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14	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA			
15	NORTHERN DISTRICT OF CALIFORNIA			
16	RAHINAH IBRAHIM,	No. 3:06-cv-0545 (WHA)		
17		EXHIBIT C:		
18	Plaintiff,	DEFENDANTS' RESPONSE TO THE COURT'S ORDER (DKT. 661) REGARDING PLAINTIFF'S RESPONSE		
19	v.	REGARDING PLAINTIFF'S DAUGHTER		
20	DEPARTMENT OF HOMELAND SECURITY, et al.,	[REDACTED]		
21	Second 1, or un.,			
22	Defendants.			
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	DEFENDANTS' RESPONSE TO THE COURT'S ORDER (DKT. 661) PLAINTIFF'S DAUGHTER	REGARDING PLAINTIFF'S RESPONSE REGARDING		

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The Court should deny Plaintiff's request to re-open the trial record. The testimony presented after the close of evidence regarding REDACTED travel was offered to respond to the Court's inquiry regarding whether any official of the United States government attempted to prevent REDACTED attendance at trial. Tr. at 167: 5-7 ("The Court: . . . I want to know whether or not the government did something to obstruct a witness"); 178: 8-13 ("I'm suggesting to the government you get a witness out here"). The Court specifically stated that this post-trial evidentiary session was not intended to be considered part of the trial record. Id. at 167:2-7 ("we may have an evidentiary hearing that's not part of this trial") (emphasis added); see also id. at 811:8-11 (noting that the Court was allowing hearsay testimony because "I did ask for a witness to come in and explain what happened"); id at 814:10-815:3 (same). This was an appropriate instruction because "the time for testing of proof is the time of trial." Locklin v. Switzer Bros., 299 F.2d 160, 169 (9th Cir. 1961). "Post-trial experimenting with the evidence produced at trial is no substitute for the proper and orderly presentation of proof' at trial, id, and that principle applies here.

To the extent, however, that the Court determines that the testimony and the declarations should be treated as substantive evidence at trial, it should only be admitted as evidence to determine whether the Government intentionally interfered with the trail proceedings in this case. *See* Tr. at 167: 5-7. It should not be admitted, as Plaintiff requests, to support an allegation that Plaintiff's daughter has suffered the "very adverse effects" alleged by Plaintiff and which were the subject of last week's trial. Dkt. 658 at 2:22-23. Defendants would be prejudiced by this result in that they have not had the opportunity, through the civil discovery procedures or otherwise, to properly counter REDACTED allegations in this regard. Plaintiff should not now be permitted to inject the assertions about of REDACTED, a third-party to the lawsuit, into a record in an attempt to demonstrate *Plaintiff's* ability to travel and fly, about which Plaintiff offered extensive evidence at trial. The Court should accordingly deny Plaintiff's request to add facts for the purpose that she proposes in her brief.

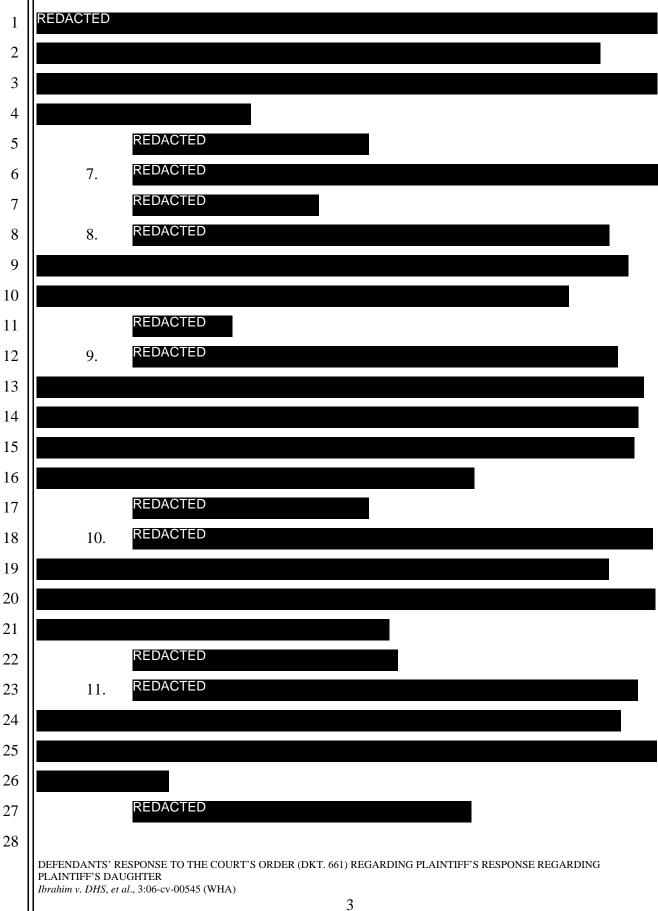
Without prejudice to this position, Defendants offer the below proposed findings of fact and conclusions of law.

