

UNCLASSIFIED//FOR PUBLIC RELEASE
MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY, CUBA

<p>UNITED STATES OF AMERICA</p> <p>v.</p> <p>KHALID SHAIKH MOHAMMAD, WALID MUHAMMAD SALIH MUBARAK BIN ATTASH, RAMZI BINALSHIBH, ALI ABDUL AZIZ ALI, MUSTAFA AHMED ADAM AL HAWSAWI</p>	<p>AE 425J (GOV)</p> <p>Government Notice Of Filing of Exhibit Relevant to AE 425 Motion Series</p> <p>8 July 2016</p>
---	---

1. **Timeliness**

This Notice is timely filed.

2. **Notice**

The attached exhibit is filed in support of the AE 425 motion series and is relevant to the issues cited therein.

3. **Attachments**

- A. Certificate of Service, dated 8 July 2016
- B. Memorandum Opinion, *Ramzi Binalshibh, et. al. v. Obama*, dtd 7 May 2012

Respectfully submitted,

//s//
Clay Trivett
Managing Trial Counsel

Christopher M. Dykstra
Major, USAF
Assistant Trial Counsel

Mark Martins
Chief Prosecutor
Office of the Chief Prosecutor
Office of Military Commissions

ATTACHMENT A

Filed with TJ
8 July 2016

Appellate Exhibit 425J (Gov)
Page 2 of 27

ATTACHMENT B

Filed with TJ
8 July 2016

Appellate Exhibit 425J (Gov)
Page 4 of 27

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Filed with Classified
Information Security Officer

CISO [Signature]
Date 5/9/12

RAMZI BIN AL-SHIBH,)
ABD AL-RAHIM HUSSAIN MOHAMED)
AL-NASHIRI,)
ZAYN AL ABIDIN MUHAMMAD HUSAYN,)
MUSTAFA FARAJ MOHAMMAD,)
AMMAN AL-BALUCHI,)
RIDUAN BIN ISOMUDDIN HAMBALI,)
MAJID KHAN,)
MOHAMMED NAZIR BIN LEP,)
NASHWAN AL-RAMER ABDULRAZZAQ,)
MUHAMMED RAHIM,)
Petitioners,)
vs.)
BARACK OBAMA, et al.,)
Respondents.)

Civil Action Nos.

06-1725 (EGS)
08-1207 (RWR)
08-1360 (RWR)
09-0873 (CKK)
08-2083 (PLF)
10-0407 (JDB)
06-1690 (RBW)
09-0031 (JDB)
09-1462 (EGS)
09-1385 (PLF)

MEMORANDUM OPINION

Pending before the Court is Respondents' Notice Regarding *Ex Parte, In Camera* Filing and Motion for Finding (hereinafter "Notice"), filed on March 23 or 24, 2011 in ten habeas corpus cases brought by detainees at Guantanamo Bay.¹ In their Notice,

¹ At Respondents' request, and by consent of the Merits Judges presiding over the underlying habeas cases, the Notice and Motion were transferred to the undersigned for coordinated consideration and resolution.

Respondents have informed the Court and petitioners' counsel of their intention to [REDACTED] an overseas detention site (hereinafter "Site A") formerly used to detain at least one of the ten petitioners. Prior to [REDACTED] respondents propose to create a digital and photographic record of the [REDACTED] Site A to which detainees had access, as well as to [REDACTED]

[REDACTED] Respondents seek a finding that their proposal "may be carried out consistent with preservation obligations in these cases." Notice at 2. Concurrent with its Notice, Respondents filed an *ex parte* and *in camera* submission with the Court, providing additional detail regarding its motion. Petitioners have filed a number of responses to the Notice opposing the relief requested, moving to strike for failure to comply with Local Rule 7(m), and requesting disclosure of the *ex parte* filing. The government has filed separate responses to some of the petitioners' filings and a consolidated reply to others.

Upon consideration of the Notice and Motion, the responses and replies thereto, the *ex parte* and *in camera* submissions, the respondents' arguments at the status hearing held on May 3, 2011, and the relevant case law, and for the reasons set forth herein, the Court finds that the government may substitute a digital [REDACTED] [REDACTED] record of Site A for continued physical preservation of the site consistent with this Order. The Court denies the

motions filed by certain petitioners to strike the government's motion for failure to meet and confer and to disclose the ex parte filing.


