

EXHIBIT D

Jennifer Ching/PaulWeiss
01/13/2006 06:51 PM

To GRP-GTMO
cc
bcc
Subject Al Joudi v. Bush, 05-301 (GK) (DDC) #1 of 4

History

This message has been forwarded.

----- Forwarded by Jennifer Ching/PaulWeiss on 01/13/2006 06:51 PM -----



"Ned.White@usdoj.gov"
<Ned.White
01/13/2006 06:47 PM

To: Julia Mason/PaulWeiss@PaulWeiss, Jennifer
Ching/PaulWeiss@PaulWeiss
cc: "Terry.Henry@usdoj.gov" <Terry.Henry@usdoj.gov>
Subject: Al Joudi v. Bush, 05-301 (GK) (DDC) #1 of 4

Ms. Tarver and Ms. Ching:

Please find attached the next set of bates-stamped medical records for Mr. Al Joudi (ISN 025) and Mr. Al Shehri (ISN 114) required by Judge Kessler's October 26, 2005 order. As before, these records contain the redactions of identifying information, including names, signatures, and initials, pertaining to medical providers. Certain FOIA exemption numbers, e.g. "(b)(6)", appear in some of the redaction boxes. This insertion was a function of the redaction software used and is not intended to have significance with respect to this production.

As you will see, Mr. Al Joudi ended his hunger strike and began eating regularly on January 6, 2006. Accordingly, his enteral feeding concluded on or before January 6, 2006, thus ending respondents' obligation to produce any additional medical records for Mr. Al Joudi under the terms of Judge Kessler's order.

Due to the size of the pdf files, I need to break them up and send them in four separate emails. This is the first of the four.

Best regards,
Ned White
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave., N.W.
Washington, D.C. 20530
Tel: (202) 514-5108
Fax: (202) 318-4268



025(1-Jan13).pdf

EXHIBIT E



Julia Mason/PaulWeiss
09/18/2006 07:02 PM

To Jana Ramsey/PaulWeiss@PaulWeiss
cc
bcc
Subject Fw: Al Joudi v. Bush

Julia Tarver Mason | Partner
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas | New York, NY 10019-6064
(212) 373-3029 (Direct Phone) | (212) 492-0029 (Direct Fax)
jmason@paulweiss.com | www.paulweiss.com

----- Forwarded by Julia Mason/PaulWeiss on 09/18/2006 07:02 PM -----



"Terry.Henry@usdoj.gov"
<Terry.Henry@usdoj.gov>
09/11/2006 11:58 AM

To Julia Mason/PaulWeiss@PaulWeiss
cc
Subject RE: Al Joudi v. Bush

Thanks for raising this. We will check it out right away, see what the situation is, and get back with you.

Terry M. Henry
Senior Trial Counsel
Civil Division, Federal Programs Branch
U.S. Department of Justice
Tel. 202.514.4107

The information in this transmittal (including attachments, if any) is intended only for the recipient(s) listed above and may contain information that is privileged and confidential. Any review, use, disclosure, distribution, or copying of this transmittal is prohibited except by or on behalf of the intended recipient. If you have received this transmittal in error, please notify me immediately and destroy all copies of the transmittal. Your cooperation is appreciated.

-----Original Message-----

From: jmason@paulweiss.com [<mailto:jmason@paulweiss.com>]
Sent: Monday, September 11, 2006 11:15 AM
To: Henry, Terry (CIV); Nichols, Carl (CIV); Warden, Andrew (CIV)
Cc: mflumenbaum@paulweiss.com; JChing@paulweiss.com; JRamsey@paulweiss.com
Subject: Al Joudi v. Bush

Gentlemen,

We have reason to believe based on information we obtained from Petitioner Majid Al Joudi on Friday, September 8, 2006 that Respondents are in violation of Judge Kessler's October 26, 2005 order (the "Order") requiring Respondents to provide weekly medical records for those Petitioners subjected to forced

feeding.

Unless a reasonable explanation can be provided for Respondents' apparent failure to comply with the explicit terms of the Order, we intend to raise this issue with Judge Kessler.

Thank you for your attention to this urgent matter.
Julia Tarver Mason | Partner
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas | New York, NY 10019-6064
(212) 373-3029 (Direct Phone) | (212) 492-0029 (Direct Fax)
jmason@paulweiss.com | www.paulweiss.com

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"Terry.Henry@usdoj.gov"
<Terry.Henry@usdoj.gov>
09/12/2006 07:49 AM

To Julia Mason/PaulWeiss@PaulWeiss
cc "Andrew.Warden@usdoj.gov"
<Andrew.Warden@usdoj.gov>, Jana
Ramsey/PaulWeiss@PaulWeiss, Jennifer
Ching/PaulWeiss@PaulWeiss, Martin
Flumenbaum/PaulWeiss@PaulWeiss

bcc

Subject RE: Al Joudi v. Bush

Julia,

We have conferred with our client and are unaware of any violation of Judge Kessler's October 26, 2005 Order. Our information is that none of your clients subject to the Order have been enterally fed since enteral feeding of Mr. Al Shehri ended in January 2006. If you have specific details to the contrary, please let me know.

