

1 KAREN P. HEWITT
United States Attorney
2 THOMAS C. STAHL
Assistant United States Attorney
3 Chief, Civil Division
CINDY M. CIPRIANI
4 Assistant United States Attorney
5 California Bar Number: 144402
880 Front Street, Room 6293
6 San Diego, California 92101
Telephone:(619) 557-7390
7 E-Mail: Cindy.Cipriani@usdoj.gov

8 PETER D. KEISLER
United States Department of Justice
9 Assistant Attorney General, Civil Division
VICTOR M. LAWRENCE, DC 449052
10 Senior Litigation Counsel
Office of Immigration Litigation
11 SAMUEL P. GO, NYSBN 4234852
12 Trial Attorney
P.O. Box 878, Ben Franklin Station
13 Washington, D.C. 20044
Telephone: (202) 353-9923
14 Fax Number: (202) 233-0397
15 Email: samuel.go@usdoj.gov

16 Attorneys for Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

18 ISAAC KIGONDU KINITI, et al.,)
19)
Plaintiffs,)
20)
v.)
21)
JULIE L. MYERS, et al.,)
22)
23)
24)
Defendants.)
25)

Case No. 3:05-cv-1013-DMS-PCL

**RESPONSE TO PLAINTIFFS’
MOTION TO PRESERVE THE
TESTIMONY OF NAMED
PLAINTIFFS KINITI AND
DELGADO BY BARRING
THEIR REMOVAL PRIOR TO
DEPOSITION¹**

26 _____
27 ¹ This response to the motion to bar removal prior to deposition is filed on behalf of the
28 Federal Defendants. It is not filed on behalf of defendants Corrections Corporation of America
(CCA), Joe Easterling, or Charles Howard.

1 Defendants respond to plaintiffs' motion to preserve testimony as follows:

2 On March 26, 2007, plaintiffs informed defendants of their intention to notice videotaped
3 depositions of Plaintiffs Kiniti and Delgado prior to their future potential removal. See March 26,
4 2007, Letter from Bhat to Go and Struck, attached as Exhibit B to Bhat Decl., at 1. On April 2, 2007,
5 defendants acknowledged plaintiffs' concerns and informed plaintiffs that the ICE Field Office
6 Director had confirmed that neither plaintiffs Kiniti nor Delgado would be removed prior to
7 deposition. See April 2, 2007 Letter from Go to Bhat, attached as Exhibit E to Bhat Decl., at 1.
8 Plaintiffs and defendants thus agreed that neither Kiniti nor Delgado would be removed prior to their
9 deposition. Plaintiffs later requested that defendants enter into a stipulation and joint motion for a
10 court order to formalize their agreement. Defendants replied that their letter served as sufficient good
11 faith confirmation of their agreement, and thus plaintiffs' requested actions were unnecessary and
12 burdensome to the court and the litigation.

13 Unsatisfied by the agreement and defendants' assurance, plaintiffs now make a motion before
14 this court for an order barring removal of Kiniti and Delgado prior to deposition. Defendants believe
15 that plaintiffs' motion is neither justified nor warranted under the circumstances, considering that other
16 administrative remedies are available. However, in order to ensure that plaintiffs' counsel has
17 sufficient time to conduct their depositions, should plaintiffs become otherwise eligible for removal
18 from the United States, defendants agree to provide reasonable notice to counsel, in accordance with
19 the requirements of the Federal Rules of Civil Procedure, prior to the removal of these plaintiffs. In
20 exchange, defendants request that their depositions be conducted within this reasonable time frame
21 and not be unnecessarily delayed.

22

23 DATED: June 8, 2007

24

Respectfully submitted,

25

For Defendants:

26

KAREN P. HEWITT
United States Attorney
THOMAS C. STAHL
Assistant U.S. Attorney
Chief, Civil Division

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CINDY M. CIPRIANI
Assistant U.S. Attorney

PETER D. KEISLER
Assistant Attorney General Civil Division
DAVID J. KLINE
Principal Deputy Director
VICTOR M. LAWRENCE
Senior Litigation Counsel

s/ Samuel P. Go

SAMUEL P. GO
Trial Attorney
U.S. Department of Justice Civil Division
Office of Immigration Litigation
P.O. Box 878,
Ben Franklin Station
Washington, D.C. 20044
(202) 353-9923

CERTIFICATE OF SERVICE

The undersigned certifies that on this 8th day of June 2007 a true and correct copy of the foregoing Defendants' Opposition to Plaintiffs' Motion for Class Certification was served by ECF Filing on all counsel of record.

Gouri Bhat, Esq.
American Civil Liberties Union Foundation
National Prison Project
915 15th Street, NW
7th Floor
Washington, DC 20005-2112
Gbhat@npp-aclu.org

Anthony Michael Stiegler
Cooley Godward Kronish
4401 Eastgate Mall
San Diego, CA 92121-9109
stiegleram@cooley.com

David Fathi
American Civil Liberties Union Foundation
National Prison Project
915 15th Street, NW
7th Floor
Washington, DC 20005-2112
dfathi@npp-aclu.org

John David Blair-Loy
ACLU of San Diego and Imperial Counties
P.O. Box 87131
San Diego, CA 92138
dblairloy@aclusandiego.org

Mary Kathryn Kelley
Cooley Godward Kronish
4401 Eastgate Mall
San Diego, CA 92121-9109
mkkelley@cooley.com

Tom-Tsvi M. Jawetz
American Civil Liberties Union Foundation
National Prison Project
915 15th Street, NW
7th Floor
Washington, DC 20005-2112
tjawetz@npp-aclu.org

Christopher G. Stuart
Jones Shelton and Hochuli
2901 North Central Avenue
Suite 800

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Phoenix, AZ 85012
cstuart@jshfirm.com

Daniel P. Struck
Jones Shelton and Hochuli
2901 North Central Avenue
Suite 800
Phoenix, AZ 85012
dstruck@jshfirm.com

Russell R. Yurk
Jones Shelton and Hochuli
2901 North Central Avenue
Suite 800
Phoenix, AZ 85012
ryurk@jshfirm.com

Rachel Love Halvorson
Jones Shelton and Hochuli
2901 North Central Avenue
Suite 800
Phoenix, AZ 85012
rhalvorson@jshfirm.com

David B. Monks
Klinedinst PC
501 West Broadway
Suite 600
San Diego, CA 92101-3544
dmonks@klinedinstlaw.com

Micaela P. Shelton
Klinedinst PC
501 West Broadway
Suite 600
San Diego, CA 92101-3544
mshelton@klinedinstlaw.com

/s/ Samuel P. Go
U.S. Department of Justice