I. BACKGROUND

A. Facts and Discovery/Preservation Orders Arguably Governing these Proceedings

As set forth above, the United States government seeks to [REDACTED] an overseas detention and interrogation facility where "one or more of the [] petitioners were detained." Notice at 2. As a substitute for preservation of the physical facility of Site A, the government proposes to "create a [REDACTED] [REDACTED] digital recording of the areas of the facility to which detainees had access" and "preserve [REDACTED] [REDACTED] materials and equipment related to the detention program." *Id.* Specifically, the government plans to have the [REDACTED]

[REDACTED] Notice at 3. The government states that "such digital documentation [REDACTED]

[REDACTED] areas to which any detainee or detainees had access." *Id.* Additionally, Respondents [REDACTED]



The government notes that it and counsel for petitioners previously agreed on a similar method to preserve a record of Bagram Theater Internment Facility, a Department of Defense detention center in Afghanistan, so that facility could be demolished. See Notice at 3; Stipulation Regarding Bagram Theater Internment Facility, *In re: Guantanamo Bay Detainee Litig.*, 08-mc-442, Doc. Nos. 1893, 1929 (hereinafter "Bagram Stipulation"). To preserve a record of Bagram before demolition of the site, the government agreed to generate an "interactive digital virtual tour" based on "GPS data; laser scanning; total station survey data, spherical photography; still photography; manual measurements; blueprints and source data; and aerial lidar and imagery." *Id.*, Doc. No. 1929 at ¶ 1. The government also agreed to preserve all underlying data collected to create the interactive digital virtual tour, as well as to "preserve all blueprints, official photographs, and other records in the Department of Defense's possession that reflect the interior of [Bagram] since the United States assumed control of the facility." *Id.* ¶¶ 4, 6. Finally, the parties stipulated that the agreement to preserve records of the facility "shall not be construed to require production" of the data or the virtual tour "in any individual habeas case or as consent to such production.

Production of such information, if any, shall be determined on a case-by-case basis under the standards set forth in the governing case management order and/or other applicable law." *Id.* ¶ 5.

Before [REDACTED] Site A, the government seeks a finding from this Court that the proposed alternate method of preservation satisfies discovery and preservation orders arguably in place in some or all of the underlying habeas cases. Notice at 2. The respondents and the petitioners have identified certain orders issued by Judge Hogan, in his capacity coordinating and managing common issues in Guantanamo Bay detainee litigation, as well as by certain individual Merits Judges, as potentially relevant to the Court's ruling. For the purposes of preserving classified information in the government's *ex parte* filings, the Court will assume *arguendo* that all are relevant.

First, in 2008 Judge Hogan issued a Case Management Order and an Amended Case Management Order in *In re: Guantanamo Bay Detainee Litigation*, Case 08-mc-442, Doc. Nos. 940, 1315. Those Orders provide for discovery of (1) "all reasonably available evidence in [the government's] possession that tends materially to undermine the information presented to support the government's justification for detaining the petitioner," (2) any evidence referenced in the factual return, as well all statements made by the petitioner that relate to the information contained

in the factual return, and (3) in the Merits Judge's discretion, additional limited discovery that "will enable the petitioner to rebut the factual basis for his detention without unfairly disrupting or unduly burdening the government." Case Management Order, Case 08-mc-442, Doc. No. 940, Sections I.D.1 and I.E.1 & 2. If any of this information is classified, the government shall nevertheless provide it to petitioner's counsel provided counsel is cleared to access the information; in order to withhold the information, the government must move for an exception to disclosure. Amended Case Mgmt. Order, Case 08-mc-442, Doc. No. 1315, Section I.F.

Second, in 2009 Judge Roberts issued a preservation order in *Husayn v. Obama*, No. 08-1360, ordering the government to preserve and maintain all "evidence of [petitioner]'s treatment" while he was in custody. *Husayn Preservation Order*, Oct. 1, 2009 at 4.² Judge Roberts found the evidence potentially relevant, holding that "[e]ven if the respondent does not rely on statements made during the time he was in the control or custody of the United States, evidence of [petitioner's] treatment during that period could be relevant to whether he has the ability to assist his

² Judge Roberts's preservation order is classified. This Court has reviewed it pursuant to respondents' offer to provide it. The Court has only disclosed the contents of Judge Roberts's preservation order, however, to the extent respondents disclosed it in their filings to which all petitioners' counsel had access.