Regards,

Terry M. Henry
Senior Trial Counsel
Civil Division, Federal Programs Branch
U.S. Department of Justice
Tel. 202.514.4107

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JRamsey@paulweiss.com
Subject: Al Joudi v. Bush

Gentlemen,

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Unless a reasonable explanation can be provided for Respondents' apparent failure to comply with the explicit terms of the Order, we intend to raise this issue with Judge Kessler.

Thank you for your attention to this urgent matter.
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Julia Mason/PaulWeiss
09/18/2006 07:02 PM

To Jana Ramsey/PaulWeiss@PaulWeiss
cc
bcc
Subject Fw: Al Joudi v. Bush

Julia Tarver Mason | Partner
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas | New York, NY 10019-6064
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----- Forwarded by Julia Mason/PaulWeiss on 09/18/2006 07:02 PM -----



"Terry.Henry@usdoj.gov"
<Terry.Henry@usdoj.gov>
09/14/2006 10:23 AM

To Julia Mason/PaulWeiss@PaulWeiss
cc
Subject RE: Al Joudi v. Bush

Thanks. We're double-checking the information from GTMO and hope to get back to you shortly.

Terry M. Henry
Senior Trial Counsel
Civil Division, Federal Programs Branch
U.S. Department of Justice
Tel. 202.514.4107

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-----Original Message-----

From: jmason@paulweiss.com [mailto:jmason@paulweiss.com]
Sent: Wednesday, September 13, 2006 10:17 AM
To: Henry, Terry (CIV)
Cc: Warden, Andrew (CIV); mflumenbaum@paulweiss.com; JChing@paulweiss.com; JRamsey@paulweiss.com
Subject: Re: Al Joudi v. Bush

Terry -- our notes have been cleared. Mr. Al Joudi told us that he was force-fed through tubes in his nose (twice a day, often in the restraint chair) from some time in January 2006 through some time in July or August of 2006. We were not provided with any medical records during this time. We

intend to raise this with the Court, so please get back to us right away if there is some reasonable explanation for your clients' apparent failure to comply with Judge Kessler's order.

Thanks.

Julia Tarver Mason
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1285 Avenue of the Americas | New York, NY 10019-6064
(212) 373-3029 (Phone) | (212) 492-0029 (Fax) www.paulweiss.com

----- Original Message -----

From: "Terry.Henry@usdoj.gov" [Terry.Henry@usdoj.gov]
Sent: 09/12/2006 07:49 AM
To: Julia Mason
Cc: Martin Flumenbaum; Jennifer Ching; Jana Ramsey; "Andrew.Warden@usdoj.gov" <Andrew.Warden@usdoj.gov>
Subject: RE: Al Joudi v. Bush

Julia,

We have conferred with our client and are unaware of any violation of Judge Kessler's October 26, 2005 Order. Our information is that none of your clients subject to the Order have been enterally fed since enteral feeding of Mr. Al Shehri ended in January 2006. If you have specific details to the contrary, please let me know.

Regards,

Terry M. Henry
Senior Trial Counsel
Civil Division, Federal Programs Branch
U.S. Department of Justice
Tel. 202.514.4107

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Subject: Al Joudi v. Bush

Gentlemen,

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Unless a reasonable explanation can be provided for Respondents' apparent failure to comply with the explicit terms of the Order, we intend to raise this issue with Judge Kessler.

Thank you for your attention to this urgent matter.
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EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)
MOHAMMED AL-ADAHI, <i>et al.</i>)
)
<i>Petitioners,</i>)
)
v.)
)
GEORGE W. BUSH, <i>et al.,</i>)
)
<i>Respondents.</i>)
_____)

Civil Action No. 05-280 (GK)

DECLARATION OF RICHARD G. MURPHY, JR.
IN SUPPORT OF PETITIONER'S MOTION FOR INJUNCTION
AGAINST FURTHER TORTURE OF MOHAMMED BAWAZIR

I, Richard G. Murphy, Jr., under penalty of perjury, declare as follows:

