1	PETER D. KEISLER Assistant Attorney General
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4	JOHN R. TYLER United States Department of Justice
5	Civil Division 20 Massachusetts Ave., N.W., Rm. 7344 Washington, DC 20004
7	Tel: (202) 514-4781 Fax: (202) 616-8470
8	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA
9 10	RAHINAH IBRAHIM,) No. CV 06-00545 WHA
11	Plaintiff,) v. DECLARATION OF JOHN R. TYLER,
12 13) COUNSEL FOR FEDERAL DEFENDANTS DEPARTMENT OF HOMELAND) SECURITY, et al.,)
14	Defendants.
15	I, John R. Tyler, Senior Trial Counsel, United States Department of Justice, do hereby
16 17	declare as follows:
18	1. I am an attorney of record on behalf of the federal defendants in the above-
19	captioned lawsuit, which include, <i>inter alia</i> , the Transportation Security Administration. In
20	accordance with Local Civil Rule 7-11(a), I contacted counsel of record for the other parties to
21	this litigation regarding the federal defendants' motion to file under seal the Security Directives that implement the security watch lists – known collectively as the "No Fly list" – which are the
22	subject of plaintiff's claims against the federal government. I asked counsel whether they were
23	willing to stipulate to the filing of these Security Directives under seal, explaining that the federal
24	defendants seek to submit these Security Directives in support of their motion to dismiss
25	plaintiff's claims for lack of subject matter jurisdiction, which is to be filed with the Court on

Declaration of John R. Tyler No. CV 06-0545 WHA

May 22, 2006, for hearing on Thursday, June 29, 2006.

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- 2. In response to this request, counsel on behalf of the other defendants stated that they would stipulate to the filing under seal of the Security Directives. Counsel on behalf of plaintiff stated that she was willing to so stipulate under the condition that she receive a copy of the Security Directives subject to a protective order. However, it is the position of the federal defendants that this is not possible for the reasons set forth in Chowdhury v. Northwest Airlines Corp., 226 F.R.D. 608 (N.D. Cal. 2004) (holding that the applicable statute, 42 U.S.C. § 114(s), "does not provide the Under Secretary with any discretion to disclose the information if he believes disclosure would be detrimental to the security of transportation").
- 3. For the foregoing reason, counsel on behalf of the federal defendants could not obtain a stipulation and agreement by all parties to the filing under seal of the Security Directives that implement the No Fly list.

I hereby attest under the penalty of perjury that the foregoing is true and correct.

/s/

JOHN R. TYLER Senior Trial Counsel United States Department of Justice

This 22d day of May 2006.

Declaration of John R. Tyler No. CV 06-0545 WHA