DEFENDANTS' RESPONSE TO THE COURT'S ORDER (DKT. 661) REGARDING PLAINTIFF'S RESPONSE REGARDING PLAINTIFF'S DAUGHTER

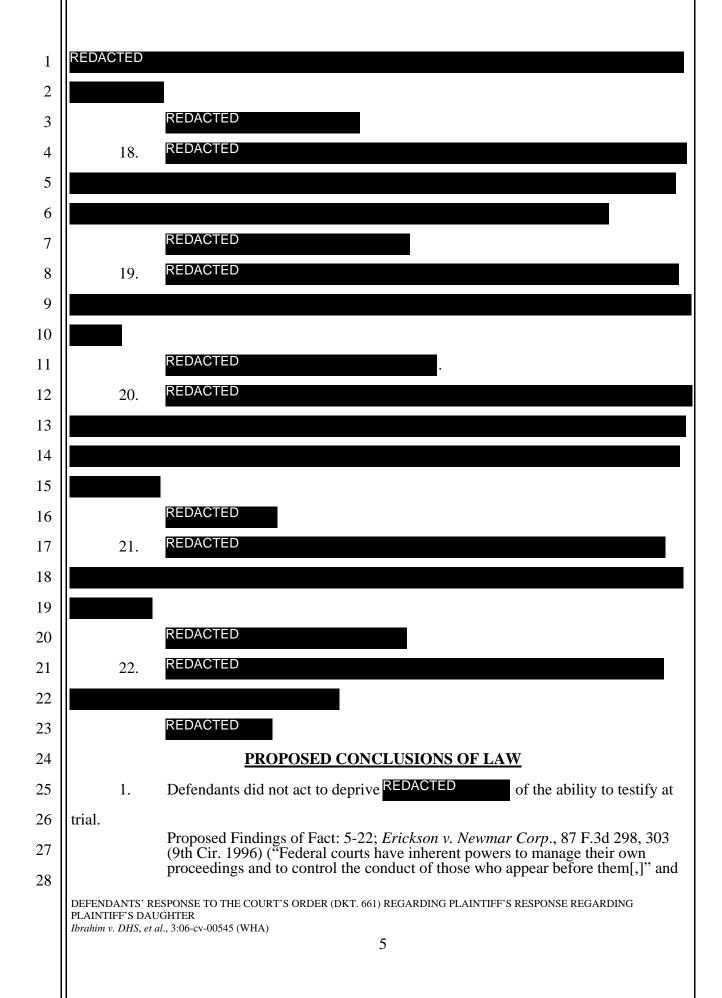
1 PROPOSED FINDINGS OF FACT 2 The National Targeting Center 3 1. U.S. Customs and Border Protection (CBP) established the National Targeting 4 Center (NTC) as a twenty four hour, seven days a week, operation to provide advance targeting, 5 research, and coordination among numerous law enforcement and intelligence agencies. NTC 6 provides this support in both passenger and cargo environments. 7 Declaration of Maureen Dugan ("Dugan Dec."), ¶ 2, attached as Exhibit A 2. 8 After the attempted in-flight bombing of NW flight #253 on December 25, 2009, 9 the National Targeting Center – Passenger (NTC-P) began vetting all flights prior to their departure from a foreign location to the United States REDACTED 10 11 12 13 14 Dugan Dec. ¶ 2; Dugan at 801:16-18; 23-25 3. 15 The Regional Carrier Liaison Group serves as a liaison between CBP and the 16 carriers. 17 Dugan at 806:11-15; Dugan Dec. ¶ 9 18 4. In certain instances an air carrier may be subject to penalties, including fines, for 19 transporting an alien to the United States if that individual is not admissible. 20 Dugan Dec. ¶ 9 21 Events of December 1, 2013 On December 1, 2013, REDACTED 22 5. , Plaintiff's daughter, was 23 booked to travel on December 2, 2013 from Kuala Lampur, Malaysia to Manila, Philippines (on 24 Malaysia Airlines) and from Manila to San Francisco International Airport (on Philippine 25 Airlines). REDACTED 26 REDACTED 27 6. 28 DEFENDANTS' RESPONSE TO THE COURT'S ORDER (DKT. 661) REGARDING PLAINTIFF'S RESPONSE REGARDING