1. I am an attorney with the law firm of Sutherland Asbill & Brennan LLP. I represent Petitioner Mohammed Bawazir in the above-styled proceeding.
2. In preparing this Declaration, I have reviewed the records of Mr. Bawazir's medical treatment at the Guantanamo Bay Naval Base between September 1, 2005 and January 23, 2006 that were produced by Respondents pursuant to Order entered in the above proceeding on October 26, 2005.
3. I first learned of Mr. Bawazir's hunger strike on the morning of Monday, September 26, 2005, when I, along with my colleagues, John Chandler, Kristin Wilhelm, and John Anderson, arrived at the Camp Echo detention facility to visit our clients. We were met by Lt. Commander De Alicante, then the Joint Task Force-Guantanamo Judge Advocate General representative. Lt. Commander De Alicante informed us that Mr. Bawazir would not be brought to Camp Echo to meet with us until the afternoon of that day because he was participating in a hunger strike and required constant medical treatment at the hospital.
4. On the afternoon of September 26, 2005, and I met with Mr. Bawazir. He was sitting in a wheelchair, propped up by a foam pad behind his back, with a white towel over his head and a feeding tube dangling from his right nostril. Mr. Bawazir was shivering, despite the fact that the temperature in the room was over 75 degrees.

5. Mr. Bawazir stated that he had begun his hunger strike on August 8, 2005. He stated that he was removed from the camp in which he was imprisoned and taken to the hospital for force-feeding in early September, 2005. According to Mr. Bawazir's medical records, he was transferred to the hospital on September 1, 2005.

6. Mr. Bawazir stated that he refused to consent to the doctors' request that he be fed enterally. When he refused, he was held down by guards and the tube was inserted by force. Mr. Bawazir stated that he attempted to remove the tube a number of times, but that he finally relented when he realized that the doctors and the guards would always be able to overpower him. Mr. Bawazir said that the process of inserting and removing the feeding tube was excruciatingly painful.

7. When we met with Mr. Bawazir on September 26, 2005, we encouraged him to resume eating, but at the conclusion of our visit, Mr. Bawazir stated that he was firm in his resolve to die at the Guantanamo Bay Naval Base. He said he would never willingly consume food as long as he remains imprisoned on the island.

8. On November 29, 2005, during another visit to Guantanamo, John Anderson and I met with Suleiman Bin Aquil Al-Nahdi, who is also a Petitioner in the above-styled matter. Mr. Al-Nahdi stated that he repeatedly requested that the Guantanamo authorities grant him the opportunity to talk to Mr. Bawazir so that he could try to convince Mr. Bawazir to stop his hunger strike. Finally, the Guantanamo authorities arranged for Mr. Al-Nahdi to meet with Mr. Bawazir. Mr. Al-Nahdi stated that despite his best efforts to convince him otherwise, Mr. Bawazir could not be persuaded to resume eating.

9. According to Mr. Bawazir's medical records, from mid-September, 2005 until January 11, 2006, Mr. Bawazir was fed through a small (10 French or 10F) nasal-gastric tube that the Guantanamo medical staff generally left in place between feedings. Throughout this period, Mr. Bawazir's weight remained relatively stable. Mr. Bawazir's medical records indicate that although he did not consent to feedings administered through the nasal-gastric tube, he did not physically resist. The medical records do not indicate that any physical restraint was used in his feedings between our September visit and January 11, 2006. Indeed, the records describe Mr. Bawazir as having been "compliant" when he was fed on January 10, 2006. Mr. Bawazir's weight was recorded as 97.5 pounds on January 11, 2006. The medical records describe him as being 65 inches tall.

10. In late January, 2006, John Anderson and I returned to the Guantanamo Bay Naval Base. When we arrived on the evening of January 29, 2006, Lt. Col. Vitale, the JTF/JAG liaison for habeas counsel, told me that Mr. Bawazir had abandoned his hunger strike and had resumed eating on January 23, 2006. (Mr. Bawazir's medical records indicate that he actually abandoned his hunger strike on January 22, 2006.) On February 1, 2006, John Anderson and I met with Mr. Bawazir. Mr. Bawazir informed us that he had ended his hunger strike on January 22, 2006. Though I was pleased to hear he had ended his strike, I was disturbed to learn of the circumstances that drove his decision. According to Mr. Bawazir, on January 11, 2006, the Guantanamo medical staff began, for the first time, strapping Mr. Bawazir into a restraining

chair for enteral feedings. Mr. Bawazir stated that beginning on that day, he was strapped into the chair with restraints binding his head, arms, legs and stomach each time he was fed.

11. Mr. Bawazir's medical records confirm that on January 11, 2006, Guantanamo officials started putting Mr. Bawazir in "six point restraints" each time he was fed. Also on January 11, 2006, Mr. Bawazir's medical records indicate that rather than leaving the thin (10F) feeding tube in place after feedings, the Guantanamo officials began to forcibly insert and remove a larger (12F) feeding tube at each feeding. The records report that he was restrained and fed twice a day.

