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February 22, 2010

VIA E-MAIL

H. Candace Gorman
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220 S. Halsted Street
Suite 200
Chicago, IL 60661

Re: *Mattan v. Obama*, No. 09-745 (RCL) (D.D.C.)

Dear Counsel,

As reported in the media, Chief Judge Lamberth and several other Members of the Court spoke on December 17, 2009, at a breakfast meeting sponsored by the American Bar Association (ABA) Standing Committee on Law and National Security. A Department of Defense (DoD) attorney then assigned to the defense of this case was in attendance at the ABA breakfast.

It has come to Respondents' attention that, following the conclusion of Judge Lamberth's formal remarks, the DoD attorney approached Judge Lamberth, introduced herself as a Defense Department attorney working on this case, and stated that she had what she believed to be a general, procedural question regarding discovery, but that Judge Lamberth should let her know if her question was inappropriate for discussion. The attorney then asked whether the Government's discovery obligations in the habeas cases generally require Respondents to search for and produce exculpatory evidence related to the contents of declarations provided by subject matter experts. Judge Lamberth answered no. The attorney then asked if there is anything unique about the Court's July 2, 2009 Order regarding the disclosure of exculpatory evidence that requires Respondents to search for exculpatory evidence when amending a factual return with an expert declaration. Again, Judge Lamberth answered no. The attorney then mentioned an aspect of the interagency discussion that had taken place regarding this issue – the substance of which is privileged – and the Court responded that if there is any confusion regarding the issue, the parties should feel free to schedule a status conference to clarify the issue.

At that point, the conversation between Judge Lamberth and the Defense Department attorney concluded.

Regards,

/s/

Nancy Safavi