

**REPLY IN SUPPORT OF MOTION TO DISMISS
FOR LACK OF JURISDICTION AND
TO STAY BRIEFING SCHEDULE**

INTRODUCTION

Respondents respectfully submit the following Reply in Support of their Motion to Dismiss for Lack of Jurisdiction and to Stay the Briefing Schedule. For the reasons stated below, this Court should grant the motion because petitioner lacks Article III standing, her action is untimely, and she filed in the wrong court.

I. PETITIONER FILED IN THE WRONG FORUM

In the government's motion (at pp. 4-5), we pointed out that this Court is not the proper forum for the instant petition for review. The sole asserted jurisdictional basis is 49 U.S.C. § 46110. Under that statute, a person may "fil[e] a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States District Court for the circuit in which the person resides or has its principal place of business."

Petitioner does not reside in this Circuit; she resides in Malaysia. Op. at 1. Therefore, she cannot file her petition in this Circuit, but could only file in the United States Court of Appeals for the D.C. Circuit.

Petitioner does not attempt to refute that argument. Op. at 13-14. Her only response is that this Court may transfer the petition to the D.C. Circuit. Ibid. At a minimum, therefore, both parties agree that this Court is not the proper forum to adjudicate this dispute.

Transferring the petition to the D.C. Circuit would be improper. As we argued in the motion to dismiss (at pp. 4-5), transfer is improper where the petition clearly could not have been properly filed in any other forum, because, for example, it is plainly untimely. See, e.g., Danko v. Director, Office of Workers' Comp. Programs, 846 F.2d 366, 368-69 (6th Cir. 1988) (where petition for review filed in wrong forum, court declined to transfer because petition was untimely). For the reasons set forth below, the petition clearly could not be brought in any court of appeals (because it is untimely and petitioner lacks Article III standing); accordingly, this Court should not transfer it to the D.C. Circuit.

II. PETITIONER'S CLAIMS ARE UNTIMELY

To be timely, a petition under 49 U.S.C. § 46110 “must be filed not later than 60 days after the order is issued.” Neither the terse, one-page petition nor petitioner’s opposition to the government’s motion is clear as to what “order” is challenged or as to the precise nature of petitioner’s claims. But, however construed, it is clear that the petition is untimely, and thus must be dismissed.

1. Petitioner may intend to challenge the mere existence of the no-fly and selectee lists and/or the government’s authority to maintain them. That is suggested by the language of the petition itself, which states that it seeks “review of the Security Directives issued by Respondent, the Transportation Security Administration,

establishing the ‘no-fly list’ and the ‘selectee list’, collectively referred to as the ‘No-Fly List’, on or about November, 2001.” Attachment 1 at 2 (emphasis added). If that is the claim, however, the petition was manifestly out of time.

Petitioner clearly had notice of the existence and maintenance of such lists when they were allegedly applied to her on January 2, 2005, as she attempted to fly from San Francisco to Malaysia. Op. at 2. But she did not file her petition until well more than 60 days later, in January 2006. Accordingly, if her petition intends to challenge the existence and/or maintenance of no-fly or selectee lists, it is clearly out of time because she filed her petition more than 60 days after she had notice of the orders being challenged and notice that they had allegedly been applied to her.

2. Petitioner may instead be challenging the manner in which those lists are administered and implemented. The petition (see Attachment 1) expressly references the claims raised in Green v. TSA, 351 F. Supp.2d 1119 (W.D. Wash. 2005), as does Petitioner’s Civil Appeals Docketing Statement (Attachment 3 at 1), which describes the petition as an “[a]ction challenging administration, management and implementation of the No-Fly List, per Green v. TSA (2005) 351 F.Supp.2d 1119.”

The plaintiffs in Green did not “challenge the government’s right to create or maintain either a No-Fly List or a Selectee List,” 351 F. Supp.2d 1122 n.1, but instead challenged the “administration and maintenance of the No-Fly List,” id. at 1126.

Specifically, the Green plaintiffs contended that the lists violated due process by causing stigmatization, delays, searches, detentions, and other travel impediments; and violated the Fourth Amendment by subjecting persons to unreasonable searches and seizures. Id. at 1126. (These arguments were rejected by the district court in Green, and the plaintiffs never appealed.)

If petitioner is raising the same Due Process claims raised in Green based on alleged stigmatization, delays, travel impediments, etc., see Op. at 9 (“Tbrahim’s claim is based, in part, on a violation of her right to Due Process.”), those claims are also untimely. Petitioner certainly became aware of those impediments and their alleged application to her on January 2, 2005, when she tried to fly from San Francisco to Malaysia. Op. at 2. But she did not file a petition until well after 60 days had passed.

3. Petitioner instead may be seeking review of her “placement on the [No-Fly or Selectee] Lists.” Op. at 2. Specifically, petitioner states that she “filed an application for passenger verification identification to clarify her status” as to the No-Fly and Selectee Lists. Op. at 8. The passenger verification identification process is a TSA procedure available to people who believe they are erroneously being taken for someone on the no-fly or selectee lists.

The trouble with petitioner’s argument, however, is that the petition nowhere sets forth any such claim. Rather, it seeks review of the security directive

“establishing” the No-Fly and Selectee Lists; it nowhere mentions any passenger verification identification application or any response from TSA. See Attachment 1 at 2. Petitioner cannot save the timeliness of her petition by relying on a claim she never brought in the petition.

Even if she had brought such a claim, it too would have been untimely – not because it was too late, but because it was too early. 49 U.S.C. § 46110 states that a petition “must be filed not later than 60 days after the order is issued.” (Emphasis added). Here, TSA responded to petitioner’s passenger verification identification application on March 1, 2006, see Attachment 4, but the instant petition was filed more than a month earlier, on January 27, 2006.¹

4. Petitioner argues that she cannot file her petition absent some kind of formal notice or letter from TSA. Op. at 7 (“She has received no letter from the TSA or from any other government official.”). But no such written notice is required. For example, this Court held in Gilmore v. Gonzales, 435 F.3d 1125 (9th Cir. 2006), that the security directives at issue were “orders” within the meaning of § 46110, even though the plaintiff in that case had received no formal written letter or order from

¹ To the extent petitioner’s challenge to the procedures used to review her passenger verification identification application, those procedures are not “orders” subject to review under 49 U.S.C. § 46110. See Green, 351 F. Supp. 2d at 1125. Accordingly, such a claim would be improper in this Court because it should have been timely raised in the first instance in a proper district court.

TSA. Rather, what matters in this case is not whether a petitioner receives a formal written letter or order, but whether petitioner has notice of the TSA order being challenged because she is aware that it exists and it has allegedly been applied to her. That is precisely what has occurred here.

5. Petitioner argues (Op. at 8) that she could not file her petition until this Court held in Gilmore that security directives are “orders” reviewable in a court of appeals under § 46110. But petitioner does not and cannot point to any authority that excuses her from meeting a statutorily-set filing deadline so that she can await a jurisdictional ruling by this Court in another case. Even if petitioner required case law to know whether § 46110 applied to her claims, she could have found it in the Green case (discussed supra at 3-4), which held that security directives are “orders” within the meaning of § 46110, see 351 F. Supp.2d at 1124-25, and which was decided five days after petitioner’s attempted flight from San Francisco to Malaysia.

III. PETITIONER LACKS ARTICLE III STANDING

As the government argued in its Motion (at pp. 5-7), to the extent that petitioner’s claimed injury is that the “no fly” or “selectee” lists prohibit or interfere with her ability to return to the United States by air travel, neither list causes her injury, nor would the injury be redressed by any decision of this Court. Regardless of any effect of either list, petitioner cannot return to this country for an entirely

independent reason – she does not have a valid visa to do so. She therefore lacks Article III standing to bring this action.