12. Mr. Bawazir's medical records indicate that during the first five days the Guantanamo medical staff strapped Mr. Bawazir into the restraining chair for feeding, he was left restrained for periods ranging from thirty-five minutes to two hours and thirty-one minutes. On average, during those first five days Mr. Bawazir was immobilized for 95 minutes at each feeding.

13. Mr. Bawazir stated that, besides strapping him to the chair, the military personnel increased the amount of nutrients and water they forced him to ingest at each feeding. He stated that while he was strapped into the restraint chair, they forced him to ingest 1200cc's of nutrients and four bottles of water through a nasal-gastric tube at each feeding. Mr. Bawazir stated that this forced feeding of excessive quantities was extremely painful. Mr. Bawazir also stated that, at this same time, the Guantanamo medical staff reintroduced the excruciatingly painful (and previously abandoned) practice of inserting and removing the feeding tubes at each feeding.

14. Mr. Bawazir stated that the Guantanamo medical staff insisted on enterally hydrating him—with a total of eight bottles of water daily—despite the fact that he had been voluntarily drinking water through his mouth throughout his strike and had made it clear that he wished to continue to do so.

15. Mr. Bawazir stated that, despite forcing him to ingest over 1200cc's of nutrients and four bottles of water at each feeding, the Guantanamo medical staff would not allow him to use a toilet for at least one hour after each feeding had ended. Mr. Bawazir stated that the inability to relieve himself after having been force-fed such large volumes of liquids caused a great deal of pain. I have been advised that the feedings forced upon Mr. Bawazir could be expected to cause abdominal cramping and diarrhea.

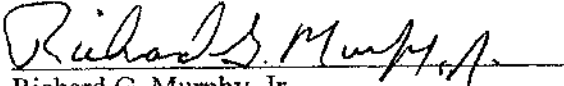
16. Mr. Bawazir's medical records indicate that Mr. Bawazir temporarily abandoned his hunger strike on January 14, 2006, and that he accepted solid food on January 15, 2006. On the next day, January 16, 2006, however, Mr. Bawazir's medical records indicate that he resumed his hunger strike. Mr. Bawazir's medical records reflect that the Guantanamo medical staff began to increase the periods of restrained force-feeding after January 16, 2006. For the next five days, the medical records indicate that Mr. Bawazir was restrained for an average of 118 minutes at each feeding. Beginning on January 19, 2006, Mr. Bawazir's medical records show that he was restrained for exactly two hours for each of six consecutive feedings.

17. Mr. Bawazir reported that the day after he resumed his hunger strike, January 17, 2006, he was placed in solitary confinement. The Guantanamo authorities deprived Mr. Bawazir of all personal items; they turned the air conditioning in the cell up to an unbearably cold level; and they deprived him of access to the latrine. Mr. Bawazir stated that he became ill between feedings and began vomiting all over himself in his freezing solitary cell. Because Mr. Bawazir had no access to a toilet, he urinated and defecated on himself and his clothing.

18. Finally, according to Mr. Bawazir, he could take no more: the restraint chair, excessive feeding, constant insertion and removal of the feeding tube, excessive cold, denial of access to the toilet, and the solitary confinement had become unbearable. On January 22, 2006 he ended his hunger strike. According to the medical records, this was 145 days after the Guantanamo authorities began feeding him through a tube, but only 11 days after they began using the restraint chair and implementing the other measures described in this Declaration. He told me that he did not end the hunger strike of his own free will, but because he could no longer endure these conditions.

19. To my knowledge, during the entire five months he was on hunger strike, Mr. Bawazir never acted violently, and never threatened to do violence to himself or to others.

I declare under the laws of the United States of America that the foregoing is true and correct.


Richard G. Murphy, Jr.

Executed on this 23rd day of February, 2006.

EXHIBIT G

be treated as if they were classified. They may be made public only after undergoing classification review by a Privilege Review Team in the Department of Justice. All client communications that I discuss in this declaration have been deemed unclassified by the Privilege Review Team.

4. From February 5 to February 9, 2006, I visited Guantánamo Bay with Robert Knowles and two other associates from Covington & Burling. We spoke with a number of our clients with the aid of two Arabic interpreters.

