

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

**IN RE: BLACKWATER 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)**

**DEFENDANTS' MOTION TO SUBSTITUTE THE UNITED STATES  
IN PLACE OF ALL DEFENDANTS PURSUANT TO THE WESTFALL ACT**

Defendants hereby petition this Court to certify pursuant to the Westfall Act, 28 U.S.C. § 2679(d)(3), that Defendants were “employee[s] of the Government . . . acting within the scope of [their] . . . employment” when the events giving rise to the five above-captioned consolidated actions occurred and, accordingly, to order that the United States “be substituted as the party defendant” in place of all of the current Defendants. This relief is requested with respect to all of the counts in the operative Complaints in the consolidated actions, except for Counts 1-5 of the Complaint in *Sa’adoon* (No. 1:09-cv-615), Count 9 of the First Amended Complaint in *Abtan* (No. 1:09-cv-617), and Count 9 of the First Amended Complaint in *Hassoon* (No. 1:09-cv-618).

The reasons that this motion should be granted are set forth in the accompanying Memorandum of Law, filed concurrently herewith. A proposed order is attached.

Dated: August 12, 2009

Respectfully submitted,

/s/

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Peter H. White (Va. No. 32310)

pwhite@mayerbrown.com

Andrew J. Pincus (*pro hac* pending)

Michael E. Lackey, Jr. (*pro hac* pending)

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*Counsel for Defendants*

## CERTIFICATE OF SERVICE

I hereby certify that, on August 12, 2009, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Susan L. Burke  
sburke@burkeoneil.com  
Burke O'Neil LLC  
1000 Potomac Street  
Washington, DC 20007  
Telephone: (202) 445-1409  
Facsimile: (202) 232-5513  
*Counsel for Plaintiffs*

I hereby also certify that on August 12, 2009, I caused a copy of the foregoing to be sent by hand delivery to the same party.

In addition, I hereby certify that, pursuant to 28 U.S.C. § 2679(d)(3) and Federal Rule of Civil Procedure 4(i)(1) (previously Federal Rule of Civil Procedure 4(d)(4)), I served the foregoing by certified mail to each of the following:

Civil Process Clerk  
United States Attorney's Office  
Eastern District of Virginia  
Justin W. Williams United States Attorney's Building  
2100 Jamieson Ave  
Alexandria, VA 22314

Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

James H. Thessin  
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United States Department of State  
2201 C Street, N.W., Room 6421  
Washington, D.C. 20520

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United States Department of State  
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Washington, D.C. 20520

Phyllis Pyles  
Director, Torts Branch  
Civil Division  
U.S. Department of Justice  
Room 8098N  
1331 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Finally, I hereby certify that a copy of foregoing was sent by certified mail to the following interested party:

R . Joseph Sher  
Assistant United States Attorney  
Office of the United States Attorney  
Justin W. Williams United States Attorney's Building  
2100 Jamieson Ave  
Alexandria, VA 22314

/s/  
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