Petitioner concedes that she has no valid visa to enter the United States. Op. at 5, 12. She argues, however, that she might be able to obtain a visa in the future, and that such a possibility has not yet been precluded. Op. at 12. But the party asserting standing must have an “actual or imminent” injury. Lujan v. Defenders of Wildlife, 504 U.S. 555, 560 (1992). “[S]ome day” intentions – without any description of concrete plans, or indeed even any specification of when the some day will be – do not support a finding of the ‘actual or imminent’ injury.” Id. at 564. Petitioner here relies on no more than the kind of “‘some day’ intentions” that are insufficient for standing. Although she admits she has known for a year that her visa has been revoked, Op. at 5, 12; Ibrahim Decl. at 3 ¶ 6, she still has not articulated any “concrete plan” to apply for a valid visa to this country, even though she contends that her work “requires that [she] travel to the United States . . . at least once a year,” Ibrahim Decl. at 2 ¶ 3. Further, petitioner has provided no information tending to show that she would get a visa even if she applies. And, further still, petitioner’s work in the U.S. is itself speculative; she contends only that she is “working on establishing a relationship” in the U.S., and no more. Ibid.

Petitioner also argues that the basis for her visa revocation – 8 U.S.C.

§ 1182(a)(3)(B) – “is likely . . . a direct result of respondents’ apparent placement of her name on the No-Fly list.” Op. at 12. But nothing on the face of the statute suggests any such connection. Furthermore, as the attached State Department declaration attests, there is no such connection. See Attachment 5.

Finally, petitioner argues that her injury is not just her inability to return to the United States, but the alleged harms of “being subjected to physical arrest as a result of her placement on the no-fly list,” Op. at 6, as well as “unnecessary and undeserved arrest, incarceration, stigma, embarrassment, harassment, and delay,” Op. at 11. These harms do not support petitioner’s standing.

To the extent petitioner’s standing is predicated on such harms allegedly suffered in March 2005, when she tried to fly from Malaysia to the U.S., Op. at 6, 11, the argument is entirely unsupported by her own declaration. That declaration states only that she was told she “had to wait for . . . clearance,” and that “there was a note by my name, instructing airport personnel to call the police and have me arrested.” Ibrahim Decl. at 2 ¶ 4. No connection between this alleged harassment and TSA’s no-fly or selectee lists is ever alleged. Petitioner therefore lacks standing because there is no connection between her alleged injuries occurring in Malaysia and the TSA order being challenged. See Simon v. Eastern Kentucky Welfare Rights Org., 426 U.S. 26, 41-42 (1976) (Article III standing requires an injury “that fairly can be

traced to the challenged action of the defendant, and not injury that results from the independent action of some third party not before the court.”).

Nor can petitioner predicate standing on harassment allegedly suffered in January 2005, when she tried to fly from San Francisco to Malaysia. In this action, petitioner can seek only injunctive relief against the no-fly and selectee lists. See 49 U.S.C. § 46110 (authorizing courts only to “affirm, amend, modify, or set aside any part of the [challenged] order”). To have standing to seek injunctive relief, however, a plaintiff must show a credible threat of some future injury. See, e.g., City of Houston v. Hill, 482 U.S. 451, 459 n.7 (1987) (plaintiff seeking prospective relief must show a “threat of future enforcement”). But to show any credible threat that petitioner would be subject in the future to harassment, embarrassment, detection, etc. in this country, she would obviously need to be in the U.S. As explained above, however, she cannot return to the U.S. because she has no currently valid visa, nor any concrete plan to apply for one.

IV. THE MOTION TO DISMISS IS PROPER

Astonishingly, petitioner contends (Op. at 15-16) that the government’s motion to dismiss is improperly based on the inadmissible evidence of allegations in her own unverified complaint. See Attachment 2. Such allegations may not support a motion for summary judgment, but this is a motion to dismiss. Courts can and routinely do

decide motions to dismiss by simply assuming the truth of allegations made in a complaint. See, e.g., Elvig v. Calvin Presbyterian Church, 397 F.3d 790, 791 (9th Cir. 2005) (“[T]he appeals came to us on motions to dismiss . . . We therefore assumed the truth of the allegations in the complaints.”). In any event, all the relevant facts are set forth in petitioner’s declaration.

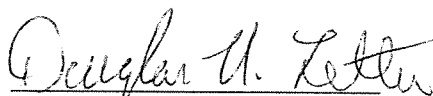
Petitioner also argues that the government’s motion should be denied for failure to include a copy of the agency’s decision in question. Op. at 16 n.1. It is not even clear what the nature of the petitioner’s claim is (supra at 2-4), so it is difficult to know what government decision, if any, to attach. To the extent that security directives are involved, those are “sensitive security information” that cannot be publicly disclosed, see Gilmore, 435 F.3d at 1131 n.3, but if necessary, the government stands ready to file them under seal for in camera, ex parte review, as it did in Gilmore, 435 F.3d at 1131.

The government’s motion also sought an immediate stay of the briefing schedule. Petitioner does not oppose or respond to that request, which is mandatory. See Ninth Circuit Rule 27-11(a)(1).

CONCLUSION

For the reasons stated above, this Court should immediately stay the briefing schedule and should dismiss the petition for lack of jurisdiction.

Respectfully submitted,



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April 20, 2006

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2006, I filed and served the foregoing REPLY
IN SUPPORT OF MOTION TO DISMISS FOR LACK OF JURISDICTION AND
TO STAY BRIEFING SCHEDULE by causing the original and four copies to be sent
to this Court via Federal Express and by causing one copy to be served upon the
following counsel by Federal Express:

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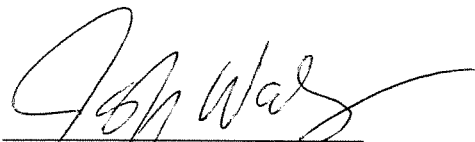

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EXHIBIT 1

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JAN 25 2006

CATHY A. GATTERSON, CLERK
U.S. COURT OF APPEALS

Attorneys for Petitioner, Rahinah Ibrahim

UNITED STATES COURT OF APPEAL FOR THE NINTH CIRCUIT

RAHINAH IBRAHIM,

Petitioner,

v.

DEPARTMENT OF HOMELAND
SECURITY; MICHAEL CHERTOFF
, in his official capacity as the
Secretary of the Department of
Homeland Security; TOM RIDGE, in his
official capacity as the former Secretary
of the Department of Homeland
Security; TRANSPORTATION
SECURITY ADMINISTRATION;
KIP HAWLEY; in his official capacity as
Administrator of the Transportation
Security Administration; DAVID M.
STONE, in his official capacity as Acting
Administrator of the Transportation
Security Administration; TERRORIST
SCREENING CENTER; and Donna A.
BUCELLA, in her official capacity as
Director of the Terrorist Screening Center.

Respondents.

) CASE NO.

06-70574

) PETITION OF RAHINAH
) IBRAHIM FOR REVIEW OF
) THE TRANSPORTATION
) SECURITY ADMINISTRATION
) SECURITY DIRECTIVES
) ESTABLISHING THE "NO-FLY
) LIST"

FEB. 9. 2006 4:38PM DOT/OST/C-70/C-30

Petitioner, Rahinah Ibrahim, hereby petitions the Court for review of the Security Directives issued by Respondent, the Transportation Security Administration, establishing the "no-fly list" and the "selectee list", collectively referred to as the "No-Fly List", on or about November, 2001. A copy of the Security Directives is not available to attach to this Petition as respondents have refused to disclose information on the Security Directives.

This Court has jurisdiction over this petition and venue is proper in this Court pursuant to 49 U.S.C.A. §46110, which provides the U.S Court of Appeals with jurisdiction over an "order" issued by the Transportation Security Administration, and pursuant to *Green v. Transportation Security Administration* (2005) 351 F.Supp.2d 1119.

