

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

FAWZI KHALID ABDULLAH FAHAD AL
ODAH, *et al.*,

Petitioners,

v.

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

Respondents.

Civil Action No. 02-828 (CKK)

SCHEDULING ORDER

(January 7, 2009)

In accordance with the Court's December 22, 2008 Order, the parties filed a Joint Status Report on January 2, 2009, which summarizes their compliance with Judge Hogan's Case Management Order issued in *In re Guantanamo Bay Detainee Litigation*, Misc. No. 08-442 (Nov. 6, 2008), Docket No. [940], as amended on December 16, 2008, No. 08-442, Docket No. [1315] (the "Case Management Order"), which describes anticipated problems that might arise during compliance with the Case Management Order, and which proposes a final schedule for "all motions, filings, or other disclosures" going forward.

Based on the foregoing, it is, this 7th day of January, 2009, hereby

ORDERED that the parties shall comply with the following schedule:

- Petitioners shall file a Motion for More Complete Unclassified Returns on or before January 9, 2009. Petitioners' motion shall specifically identify the portions of the unclassified factual returns and/or attachments thereto that they seek to have declassified. Petitioners must provide a reasonable basis to assert that any item should be declassified, and under the heading "High Priority Items," Petitioners shall identify the items they consider most important to their ability to present a defense.

- Respondents shall file a Response to Petitioners' Motion for More Complete Unclassified Returns on or before January 23, 2009. The Government must include the declassified return and relevant attachments as an exhibit, and shall provide a justification for each item that was identified in Petitioners' Motion that Respondents have determined not to declassify.
- Respondents shall serve disclosures pursuant to Section I.E.1 of the Case Management Order on or before January 12, 2009;
- Petitioners shall file a Motion for Additional Discovery on or before January 23, 2009;
- Respondents shall serve disclosures pursuant to Section I.D of the Case Management Order on or before January 30, 2009;
- Respondents shall file a Response to Petitioners' Motion for Additional Discovery on or before February 6, 2009.
- Petitioners shall file Traverses on or before March 30, 2009;
- The parties shall confer and file a Joint Status Report on or before April 3, 2009. The Joint Status Report shall indicate whether the parties *both* agree that this case may resolved by dispositive motions, and if so, the parties shall propose a briefing schedule. If *either* party disagrees that this case may be resolved by dispositive motions and instead believes that a merits hearing is necessary, the parties shall submit the information identified below;¹
- The Court shall hold a Status Hearing in this case on April 7, 2009, at 1:30 P.M., in Courtroom 15, during which the Court shall set a schedule for dispositive motions or set a date for a merits hearing. If the parties do not anticipate the need to discuss classified information on the record, the parties shall so notify the Court no later than March 30, 2009, and another Courtroom may be used.²

¹ Although the Court shall require the parties to submit the information identified in this Order if they do not agree that dispositive motions briefing may resolve this case, the Court *may* order such briefing after reviewing the submitted information and considering the arguments of the parties at the Court's Status Hearing.

² The District of Columbia Court has designated one courtroom (Courtroom 15) for hearings related to Guantanamo detainees where classified information may be disclosed.

IT IS FURTHER ORDERED that if the parties indicate in their April 3, 2009 Joint Status Report that a merits hearing is necessary, both parties shall also submit (1) a list of proposed witnesses and the anticipated scope of their testimony, and (2) any exhibits the parties intend to use. The Government shall also submit a statement of facts upon which it intends to rely in making its case-in-chief and it shall identify all evidence it expects to elicit in support of those facts. If the Government intends to rely on any statements, it shall disclose (1) the identify of the speaker; (2) the content of the statement; (3) the person(s) to whom the statement was made; and (4) the date and time the statement was made or adopted (including the location where the statement was made). If the Government cannot identify the original source or any later source of the information, it shall so indicate. If the Government intends to rely on any documents (including 302 reports), such documents must be produced to Petitioner pursuant to the schedule set forth above and, in any event, no later than March 15, 2009. The Government shall also identify the relevant portions of any document (by page and paragraph number) on which it intends to rely, if it does not intend to rely on the whole document;

IT IS FURTHER ORDERED that any motion to extend or continue one or more of the above dates shall not be granted absent demonstrable extraordinary circumstances;

IT IS FURTHER ORDERED that any motion that is not contemplated by the above schedule (except for motions to extend or continue) may be filed only with prior leave of the Court;

IT IS FURTHER ORDERED that the parties shall comply fully with Local Civil Rule

Accordingly, these matters must be scheduled far in advance and changes are logistically difficult. The Court has reserved Courtroom 15 for April 7, 2009, for the status hearing in this case.

