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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RAHINAH IBRAHIM, an individual,
Plaintiff,

v.

DEPARTMENT OF HOMELAND
SECURITY, et al.,

Defendants.

CASE NO. C 06 0545 WHA

**NOTICE OF MOTION AND
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION TO AMEND
COMPLAINT TO ADD NEW PARTIES**

Date: July 13, 2006

Time: 8:00 a.m.

Judge: The Hon. William Alsup

Ctrm: 9, 19th Floor

NOTICE OF MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that on July 13, 2006, at 8:00 a.m., or as soon thereafter as the matter may be heard in the above-entitled court, located at 450 Golden Gate Avenue, San Francisco, California, Courtroom 9, 19th Floor, plaintiff, Rahinah Ibrahim, will move the Court for an Order granting her leave to amend her complaint to name, US Investigations Services, Inc., as defendant, DOE 1, the Transportation Security Intelligence Service, as defendant DOE 2,

1 and the Transportation Security Operations Center, as defendant, DOE 3, pursuant to Federal
2 Rules of Civil Procedure 15(a) and 21. The motion is made on the grounds that after filing her
3 complaint, plaintiff discovered these entities, who are, in part, responsible for the events that are
4 the subject of this action.

5
6 This motion will be based on this Notice of Motion and Motion to Amend, the attached
7 Memorandum of Points and Authorities, the Declaration of Marwa Elzankaly served and filed
8 herewith, the papers and records on file herein, and on such oral and documentary evidence as
9 may be presented at the hearing on the motion.

10 Dated: May 31, 2006

McMANIS, FAULKNER & MORGAN

13 /S/ Marwa Elzankaly

14 JAMES McMANIS
MARWA ELZANKALY

15 Attorneys for Plaintiff,
16 RAHINAH IBRAHIM

17
18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19
20 **STATEMENT OF FACTS**

21 On January 27, 2006, plaintiff filed the above-entitled action in the San Francisco
22 Division for the United States District Court for the Northern District of California. Plaintiff's
23 action is based, in part, on her false arrest and detention at San Francisco Airport, on January 2,
24 2005, without probable cause, as a result of the implementation of the No-Fly. Before filing this
25 action, plaintiff obtained a copy of the incident report that was prepared by the San Francisco
26 Police – Airport Bureau, in connection with plaintiff's arrest. (See Declaration of Marwa
27 Elzankaly In Support Of Motion To Amend Complaint To Add New Parties ("Elzankaly Decl."),
28 served and filed herewith, Exh. A.)

1 The report provides that on the date of the incident, San Francisco Police Sergeant "Pate"
2 called the "TSIS" and spoke to agent "Bondanella." Agent Bondanella told Sgt. Pate to deny
3 Ibrahim from flying, "contact the F.B.I. and to detain her for further questioning." (Elzankaly
4 Decl., Exh. A, pg. 2.) Plaintiff was not able to determine what agency was referenced in the
5 police report as the "TSIS" prior to filing her complaint. Plaintiff did determine, however, that
6 "Bondanella" was agent John Bondanella and named him as a defendant in this action.
7 (Elzankaly Decl., ¶5.)

8 Since then, however, plaintiff has been able to determine that the TSIS appears to be the
9 Transportation Security Intelligence Service. (Elzankaly Decl., ¶5.) After defendant,
10 Bondanella, served his motion to dismiss on May 22, 2006, Plaintiff also discovered, from Mr.
11 Bondanella's declaration, two additional entities which were part of the collective decision to
12 detain Ms. Ibrahim, namely a Virginia Corporation called "US Investigations Services, Inc.,"
13 ("USIS"), and the Transportation Security Operations Center ("TSOC."). (Elzankaly Decl.,
14 ¶¶6&7.) According to his declaration, on January 2, 2005, Mr. Bondanella worked as a watch
15 officer, through his employer, USIS, for the TSOC. (See Declaration of John Bondanella In
16 Support Of Motion To Dismiss, filed May 22, 2006, ¶4.)

