

# **EXHIBIT 1**

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

**IN RE:**

**GUANTANAMO BAY DETAINEE  
LITIGATION**

**Misc. No. 08-442 (TFH)**

**Civil Action No. 05-CV-0520 (RMU)**

**DECLARATION OF MARTIN FLUMENBAUM**

I, Martin Flumenbaum, declare that the following statements are true to the best of my knowledge, information, and belief:

1. I am a member of the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP (“Paul, Weiss”), 1285 Avenue of the Americas, New York, NY 10019, counsel for Petitioner Abdul Rahman Shalabi. I offer this Declaration in response to the Court’s Order, dated July 29, 2008.

2. On March 13, 2005, Paul, Weiss filed a petition for a writ of habeas corpus for Mr. Shalabi on the authorization of his next friend, Shaker Aamer.

3. Since June 2005, counsel from Paul, Weiss have traveled regularly to the U.S. Naval Station at Guantánamo Bay, Cuba (“Guantánamo”), to meet with Mr. Shalabi and discuss the legal proceedings brought on his behalf.

4. After years of being held incommunicado at Guantánamo and being subjected to torture and abuse at the hands of the government, Mr. Shalabi, like many detainees, was initially reluctant to trust counsel, or any American purporting to act on his behalf. The military was able to exploit the mistrust shared by detainees at the

base by using a variety of techniques to specifically discourage them from seeking the assistance of counsel.

5. For example, upon information and belief, members of the U.S. Armed Forces, or persons working on their behalf, explicitly have told detainees not to trust their lawyers, and have told detainees that if they work with attorneys, they will be less likely to be released from Guantánamo.

6. On information and belief, military personnel have told prisoners that they should not work with particular lawyers because the lawyers were Jewish or homosexual.

7. On information and belief, military personnel have impersonated civilian attorneys during interrogations of detainees.

8. On information and belief, military personnel have misled detainees with the intent and/or effect of preventing attorney-client meetings. For example, there have been multiple instances in which guards have come to take a detainee out of his cell for a legal visit, but rather than explain that the detainee's attorneys are present for a legal visit, they have told the detainee that he is being taken to meet with interrogators, and the detainee has resisted the transfer. The guards then explained to the lawyers that the client has refused a legal meeting.

9. On one occasion, we sought to meet with a client, but were told the client refused to meet. We sent a letter to the client expressing our desire to meet him, but were told that the client declined to accept the letter. On our next visit, the client explained that he would never refuse a visit or legal mail, but that he was hospitalized due to his participation in the hunger strike and had been too weak to speak with the Staff

Judge Advocate who came to see him about the legal visit. The Staff Judge Advocate did not deliver the letter, but told the client that he was too weak to meet with attorneys.

10. The military has also discouraged detainees from meeting with attorneys by making the process of physical transfer to the attorney-client meeting difficult and uncomfortable for the detainees, moving them many hours before the meeting only to force them to wait until the attorneys arrive, and placing them in solitary confinement up to several days before or after the meeting.

11. Despite these overwhelming obstacles, counsel have been able to develop a relationship of trust and rapport with Mr. Shalabi, and Mr. Shalabi regards us as his counsel for purposes of the habeas proceedings. Mr. Shalabi willingly accepts legal mail and meets with counsel to discuss his legal case. As recently as my last meeting with Mr. Shalabi on May 1, 2008, Mr. Shalabi expressly affirmed his interest in having Paul, Weiss continue to represent him in habeas proceedings.

12. Although Mr. Shalabi has verbally authorized Paul, Weiss to represent him, his reluctance to sign any writing confirming this is understandable in light of the circumstances of his detention. And because he has expressly affirmed his interest in having Paul, Weiss continue to represent him in habeas proceedings, we do not believe it is appropriate or necessary to insist that he sign any particular document. *See Modiri v. 1342 Restaurant Group, Inc.*, 904 A.2d 391, 398 (D.C. 2006) (finding it well-established that “[n]either a written agreement nor the payment of fees is necessary to create an attorney-client relationship”) (interpreting D.C. R. Prof. Conduct 1.5(b)) (citation omitted); *Goldstein v. S.E.C.*, 451 F.3d 873, 878 (D.C. Cir. 2006) (“An attorney-client relationship . . . can be formed without any signs of formal ‘employment.’”) (citation

omitted); Restatement (Third) Of The Law Governing Lawyers § 14 (stating that a person need only manifest his intent that the lawyer him provide legal services and the lawyer manifest his or her consent for an attorney-client relationship to be formed).

13. Paul, Weiss is planning to return to the base to meet with Mr. Shalabi on October 23, 2008.

Executed: New York, New York  
September 29, 2008



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Martin Flumenbaum, Esq.