counsel in this case." *Id.*

Third, in 2010 Judge Kollar-Kotelly issued a preservation order in *Mohammad v. Obama*, No. 09-873. Petitioner requested that respondents preserve, *inter alia*, all documents, information and tangible things related to petitioner's detention, treatment, torture, abuse, interrogation, and imprisonment. Judge Kotelly granted the request in part, but found it would be unduly burdensome to require the government to preserve detention facilities abroad. Order on Motion for Preservation Order, Case 09-873, Doc. 45 at 3-4. Instead, she required respondents to "undertake a good faith effort to create a photographic and video record of any such facilities in the event the sites are subject to demolition or alteration." *Id.* at 4.

Finally, the D.C. Circuit issued interim preservation orders in petitions filed by Majid Khan and Ramzi bin Al-Shibh, requesting review of their designations as enemy combatants by the Combatant Status Review Tribunal. *See generally Khan v. Gates*, D.C. Cir. Case 07-1324; *Bin al-Shibh v. Gates*, D.C. Cir. Case 07-1399. Although the petitions were ultimately dismissed for lack of jurisdiction in 2009, both petitioners filed motions for preservation for torture evidence while they were pending. The Circuit issued interim administrative orders to preserve the evidence without ruling on the merits of the motions. *Khan v. Gates*, Case 07-1324, (D.C. Cir., Per Curiam Order, Dec. 11, 2007)

("The purpose of this administrative order is to give the court sufficient opportunity to consider the merits of the motion for preservation and should not be construed in any way as a ruling on the merits of that motion."); *Bin al-Shibh v. Gates*, Case 07-1399 (D.C. Cir. Per Curiam Order, Jan. 17, 2008) (same).³ When the underlying petitions were dismissed, the unresolved motions for preservation were transferred to Mr. Khan and Mr. Bin al-Shibh's habeas cases pending before the District Court, and the Circuit's interim orders remained in effect "pending transfer of the motion[s]." Khan, Case 07-1324 (D.C. Cir., Order, Apr. 24, 2009); *Bin al Shibh*, Case 07-1399 (D.C. Cir. Order, June 30, 2009).

II. ANALYSIS

Respondents ask the Court to find that [REDACTED] Site A and employing substitute methods of preservation is consistent with any preservation orders entered in the above-captioned cases. Alternatively, they request that the Court modify the

³ During the Khan appeal, then-CIA director Michael Hayden signed a declaration which was publicly filed in the D.C. Circuit. Director Hayden stated that he had issued a preservation order to all CIA personnel to preserve and maintain "all documents, information, and evidence" related to, *inter alia*, any detainee held in the past, present, or future by the CIA. Khan, Case 07-1324 (D.C. Cir., Govt's Opp'n to Mots. for Preservation Order and Declaratory Judgment, Ex. C., Declaration of Michael V. Hayden at ¶ 4, Dec. 20, 2007). As far as the Court is aware, no internal CIA preservation orders have been adopted by a Merits Judge in the instant cases; accordingly, the agency's internal preservation orders are not before this Court.

~~UNCLASSIFIED//FOR PUBLIC RELEASE~~

preservation orders to permit the substitute method of preservation. Notice at 2; Respondents' Notice to Counsel Regarding *Ex Parte*, *In Camera* Filing and Consolidated Reply, June 15, 2011 at 14 ("Reply"). For the purposes of this motion, the Court will assume *arguendo* that at least one of the preservation orders requires respondents to maintain and preserve Site A, and will further assume that discovery relating to the site is arguably relevant under the standards set forth under Judge Hogan's case management orders.

Applicants for a preservation order must show that (1) absent a preservation order, there is a significant risk that relevant evidence will be lost or destroyed; and (2) compliance with a preservation order will not be unduly burdensome. *Pueblo of Laguna v. United States*, 60 Fed. Cl. 133, 138 (Fed. Cl. 2004). Preservation orders may be subject to modification, and materials subject to the order may even be destroyed, "for good cause shown." Manual for Complex Litigation (Fourth) § 11.442 (2004); see also § 40.25 (form order regarding preservation should include "a mechanism to review and modify the preservation obligation as discovery proceeds.") A court may exclude "specified categories of documents or data whose cost of preservation outweighs substantially their relevance in the litigation, particularly . . . if there are alternative sources

~~UNCLASSIFIED//FOR PUBLIC RELEASE~~

for the information." Manual for Complex Litig. (Fourth)
§ 11.442.