On information and belief, to date, no court has upheld the constitutional validity of the Security Directives.

Dated: January 27, 2006

McMANIS, FAULKNER & MORGAN


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FILED
JAN 27 2006
E-filing
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

10
11
12 C 06 0545
13 RAHINAH IBRAHIM, an individual,
14 Plaintiff,

CASE NO.

COMPLAINT FOR:

15 v.

16 DEPARTMENT OF HOMELAND
17 SECURITY; MICHAEL CHERTOFF, in his
18 official capacity as the Secretary of the
19 Department of Homeland Security; TOM
20 RIDGE, in his official capacity as the former
21 Secretary of the Department of Homeland
22 Security; TRANSPORTATION SECURITY
23 ADMINISTRATION; KIP HAWLEY, in his
24 official capacity as Administrator of the
25 Transportation Security Administration;
26 DAVID M. STONE, in his official capacity
27 as Acting Administrator of the
Transportation Security Administration;
TERRORIST SCREENING CENTER;
DONNA A. BUCELLA, in her official
capacity as Director of the Terrorist
Screening Center; NORM MINETA, in his
official capacity as Secretary of
Transportation; FEDERAL AVIATION

- 1) 42 U.S.C. §1983 – Violation of Due Process;
- 2) 42 U.S.C. §1983 – Violation of Equal Protection
- 3) 42 U.S.C. §1983 – Violation of Fourth Amendment
- 4) 42 U.S.C. §1983 – Violation of First Amendment Right to Freedom of Religion
- 5) 42 U.S.C. §1983 – Violation of First Amendment Right to Freedom of Association
- 6) CA Civ. Code §52.1 – Interference With Exercise of Civil Rights
- 7) CA Civ. Code §52.3 – Deprivation of Civil Rights
- 8) False Imprisonment
- 9) Intentional Infliction of Emotional Distress
- 10) Negligent Infliction of Emotional Distress

WHA

1 Administrator of the Federal Aviation
2 Administration; FEDERAL BUREAU OF
3 INVESTIGATION; ROBERT MUELLER,
4 in his official capacity as Director of the
5 Federal Bureau of Investigation; SAN
6 FRANCISCO AIRPORT; CITY OF SAN
7 FRANCISCO; COUNTY OF SAN
8 FRANCISCO; COUNTY OF SAN
9 MATEO; SAN FRANCISCO POLICE
10 DEPARTMENT; UAL CORPORATION;
11 UNITED AIRLINES; DAVID NEVINS, an
12 individual; RICHARD PATE, an individual;
13 JOHN BONDANELLA, an individual;
14 JOHN CUNNINGHAM, an individual;
15 ELIZABETH MARON, an individual; and
16 DOES 1 through 100, inclusive.

17 Defendants.

18 Plaintiff hereby alleges as follows:

19 INTRODUCTORY STATEMENT

20 1. The above-entitled action is brought under 42 U.S.C. section 1983, and California
21 Civil Code sections 52.1 and 52.3, on the grounds that defendants, among other things, violated
22 the federal and state constitutional rights of plaintiff, granted to her under the First, Fourth, Fifth
23 and Fourteenth Amendments to the United States Constitution, and Article I, Sections 3, 4, 7, 13
24 and 15 of the California Constitution.

25 JURISDICTION AND VENUE

26 2. This case arises under the United States Constitution and the laws of the United
27 States. This Court has jurisdiction over this action pursuant to Article III of the United States
28 Constitution, 5 U.S.C. Sec. 552a, and 28 U.S.C. sections 1331, 1343 and 1361. Venue is proper
in this district, pursuant to 28 U.S.C. section 1391(e), because defendants include officers and
employees of the United States and the acts and conduct complained of herein occurred in this
judicial district.

1 INTRADISTRICT ASSIGNMENT

2 3. Assignment of this action to the San Francisco Division is proper under Civil
3 Local Rule 3-2(d), because a substantial part of the events giving rise to the claims alleged herein
4 occurred in the County of San Mateo.

5 PARTIES

6 4. Plaintiff, RAHINAH IBRAHIM, ("IBRAHIM"), is an individual, who obtained
7 her Doctorate Degree at Stanford University, while in the United States on a student visa, and
8 currently resides in the country of Malaysia. IBRAHIM has no criminal record and no links to
9 terrorist activity.

10 5. On information and belief, defendant, DEPARTMENT OF HOMELAND
11 SECURITY ("DHS"), is a department of the United States Government, created on October 8,
12 2001, to develop and coordinate the implementation of a comprehensive national strategy to
13 secure the United States from terrorist threats or attacks. It is the department ultimately
14 responsible for the Transportation Security Administration and, in turn, the No-Fly List.

15 6. On information and belief, defendant, MICHAEL CHERTOFF ("CHERTOFF"),
16 is the current Secretary and head of the Department of Homeland Security. He is sued here in
17 his official capacity.

18 7. On information and belief, defendant, TOM RIDGE ("RIDGE"), is the former
19 Secretary and head of the Department of Homeland Security. He is sued here in his official
20 capacity.

21 8. On information and belief, defendant, TRANSPORTATION SECURITY
22 ADMINISTRATION ("TSA"), is a department of the United States Government and a sub-
23 agency of the DHS. The role of the TSA is to implement the provisions of the Aviation and
24 Transportation Security Act (P.L. 107-71), signed by President George W. Bush on November
25 19, 2001. The authority to regulate airport security was transferred to the TSA from the Federal
26 Aviation Administration on November 19, 2001, when the TSA was established.

9. On information and belief, defendant, KIP HAWLEY ("HAWLEY"), is the Administrator of the TSA, and on information and belief, is responsible for maintaining and managing the No-Fly List. He is sued here in his official capacity.

10. On information and belief, defendant, DAVID M. STONE ("STONE"), was the Acting Administrator of the TSA at the time of the incident, and on information and belief, was responsible for maintaining and managing the No-Fly List. He is sued here in his official capacity.

11. On information and belief, defendant, TERRORIST SCREENING CENTER ("TSC"), is a department of the United States Government. Its mission is to maintain a list of "Terrorist Identities Information" for agencies of the United States Government, including the TSA. The TSC determines who is on the list that the TSA uses to compile the No-Fly list.

12. On information and belief, defendant, DONNA A. BUCELLA ("BUCELLA"), is the Director of the TSC, and is being sued in her official capacity as such.

13. On information and belief, defendant, NORM MINETA, is the Secretary of Transportation and is being sued in his official capacity as such.

14. On information and belief, defendant, FEDERAL AVIATION ADMINISTRATION ("FAA"), is an independent federal agency that regulates air travel.

15. On information and belief, defendant, MARION C. BLAKEY, is the Administrator of the FAA and is being sued in her official capacity as such.

16. On information and belief, defendant, FEDERAL BUREAU OF INVESTIGATION ("FBI"), is a department of the United States Government, and maintains a "No-Fly watchlist" and transmits this list to the Transportation Security Administration. The airlines are required to check their passenger lists against this No-Fly watchlist.

17. On information and belief, defendant, ROBERT MUELLER, is the director of the FBI, and is being sued in his official capacity as such.

18. On information and belief, defendant, SAN FRANCISCO INTERNATIONAL AIRPORT ("SFO"), is an international airport located in San Mateo County.

1 19. On information and belief, defendant, CITY OF SAN FRANCISCO ("CITY OF
2 SF"), is a municipal entity, which oversees the San Francisco Police Department.

3 20. On information and belief, defendant, COUNTY OF SAN FRANCISCO ("SF
4 COUNTY"), is a municipal entity, which also oversees the San Francisco Police Department.

5 21. On information and belief, defendant, COUNTY OF SAN MATEO ("SM
6 COUNTY"), is a municipal entity, where SFO is located.

