

**EXHIBIT 1**

**MacLean, Matthew J.**

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**From:** MacLean, Matthew J.**Sent:** Friday, October 10, 2008 8:09 PM

**To:** 'Marconda, Scott (CIV)'; Cynamon, David J.; 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; rachlin@drm.com; afryszman@cmht.com; jmason@paulweiss.com; 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; remedies@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; joolman@jenner.com; kadidal@ccr-ny.org; sclay@kilpatrickstockton.com; mary\_petras@fd.org; gclarke@milchev.com; rroberts@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; mfogler@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; weiner@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; brian.spahn@sablaw.com; gthunt@mdo.net; mberman@hartmannoherty.com; jhafetz@aclu.org; llustberg@gibbonslaw.com; Handoo, Osman A.; gregsmithlaw@verizon.net; julia.symon@cliffordchance.com

**Cc:** Subar, Judry (CIV); Henry, Terry (CIV); Warden, Andrew (CIV); Mason, Kathryn (CIV)**Subject:** RE: Meet & Confer wrt 08-0442 Motion to Dismiss Improper Respondents

Scott,

Thanks for your message. Speaking only for the petitioners in *Al Odah v. United States*, 02-cv-0828, we are willing to consent to your motion if the government will acknowledge that the Secretary of Defense is the proper respondent, that he is subject to the jurisdiction of the Court, and that he has the power and authority to grant the relief requested in our complaint.

10/27/2008

**Matthew J. MacLean | Pillsbury Winthrop Shaw Pittman LLP**

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**From:** Marconda, Scott (CIV) [mailto:Scott.Marconda@usdoj.gov]

**Sent:** Friday, October 10, 2008 2:42 PM

**To:** Cynamon, David J.; 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; jmason@paulweiss.com; 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@gfriaw.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; remedies@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@ebelaw.com; snodgrassj@dsmo.com; mcknightr@dsmo.com; mrayner@law.fordham.edu; brian.decker@dechert.com; pcurrin@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; rroberts@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; ssaiffee@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@tlawgroup.com; noah@rashkind.com; rwilson@wcl.american.edu; sabin.willett@bingham.com; mburton@hollandhart.com; sbarker@hollandhart.com; sylvia\_royce@hotmail.com; brian.spahn@sablaw.com; gthunt@mdo.net; mberman@hartmandoherty.com; jhafetz@aclu.org; llustberg@gibbonslaw.com; MacLean, Matthew J.; Handoo, Osman A.; gregsmithlaw@verizon.net; julia.symon@cliffordchance.com

**Cc:** Subar, Judry (CIV); Henry, Terry (CIV); Warden, Andrew (CIV); Mason, Kathryn (CIV)

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

10/27/2008

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  
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10/27/2008