

**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 SARAH K. JACKEL

I, Sarah K. Jackel, declare pursuant to 28 U.S.C. § 1746:

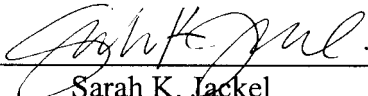
1. I am associated with the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP (“Paul, Weiss”), 1285 Avenue of the Americas, New York, NY 10019, counsel for Petitioner Abdul Rahman Shalabi. I offer this Declaration in support of Mr. Shalabi’s Opposition to Respondents’ Request for Exception from Sequencing dated September 30, 2008.

2. Attached hereto as Exhibit A is a true and correct copy of an email from Terry M. Henry, Assistant Branch Director, U.S. Department of Justice, to my colleague Julia Mason dated September 30, 2008, indicating that Respondents would not be filing Mr. Shalabi’s factual return on that day, as required by the July 11, 2008 Scheduling Order, but instead would be moving the court later that day for an exception from the court-ordered sequencing of factual returns.

3. Attached hereto as Exhibit B is a true and correct copy of an email from Scott M. Marconda, U.S. Department of Justice, to my colleague Julia Mason dated October 10, 2008, communicating Respondents’ intent to file a motion to dismiss “improper respondents” from Mr. Shalabi’s habeas petition.

4. I declare, under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 14th day of October 2008
Washington, D.C.



Sarah K. Jackel

EXHIBIT A



Julia Mason/PaulWeiss
09/30/2008 03:13 PM

To GRP-GTMO
cc
bcc
Subject Fw: Al Oshan v. Bush, No. 05-520 (DDC)

Julia Tarver Mason | Partner
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas | New York, NY 10019-6064
(212) 373-3029 (Direct Phone) | (212) 492-0029 (Direct Fax)
jmason@paulweiss.com | www.paulweiss.com

----- Forwarded by Julia Mason/PaulWeiss on 09/30/2008 03:12 PM -----



"Henry, Terry (CIV)"
<Terry.Henry@usdoj.gov>
09/30/2008 03:12 PM

To Julia Mason/PaulWeiss@PaulWeiss
cc
Subject RE: Al Oshan v. Bush, No. 05-520 (DDC)

Julia,

I've gotten some additional information, and what I can tell you is that the reason for delay on being able to complete the return is due to issue related to the clearance of proposed evidence for use in the factual returns, as more fully described in Respondents' Motion for Partial and Temporary Relief from the Court's July 11, 2008 Scheduling Order (Misc. No. 08-0442) (dkt. no. 317). Let me know if you consent to or oppose our requested relief.

Thanks.

Terry

*Terry M. Henry
Assistant Branch Director
Civil Division, Federal Programs Branch
U.S. Department of Justice
Tel. 202.514.4107*

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From: Julia Mason [<mailto:jmason@paulweiss.com>]

Sent: Tuesday, September 30, 2008 1:28 PM
To: Henry, Terry (CIV)
Subject: RE: Al Oshan v. Bush, No. 05-520 (DDC)

I'm not sure I understand. You can reach me by telephone, if that format would allow you to provide me with an explanation for your request. Or, I am in Washington DC today, if you would like to arrange some sort of other form of communication that would allow you to provide that detail.

Please let me know. Thanks

Julia Tarver Mason | Partner
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"Henry, Terry (CIV)" <Terry.Henry@usdoj.gov>

09/30/2008 01:24 PM

To: Julia Mason/PaulWeiss@PaulWeiss
cc
Subject RE: Al Oshan v. Bush, No. 05-520 (DDC)

I'm not at liberty to discuss it in this format at this time, but I will let you know if that changes.

*Terry M. Henry
Assistant Branch Director
Civil Division, Federal Programs Branch
U.S. Department of Justice
Tel. 202.514.4107*

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From: Julia Mason [<mailto:jmason@paulweiss.com>]
Sent: Tuesday, September 30, 2008 1:17 PM
To: Henry, Terry (CIV)
Subject: Re: Al Oshan v. Bush, No. 05-520 (DDC)

What is the nature of the difficulties you are having completing his return?

Julia Tarver Mason | Partner
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"Henry, Terry (CIV)" <Terry.Henry@usdoj.gov>

09/30/2008 01:09 PM

To Julia Mason/PaulWeiss@PaulWeiss
cc
Subject AI Oshan v. Bush, No. 05-520 (DDC)

Dear Julia:

We will be moving today to deviate from the sequence of filing factual returns contemplated by Judge Hogan's order with respect to petitioner ISN 042 due to difficulties we have had completing the petitioner's return. In other words, this petitioner's return would be delayed and not filed this month. I assume that you will oppose the motion, but please let me know if that is not the case.

Thanks.

Terry M. Henry
Assistant Branch Director
Civil Division, Federal Programs Branch
U.S. Department of Justice
Tel. 202.514.4107

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This message is intended only for the use of the Addressee and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that any dissemination of this

communication is strictly prohibited. If you have received this communication in error, please erase all copies of the message and its attachments and notify us immediately.

This message is intended only for the use of the Addressee and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please erase all copies of the message and its attachments and notify us immediately.