7 22. On information and belief, defendant, SAN FRANCISCO POLICE
8 DEPARTMENT ("SFPD"), is a police department which has jurisdiction over events occurring
9 at SFO.

10 23. On information and belief, defendant, UAL CORPORATION ("UAL"), is the
11 holding company for United Airlines.

12 24. On information and belief, defendant, UNITED AIRLINES, ("UNITED"), is a
13 Delaware corporation with its principal place of business in Chicago, Illinois.

14 25. On information and belief, defendant, DAVID NEVINS ("NEVINS"), is an
15 employee of UNITED, who works at the UNITED ticket counter at SFO as a Customer Service
16 Supervisor.

17 26. On information and belief, defendant, RICHARD PATE ("PATE"), is a Police
18 Sergeant for SFPD.

19 27. On information and belief, defendant, J. CUNNINGHAM ("CUNNINGHAM"),
20 badge number 236, is a police officer of the SFPD.

21 28. On information and belief, defendant, ELIZABETH MARON ("MARON"), is a
22 police officer of the SFPD.

23 29. On information and belief, defendant, JOHN BONDANELLA, is an employee of
24 the TSIS, located in Washington, D.C.

25 30. The true names or capacities, whether individual, corporate, associate or
26 otherwise of defendants, DOES 1 through 100, inclusive, are unknown to plaintiff, who therefore
27 sues said defendants by such fictitious names. Plaintiff prays leave to amend the complaint to
28 show the true names and capacities of defendants when the same have been ascertained.

GENERAL ALLEGATIONS

31. Plaintiff brings this lawsuit to challenge defendants' administration, management and implementation of the "No-Fly List", a list circulated to commercial airlines and security personnel with instructions to detain and question any passenger whose name matches or is similar to one on the No-Fly List.

32. Defendants began implementing the No-Fly List in November, 2001. Since then, it has resulted in hundreds, if not thousands, of innocent passengers being routinely stopped, questioned, searched, and sometimes physically arrested, as in this case. Defendants do not inform individuals that they have been placed on the No-Fly List or why they are on the list. Moreover, individuals whom defendants determine are not security threats continue to be identified on the No-Fly List. Passengers, therefore, have no meaningful opportunity to challenge their identification on the No-Fly List.

33. For several years before the terrorist attacks of September 11, 2001, the U.S. Government issued directives identifying persons who were deemed to pose a threat to civil aviation. In November, 2001, the TSA was formed and assumed responsibility for compiling and administering these directives, with the assistance of the TSC. Today, defendants maintain at least two watch lists of individuals perceived to be threats to aviation security. The "no-fly" list contains names of people which airlines are prohibited from transporting. The "selectee" list contains names of passengers who must go through additional security screening before boarding an aircraft. These two lists collectively are referred to as the "No-Fly List." On information and belief, the No-Fly List contains thousands of names, primarily names of individuals of Muslim or Middle Eastern descent.

34. Until November, 2002, defendants denied the existence of the No-Fly List. Until today, defendants have refused to disclose important information regarding the No-Fly List, including the criteria for placing names on or removing names from the No-Fly List, procedures for amending information on the List such as when it is determined that an individual is not a security threat, or rules for maintaining or managing the List. Because defendants have refused to provide any of this information, defendants may be using race, religion, ethnicity, national

1 origin, or the exercise of protected First Amendment rights as factors in maintenance and
2 implementation of the No-Fly List.

3 35. On information and belief, defendants occasionally disseminate updated versions
4 of the No-Fly List as attachments to security directives and emergency amendments to
5 commercial airlines in the United States. The 15 domestic airlines have almost half a million
6 employees and, on information and belief, a substantial percentage of these employees have
7 access to the No-Fly List. On information and belief, these security directives and the No-Fly
8 List are also provided to customs and immigration agents, airport security, and law enforcement
9 agencies. Moreover, information from the No-Fly List is inputted into other security databases
10 such as the FBI and the FAA. On information and belief, defendants, TSA and DHS, and the
11 heads of their departments, instruct recipients of the No-Fly List to detain and interrogate any
12 individual who checks in for a flight whose name is similar or identical to a name on the No-Fly
13 List. Even if the passenger's actual identity is verified, a boarding pass is issued which is
14 stamped with a mark to indicate the passenger must be subjected to enhanced screening, also
15 referred to as "secondary screening."

16 36. Innocent passengers subjected to this treatment are stigmatized, humiliated, and
17 subjected to interrogations, delays, enhanced searches, detentions, travel impediments, and
18 sometimes actual physical arrest without a warrant or any probable cause. This treatment is
19 completely unexpected as they have no notice that they have been placed on the No-Fly List.

20 37. Plaintiff, IBRAHIM, was subjected to this humiliating treatment on January 2,
21 2005, at the SFO, while traveling to Malaysia, through an initial stop in Hawaii.

22 38. IBRAHIM is a citizen of Malaysia. She is a Muslim woman who is clearly
23 identifiable as Muslim as she wears a head scarf, also known as a "hijab." IBRAHIM has no
24 criminal record and no ties whatsoever to any terrorist activity. At the time of the incident,
25 IBRAHIM was a student at Stanford University, studying to obtain her Doctorate Degree (PhD),
26 and lawfully in the United States on a student visa. IBRAHIM's student visa was valid from
27 September 26, 2001 to January 11, 2007. She was preparing her thesis on affordable housing
28 and on January 2, 2005, IBRAHIM was scheduled to fly to Kuala Lumpur, Malaysia, with a

1 changing flight in Hawaii, to present her research findings at a conference sponsored by Stanford
2 University. She was scheduled to return to Stanford in March, 2005, to submit her dissertation
3 and complete her PhD.

4 39. Prior to her trip, in October, 2004, IBRAHIM had a hysterectomy surgery at
5 Stanford University Medical Hospital, with an extremely invasive abdominal approach.
6 IBRAHIM suffered severe complications from her surgery which extended her recovery period
7 for months. IBRAHIM also suffered back and abdominal pain from her surgery and was
8 regularly taking medication for these complications.

9 40. On January 2, 2005, at approximately 7:00 a.m., IBRAHIM arrived at SFO with
10 her fourteen-year old daughter. IBRAHIM and her daughter were scheduled to leave on a United
11 Airlines flight from SFO, at 9:00 a.m. IBRAHIM and her daughter, escorted by IBRAHIM's
12 friend, went to the ticket counter to obtain their boarding passes and check in their bags.
13 IBRAHIM informed UNITED of her medical complications and requested wheelchair
14 transportation to the airline gate.

15 41. At that time, defendant, NEVINS, approached IBRAHIM and asked to see her
16 tickets. NEVINS called SFPD and informed them that IBRAHIM was on the No-Fly List. At
17 the request of NEVINS, defendants, CUNNINGHAM and PATE, of SFPD, arrived at the airport.
18 On information and belief, PATE checked the No-Fly List for IBRAHIM's name. He called
19 defendant, BONDANELLA, of the TSIS in Washington, D.C. Defendant, BONDANELLA, told
20 defendant, PATE, to not allow IBRAHIM on the flight, to contact the FBI, and to detain
21 IBRAHIM for questioning. A SFPD officer, whose name is not known to plaintiff, also arrived
22 at the scene.

23 42. Meanwhile, IBRAHIM stood waiting for an hour and a half, with no wheelchair,
24 while she suffered from back and abdominal pain. IBRAHIM's friend informed the SFPD
25 officers several times of IBRAHIM's medical condition.

26 43. At 8:45 a.m., fifteen minutes before IBRAHIM's flight was scheduled to leave,
27 defendant, CUNNINGHAM, told IBRAHIM that she was being arrested. IBRAHIM was
28 handcuffed by CUNNINGHAM, with her hands placed behind her back, in the middle of the

1 airport, in front of her fourteen-year old daughter, and everyone else at SFO. IBRAHIM was not
2 informed as to why she was being arrested. Instead, she was taken to the SFPD police station,
3 escorted by three male officers, while she sat in the back seat, rubbing her abdominal muscles
4 from the pain.

