

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

SUHAIL NAJIM)	
ABDULLAH AL SHIMARI <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 08-cv-0827 GBL-JFA
)	
CACI INTERNATIONAL, INC., <i>et. al.</i> ,)	
)	
Defendants)	
)	

**DECLARATION OF BAHER AZMY, ESQ. IN SUPPORT OF PLAINTIFFS’ MOTION
TO ENLARGE TIME TO COMPLETE PLAINTIFFS’ DEPOSITIONS**

I, Baher Azmy, hereby declare as follows:

1. I am the Legal Director of the Center for Constitutional Rights in New York, New York and counsel to the four plaintiffs in the above-captioned action. I have been admitted to appear *pro hac vice* in this action. I submit this Declaration to report to the Court on the status of Plaintiffs Suhail Najim Abdullah Al-Shimari, Asa’ad Hamza Hanfoosh Al-Zuba’e, and Taha Yaseen Araq Rashid regarding travel to the United States to appear for depositions within the district, and in support of Plaintiffs’ motion to extend the time of their appearance for deposition in this district by two weeks to April 5, 2013.

2. Specifically, this Declaration sets forth the current situation regarding Plaintiffs’ travel to the United States and steps taken to ensure their arrival in the United States without further delay.

3. Plaintiffs Suhail Najim Abdullah Al-Shimari, Asa'ad Hamza Hanfoosh Al-Zuba'e, Taha Yaseen Araq Rashid, and Salah Hasan Al-Ejaili are Iraqi citizens who suffered torture and abuse while in U.S. custody in Abu Ghraib prison, and allege that CACI interrogators and supervisors operating in Abu Ghraib bear responsibility for Plaintiffs' mistreatment. Plaintiffs Al-Shimari, Al-Zuba'e, and Rashid all currently reside in Iraq, either in or near Baghdad (collectively, the "Baghdad Plaintiffs").

4. As foreign nationals, Plaintiffs are not permitted entry into the United States without a visa issued by the United States Department of State.

5. On February 14, 2013, this Court issued an order compelling Plaintiffs to appear in the Eastern District of Virginia for depositions and medical exams, within 30 days. Following the issuance of this Order, Plaintiffs' counsel worked diligently with State Department officials in Washington, D.C., in the Office of the Legal Advisor and the in the Office of Democracy, Human Rights and Labor, to expedite the processing of the Baghdad Plaintiffs' visas.

6. By February 25, 2013, all four Plaintiffs' applications for visas to the United States were granted. Attached hereto as Exhibit A are true and correct copies of screenshots of the U.S State Department's website showing that the Baghdad Plaintiffs' visas were granted.

7. Plaintiff Al-Ejaili currently resides in Doha, Qatar and appeared, without incident, in the United States for medical examinations and deposition during the week of March 4, 2013. He left the United States on March 6, 2013.

8. I worked with Defendant's counsel to schedule the Baghdad Plaintiffs' travel for a week during which both depositions and medical examinations could be held. All Counsel agreed to the Baghdad Plaintiffs appearing for depositions during the week of March 18, 2013. During a hearing on March 8, 2013, counsel moved jointly in asking the Court to modify its

February 14, 2013 Order to allow depositions to be held during the week of March 18th. The Court granted that motion.

9. The Baghdad Plaintiffs' depositions and medical examinations were scheduled to take place throughout the week of March 18, 2013.

10. Round-trip airline tickets were purchased for the Baghdad Plaintiffs to travel from Baghdad to the United States on Friday, March 15, 2013, on Turkish Airlines. Attached hereto as Exhibit B is a true and correct copy of the receipt of purchase of Plaintiffs' tickets on Turkish Airlines.

11. In advance of Plaintiffs' travel, Plaintiffs' counsel coordinated with an official from the Department of Homeland Security Transportation Security Administration (TSA) to assist the Baghdad Plaintiffs upon arrival in the United States because none of the Baghdad Plaintiffs speak English and have extremely limited experience with air-travel and international travel. Attached hereto as Exhibit C is a true and correct copy of correspondence between Plaintiffs' counsel and a TSA official.