5. On February 7, 2006, Mr. Knowles and I met with our client Hassan bin Attash. We were assisted by Mahmoud Hasnain, one of our interpreters. Like many of our clients, Mr. Attash gave us detailed information about the military's recent crackdown on the detainees' hunger strike. According to Mr. Attash, beginning about six weeks earlier, the military had started taking extreme measures to make the hunger strikers stop. Any detainee who initiated a hunger strike by refusing three consecutive meals was immediately punished by having all of his personal belongings taken away. Men who continued to strike were force-fed.

6. Mr. Attash described the force-feeding in graphic terms. The hunger strikers are tied down for extended periods so that they cannot move at all. During this time they are forbidden to engage in ablutions and prayers, and are not allowed to use the restroom or showers. A feeding tube is inserted through the hunger-striker's nose and into his stomach. The feeding tubes are at present larger in diameter than those that the military has used in the past, and they are therefore more painful. Although previously hunger strikers had been forced to ingest four cans of "Ensure" nutrient a day, they are now forced to ingest five cans, which has led a number of the men to vomit. Because the

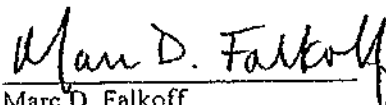
hunger strikers are strapped down and not allowed to use the restroom, a number of them have soiled themselves during these procedures. The feeding tubes, which previously had been inserted only once and then left in place, are now being inserted and extracted at every meal, three times a day. Some of the men have vomited blood as a result of these procedures. The detainees believe that this painful process of inserting, removing and reinserting the gastro-nasal tubes has no medical purpose and is intended as nothing less than physical torture.

7. Mr. Attash also told us about a disturbing incident that occurred to a detainee who has been on hunger strike during this recent crackdown. The detainee was being force-fed with a gastro-nasal tube when a piece of the tube broke off, requiring him to undergo an operation to have it removed. Mr. Attash does not know precisely when this event occurred. He knows this detainee by the name "Abdulrahman," and he knows that Abdulrahman is a Saudi citizen whose internee serial number is "in the 40s, maybe 42 or 49."

8. Pursuant to the Protective Order in Mr. Attash's case, all of our notes from our meeting with Mr. Attash were collected by military personnel at Guantánamo Bay before we departed from the Naval Base. The notes were sent to a secure facility in the Washington, D.C. area and arrived there on February 16, 2006. There, the Privilege Review Team reviewed the notes to determine their classification level. The notes were deemed unclassified on February 27, 2006 and were retrieved by me from the secure facility on March 1, 2006. The notes of our conversations with Mr. Attash remain in my possession.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed: New York, New York
March 7, 2006



Marc D. Falkoff

EXHIBIT H

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MOHAMMED AL-ADAH, et al.,

Petitioners,

v.

GEORGE W. BUSH, et al.,

Respondents.

Civil Action No: 05-280 (GK)

Pursuant to 28 U.S.C. Section 1746, I, Stephen G. Hooker, MD, MPH, hereby state that, to the best of my knowledge, information, and belief, the following is true, accurate, and correct:

1. I am a licensed physician and a Captain in the United States Navy with 22 years Active Federal Commissioned Service. I currently am the Officer in Charge, Detention Hospital, Joint Task Force-Guantanamo, Guantanamo Bay, Cuba. I am directly responsible for the medical care provided to detainees and presently oversee the operation of the Detention Hospital that provides medical care to the detainees being held at Guantanamo.

2. I received my medical degree from the University of Mississippi, School of Medicine. I completed an internship at U.S. Naval Hospital, Jacksonville, Florida, a residency in Family Practice at U.S. Naval Hospital, Pensacola, Florida, and a residency in Preventive Medicine from the University of Washington, Seattle, Washington.

(including behavioral health professionals) continually remind detainees who persist in their hunger strike that continuation of the hunger strike could endanger their health or life.

11. No patient at the Detention Hospital receives any medical treatment, to include the insertion of nasogastric tubes and/or use of the restraint system during feeding through those tubes, unless medically necessary. When medically necessary, enteral tube feedings are conducted by dedicated medical professionals in a careful and compassionate manner using a medically appropriate protocol. The feeding process for hunger striking detainees is administered by physicians and credentialed registered nurses and is conducted in a humane manner. While medical corpsmen may assist in a procedure, none of the above-listed procedures are performed or have ever been performed by medical corpsmen, physician assistants or anyone other than physicians and credentialed registered nurses. This practice equals or exceeds the standard of care available at accredited hospitals in the United States.