DEFENDANTS' RESPONSE TO THE COURT'S ORDER (DKT. 661) REGARDING PLAINTIFF'S RESPONSE REGARDING PLAINTIFF'S DAUGHTER

\*\*Ibrahim v. DHS, et al., 3:06-cv-00545 (WHA)\*\*



	10	REDACTED
	12.	TESTICIES .
		REDACTED
	13.	REDACTED
		REDACTED
	14.	The trial in this matter played no role REDACTED .
Defen		counsel was not involved in the decision REDACTED, and there is no
		at the people involved REDACTED knew that REDACTED was
comin	g to the	
		Dugan at 809:3-4; 834:15-21
	15.	REDACTED
		REDACTED
Event	s of De	cember 2, 2013
	16.	REDACTED
		REDACTED
	17.	REDACTED



1		have the "inherent power to punish bad faith conduct which abuses the judicial process," including witness tampering)	
2	2.	Defendants' Counsel did not act to deprive REDACTED of the ability to	
3	testify at trial.		
4		Proposed Findings of Fact: 5-22; <i>Erickson v. Newmar Corp.</i> , 87 F.3d 298, 303 (9th Cir. 1996)	
5	3.	REDACTED	
6			
7		Proposed Findings of Fact: 9-21; 8 U.S.C. § 1103; 8 U.S.C. § 1323	
8	4.	REDACTED	
9			
10			
11			
12			
13		REDACTED	
14	5.	assertions regarding her travel difficulties are not relevant	
15	to this litigation	on because she is not a party to this litigation, this case is not a class action, and the	
16	evidence does	not relate to a claim or defense.	
17		Compl., Dkt. 161; Federal Rules of Evidence 401	
18	6.	assertions regarding her travel difficulties are not relevant	
19	to this litigation because the evidence does not involve facts that are of consequence in		
20	determining the action, and any probative value is substantially outweighed by the prejudice and		
21	confusion on the issues.		
22		Federal Rules of Evidence 401, 403	
23	7.	Defendants are not responsible for any actions REDACTED	
24		Proposed Findings of Fact: 11-13; Lujan v. Defenders of Wildlife, 504 U.S. 555,	
25		561–62 (1992) (noting that a plaintiff lacks standing to challenge the government for actions taken by third parties that the government did not cause); <i>Allen v</i> .	
26		Wright, 468 U.S. 737, 759–61 (1984) ("The links in the chain of causation between the challenged Government conduct and the asserted injury are far too	
27		weak for the chain as a whole to sustain respondents' standing")	
28			
	DEFENDANTS' RE	SPONSE TO THE COURT'S ORDER (DKT. 661) REGARDING PLAINTIFF'S RESPONSE REGARDING	

PLAINTIFF'S DAUGHTER

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Respectfully submitted, DATED: December 13, 2013 STUART F. DELERY **Assistant Attorney General** MELINDA L. HAAG **United States Attorney** DIANE KELLEHER **Assistant Branch Director** /s/ Paul G. Freeborne PAUL G. FREEBORNE Senior Trial Counsel KAREN S. BLOOM LILY S. FAREL JOHN K. THEIS Trial Attorneys
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DEFENDANTS' RESPONSE TO THE COURT'S ORDER (DKT. 661) REGARDING PLAINTIFF'S RESPONSE REGARDING PLAINTIFF'S DAUGHTER

Ibrahim v. DHS, et al., 3:06-cv-00545 (WHA)