12. Plaintiffs' counsel provided the Baghdad Plaintiffs with a letter explaining the nature of the Baghdad Plaintiffs' travel, i.e., that they are Plaintiffs in a civil action in the Eastern District of Virginia and are travelling to the United States to appear for depositions. Attached hereto as Exhibit D are true and correct copies of the letters provided to each of the Plaintiffs by counsel.

13. The Baghdad Plaintiffs were to be accompanied on the first leg of their flight by a member of Plaintiffs' legal team who speaks English and would assist in their transit through the airport in Istanbul, Turkey.

14. The Baghdad Plaintiffs arrived at the airport in Baghdad on the morning of March 15, 2013 and checked in for their flight, which was scheduled to depart at 09:40 local time (02:40 EST).

15. After being issued their boarding passes, the Baghdad Plaintiffs proceeded to the gate to board their plane. The Baghdad Plaintiffs were then taken off the line for further questioning. Our Iraqi team member tried to intervene and was told to board the plane and that the Baghdad Plaintiffs would only be questioned for a short time. Our Iraqi team member showed the officers the visas in the passports and letter written by my co-counsel explaining the nature of the Baghdad Plaintiffs' travel. *See* Exhibit D. Our Iraqi team member was told that they would have to wait for verification and that he should go ahead and board. He boarded.

16. One official told the Baghdad Plaintiffs that they had received a call from the United States directing them to not allow the Baghdad Plaintiffs to board the plane and that the Baghdad Plaintiffs would have to resolve the problem in the United States. The Baghdad Plaintiffs were not allowed to board. Our Iraqi team member was not allowed to disembark.

17. The Baghdad Plaintiffs were allowed to leave the Baghdad airport and return home.

18. Plaintiffs' counsel were informed that the Baghdad Plaintiffs were not permitted to travel in the early morning of March 15. As soon as the workday started on March 15, Plaintiffs' counsel contacted both their contact at the TSA who had arranged for a TSA agent to meet the Baghdad Plaintiffs upon their arrival in the United States and the official at the Department of State (Ms. Kelly Landry, Foreign Affairs Officer in the Bureau of Democracy, Human Rights, and Labor) who had been my primary contact in relation to efforts to expedite the Plaintiffs' visa processing.

19. The TSA official informed my co-counsel that he was not in contact with any officials in Iraq.

20. The Department of State official expressed considerable surprise and frustration that the Baghdad Plaintiffs were not permitted to board the plane and pledged to make inquiries to find out what happened. I spoke with Ms. Landry again on that Friday afternoon, and she relayed (in general terms due to confidentiality restrictions) that there had been some kind of an inter-agency miscommunication regarding the Baghdad Plaintiffs and their travel to the United States. The Department of State advised me that although the Baghdad Plaintiffs' visas were still valid, they should proceed to immediately re-apply for visas to the United States in order to allow the necessary inter-agency communication and coordination – which had failed to occur when the visas were granted in February.

21. I spoke with Defendant's counsel John O'Connor on Friday, March 15th, and advised him that the Baghdad Plaintiffs would not be arriving in the United States as planned that day, and that the medical examinations and depositions planned for the week of March 18th would need to be rescheduled. I advised him that we hoped to have the issue resolved reasonably quickly based on my conversation with the Department of State.

22. The Baghdad Plaintiffs immediately proceeded to submit new visa applications electronically, which were received by the U.S. Embassy in Baghdad in the morning of Saturday, March 16th. Attached hereto as Exhibit E are true and correct copies of confirmations of the U.S. Embassy's receipt of Plaintiffs' visa applications, with their birth dates and months redacted to comply with Federal Rule of Civil Procedure 5.2(a) and photos of Plaintiffs Rashid and Al-Zuba'e on their respective applications redacted for their safety.