Respondents have shown, through their *ex parte* and *in camera* filings, that continued preservation and maintenance of Site A is unduly burdensome to the government in three ways: personnel security, liaison relationships with the host country, and financial cost. Petitioners, for their part, have emphasized the potential relevance of the detention site to their *habeas* petitions. Several of them argue that they may have been tortured at the site, and argue that evidence of both the petitioners' torture and the torture of witnesses against them will likely be central to many *habeas* proceedings.⁴

The Court is extremely sensitive to the importance of preserving evidence of the petitioners' detention in their *habeas* cases. However, alternate means of preserving the evidence can achieve that purpose while also relieving the party charged with preservation of undue burden. Alternate means of preservation such as photography and other imaging are also consistent with general standards of evidence preservation, particularly given the reality that petitioners cannot bring an overseas detention

⁴ To avoid disclosure of classified materials, various petitioner's arguments will be generally attributed to all petitioners. See *In re Guantanamo Bay Detainee Litig.*, Case 08-442, Amended TS/SCI Order at ¶ 29, Doc. 1496 (generally prohibiting petitioners' counsel from disclosing the contents of classified documents to any person, including counsel in related cases).

facility into court. Where it is impossible to bring the Court to the physical evidence or the evidence to the Court, "the lawyer brings [the evidence] into court via movies, pictures or models." Federal Evidence Practice Guide § 2.10[3] [a] (Bender 2006).

Several of the petitioners have taken the position that petitioners' counsel and/or other representatives should be present and able to participate in documenting Site A [REDACTED] [REDACTED]. Petitioners argue that the government should not be trusted to preserve evidence of the site for at least two reasons: first, it is an adverse party in the proceedings, and second, the CIA has destroyed other evidence related to detainee interrogations and torture. See, e.g., Mark Mazzetti, *C.I.A. Admits it Destroyed Tapes of Harsh Interrogations*, N.Y. Times, Dec. 6, 2007; see also Reply at 6-9 (alluding to same).

Again, the Court sympathizes with the petitioners' position. However, organizing an expedition to Site A by petitioners' representatives would unduly burden the government in the same way as requiring the respondents to maintain the facility indefinitely: namely, it would risk the safety and security of respondents' personnel and any visitors to the site, as well as the government's liaison relationships with the host country. Moreover, in most litigation, a party is responsible for preserving evidence in its possession, custody or control even

~~UNCLASSIFIED//FOR PUBLIC RELEASE~~

when that evidence is adverse to its position. When it has been demonstrated that evidence may be lost or destroyed, as petitioners have demonstrated here, the remedy is to enter a preservation order. *Pueblo of Laguna*, 60 Fed. Cl. at 138. Before doing so, however, the Court must determine "that the particular steps to be adopted will be effective, but not overbroad," and "will best preserve relevant matter without imposing undue burdens." *Id.* With this framework in mind, the Court will enter a preservation order, and will impose additional preservation requirements upon respondents beyond those set forth in their Notice and Reply, to ensure that a comprehensive record of Site A is maintained without unduly burdening the government.

Specifically, and as set forth more fully below, in addition to the substitute preservation steps outlined by the government in its Notice, the Court will order the government to take all of the preservation steps outlined in the stipulation regarding substitute preservation methods at Bagram. See Bagram Stipulation, Case. 08-mc 442, Doc. 1929. The Court will, moreover, require respondents to collect data of all portions of [REDACTED] Site A used by respondents, not merely those portions to which the detainees had access, because these areas may be relevant to any allegations of torture the detainees may

~~UNCLASSIFIED//FOR PUBLIC RELEASE~~

assert.⁵ For the same reason, the Court will require respondents to preserve any existing records that reflect the exterior of Site A.⁶

Petitioners argue that a number of other conditions must be placed on any substitute preservation of the facility. As explained below, the Court does not find any of them persuasive.