5 44. Upon arriving at the police station, IBRAHIM was searched by defendant,
6 MARON. During this search, MARON attempted to remove IBRAHIM's hijab and searched
7 under her hijab in public view, before the other male officers. On information and belief, the
8 police officers also informed the FBI of IBRAHIM's detention.

9 45. IBRAHIM was placed in a holding cell at the SFPD police station for
10 approximately two hours while she continued to suffer from severe back and abdominal pain.
11 IBRAHIM was not given her medication when she asked for it to relieve her pain. Eventually,
12 the paramedics were called as a result of IBRAHIM's medical condition. IBRAHIM was finally
13 given her medication after the paramedics left.

14 46. On information and belief, the FBI finally requested SFPD to release IBRAHIM
15 at approximately 11:15 a.m., over two hours after her flight had left. IBRAHIM was given no
16 information as to why her name was on the No-Fly List.

17 47. Defendants represented to plaintiff that her name had been removed from
18 the No-Fly List. The following day, on January 3, 2006, IBRAHIM discovered that she was still
19 on the No-Fly List when she attempted to fly again. After some effort, IBRAHIM was finally
20 allowed to fly to Kuala Lumpur, Malaysia. At SFO, however, and at every stop over, IBRAHIM
21 was publicly subjected to enhanced searches before boarding any flights.

22 48. On July 1, 2005, plaintiff filed a claim with the City and County of San Francisco
23 and a claim with the City and County of San Mateo for her damages suffered as a result of
24 defendants' conduct. On August 2, 2005, the County of San Mateo issued a letter rejecting
25 plaintiff's claim. On September 8, 2005, the City and County of San Francisco issued a letter,
26 also rejecting plaintiff's claim.

27
28

FIRST CAUSE OF ACTION

(42 U.S.C. Section 1983 Violations of Plaintiffs' Rights Under the United States Constitution.)

49. Plaintiff re-alleges paragraphs 1 through 48 above and incorporates them herein by reference.

50. In doing the acts complained of herein, defendants deprived plaintiff of her rights under the United States Constitution as set forth under the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution;

51. Defendants, in committing the acts herein alleged, were acting under color of state law.

52. Defendants were acting in accordance with their custom, policy and/or practice in violating plaintiff's constitutional rights as set forth above.

53. As a direct and proximate result of defendants' wrongful acts alleged herein, plaintiff suffered severe damages, including humiliation and damage to her reputation, physical pain, emotional distress, and deprivation of her constitutional rights, according to proof at the time of trial.

54. Defendants committed the actions alleged herein maliciously, fraudulently, oppressively and with the wrongful intention of injuring plaintiff. Defendants acted with an improper motive amounting to malice and with conscious disregard of plaintiff's rights. As such, plaintiff is entitled to recover punitive damages from defendants in an amount according to proof at the time of trial.

SECOND CAUSE OF ACTION

(42 U.S.C. Section 1983 Violations of Plaintiff's Right to Due Process.)

55. Plaintiff re-alleges paragraphs 1 through 54 above and incorporates them herein by reference.

56. In doing the acts complained of herein, defendants deprived plaintiff of her right to Procedural and Substantive Due Process under the United States Constitution as set forth under the Fifth and Fourteenth Amendments to the United States Constitution;

1 57. The No-Fly List and the placement of IBRAHIM on this list is unconstitutional in
2 that it violates the due process protections guaranteed under the Fifth and Fourteenth
3 Amendments of the United States Constitution and Article I, Sections 7 and 15 of the California
4 Constitution. On information and belief, the placement of names on the No-Fly List is done in
5 an arbitrary and capricious manner and without any factual findings or rational basis.

6 58. Defendants' actions in administering and maintaining the No-Fly List deprived
7 plaintiff of liberty and property interests protected by the Fifth Amendment. Defendants are
8 grossly negligent, reckless, and/or deliberately indifferent to the risk that the deprivations these
9 actions cause. The deprivations are without due process of law because plaintiff was not
10 informed of her placement on the No-Fly List or given any opportunity to contest such
11 placement. Also, defendants have failed to provide constitutionally adequate mechanisms for
12 plaintiff to avoid being subjected to the stigma, interrogations, delays, enhanced searches,
13 detentions, and/or other travel impediments associated with having a name identical or similar to
14 a name on the No-Fly List.

15 59. Defendants, in committing the acts herein alleged, were acting under color of state
16 law.

17 60. Defendants were acting in accordance with their custom, policy and/or practice in
18 violating plaintiff's constitutional rights as set forth above.

19 61. As a direct and proximate result of defendants' wrongful acts alleged herein,
20 plaintiff suffered severe damages, including humiliation and damage to her reputation, physical
21 pain, emotional distress, and deprivation of her constitutional rights, according to proof at the
22 time of trial.

23 62. Defendants committed the actions alleged herein maliciously, fraudulently,
24 oppressively and with the wrongful intention of injuring plaintiff. Defendants acted with an
25 improper motive amounting to malice and with conscious disregard of plaintiff's rights. As
26 such, plaintiff is entitled to recover punitive damages from defendants in an amount according to
27 proof at the time of trial.
28

THIRD CAUSE OF ACTION

(42 U.S.C. Section 1983 Violations of Plaintiff's Right to Equal Protection)

63. Plaintiff re-alleges paragraphs 1 through 62 above and incorporates them herein by reference.

64. In doing the acts complained of herein, defendants deprived plaintiff of her right to Equal Protection under the United States Constitution as set forth under the Fourteenth Amendment to the United States Constitution;

65. Defendants placed IBRAHIM on the No-Fly List in an arbitrary and capricious manner, and arrested her for several hours. On information and belief, defendants acted in a discriminatory manner, with the intent to discriminate, in that IBRAHIM was placed on the No-Fly List and arrested based on her religious beliefs and her national origin as a citizen of Malaysia.

66. Defendants, in committing the acts herein alleged, were acting under color of state law.

67. Defendants were acting in accordance with their custom, policy and/or practice in violating plaintiff's constitutional rights as set forth above.

68. As a direct and proximate result of defendants' wrongful acts alleged herein, plaintiff suffered severe damages, including humiliation and damage to her reputation, physical pain, emotional distress, and deprivation of her constitutional rights, according to proof at the time of trial.

69. Defendants committed the actions alleged herein maliciously, fraudulently, oppressively and with the wrongful intention of injuring plaintiff. Defendants acted with an improper motive amounting to malice and with conscious disregard of plaintiff's rights. As such, plaintiff is entitled to recover punitive damages from defendants in an amount according to proof at the time of trial.

FOURTH CAUSE OF ACTION

(42 U.S.C. Section 1983 Violation of Plaintiff's Fourth Amendment Right Against
Unreasonable Search and Seizure)

70. Plaintiff re-alleges paragraphs 1 through 69 above and incorporates them herein
by reference.

71. In doing the acts complained of herein, defendants deprived plaintiff of her right
against unreasonable searches and seizures under the United States Constitution as set forth
under the Fourth Amendment to the United States Constitution;

72. Defendants placed IBRAHIM on the No-Fly List, arrested her, and searched her
without any probable cause or an arrest or search warrant. As alleged above, it is common for
individuals who have no links to terrorist activity to be placed on the No-Fly List or to be
detained for having a name similar to a name on the No-Fly List and to be subjected to enhanced
searches without any cause.

73. Defendants, in committing the acts herein alleged, were acting under color of state
law.

74. Defendants were acting in accordance with their custom, policy and/or practice in
violating plaintiff's constitutional rights as set forth above.

