

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| RUZATULLAH, <i>et al.</i> , |) | |
| |) | |
| Petitioners, |) | |
| |) | |
| v. |) | Civil Action No. 06-CV-01707 (GK) |
| |) | |
| DONALD RUMSFELD, |) | |
| Secretary, United States Department of |) | |
| Defense, <i>et al.</i> , |) | |
| |) | |
| Respondents. |) | |
| _____ |) | |

**NOTICE OF FILING AMENDED PETITION AND MOTION
FOR ENTRY OF SCHEDULING ORDER**

Petitioners in the above-captioned matter filed today an Amended Petition pursuant to Federal Rule of Civil Procedure 15(a). In light of the filing of the Amended Petition, Petitioners respectfully request that the Court enter a new scheduling order setting forth the times for responding to the Amended Petition.

Petitioners filed their original Petition for Writ of Habeas Corpus on October 2, 2006. The Court then, *sua sponte*, ordered Respondents to show cause why the writ should not be granted. *See* Docket No. 2. In response to the order to show cause, Respondents filed a Motion to Dismiss the Petition. *See* Docket Nos. 5, 6. Petitioners do not concede that a Motion to Dismiss is a “responsive pleading” pursuant to Fed. R. Civ. Proc. 15(a). Regardless, Petitioners have complied with Fed. R. Civ. Proc. 15(a), which provides that even after a responsive pleading has been filed, “a party may amend the party’s pleading only by leave of court *or* by written consent of the adverse party” (emphasis supplied). Petitioners’ counsel obtained the written consent of Respondents’

counsel to amend the petition on December 21, 2006.

It is the understanding of Petitioners' counsel that the original Petition is now moot in light of today's filing of the Amended Petition. Accordingly, Petitioners request that the Court modify the briefing schedule for filing of responses to Respondent's Motion to Dismiss as set forth in the Court's minute order of November 28th, 2006. Petitioners concede that Respondents should be provided a reasonable opportunity to file a new Motion to Dismiss in light of the Amended Petition, or to rely on their previously-filed Motion to Dismiss. "A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be longer, unless the court otherwise orders." Fed. R. Civ. Proc. 15(a).

Therefore, Petitioners respectfully request that the Court enter an order setting forth the time for filing responses to the Amended Petition in conformity with Fed. R. Civ. Proc. 15(a).

Dated: December 22, 2006

Respectfully Submitted,

/s/
TINA M. FOSTER
Admitted pursuant to L. Civ. R. 83.2(g)

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