12. The entire feeding and monitoring process using the restraint chair system lasts approximately 120 minutes or less. The process involves insertion of the feeding tube for each twice daily feeding and removal of the tube after each feeding. The detainee is placed in the restraint chair for insertion of the tube and the feeding. Contrary to the petitioner's allegations that Mr. Bawazir was denied the use of "bathroom facilities for several hours," detainees (including Mr. Bawazir) are offered and encouraged to use the restroom before and after each feeding process. Before inserting nasogastric tubes, a lubricant is always used. In all cases, a topical anesthetic such as lidocaine is offered; however, a patient may decline the anesthetic. The nose is lubricated with a sterile lubricant and, if accepted, a topical anesthetic to prevent pain

during insertion of a sterile tube. Sedation, which creates greater risks to the patient, has never been required to accomplish a nasogastric tube insertion. It is inserted down into the stomach slowly and directly. Medical personnel do not insert nasogastric tubes in any manner intentionally designed to inflict pain or harm on the detainee.

13. It takes about 20-30 minutes to insert the nasogastric tube and feed the detainee through the tube. The medical staff carefully monitors the process the entire time, adjusting the rate and amount of nutrients and fluids given, if there are any indications of discomfort to the detainee. All enterally fed detainees are offered or given medication that would make tolerance of the feeding easier, but the vast majority of feedings occur with no discomfort to the detainee. The comfort and safety of the detainee is a priority for the medical staff. The feeding formulas are the same formulas used in U.S. hospitals and include brand names such as Ensure®, Boost®, and Jevity®. Concentrated and fiber fortified formulas are used to reduce volume and enhance digestion, respectively, and to make the procedure as comfortable as possible. After the nutritional supplement is introduced, the detainee is observed for an additional 60-90 minutes to ensure he has tolerated the feeding and to permit digestion of the nutritional formula sufficient to thwart any later attempt to purge.

14. All detainees being enterally fed are assessed daily by a physician to ensure the feeding process is safely administered and being tolerated by the detainee. The protocol being used was developed from guidelines used by the U.S. Federal Bureau of Prisons. A Joint Medical Group professional closely monitors detainees' health to ensure they have the appropriate daily amounts of nutrition and hydration. Putting the tube in for each feeding and then removing it has reduced

*

the ability of detainees to purge their feeds and, hence, has led to appropriate weight gain and reduced metabolic disturbances. This procedure has also eliminated other complications caused by leaving the tubes in place. Presently, all detainees who are being enterally fed using this protocol are healthy and above 85% Ideal Body Weight.

15. Although JTF-GTMO follows the Federal Bureau of Prisons' model for managing hunger strikers, JTF-GTMO uses a smaller tube than that used by the Federal Bureau of Prisons when providing enteral feeds. A 12-French tube is used presently for most enteral feedings. The medical rationale for using a slightly larger tube (12-French versus 10-French) than that previously used when the feeding tube was left continually in place, was to provide the nutritional requirements as safely, comfortably, and expeditiously as possible. The difference in size between a 10-French (3.3 mm) tube and 12-French (3.96 mm) tube is barely discernible to the human eye. The 3.96 mm diameter tube allowed for easier delivery of the nutritional formula in a reduced amount of time. Consequently, this would lessen the total amount of time the detainee would be involved in the entire feeding process. Additionally, the slightly larger tube was safer and easier to place. Also, at least one of the nutritional formulas specifically recommended in the instructions on its label the use of the 12-French tubes, due to the viscosity of the formula and the tendency of the smaller tube to clog.

16. Like the United States Federal Corrections Facilities, the JTF-GTMO utilizes a restraint chair system. The restraint chair system is ergonomically designed for the detainee's comfort and protection. The seat and back are padded. The straps are ergonomically positioned so as to safely restrain the detainee, while mitigating the risk of circulation and neurological compromise.

The goals of the restraint chair system are to provide the safest and most reliable method for the administration of nutritional requirements, eliminate purging of needed nutrients, and reduce the risk of physical harm to both the detainee and the staff. The restraint chair system has allowed us to provide the nutrition and fluids required to sustain health and maintain life compassionately and consistently. The detainee is constantly monitored while in the restraint chair; and the entire time the detainee is in the chair is approximately 120 minutes or less. Contrary to petitioner's counsel's assertions, the restraint chair system has never been utilized as a form of punishment at JTF-GTMO.

17. I have reviewed and am familiar with the medical records of Mr. Mohammed Bawazir. According to his medical records, Mr. Bawazir entered Guantanamo Bay at 126 pounds in May 2002 and his weight on October 30, 2002, was 130 pounds. His weight in June 2005 was 120 pounds. He began his hunger strike on approximately 11 August 2005. On August 15, 2005, he was counseled by a medical provider on the medical dangers of a hunger strike and advised to consume adequate food and water to preserve his health and life. He persisted in his hunger strike and was admitted to the Detention Hospital on September 1, 2005, for dehydration. At the time of admission to the Detention Hospital he weighed 106 pounds, which is 78.3% of his Ideal Body Weight. He was started on enteral feeds on September 4, 2005. The attached graph demonstrates the weight trend of Mr. Bawazir throughout his hunger strike and in his post-hunger strike period. The graph also demonstrates continued weight loss and a worsening malnourished state, despite clinically and nutritionally appropriate enteral feedings. The adequacy of the calories that were being provided to him and his failure to gain weight evidenced that he was purging his feedings.