75. As a direct and proximate result of defendants' wrongful acts alleged herein,
plaintiff suffered severe damages, including humiliation and damage to her reputation, physical
pain, emotional distress, and deprivation of her constitutional rights, according to proof at the
time of trial.

76. Defendants committed the actions alleged herein maliciously, fraudulently,
oppressively and with the wrongful intention of injuring plaintiff. Defendants acted with an
improper motive amounting to malice and with conscious disregard of plaintiff's rights. As
such, plaintiff is entitled to recover punitive damages from defendants in an amount according to
proof at the time of trial.

1 FIFTH CAUSE OF ACTION

2 (42 U.S.C. Section 1983 Violation of Plaintiff's Right to Freedom of Religion)

3 77. Plaintiff re-alleges paragraphs 1 through 76 above and incorporates them herein
4 by reference.

5 78. In doing the acts complained of herein, defendants deprived plaintiff of her
6 freedom of religion under the United States Constitution as set forth under the First Amendment
7 to the United States Constitution;

8 79. Plaintiff is an identifiable Muslim woman who wears the hijab. Defendants
9 violated plaintiff's freedom of religion in that, on information and belief, plaintiff, and other
10 individuals placed on the No-Fly List, are targeted based on their religious beliefs or appearance.

11 80. Defendants, in committing the acts herein alleged, were acting under color of state
12 law.

13 81. Defendants were acting in accordance with their custom, policy and/or practice in
14 violating plaintiff's constitutional rights as set forth above.

15 82. As a direct and proximate result of defendants' wrongful acts alleged herein,
16 plaintiff suffered severe damages, including humiliation and damage to her reputation, physical
17 pain, emotional distress, and deprivation of her constitutional rights, according to proof at the
18 time of trial.

19 83. Defendants committed the actions alleged herein maliciously, fraudulently,
20 oppressively and with the wrongful intention of injuring plaintiff. Defendants acted with an
21 improper motive amounting to malice and with conscious disregard of plaintiff's rights. As
22 such, plaintiff is entitled to recover punitive damages from defendants in an amount according to
23 proof at the time of trial.

24 SIXTH CAUSE OF ACTION

25 (42 U.S.C. Section 1983 Violations of Plaintiffs' Right to Freedom of Association)

26 84. Plaintiff re-alleges paragraphs 1 through 83 above and incorporates them herein
27 by reference.
28

85. In doing the acts complained of herein, defendants deprived plaintiff of her freedom of association under the United States Constitution as set forth under the First Amendment to the United States Constitution;

86. Plaintiff is an identifiable Muslim woman who wears the hijab. Defendants violated plaintiff's freedom of association in that, on information and belief, plaintiff, and other individuals placed on the No-Fly List, are targeted based on their association with the Muslim community or the Islamic religion, and based on her national origin.

87. Defendants, in committing the acts herein alleged, were acting under color of state law.

88. Defendants were acting in accordance with their custom, policy and/or practice in violating plaintiff's constitutional rights as set forth above.

89. As a direct and proximate result of defendants' wrongful acts alleged herein, plaintiff suffered severe damages, including humiliation and damage to her reputation, physical pain, emotional distress, and deprivation of her constitutional rights, according to proof at the time of trial.

90. Defendants committed the actions alleged herein maliciously, fraudulently, oppressively and with the wrongful intention of injuring plaintiff. Defendants acted with an improper motive amounting to malice and with conscious disregard of plaintiff's rights. As such, plaintiff is entitled to recover punitive damages from defendants in an amount according to proof at the time of trial.

SEVENTH CAUSE OF ACTION

(Interference With Exercise Of Civil Rights – California Civil Code Section 52.1)

91. Plaintiff realleges paragraphs 1 through 90 above and incorporates them herein by reference.

92. Defendants placed plaintiff on the No-Fly List and on January 2, 2005, defendants, police officers, arrested plaintiff without a warrant or other legal process.

93. Defendants made the arrest without probable cause to believe that plaintiff had committed a crime.

1 94. The arrest interfered with plaintiff's constitutional rights granted to her under the
2 First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution, and Article I,
3 Sections 3, 4, 7, 13 and 15 of the California Constitution.

4 95. On information and belief, the acts of the defendants herein alleged were done
5 with malice, fraud, and oppression, and in reckless disregard of plaintiff's constitutional rights.

6 96. As a proximate result of the acts of defendants herein alleged, plaintiff incurred
7 both economic and noneconomic damages.

8 97. Defendants committed the actions alleged herein maliciously, fraudulently,
9 oppressively and with the wrongful intention of injuring plaintiff. Defendants acted with an
10 improper, evil motive amounting to malice and with conscious disregard of plaintiff's rights. As
11 such, plaintiff is entitled to recover punitive damages from defendants in an amount according to
12 proof at the time of trial.

13 EIGHTH CAUSE OF ACTION

14 (Deprivation of Civil Rights – California Civil Code Section 52.3)

15 98. Plaintiff realleges paragraphs 1 through 97 above and incorporates them herein by
16 reference.

17 99. On January 2, 2005, defendants, police officers, arrested plaintiff without a
18 warrant or other legal process.

19 100. Defendants made the arrest without probable cause to believe that plaintiff had
20 committed a crime.

21 101. The arrest deprived plaintiff of her constitutional rights granted to her under the
22 First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution, and Article I,
23 Sections 3, 4, 7, 13 and 15 of the California Constitution.

24 102. On information and belief, the acts of the defendants herein alleged were done
25 with malice, fraud, and oppression, and in reckless disregard of plaintiff's constitutional rights.

26 103. On information and belief, the acts of defendants herein alleged, were done
27 pursuant to a pattern and practice of depriving persons of rights, privileges, and immunities
28

1 secured by the laws and Constitution of the State of California, and the laws and Constitution of
2 the United States.

3 104. As a proximate result of the acts of defendants herein alleged, plaintiff incurred
4 both economic and noneconomic damages.

5 105. Defendants committed the actions alleged herein maliciously, fraudulently,
6 oppressively and with the wrongful intention of injuring plaintiff. Defendants acted with an
7 improper, evil motive amounting to malice and with conscious disregard of plaintiff's rights. As
8 such, plaintiff is entitled to recover punitive damages from defendants in an amount according to
9 proof at the time of trial.

10 NINTH CAUSE OF ACTION

11 (False Imprisonment)

12 106. Plaintiff realleges paragraphs 1 through 105 above and incorporates them herein
13 by reference.

14 107. On January 2, 2005, in the city of San Francisco, defendants, police officers,
15 maliciously seized and arrested plaintiff, without a warrant, or other legal process.

16 108. Defendants made the arrest without probable cause to believe that plaintiff had
17 committed a crime.

18 109. Plaintiff was imprisoned at the San Francisco Airport police station for hours.

19 110. As a proximate result of the acts of defendants herein alleged, plaintiff incurred
20 both economic and noneconomic damages.

21 111. Defendants committed the actions alleged herein maliciously, fraudulently,
22 oppressively and with the wrongful intention of injuring plaintiff. Defendants acted with an
23 improper, evil motive amounting to malice and with conscious disregard of plaintiff's rights. As
24 such, plaintiff is entitled to recover punitive damages from defendants in an amount according to
25 proof at the time of trial.

26 ///

27 ///

28

TENTH CAUSE OF ACTION

(Intentional Infliction of Emotional Distress)

112. Plaintiff realleges paragraphs 1 through 111 above and incorporates them herein by reference.

113. On January 2, 2005, defendants, police officers, arrested plaintiff, knowing that they lacked a warrant or other legal process. Defendants made the arrest, knowing that they lacked probable cause to believe that plaintiff had committed a crime. Therefore, defendants made the arrest with the intention of causing, or reckless disregard of the probability of causing, emotional distress for plaintiff.

114. On information and belief, the acts of the defendants herein alleged were willful, despicable, malicious, and oppressive.