EXHIBIT B



Julia Mason/PaulWeiss
10/10/2008 02:54 PM

To GRP-GTMO
cc
bcc
Subject Fw: Meet & Confer wrt 08-0442 Motion to Dismiss Improper Respondents

Julia Tarver Mason
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas | New York, NY 10019-6064
(212) 373-3029 (Phone) | (212) 492-0029 (Fax)
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From: "Marconda, Scott (CIV)" [Scott.Marconda@usdoj.gov]

Sent: 10/10/2008 02:42 PM AST

To: david.cynamon@pillsburylaw.com; snyderr@dodgc.osd.mil; echemeri@law.usc.edu; dkillmer@killmerlane.com; apemberton@cov.com; preichler@foleyhoag.com; cori@reprieve.org.uk; ggutierrez@ccr-ny.org; dschneider@fredlaw.com; jamesbeane@mac.com; stephmac@earthlink.net; rweaver@gsblaw.com; carol.bruce@bgllp.com; rick.murphy@sutherland.com; bmickum@spriggs.com; jdenbeaux@denbeauxlaw.com; rrachlin@drm.com; afryszman@cmht.com; Julia Mason; rufus@margol-pennington.com; joneil@lavin-law.com; ketanji_jackson@fd.org; nh@fbdlaw.com; Paul_Rashkind@fd.org; steve_sady@fd.org; scott_tilsen@fd.org; billy_nolas@fd.org; jeff_ertel@fd.org; shereen_charlick@fd.org; msmith@gfrlaw.com; csilverman@shb.com; gdaly1@bellsouth.net; bob@neklaw.net; lara_quint@fd.org; bj.olshansky@gmail.com; acastle@hollandhart.com; zachary@reprieve.org.uk; kboris@rhwlawfirm.com; ddebruin@jenner.com; anant.raut@weil.com; cooperm@sullcrom.com; dvoorhees@hollandhart.com; neil.mcgaraghan@bingham.com; jcargabr@debevoise.com; egreenberg@gsblaw.com; remesdh@gmail.com; peter.ryan@dechert.com; susan.manning@bingham.com; jholland1@mac.com; kpierson@hewm.com; jchomsky@igc.org; rickcys@dwt.com; egilson@snet.net; jmissing@debevoise.com; wpowell@hunton.com; wal@lesnevichlaw.com; cposa@manatt.com; michaelmone@ebelow.com; snodgrassj@dsmo.com; mcknightr@dsmo.com; mrayner@law.fordham.edu; brian.decker@dechert.com; pcurnin@stblaw.com; hcgorman@igc.org; aghappour@gmail.com; jgoldstein@rwu.edu; jcolman@jenner.com; kadidal@ccr-ny.org; sclay@kilpatrickstockton.com; mary_petras@fd.org; gclarke@milchev.com; roberts@reedsmith.com; jacqueline.landells@cliffordchance.com; bgoodman@ccr-ny.org; pkebriaei@ccr-ny.org; linda@sleighandwilliams.com; tsullivan@jenner.com; brent.rushforth@hellerehrman.com; bjacob@schiffhardin.com; khuskey@law.utexas.edu; scott@fenstermakerlaw.com; lcgoodman@rcn.com; mfgogler@brsfirm.com; emaclean@ccrjustice.org; wdixon@ccr-ny.org; jcohen@burnslev.com; paul_turner@fd.org; jgmorgan@epmlaw.com; rmelliot@epmlaw.com; sfisher@gmf-law.com; brian_mendelsohn@fd.org; Bill_Marsh@Fd.org; andy_hart@fd.org; timothy_ivey@fd.org; darin_thompson@fd.org; edward_bryan@fd.org; Carlton_Gunn@fd.org; craig_harbaugh@fd.org; jacqueline_johnson@fd.org; etirschwell@kramerlevin.com; clivess@mac.com; jblackman@cgsh.com; jimfalvey@yahoo.com; juliet.sarkessian@dechert.com; gjones@orrick.com; rkathawala@orrick.com; clui@orrick.com; drutowski@orrick.com; mtrinh@orrick.com; jberman@bermandowell.com; angela.c.vigil@bakernet.com; mohara@reedsmith.com; jbogan@kilpatrickstockton.com; john.chandler@sablaw.com; terry.walsh@alston.com; michael.ward@alston.com; dmarshall@davidsmarshall.com; carpentc@pepperlaw.com; pbellis@comcast.net; kghia@foleyhoag.com; aloewenstein@foleyhoag.com; jon.fee@alston.com; rweiner@mwe.com; ssaifee@kramerlevin.com; agarrett@kilpatrickstockton.com; vjolly@kilpatrickstockton.com; lsachnoff@sachnoff.com; jnickovich@perkinscoie.com; wth@hangle.com; rstarr@hangle.com; gwoodward@schnader.com; cdbrown@shb.com; elubell@tllawgroup.com; noah@rashkind.com; rwilson@wcl.american.edu; sabin.willett@bingham.com; mburton@hollandhart.com; sbarker@hollandhart.com; sylvia_royce@hotmail.com;

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llustberg@gibbonslaw.com; matthew.maclean@pillsburylaw.com; osman.handoo@pillsburylaw.com;
gregsmithlaw@verizon.net; julia.symon@cliffordchance.com

Cc: "Subar, Judry (CIV)" <Judry.Subar@usdoj.gov>; "Henry, Terry (CIV)" <Terry.Henry@usdoj.gov>; "Warden,
Andrew (CIV)" <Andrew.Warden@usdoj.gov>; "Mason, Kathryn (CIV)" <Kathryn.Mason@usdoj.gov>

Subject: Meet & Confer wrt 08-0442 Motion to Dismiss Improper Respondents

Counsel:

Respondents intend to file a motion to dismiss improper respondents in each of your cases. An improper respondent is anyone other than the Secretary of Defense in his official capacity. The basis of the motion is similar to those previously filed before Judges Leon and Sullivan (see e.g., 04-cv-1166-RJL Dkt#128). Please advise if you oppose the motion by noon October 14, 2008, ET. Thanks.

r/

Scott M. Marconda
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave, NW, Rm 5130
Washington, DC 20530
Tel: 202-305-8900