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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

IN RE:
**GUANTANAMO BAY
DETAINEE LITIGATION**

Misc. No. 08-0442 (TFH)
Civil Action No. 05-2371 (RCL)

STATUS REPORT FOR *AL DARBY V. BUSH*, CIVIL ACTION NO. 05-2371 (RCL)

Pursuant to this Court's July 11, 2008 Order, undersigned counsel hereby submit the following status report for the case captioned *Al Darby, et al. v. Bush, et al.*, Civil Action No. 05-2371 (RCL):

1. Petitioner Ahmad Mohammad Al Darbi ("Al Darbi") is a citizen of the Kingdom of Saudi Arabia. Petitioner Al Darbi was arrested not in or as part of the armed conflict in Afghanistan, but rather by local civilian authorities at the airport in Baku, Azerbaijan in June 2002. After his arrest, Petitioner Al Darbi was transferred to the custody of the United States military and held at Bagram Airbase, Afghanistan. In March 2003, Petitioner Al Darbi was transferred to the United States Naval Base in Guantánamo Bay, Cuba ("Guantánamo"), where he has remained ever since.

2. Petitioner Al Darbi is currently facing trial before a military commission. His military commission case is currently undergoing pre-trial briefing, with the next pre-trial hearing scheduled for July 30, 2008. As of this writing, no trial date has been set.

3. Undersigned counsel filed a petition for writ of *habeas corpus* on behalf of Petitioner Al Darbi on December 12, 2005. *See Al Darby*, dkt. no. 1. On June 20, 2006, undersigned counsel filed an amended petition for writ of *habeas corpus* that named Petitioner

Al Darbi's brother, Petitioner Ali Mohammad Al Darbi, as Petitioner Al Darbi's next friend. *See id.*, dkt. no. 8.

4. On July 3, 2006, Judge Lamberth entered the Amended Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantanamo Bay, Cuba, as previously entered in the *In re Guantanamo Detainee* cases (originally issued Nov. 8, 2004, 344 F. Supp. 2d 174 (D.D.C. 2004)). *See id.*, dkt. no. 12.

5. On September 12, 2006, Petitioners moved for an order requiring Respondents to provide a factual return. *See id.*, dkt. no. 25. On this same date, undersigned counsel Petitioners moved for an order requiring Respondents to provide thirty days' advance written notice of any intended transfer or removal of Petitioner Al Darbi from Guantánamo. *See id.*, dkt. no. 24.

6. On April 19, 2007, Respondents moved to dismiss the *habeas* petitions filed by Petitioners and other detainees at Guantánamo, on grounds that the petitions were moot following amendments made to 28 U.S.C. § 2241 by the Military Commissions Act of 2006, Pub. L. No. 109-366, § 7, 120 Stat. 2600 ("MCA") and the Detainee Treatment Act of 2005, Pub. L. No. 109-148, Tit. X, 119 Stat. 2680 ("DTA"), and following the decision of the U.S. Court of Appeals for the D.C. Circuit in *Boumediene v. Bush*, 476 F.3d 981 (D.C. Cir. 2007). *See Al Darby*, dkt. no. 38. On May 3, 2007, Petitioners filed an opposition to Respondents' motion to dismiss and a cross-motion to stay the proceedings while Petitioner Al Darbi exhausted his remedies under the DTA. *See id.*, dkt. no. 42.

7. On August 8, 2007, Judge Lamberth denied without prejudice Petitioners' motions for a factual return and for an order requiring thirty days' notice of transfer. *See id.*, dkt. no. 49. As of this writing, Respondents have never filed a factual return for Petitioner Al Darbi.

8. On March 31, 2008, this Court denied without prejudice Respondents' motion to dismiss, and accordingly denied Petitioners' motion to stay as moot. *See Al Darby*, dkt. no. 55.

9. Petitioner Al Darbi is subject to this Court's July 10, 2008 Order requiring Respondents to provide thirty days' advance notice of any intended transfer of a petitioner from Guantánamo.

10. Petitioner Al Darbi has not been cleared for transfer or release.

11. As of this writing, there are no pending motions before Judge Lamberth or before the Court of Appeals.

Dated: July 18, 2008

Respectfully submitted,

SIMPSON THACHER & BARTLETT LLP

/s/ Paul C. Curnin

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Civil Action No. 05-2371 (RCL)

CERTIFICATE OF SERVICE

I hereby certify that I today caused a true and accurate copy of the foregoing to be served electronically via the Court's Electronic Case Filing system.

Dated: July 18, 2008

/s/ Paul C. Curnin
Paul C. Curnin