EXHIBIT I

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MAJID ABDULLA AL JOUDI, *et al.*,

 Petitioners,

 v.

 GEORGE W. BUSH,
 President of the United States, *et al.*,

 Respondents.

Civil Action No. 05-0301 (GK)

JARALLAH AL-MARRI, *et al.*,

 Petitioners,

 v.

 GEORGE W. BUSH,
 President of the United States, *et al.*,

 Respondents.

Civil Action No. 04-2035 (GK)

MUHAMMAD AL-ADAHI, *et al.*,

 Petitioners,

 v.

 GEORGE W. BUSH,
 President of the United States, *et al.*,

 Respondents.

Civil Action No. 05-280 (GK)

detention hospital many times daily. I have personal knowledge of the procedures that are in place for the operation of the detention hospital and I am responsible for ensuring they are followed. I have personal knowledge of, or have received information in the course of my responsibilities concerning, the matters related to the allegations made by petitioners' counsel in their September 28, 2005 motion to compel access to counsel and the exhibits submitted with it.

4. There are procedures and/or protocols for providing medical care to detainees including those detainees who may be participating in a hunger strike. The framework for these procedures are set forth in the JTF-GTMO Standard Operating Procedures, the orders of JTF Commander, Major General Jay Hood, and the orders of higher military and medical authorities. These procedures were generally set forth in the declaration of Major General Hood previously submitted in these cases. These orders and procedures establish the practices to be followed at all times by all medical personnel at the detention hospital and throughout JTF-GTMO.

5. No patient at the detention hospital receives any medical treatment, to include the insertion of nasogastric tubes, feeding through those tubes, the administration of medication and the hydration of patients from anyone other than a physician or a credentialed registered nurse. While medical corpsmen may assist in a procedure, none of the above-listed medical procedures are performed or have ever been performed by medical corpsmen, physician assistants or anyone other than these medical professionals. This practice equals or exceeds the standard of care available at accredited hospitals in the United States.

6. When inserting nasogastric tubes, a lubricant is always used. In all cases, a topical anaesthetic such as lidocaine is offered; however, a patient may decline the anaesthetic. A sterile nasogastric tube is lubricated with a gel that contains lidocaine, a widely used local anaesthetic, or surgilube prior to its insertion by the medical professional. In rare cases, cetacaine, an oral spray,

may also be used. Sedation, which creates greater risks to the patient, has never been required to accomplish a nasogastric tube insertion. A nasogastric tube is never inserted and moved up and down. It is inserted down into the stomach slowly and directly and it would be impossible to insert the wrong end of the tube. I have personally performed this insertion procedure for some of the hunger-striking patients. Medical personnel do not insert or administer nasogastric tubes in a manner intentionally designed to inflict pain or harm on the detainee.

7. Contrary to petitioner's counsel's assertions, no detainee participating in the hunger strike has ever been placed in six-point restraint to receive intravenous medication. Only rarely are detainee patients unwilling to have the nasogastric tubes inserted. On only one occasion has a detainee patient been placed in a six-point restraint to receive a nasogastric tube and within minutes of placement the restraint level was reduced to two-point restraint, which would allow the detainee to remove the tube if he chose. In less than ten cases have trained medical personnel had to use four-point medical restraint in order to achieve insertion. Guards have never inserted, removed or even touched nasogastric tubes. When any of these medical restraints are necessary, only soft Velcro restraints are used. Virtually all of the detainee patients accept insertion of nasogastric tubes without any additional restraints.

8. Current protocols require that a new sterile nasogastric tube be utilized for every insertion. An earlier protocol used in the detention hospital allowed a sanitized feeding tube to be reused for the same detainee only, however that protocol, although consistent with standard, approved medical practice, was changed after only two days. Nasogastric tubes are not and were not ever inserted in one patient and then used again in another patient.

9. Currently only 10 french (3 mm. in diameter) nasogastric tubes are used on all patients. Originally, 12 french (3.6 mm in diameter) tubes were used for most detainees receiving daily feedings. During a two-day period in September, 2005, 16 french (4.8 mm in diameter) tubes were used for a few patients when medical personnel at the detention hospital attempted to

implement a U.S. Bureau of Prisons protocol for higher volume feeding that would allow the detainees to remain in their cells for more of the day. This protocol involved the insertion of the feeding tube twice per day, with the tube being sanitized before each insertion, but the protocol was abandoned after a two-day trial period, as it was determined that a protocol involving smaller tubes which remained in the patient for longer periods of time was more comfortable for the patients and was easier to manage for medical personnel. The 3 mm tubes are soft and flexible, and are in common use as nasogastric tubes in hospitals throughout the United States.