First, petitioners argue they must have access to respondents' *ex parte*, *in camera* submissions to the Court. Petitioners principally cite to *Al Odah v. United States*, which provides that the court may order classified information disclosed to a petitioner's counsel where it is relevant, material, or helpful to the petitioner's habeas case, and where access by counsel is necessary for the court to conduct a meaningful review of both the cause for detention and the Executive's power to detain. 559 F.3d 539, 544-45 (D.C. Cir. 2009). Petitioners speculate that respondents' *ex parte* filings contain information such as the location of the facility, the

⁵ By way of example, such areas may include control rooms from which the detainees were monitored, storage rooms where weapons and other supplies used in the detention and interrogation program were kept, heating and cooling systems, and sound systems.

⁶ However, as in the Bagram stipulation, this Court's order to preserve information shall not be construed to require production of the preserved materials in any underlying habeas case, or as consent to such production. Production of such information, if any, shall be determined by the individual Merits Judge on a case-by-case basis.

names of the petitioners detained there, and the dates of detention, and argue that such information is relevant, helpful, and necessary to meaningful habeas review.⁷

It is unclear to the Court whether petitioners claim that classified information in respondents' *ex parte* filing is necessary to a determination of the narrow preservation issue before this Court, or to the petitioners' underlying habeas claims generally. To the extent petitioners argue that the information is necessary to the Court's review and resolution of the limited issue before it, that argument is rejected. As explained above, the Court assumes the petitioners were detained at the facility, tortured there, and the detention and torture is relevant to their habeas claims. The Court nevertheless concludes that respondents may use substitute methods of preservation in lieu of preserving the facility itself. Accordingly, applying *Al Odah* to the government's Notice and Motion, petitioners' counsel is not entitled to review the classified information submitted by respondents in their *ex parte* filings as a pre-condition to resolution of the Notice and Motion.

To the extent that petitioners' counsel request access to the *ex parte*, classified filings in order to obtain meaningful

⁷ To avoid disclosing classified materials, the Court will neither confirm nor deny that this information appears in the *ex parte* filings.

review of any of the underlying habeas petitions, that question is beyond the scope of the discrete issue before this Court. The Court can envision situations where classified information that petitioners speculate is contained in the *ex parte* filings could satisfy the *Al Odah* test. For example, although the respondents assure the Court that they do not rely on statements taken from any of the petitioners "while in CIA custody or at the facility at issue," respondents make no similar assurances regarding statements taken from petitioners after they were moved from Site A. Notice at 6. Courts have repeatedly found, however, that the use of coercion or torture to procure information may render subsequent confessions inadmissible. See, e.g., *Clewis v. Texas*, 386 U.S. 707, 710 (1967); *Oregon v. Elstad*, 470 U.S. 298, 311-12 (1985); *Al-Hajj v. Obama*, 800 F. Supp. 2d 19, 22-23, 26-27 (D.D.C. 2011); *Mohammed v. Obama*, 704 F. Supp. 2d 1, 25-27 (D.D.C. 2009). If the *ex parte* evidence would reveal the names of the petitioners who were detained at Site A, and/or the dates of their detention, this information could conceivably shed light on the reliability of subsequent confessions, and thus be necessary for a Merits Judge's meaningful review of the legality of a petitioner's underlying detention. However, this Court is not in a position to make this finding as to any petitioner based on the evidence before it; such an inquiry would be highly fact specific and dependant on the details of the government's case

~~UNCLASSIFIED//FOR PUBLIC RELEASE~~

against a particular detainee as well as his rebuttal. Accordingly, insofar as any petitioner requests disclosure of the *ex parte* filings for use in his underlying *habeas* case, the request is denied without prejudice solely because it is outside the scope of the matter pending before this Court. The denial should not be construed in any way as a ruling on the merits of the request.

Second, petitioners' counsel argue that they must be permitted to share the planned destruction of Site A with the detainees. Disclosure of such information, however, would be directly contrary to the Top Secret/Sensitive Compartmented Information Orders entered by Judge Hogan in *In re: Guantanamo Bay Detainee Litig.*, Case 08-mc-442, which prohibit disclosure of classified information to a detainee. See Doc. 1496 at ¶ 30. Petitioners' counsel have provided no basis for overturning Judge Hogan's Orders, and the Court declines to do so.

In a related argument, petitioners claim the request for substitute preservation should be subject to approval by other courts or authorities that may be considering petitioners' detention, including military commissions and/or foreign courts. These arguments fall outside the scope of petitioners' *habeas* review. Moreover, this Court's preservation order will ensure that evidence regarding Site A exists, and may therefore be available for use in other proceedings.