23. The Baghdad Plaintiffs were contacted in Baghdad by U.S. officials at the U.S. Embassy in Baghdad and advised to proceed to the Embassy for interviews on the next business day in Iraq, i.e., on Sunday, March 17th.

24. The Baghdad Plaintiffs appeared for their interviews at the U.S. Embassy on Sunday, March 17th. They submitted their passports to the U.S. Embassy in Baghdad, and their passports remain with the United States Consular Section in Baghdad as of today.

25. Plaintiffs' counsel has remained in daily, regular telephone and email contact with the Department of State in Washington, D.C. regarding the visas and the Baghdad Plaintiffs' anticipated travel to the United States.

26. Advised on Tuesday, March 19th, that the Baghdad Plaintiffs' visas would likely be processed and available for pick-up on Sunday, March 24th, Plaintiffs' counsel proceeded to identify the first available flights for the Baghdad Plaintiffs from Iraq to the United States and communicated the planned itinerary to the Department of State, so it could ensure travel. That itinerary currently has the Baghdad Plaintiffs arriving in Washington, D.C. at approximately noon on Tuesday, March 26th, and to stay for enough days to permit medical examinations and depositions.

27. I spoke to Mr. William Koegel, Esq., counsel for Defendants, on Thursday, March 21st, to advise him of the anticipated arrival date, and to work with him to set the schedule for the Baghdad Plaintiffs' medical examinations and depositions. I informed him that these dates were still subject to final approval by U.S. government officials and that unfortunately, we could not as yet fully guarantee their arrival. I pledged to keep him updated once we had confirmation of their permission to travel.

28. As of Thursday afternoon, the Department of State advised Plaintiffs' counsel that the Baghdad Plaintiffs' renewed application was pending.

29. As of this morning, Friday, March 22nd, the Department of State's Consular Electronic Application Center "Visa Status Check" system continues to show the Baghdad Plaintiffs' visa applications as in the "Administrative Processing" stage, with the last status update on March 17, 2013. Attached hereto as Exhibit F are true and correct copies of screenshots of the U.S. State Department's website showing the status of the Plaintiffs' visas on March 22, 2013.

30. This afternoon, I spoke with Ms. Landry again, and she informed me that the inter-agency coordination was continuing and that additional time would be needed to resolve the matter. She advised me that another government agency has taken the position that the Court's Order regarding the appearance of the Plaintiffs for deposition has expired and that this agency need not therefore even consider the renewed request for Plaintiffs' entry into this country.

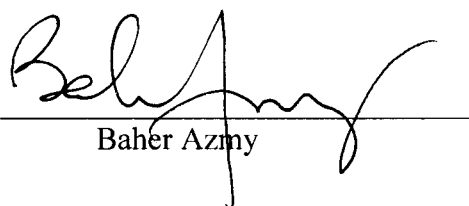
31. Ms. Landry advised me that the issuance of a new order by the Court – as soon as possible – is necessary to facilitate the processing of the Baghdad Plaintiffs' application to enter the United States. It is my understanding that setting a reasonably close deadline is necessary to pressure these agencies to re-start and expedite the process, but there still remains the possibility that final approval may slip past that deadline.

32. Plaintiffs' counsel has been informed that a Legal Officer from the Department of State Consular Affairs section has sent a letter directly to this Court setting forth the situation regarding the Baghdad Plaintiffs' visas and travel, and the steps being taken by U.S. government

officials to ensure that Plaintiffs are able to travel to the United States and appear for their depositions in this case. Plaintiffs' counsel has not received a copy of that letter.

33. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 22, 2013
New York, New York



Baher Azmy

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2013, I electronically filed the Plaintiffs' DECLARATION OF BAHER AZMY through the CM/ECF system, which sends notification to counsel for Defendant.

/s/ George Brent Mickum
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