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17 Attorneys for Plaintiffs

18 **UNITED STATES DISTRICT COURT**  
 19 **NORTHERN DISTRICT OF CALIFORNIA**  
 20 **SAN FRANCISCO DIVISION**

21 WANG XIAONING, YU LING, SHI TAO,  
 22 and ADDITIONAL PRESENTLY  
 23 UNNAMED AND TO BE IDENTIFIED  
 24 INDIVIDUALS,

25 Plaintiffs,

26 v.

27 YAHOO, INC., a Delaware Corporation,  
 28 YAHOO! HONG KONG, LTD., a Foreign  
 Subsidiary of Yahoo!, AND OTHER  
 PRESENTLY UNNAMED AND TO BE  
 IDENTIFIED CORPORATE DEFENDANTS  
 AND UNNAMED AND TO BE  
 IDENTIFIED INDIVIDUAL EMPLOYEES  
 OF SAID CORPORATIONS,  
 Defendants.

Case No. C07-02151 CW

**TORT DAMAGES CLAIM**

**PLAINTIFFS' OPPOSITION TO  
 DEFENDANTS' RULE 7-11  
 SUPPLEMENTAL SUBMISSION**

Judge: Hon. Claudia Wilken

1 Plaintiffs object to the Defendants' seeking leave to file an administrative letter under  
2 Rule 7-11 with the court containing their views on the applicability of the newly issued decision  
3 in *Khulumani v. Barclay*, (2d Cir., decided Oct. 12, 2007) to the proceedings currently before the  
4 Court relating to jurisdictional discovery. Plaintiffs note at the outset that the Defendants'  
5 pleading and letter were filed with the Court prior to the Plaintiffs being notified of the action or  
6 given an opportunity to join (or object to) an accompanying stipulation or declaration, which was  
7 not initially submitted with the pleading, along with a proposed Order, as required under Rule 7-  
8 11 in any case, but submitted several hours later. Moreover, Rule 7-11 submissions are not  
9 intended to provide parties with additional opportunities to file supplemental submissions to the  
10 Court on pending issues that are outside of, and in addition to, the regularly scheduled pleadings.  
11 Plaintiffs note in addition that the decision in the *Khulumani* case is a matter of public record and  
12 may be interpreted and applied by the Court without the need for additional briefing by the  
13 parties.

14 With regard to the substantive point the Defendants seek to raise in their letter, that the  
15 TVPA portion of the complaint in *Khulumani* was dismissed because a connection between the  
16 defendant corporations' actions in that case was not sufficiently linked with official state conduct  
17 that would establish the presence of state sponsored torture, this allegation has no relevance to the  
18 Yahoo! litigation. The present proceedings are firmly based on clearly enunciated allegations that  
19 actions by state officials taken under the color of law, aided and abetted by actions by Yahoo!,  
20 produced the arbitrary arrests, long-term detentions, and acts of torture that provide the basis for  
21 the complaint. The *Khulumani* decision was noted in the Plaintiffs brief as providing support for  
22 the principle that a private corporation can be held accountable for major human rights abuses  
23 under the "aiding and abetting" principle, and the need for more detailed findings of fact  
24 regarding the aiding and abetting and justiciability issues in connection with the pending  
25 jurisdictional discovery motion. It was not cited, as the Defendants are suggesting, in reference to  
26 the question of the sufficiency of the allegations in the complaint under the TVPA, which is what  
27 the portion of the *Khulumani* decision they refer to addresses.

28 Both parties will have an opportunity to further address these issues, and the relevance of  
the *Khulumani* decision to this case, at the scheduled November 1, 2007 hearing before the Court.  
No further delays or supplemental pleadings are required for these issues to be properly  
considered.

1 Respectfully submitted this 22nd day of October, 2007, by

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MORTON SKLAR  
THERESA HARRIS  
WORLD ORGANIZATION FOR HUMAN  
RIGHTS USA  
*By: /s/ Morton Sklar*

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Morton Sklar

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*By: /s/ Roger Myers*

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*With the assistance of:*

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*Legal Intern*

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**CERTIFICATE OF SERVICE**

This is to certify under penalty of perjury that service of the foregoing Plaintiffs' Opposition to Defendants' Rule 7-11 Supplemental Submission has been made on the parties listed below through the Court's electronic filing system and by depositing a copy thereof in the United States Postal Service first class mail, postage prepaid, addressed to:

Daniel M. Petrocelli  
Matthew T. Kline  
Alan Rader  
O'Melveny & Meyers LLP  
1999 Avenue of the Stars  
Los Angeles, California 90067-6035

Signed and certified to this 22nd day of October, 2007.

By: /s/ Morton Sklar  
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