115. As a proximate result of the acts of defendants herein alleged, plaintiff incurred severe emotional distress and mental suffering. Plaintiff experienced extreme humiliation, shame, and anger when:

a) Defendants, police officers, handcuffed plaintiff in front of her fourteen year old daughter at the San Francisco Airport, on the morning of January 2, 2005;

b) A crowd of passengers gathered to watch defendants, police officers, detain and arrest plaintiff, without a warrant or probable cause, at the San Francisco Airport on the morning of January 2, 2005;

c) Defendants, police officers, forced plaintiff to miss her flight by detaining and arresting her without a warrant or probable cause;

d) Defendant, MARON, removed part of plaintiff's hijab and loosened plaintiff's hair;

e) Defendants, police officers, caused plaintiff to experience abdominal pain and high blood pressure by incarcerating plaintiff in a detention area without access to her medications;

f) Defendants, police officers, forced plaintiff to urinate in a public area while in the holding cell.

1 g) Defendants represented to plaintiff that her name had been removed from
2 the No-Fly List, but plaintiff later discovered that defendants had in fact made no effort to
3 remove plaintiff from the No-Fly List.

4 **ELEVENTH CAUSE OF ACTION**

5 **(Negligent Infliction of Emotional Distress)**

6 116. Plaintiff realleges paragraphs 1 through 115 above and incorporates them herein
7 by reference.

8 117. On January 2, 2005, defendants, police officers, knew or should have known that
9 arresting and imprisoning plaintiff without a warrant or probable cause would cause plaintiff
10 severe emotional distress.

11 118. On January 2, 2005, defendants, police officers, arrested plaintiff, knowing that
12 they lacked a warrant or other legal process. Defendants made the arrest, knowing that they
13 lacked probable cause to believe that plaintiff had committed a crime.

14 119. On information and belief, the acts of the defendants herein alleged were willful,
15 despicable, malicious, and oppressive.

16 120. As a proximate result of the acts of defendants herein alleged, plaintiff incurred
17 severe emotional distress and mental suffering. Plaintiff experienced extreme humiliation,
18 shame, and anger when:

19 a) Defendants, police officers, handcuffed plaintiff in front of her fourteen
20 year old daughter at the San Francisco Airport, on the morning of January 2, 2005;

21 b) A crowd of passengers gathered to watch defendants, police officers,
22 detain and arrest plaintiff, without a warrant or probable cause, at the San Francisco Airport on
23 the morning of January 2, 2005;

24 c) Defendants, police officers, forced plaintiff to miss her flight by detaining
25 and arresting her without a warrant or probable cause;

26 d) Defendant, MARON, removed part of plaintiff's hijab and loosened
27 plaintiff's hair;

28 e) Defendants, police officers, caused plaintiff to experience abdominal

1 pain and high blood pressure by incarcerating plaintiff in a detention area without access to her
2 medications;

3 f) Defendants, police officers, forced plaintiff to urinate in a public area;

4 g) Defendants represented to plaintiff that her name had been removed from
5 the No-Fly List, but plaintiff later discovered that defendants had in fact made no effort to
6 remove plaintiff from the No-Fly List.

7 **TWELFTH CAUSE OF ACTION**

8 **(Declaratory and Injunctive Relief)**

9 121. Plaintiff realleges paragraphs 1 through 120 above and incorporates them herein
10 by reference.

11 122. An actual and immediate controversy has arisen and now exists between plaintiff
12 and defendants related to their respective rights and duties. Defendants have unlawfully failed to
13 comply with constitutional requirements by engaging in the acts and omissions described in this
14 Complaint. Plaintiff is, therefore, entitled to a declaration of rights over this controversy.

15 123. Plaintiff has no adequate remedy at law. Defendants have acted, and continue to
16 act, to deprive plaintiff of her constitutional rights. Plaintiff is suffering and will continue to
17 suffer irreparable injury as a result of the policies and practices described in this Complaint
18 unless those policies and practices are enjoined by this Court. Plaintiff has no plain, adequate, or
19 speedy remedy at law and is entitled to injunctive relief against defendants. Plaintiff has no
20 administrative remedy because defendants' policies and practices preclude any administrative
21 determinations from affording actual relief.

22 ///

23 ///

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PRAYER

WHEREFORE, plaintiffs pray for the following relief:

- a. For compensatory damages according to proof;
- b. For exemplary and punitive damages according to proof;
- c. For costs of suit, including attorneys' fees;
- d. For a declaration that defendants' maintenance, management, and dissemination of the No-Fly list are unconstitutional under the First, Fourth, Fifth and Fourteenth Amendments.
- e. For an injunction requiring defendants to remedy immediately the Constitutional violations in the maintenance, management, and dissemination of the No-Fly list.
- f. For an injunction requiring defendants to remove IBRAHIM's name from the No-Fly List.
- g. And such other and further relief as the Court may deem appropriate.

Dated: January 27, 2006

McMANIS, FAULKNER & MORGAN


JAMES McMANIS
MARWA ELZANKALY


Attorneys for Plaintiff,
RAHINAH IBRAHIM

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: January 27, 2006

McMANIS, FAULKNER & MORGAN


JAMES McMANIS
MARWA ELZANKALY

Attorneys for Plaintiff,
RAHINAH IBRAHIM

EXHIBIT 3

CIVIL APPEALS DOCKETING STATEMENT

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
CIVIL APPEALS DOCKETING STATEMENT

INTERNAL USE ONLY

06-70574

EASE TYPE OR PRINT. ATTACH ADDITIONAL PAGES IF NECESSARY.

TITLE IN FULL:

SAHINAH IBRAHIM v. DEPARTMENT OF HOMELAND
SECURITY; MICHAEL CHERTOFF; TOM RIDGE;
TRANSPORTATION SECURITY ADMINISTRATION;
JIP. HAWLEY; DAVID M. STONE; TERRORIST
SCREENING CENTER; and DONNA BUCELLA

RECEIVED
CATHY A. PATTERSON, CLERK
U.S. COURT OF APPEALS

FEB 03 2006

FILED _____
DOCKETED _____
DATE _____ INITIAL _____

DISTRICT: N/A

JUDGE: N/A

DATE COMPLAINT
FILED: N/A

DISTRICT COURT
DOCKET NUMBER: N/A

DATE NOTICE OF Petition IS THIS A CROSS-APPEAL?
APPEAL FILED: for Review filed YES ☒ NO

1-27-06

HAS THIS MATTER BEEN BEFORE THIS COURT PREVIOUSLY?
YES ☐ NO ☒

IF YES, STATE WHEN:

CASE NAME:

CITATION:

DOCKET NUMBER:

CHECK AS MANY AS APPLY

JURISDICTION		DISTRICT COURT DISPOSITION		
1. FEDERAL	2. APPELLATE	1. STAGE OF PROCEEDINGS	2. TYPE OF JUDGMENT/ ORDER APPEALED	3. RELIEF
<input checked="" type="checkbox"/> FEDERAL QUESTION <input type="checkbox"/> DIVERSITY <input type="checkbox"/> OTHER (SPECIFY):	<input type="checkbox"/> FINAL DECISION OF DISTRICT COURT <input type="checkbox"/> INTERLOCUTORY DECISION APPEALABLE AS OF RIGHT <input type="checkbox"/> INTERLOCUTORY ORDER CERTIFIED BY DISTRICT JUDGE (SPECIFY): <input checked="" type="checkbox"/> OTHER (SPECIFY): Petition for Review of Security Directives Issued by Transportation Security Administration (TSA) November, 2001	<input type="checkbox"/> PRE-TRIAL <input type="checkbox"/> DURING TRIAL <input type="checkbox"/> AFTER TRIAL	<input type="checkbox"/> DEFAULT JUDGMENT <input type="checkbox"/> JUDGMENT/ COURT DECISION <input type="checkbox"/> DISMISSAL/ JURISDICTION <input type="checkbox"/> JUDGMENT/ JURY VERDICT <input type="checkbox"/> DISMISSAL/ MERITS <input type="checkbox"/> SUMMARY JUDGMENT <input type="checkbox"/> JUDGMENT NOV <input type="checkbox"/> DECLARATORY JUDGMENT <input type="checkbox"/> DIRECTED VERDICT <input checked="" type="checkbox"/> OTHER (SPECIFY): security directives	<input checked="" type="checkbox"/> DAMAGES: AMOUNT SOUGHT: <u>TBD</u> <input type="checkbox"/> AMOUNT GRANTED: _____ <input type="checkbox"/> AMOUNT DENIED: _____ <input checked="" type="checkbox"/> INJUNCTIONS <input type="checkbox"/> PRELIMINARY OR <input checked="" type="checkbox"/> PERMANENT <input type="checkbox"/> GRANTED OR <input type="checkbox"/> DENIED

BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW:

Action challenging administration, management and implementation of the No-Fly List, per Green v. TSA (2005) 351 F.Supp.2d 1119.