~~UNCLASSIFIED//FOR PUBLIC RELEASE~~

Finally, petitioners argue that the Court should create and impose a preemptive remedy for spoliation in the event that the substitute preservation methods for documenting Site A are not properly executed in accordance with this Court's preservation order. Essentially, petitioners ask the Court to assume the government will violate its preservation order and impose an across-the-board remedy for assumed future violations with no consideration for the facts and circumstances of any individual case. The Court declines petitioners' invitation. In the event of future spoliation, each individual Merits Judge will be in the best position to determine "the degree of culpability involved, the relevance of the lost evidence to the case, and the concomitant prejudice to the party that was deprived of access to unpreserved evidence," and to impose appropriate sanctions.

Goodman v. Prexair Services, 632 F. Supp. 2d 494, 508 (D. Md. 2009).

IV. CONCLUSION

For the foregoing reasons, the Court finds that the respondents may substitute preservation of the physical overseas detention site referenced in this Memorandum Opinion as Site A, with the alternative preservation methods set forth below. The Court finds that these alternative methods of preservation are either consistent with the preservation orders issued by other judges on this court or on the D.C. Circuit, or, alternatively,

are necessary substitutes to those preservation orders with respect to the facility at issue.

Accordingly, it is hereby

ORDERED that the Government may substitute digital, photographic, and physical preservation methods for preservation of Site A *in situ*, in accordance with this Order. It is further

ORDERED that the [REDACTED] Site A. The [REDACTED] will involve the [REDACTED] of all areas of Site A used by the United States Government since it began operation of Site A as a detention facility. The [REDACTED] will collect, among other things, the following types of [REDACTED] for the purposes of generating the

[REDACTED] digital [REDACTED]

It is further

ORDERED that members of the team conducting [REDACTED]

[REDACTED]

It is

further

~~UNCLASSIFIED//FOR PUBLIC RELEASE~~

ORDERED that the Government will generate the [REDACTED] or [REDACTED] as expeditiously as possible, consistent with other priorities of the Government. It is further

ORDERED that after the data [REDACTED]

ORDERED that the Government will preserve all underlying data [REDACTED] of Site A. It is further

ORDERED that the Government will preserve [REDACTED]

[REDACTED] reflect the interior and exterior of Site A since the United States began using it as a detention facility. It is further

ORDERED that nothing in this Order shall be construed to require production of the [REDACTED] data in any individual *habeas* case or as consent to such production. Production of such information, if any, shall be determined on a case-by-case basis under the standards set forth in the governing case management order and/or other applicable law. It is further

~~UNCLASSIFIED//FOR PUBLIC RELEASE~~

ORDERED that petitioners' motions to strike for failure to comply with Local Rule 7(m), and for access to the government's ex parte filings, are hereby DENIED.

An appropriate Order accompanies this Memorandum Opinion.

Signed: Emmet G. Sullivan
United States District Judge
May 7, 2012

ORDERED [REDACTED]

[REDACTED] all areas of Site A used by the United States Government since it began operation of Site A as a detention facility. [REDACTED]

It is further [REDACTED]

ORDERED [REDACTED]

It is [REDACTED]

further [REDACTED]

ORDERED that the Government will generate [REDACTED] as expeditiously as possible, consistent with other priorities of the Government. It is further [REDACTED]

ORDERED that after the data [REDACTED] is collected, [REDACTED]

~~UNCLASSIFIED//FOR PUBLIC RELEASE~~

[REDACTED]

It is further

ORDERED that the Government will preserve [REDACTED]

[REDACTED]

Site A. It is further

ORDERED that the Government will preserve [REDACTED]

[REDACTED]

Site A since the United

States began using it as a detention facility. It is further

ORDERED that nothing in this Order shall be construed to require production of the [REDACTED] in any individual *habeas* case or as consent to such production.

Production of such information, if any, shall be determined on a case-by-case basis under the standards set forth in the governing case management order and/or other applicable law. It is further

ORDERED that petitioners' motions to strike for failure to comply with Local Rule 7(m), and for access to the government's *ex parte* filings, are hereby DENIED.

SO ORDERED.

Signed: Emmet G. Sullivan
United States District Judge
May 7, 2012

~~UNCLASSIFIED//FOR PUBLIC RELEASE~~