17 Thus far, plaintiff has been able to piece together some of the apparent relationship of
18 these organizations. The TSIS appears to be an intelligence agency within the Transportation
19 Security Administration, that serves as a liaison between the TSA and other agencies, including
20 the FBI and the CIA. (Elzankaly Decl., Exh. B.) The Transportation Security Administration
21 disburses "Federal Security Directors" ("FSDs") to all of the commercial airlines in the US, to
22 lead and coordinate security activities at the respective airlines. (Elzankaly Decl., Exh. C, pgs.
23 7-8.) The TSOC is the "point of contact" for FSD's to seek guidance on handling "security-
24 related operations." *Ibid.* The TSOC provides the FSDs with intelligence briefings, based on
25 information obtained from the TSIS. *Ibid.*

26 In other words, it is quite possible that when Sgt. Pate called agent Bondanella, an
27 employee of the USIS, he was receiving "guidance" from the TSOC, on how to deal with a
28 "security related" issue, based on information obtained from the TSIS. Plaintiff now timely

1 brings this motion to amend to include the TSIS, the USIS and the TSOC as defendants in this
2 action.¹

3 LEGAL ARGUMENT

4 This Court should grant plaintiff's motion to amend to add the TSIS, the USIS and the
5 TSOC as parties to this action. Rule 15(a) of the Federal Rules of Civil Procedure allows a party
6 to amend the party's pleading by seeking leave of court and directs that "leave shall be freely
7 given when justice so requires." (Fed. R. Civ. P. 15(a).) Moreover, rule 21 provides that a party
8 may be added "by order of the court on motion of any party or of its own initiative at any state of
9 the action and on such terms as are just." (Fed. R. Civ. P. 21.) Federal law strongly favors
10 amendment of pleadings and the circumstances under which Rule 15(a) "permits denial of leave
11 to amend are limited." *Ynclan v. Department of Air Force* (5th Cir. 1991) 943 F.2d 1388, 1391.
12 The policy favoring amendment of pleadings is "a necessary companion to notice pleading and
13 discovery." *Lone Star Ladies Invest. Club v. Schlotzsky's Inc.* (5th Cir. 2001) 238 F.3d 363, 367.
14 This policy is to be applied with "extreme liberality." *Eminence Capital, LLC v. Aspeon, Inc.*
15 (9th Cir. 2003) 316 F.3d 1048, 1051. Moreover, the party seeking amendment need only show
16 why "justice" requires the amendment. The burden is then shifted to the opposing party to
17 establish that "justice" requires denial. *Shipner v. Eastern Airlines, Inc.* (5th Cir. 1989) 868 F.2d
18 401, 406-407. The party opposing the motion must be able to make a showing of undue
19 prejudice, bad faith or dilatory motive on the part of the moving party. *Foman v. Davis* (1962)
20 371 US 178, 182. Moreover, to justify denial of leave to amend, any purported prejudice must
21 be substantial. *Morongo Band of Mission Indians v. Rose* (9th Cir. 1990) 893 F.2d 1074, 1079.

22 Justice requires that this Court grant plaintiff's motion for leave to amend. Plaintiff did
23 not learn of the role of the above-mentioned entities until after filing her complaint and after
24 defendant, Bondanella, filed his declaration in support of his motion to dismiss on May 22, 2005.
25 The information plaintiff has been able to gather, thus far, indicates that these entities played a

26
27 ¹ On May 18, 2006, this Court issued its Case Management Order And Reference To Magistrate Judge For
28 Mediation/Settlement, providing that "[l]eave to add any new parties or pleading amendments must be sought by
May 31, 2006." Plaintiff's motion is, therefore, timely as it is filed on May 31, 2006.

1 collective role in the detention of Ms. Ibrahim on January 2, 2005 and are, therefore, proper
2 defendants in this action.

3 Additionally, defendants will not suffer any prejudice as a result of the proposed
4 amendment. First, plaintiff's motion to amend is timely pursuant to the Court's scheduling
5 order, setting forth a deadline of May 31, 2006, to move to amend. Moreover, trial in this action
6 is not scheduled until September 10, 2007, over a year from now.

7 **CONCLUSION**

8 For the reasons set forth herein, plaintiff requests that this Court grant her motion amend
9 her complaint to name, US Investigations Services, Inc., as defendant, DOE 1, the Transportation
10 Security Intelligence Service, as defendant DOE 2, and the Transportation Security Operations
11 Center, as defendant, DOE 3, pursuant to Federal Rules of Civil Procedure 15(a) and 21.

12
13 Dated: May 31, 2006

McMANIS, FAULKNER & MORGAN

14
15 /S/ Marwa Elzankaly

16 JAMES McMANIS
17 MARWA ELZANKALY

18 Attorneys for Plaintiff,
19 RAHINAH IBRAHIM
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