ISSUES PROPOSED TO BE RAISED ON APPEAL: Constitutionality of defendant's administration, management and implementation of the No-Fly List.

BASED ON YOUR PRESENT KNOWLEDGE:

1. Does this appeal involve a question of first impression?
☐ Yes ☒ No

2. Will the determination of this appeal turn on the interpretation or application of a particular case or statute?
☐ Yes ☒ No If yes, provide:

Case name/status: _____

Citation: _____

Docket Number, if unreported: _____

3. Is there any case now pending or about to be filed in this court or any other court administrative agency which:

a) Arises from substantially the same case or controversy as this appeal?
☐ Yes ☐ No

b) Involves an issue that is substantially the same, similar or related to an issue in this appeal?
☒ Yes ☐ No

Case name: Gilmore v. Ashcroft

Citation: _____

Court or agency: 9th Circuit Court
of Appeals

Docket number, if unreported: _____
04-15736

4. Will this appeal involve a conflict of law within the Ninth Circuit? ☐ Yes ☒ No
 Among circuits? ☐ Yes ☒ No
 If yes, explain briefly:

DOES THIS APPEAL INVOLVE ANY OF THE FOLLOWING:

☐ Possibility of settlement;

☐ Likelihood of a motion to expedite the appeal;

☒ Multiple parties on either side for whom joint briefing is possible;

☒ Likelihood of motions to intervene on appeal;

☒ Likelihood of motions to file amicus briefs;

☐ Likelihood of motions to stay appeal pending resolution of a related case. Identify case name, docket number and court or agency:

☐ Other procedural complexities:

COUNSEL FOR APPELLANT(S):

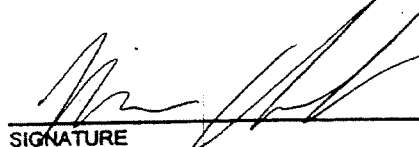
NAME: Marwa Elzankaly, Esq.

FIRM: McManis Faulkner & Morgan

ADDRESS: 50 W. San Fernando Street,
10th Floor
San Jose, CA 95113

TELEPHONE: (408) 279-8700

I CERTIFY THAT A COPY OF THIS CIVIL APPEALS DOCKETING STATEMENT WAS SUBMITTED TO THE CLERK OF THE DISTRICT COURT OR THE CLERK OF THE U.S. COURT OF APPEALS, AND THAT IT WAS SERVED ON EACH PARTY/COUNSEL SHOWN ON THE ATTACHED SERVICE LIST.


 SIGNATURE

2-2-06
 DATE

**REMEMBER TO ATTACH COPIES OF ORDER/JUDGMENT APPEALED FROM
 AND SERVICE LIST WITH TELEPHONE NUMBERS**

IBRAHIM v. DEPARTMENT OF HOMELAND SECURITY, et al.

Service List

Agency/Individual	Agent for Service of Process	Address
Department of Homeland Security		Agent for Service of Process Office of Homeland Security State Capitol, 1st Floor Sacramento, CA 95814
Michael Chertoff		Michael Chertoff Office of Homeland Security State Capitol, 1st Floor Sacramento, CA 95814
Tom Ridge	Office of the Inspector General	Civil Rights & Civil Liberties Complaints Office of the Inspector General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 4706 Washington, D.C. 20530
Transportation Security Administration	TSA-6 (Civil Rights)	Transportation Security Administration Office of Civil Rights TSA-6 601 South 12 th Street Arlington, VA 2202-4220
David M. Stone	TSA-18 (Chief Operating Officer)	David M. Stone Transportation Security Administration TSA-18 601 South 12 th Street Arlington, VA 2202-4220
Terrorist Screening Center	Department of Justice/Officer of the Inspector General	Civil Rights & Civil Liberties Complaints Office of the Inspector General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 4706 Washington, D.C. 20530
Donna A. Bucella, Dir. Terrorist Screening Center	Department of Justice/Officer of the Inspector General	Civil Rights & Civil Liberties Complaints Office of the Inspector General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 4706 Washington, D.C. 20530

EXHIBIT 4



Transportation
Security
Administration

March 1, 2006

Ms. Rahinah Binti Ibrahim
3403 Jalan 18/61, Taman Sri Serdang
Seri Kembangan, Selangor D.E.
Malaysia 43300

Dear Ms. Ibrahim:

The Transportation Security Administration (TSA) has received your Passenger Identity Verification Form (PIVF) and identity documentation.

In response to your request, we have conducted a review of any applicable records in consultation with other federal agencies, as appropriate. Where it has been determined that a correction to records is warranted, these records have been modified to address any delay or denial of boarding that you may have experienced as a result of the watch list screening process.

TSA cannot ensure that your travel will always be delay free as this redress process does not affect other standard screening procedures in place at the security checkpoint. For example, an individual may be selected by TSA for enhanced screening in order to resolve a walk-through metal detector alarm, because of random selection, or based on certain non-identity based factors reflected in reservation information. Additionally this process may not eliminate the need to go to the ticket counter in order to obtain a boarding pass. For instance, an airline might still require a brief period of time to comply with identity verification requirements prior to issuing a boarding pass.

This letter constitutes TSA's final agency decision, which is reviewable by a United States Court of Appeals under 49 U.S.C. § 46110.

If you have any further questions, please call the TSA Contact Center Office of Transportation Security Redress (OTSR) toll-free at (866) 289-9673 or locally at (571) 227-2900, send an E-mail to TSA-ContactCenter@dhs.gov, or write to the following address:

Transportation Security Administration
TSA-901
601 South 12th Street
Arlington, VA 22202-4220

Sincerely,

Office of Transportation Security Redress

EXHIBIT 5



United States Department of State
Washington, D.C. 20520

RE: Information pertaining to the F-1 visa revocation of Rahinah Ibrahim

I, Andrew C. Kotval, hereby declare under penalty of perjury:

1. I am employed by the U.S. Department of State as the Deputy Chief in the Coordination Division of the Visa Office, Bureau of Consular Affairs.
2. The F-1 visa held by Rahinah Ibrahim (dpob 01 Sep 1965, Malaysia) was prudentially revoked under INA section 212(a)(3)(B) on January 27, 2005. This action was taken after information came to light indicating that Ms. Ibrahim may be inadmissible to the United States and may be ineligible to receive a visa, such that she is required to reappear before a consular officer to establish her eligibility for a visa.
3. The State Department uses the Consular Lookout and Support System (CLASS) database for information on visa eligibility, and any issuance, refusal, or revocation of a visa is based on the Immigration and Nationality Act. Visa decisions are independent from and made without reference to any "No Fly" list.

I declare under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge.

Washington, D.C.
April 18, 2006


Andrew C. Kotval