

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
- Alexandria Division -**

**IN RE: XE ALIEN TORT CLAIMS
ACT LITIGATION**

Case No. 1:09-cv-615

Case No. 1:09-cv-616

Case No. 1:09-cv-617

Case No. 1:09-cv-618

Case No. 1:09-cv-645

(consolidated for pretrial purposes) (TSE/IDD)

MOTION FOR LEAVE TO FILE OPPOSITIONAL BRIEFING

On August 12, 2009, Defendants, after having filed a motion to dismiss arguing that it was crystal clear they were immune from the application of Iraqi law, now file a ten-page brief and a supplemental declaration asserting that this Court should refrain from exercising jurisdiction until the Iraqi courts rule on whether Defendants can be sued in Iraqi courts. Notably, Defendants do not consent to jurisdiction in Iraqi courts, which reveals the futility of their proposed exhaustion remedy. *See Consolidated Post-Hearing Brief in Response to Court's Order at 3, n. 2.* If the Court is open to considering Defendants' after-the-fact arguments that directly contradict the binding judicial admissions they made in the first round of briefing, Plaintiffs respectfully seek leave to submit opposition briefing no later than Monday, September 14, 2009. Plaintiffs need a few days to obtain translations of certain Iraqi governmental documents that establish the lack of merit in Defendants' arguments. In addition, Plaintiffs seek

an opportunity to identify and discuss the decisional authorities relevant to the Defendants' new exhaustion argument. A proposed Order is attached.

Respectfully submitted,

/s/ Susan L. Burke

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PROPOSED ORDER

The Court hereby ORDERS that Plaintiffs submit an opposition to Defendants' Post-Hearing Brief no later than 5pm on Monday, September 14, 2009.
