDRAWAL

Defendants Eric H. Holder, Jr., Attorney General of the United States; Robert Mueller, Director of the Federal Bureau of Investigation; and Timothy Healy, Director of the Terrorist Screening Center, hereby submit this Notice of Withdrawal. On November 17, 2010, Defendants submitted a motion to dismiss, or in the alternative, for summary judgment and materials in support of that motion (Docket Nos. 41, 42, 43, 44, 45, 46). Defendants are withdrawing portions of this motion and supporting materials after appearing before the Court at

a hearing on January 21, 2011, during which the Court indicated that it wanted to focus first on the threshold issue of whether the federal courts of appeals have exclusive jurisdiction over this action pursuant to 49 U.S.C. § 46110.

Defendants therefore give notice that they are withdrawing the following arguments and materials associated with their motion for summary judgment:

1. Arguments advanced in Sections II-V (pages 20-55) of Defendants' legal memorandum in support of their motion to dismiss, or in the alternative, for summary judgment (Docket No. 44);
2. Declaration of Mark Guliano, Docket No. 44-2
3. Declaration of Kevin McAllenan, Docket No. 44-6
4. Declaration of Sharon Raya, Docket No. 44-7

Defendants will also make arrangements with the Department of Justice Litigation Security Group to withdraw the *ex parte* material they submitted for the Court's consideration.¹

Defendants will continue to rely on the jurisdictional arguments advanced in their motion to dismiss that are set forth on pages 1-20 of their legal memorandum (Docket No. 44), as well as the exhibits cited in support of those arguments, the Parties' Stipulated Facts (Docket No. 41), the Declaration of James Kennedy (Docket Nos. 44-3, 44-4, 44-5), and the public information contained in the Declaration of Christopher Piehota (Docket No. 44-1). Defendants will also continue to rely on the arguments advanced in their reply memorandum in support of their motion to dismiss (Docket No. 53), as well as those contained in their supplemental memorandum (Docket No. 65).

¹ Defendants will revisit the substance of the withdrawn material in the event that the Court denies their motion to dismiss and determines it does have jurisdiction over Plaintiffs' claims.

Dated: February 24, 2011

Respectfully Submitted,

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s/ Diane Kelleher

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