

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Claim Numbers: HQ08X01180,
HQ08X01413
HQ08X01416
HQ08X03220
HQ08X01686

BETWEEN:

- (1) BISHAR AL RAWI
- (2) JAMIL EL BANNA
- (3) RICHARD BELMAR
- (4) OMAR DEGHAYES
- (5) BINYAM MOHAMMED
- (6) MARTIN MUBANGA

Claimants

and

- (1) THE SECURITY SERVICE
- (2) THE SECRET INTELLIGENCE SERVICE
- (3) THE ATTORNEY GENERAL
- (4) THE FOREIGN AND COMMONWEALTH OFFICE
- (5) THE HOME OFFICE

Defendants

EXHIBIT LC4

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QUEEN'S BENCH DIVISION

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Claimants

- and -

- (1) THE SECURITY SERVICE
- (2) THE SECRET INTELLIGENCE SERVICE
- (3) THE ATTORNEY-GENERAL
- (4) THE FOREIGN AND COMMONWEALTH OFFICE
- (5) THE HOME OFFICE

Defendants

Claimants' draft Order

UPON HEARING LEADING COUNSEL FOR THE PARTIES

IT IS ORDERED THAT

1. There be a split trial of issues in these proceedings, with the Defendants' liability to the Claimants to be tried first, and any quantification of the Claimants' damages claims to await determination of that issue.
2. The Defendants shall give further consideration to the Claimants' Statement of Issues and shall, by 6 May 2010, serve a Schedule in response to the same explaining in relation to each paragraph which they are not prepared to agree the formulation presented why that is the case.
3. The Defendants shall provide substantive answers to the Claimants' Request for Further Information dated 17 February 2010, and shall provide the specific disclosure sought therein, by 6 May 2010;

4. In the light of 1. above there be no Order in relation to the Defendants' Request for Further Information;
5. The Defendants shall permit inspection of the remaining documents referred to in paragraphs 4 and 5 of the Order of Silber J dated 14 December 2009 forthwith, specifically the documents in the open disclosure schedules referred to in subparagraphs 14(a), 19(b)(i), 19(b)(ii), 16(b) and 20(b) of the 6th Witness Statement of Mr Mackie by 4pm on 30 April 2010;
6. The Defendants shall serve a further witness statement explaining their approach to redaction in the disclosure provided to date by 6 May 2010 and explaining the discrepancies and inconsistencies identified in the fourth Witness Statement of Ms Christian;
7. The Defendants' remaining standard disclosure be limited, in the first instance, to documentation falling into the following categories or relevant to the following issues:
 - (a) Guidance provided to the First and Second Defendants ("the Security Services") in relation to:
 - i. the sharing of information relating to individuals suspected of involvement in terrorism;
 - ii. direct or indirect participation in the questioning of detainees in the custody of other countries (and specifically the United States, Pakistan, Morocco, The Gambia and Zambia);
 - iii. attendance at detention centres in Afghanistan, The Gambia, Guantanamo Bay, Morocco and Pakistan;
 - iv. the obligations arising under the United Nations Convention Against Torture and s.134 of the Criminal Justice Act 1988;
 - v. the use of the product of information obtained pursuant to para (ii).
 - (b) The Defendants' knowledge of the matters relating to incommunicado detention, rendition and inhuman and degrading treatment or torture set out in the Schedule to the Al Rawi Claimants' Particulars of Claim;
 - (c) The extent and nature of any communications or relationship between the Security Services and any of the Claimants prior to their detention;
 - (d) The extent and nature of any information supplied to the intelligence agencies of the United States, Morocco, Pakistan, The Gambia or Zambia in relation to any of the Claimants;
 - (e) The extent and nature of any participation by the Defendants in the rendition, detention or interrogation of the Claimants;

- (f) The extent and nature of any communications between the Defendants and the authorities of the United States, Morocco, Pakistan, The Gambia or Zambia in relation to the conditions of detention, interrogation or treatment of the Claimants;
 - (g) The Defendants' efforts to protect the Claimants from inhuman and degrading treatment and torture and to secure their release from detention.
8. The said disclosure shall be provided by 30 June 2010;
 9. The Claimants shall have liberty to apply for wider disclosure if so advised thereafter;
 10. To the extent necessary there shall be a hearing to consider any public interest immunity issues in July 2010. To facilitate the efficient conduct of that hearing 3 Special Advocates be appointed within 14 days in order to familiarise themselves with the issues in these proceedings on the basis of the open material and the redacted material of which disclosure has already been given;
 11. The parties shall exchange witness statements relevant to the issues of liability by 30 September 2010;
 12. There be a further Case Management Conference on a date to be fixed in September 2010 for the purpose of fixing a date for trial of the Defendants' liability to the Claimants in the first half of 2011. For present purposes the said trial be provisionally fixed to commence on [insert] with a time estimate of 6 weeks.