10. Doctors and registered nurses carefully and continuously evaluate the health of all detainees being tube-fed. First, consistent with JTF-GTMO policy, detainees are counseled concerning the risks of not eating and alternatives to involuntary feeding. The counseling occurs on multiple occasions, including when a detainee has refused nine consecutive meals, prior to the onset of tube feeding, and at various times during the period of time the detainee chooses to be tube fed. Doctors and nurses monitor the detainees' health by both observation and medical testing. Each patient has a different ability to accept differing amounts of nutrition and hydration. As a result, medical professionals must continually evaluate the rates of nutrition and hydration and make observations on the success of the treatment regimen. In addition, blood tests are taken on a periodic basis and that laboratory data is also evaluated.

11. Depending upon the location of the detainees, those that are hunger-striking get varying degrees of medical supervision. Those detainees that are patients in the detention hospital have a registered nurse and other medical personnel on site twenty four hours every day and are seen by a physician no less than once daily. For those detainees on Papa block, the special cell block for detainees who are being fed enterally, they have no restraints in their cells, are able to exercise daily and have a physician or registered nurse on site all day, every day. Those detainees who are not

EXHIBIT J

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evaluation of refugees and survivors of torture, and I have given invited presentations throughout New England on various topics related to caring for survivors of torture. I have given workshops on the preparation of medical affidavits. I attended an Institute in Forensic Evaluation and Treatment at the Kovler Center in Chicago, November 2001. In addition, I published a scholarly paper in *Urology* on male sexual trauma in torture survivors, and an essay in the *Journal of the American Medical Association (JAMA)* entitled a "Mother's Prayer" (2000;283:1109). I have been qualified as an expert witness in the Boston Immigration Court, and have written over 75 affidavits documenting medical and psychological sequelae of torture. I have evaluated and examined approximately 300 survivors of torture in my medical practice.

4. I am attending on the inpatient service at Boston Medical Center for 1-2 months every year, and care for patients requiring enteral feedings due to various medical conditions.

5. In recent weeks, I have reviewed the medical records that I understand have been produced, pursuant to a Court Order, by the Government to Petitioners' counsel in the matter *Al Soufi v. Bush*, 05-CV-301 (GK). I have also reviewed a March 7, 2006 Declaration of Marc D. Falkoff submitted under the matter *Shalabi v. Bush*, 05-CV-520 (RMU). My colleague, Dr. Julie Levison, M.D., M.Phil., a resident physician with the Brigham and Women's Hospital Department of Medicine, has also reviewed these documents, and I have consulted with her on the issues presented therein.

6. I submit this affidavit in support of Petitioners in these actions, as I believe that the records produced and the situation described in the Falkoff Declaration raise serious, ongoing questions about the health of their clients who have been subjected to enteral feeding by the government.

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7. A patient who cannot or refuses to eat may be placed on enteral feeding. In one method of enteral feeding, nutrition is provided through a naso-gastric ("NG") tube that goes through the nose and runs into the stomach or small intestines.

8. When performed by a trained health care professional, the insertion of an NG tube for the purposes of enteral feeding is a procedure that presents low risks of adverse events.

9. It is extremely rare for an enteral feeding tube to break inside an individual's body, requiring surgical retrieval or repair. I have never witnessed or heard of a case where a feeding tube simply broke while properly inserted in an individual for the purposes of enteral feeding. Most feeding tubes are made of flexible silicone or polyurethane materials. When performed by a competent health care provider, the placement of a feeding tube should pose a very low risk of complications. The report of a naso-gastric tube "breaking" inside a patient raises serious concerns for me about how the procedure was performed, *i.e.* roughly and without regard to standard and safe procedures.

10. There is no medical indication for repeatedly inserting and removing a feeding tube multiple times a day for every meal. This is not the standard practice for enteral feeding. Repeated insertions will increase the risk of any potential trauma caused by the tube, and cause great discomfort for the patient.

11. Tubes of all sizes may become damaged if they are reused. For example, after repeated exposures to liquids and body cavities, tubes may become brittle and prone to breakage. Competent healthcare providers do not ever reuse feeding tubes for patients receiving enteral feeding. If these complications were to occur, this raises serious questions about whether a patient received the appropriate medical care during tube placement and feeding.

