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

DAVID M. HICKS,)	
)	
)	
Petitioner,)	
)	Civ. Act. No. 1:02-cv-00299-CKK
v.)	
)	Judge Kollar-Kotelly
GEORGE W. BUSH, President of the United States;)	
DONALD RUMSFELD, United States Secretary of)	
Defense; GORDON R. ENGLAND, Secretary of the)	
United States Navy; JOHN D. ALTENBURG, JR.,)	
Appointing Authority for Military Commissions,)	
Department of Defense; Brigadier General JAY)	
HOOD, Commander, Joint Task Force, Guantanamo)	
Bay, Cuba, and Colonel BRICE A. GYURISKO,)	
Commander, Joint Detention Operations Group,)	
Joint Task, Guantanamo Bay, Cuba)	
)	
Respondents, all sued in their)	
individual and official capacities.)	

**RESPONSE TO RESPONDENTS’ STATEMENT OF FACTS IN SUPPORT OF
RESPONDENTS’ RENEWED RESPONSE AND MOTION TO DISMISS OR FOR
JUDGMENT AS A MATTER OF LAW WITH RESPECT TO PETITIONER’S
CHALLENGES TO THE MILITARY COMMISSION**

Petitioner hereby responds to each of Respondents’ numbered statements in Respondents’ Statement of Undisputed Material Facts in Support of Respondents’ Renewed Response and Motion to Dismiss or for Judgment as a Matter of Law with Respect to Petitioner’s Challenges to the Military Commission (“Respondents’ Motion”), as follows:

1. This statement is not disputed for purposes of Respondents’ Motion.
2. This statement is not properly supported for purposes of a motion to dismiss or for judgment as a matter of law. Further, Respondents provide no support for the legal

conclusion that the President, as Commander in Chief had the authority to authorize the activities described in this statement. Moreover, Petitioner objects to the characterization of the dispatched command to “‘seek out and subdue’ the al Qaeda terrorist network and the Taliban regime and others that had supported it.”

3. This statement is not disputed for purposes of Respondents’ Motion. Petitioner objects, however, to the language: “[r]ecent headlines make clear that the war. . . continues to rage. . .” as an argumentative characterization rather than an undisputed material fact.
4. Petitioner disputes that it is “consistent with settled historical practice” that “many of the individuals captured in the hostilities with al Qaeda and its supporters should be detained during the conflict as enemy combatants” as unsupported and an argumentative characterization rather than a statement of undisputed material fact. Petitioner does not dispute the remainder of this statement for purposes of Respondents’ Motion.
5. This statement is not disputed for purposes of Respondents’ Motion.
6. Petitioner disputes Respondents’ characterization and legal conclusion that Hicks is “properly” classified as an “enemy combatant” or affiliated with “al Qaeda.” The remainder of this statement is not disputed for purposes of Respondents’ Motion.
7. This statement is not disputed for purposes of Respondents’ Motion.
8. Petitioner disputes that the Secretary of Defense has the authority stated in this statement. The remainder of this statement is not disputed for purposes of Respondents’ Motion.
9. Petitioner disputes that the Appointing Authority has the authority stated in this statement. The remainder of this statement is not disputed for purposes of Respondents’ Motion.
10. This statement is not disputed for purposes of Respondents’ Motion.

11. Petitioner disputes that the military commissions established by the Appointing Authority actually have jurisdiction over the individuals subject to MCO No. 1 § 9.3(a). Petitioner admits that Respondents have correctly quoted No. 1 § 9.3(a). Petitioner admits that the individuals named as members of the Review Panel that took office in September 2004 are correctly named.
12. This statement is not disputed for purposes of Respondents' Motion.
13. This statement is not disputed for purposes of Respondents' Motion.
14. Petitioner disputes that there has been any competent determination that Hicks was a member of al Qaeda or otherwise involved. Petitioner does not dispute the remainder of this statement for purposes of Respondents' Motion.
15. This statement is not disputed for purposes of Respondents' Motion.
16. Respondents improperly cite ¶ 29 of Petitioner's Petition as support for the date upon which the Appointing Authority approved charges against Petitioner. Petitioner does not contest that on June 10, 2004, charges against him were publicly released. Pet. ¶ 29. The remainder of this statement is not disputed for purposes of Respondents' Motion.
17. This statement is not disputed for purposes of Respondents' Motion.
18. Petitioner does not dispute that the quoted language appears in Charge ¶ 19.
19. Petitioner does not dispute that the quoted language appears in Charge ¶¶ 14, 16 and 18, but objects to the extent that Respondents contend that these statements purportedly support any allegation as to Petitioner. To the extent that this statement is intended to provide any support for the conspiracy charge against Hicks, Petitioner disputes those statements based on the foregoing.

20. Petitioner does not dispute Respondents' summary of the charges, but contests the conclusory language "as for Hicks' role in the conspiracy" as an argumentative characterization rather than an undisputed material fact.
21. Petitioner does not dispute Respondents' summary of the charge, but contests the argumentative characterization of the summary.
22. Petitioner does not dispute Respondents' summary of the charge, but contests the argumentative characterization of the summary.
23. This statement is not disputed for purposes of Respondents' Motion.
24. Petitioner does not dispute Respondents' summary of the initial hearing in the Commission or the motions and objections filed by Petitioner, but contests the argumentative characterization of the summary.
25. This statement is not disputed for purposes of Respondents' Motion.
26. This statement is not disputed for purposes of Respondents' Motion.
27. This statement is not disputed for purposes of Respondents' Motion.
28. This statement is not disputed for purposes of Respondents' Motion.
29. This statement is not disputed for purposes of Respondents' Motion.
30. This statement is not disputed for purposes of Respondents' Motion.
31. This statement is not disputed for purposes of Respondents' Motion.

Dated: August 31, 2005

Respectfully submitted,
David M. Hicks

Marc A. Goldman,
District Bar No. 449230
Michael B. DeSanctis
Eric Berger
Jenner & Block LLP

By: _____

601 13th St. N.W.
Suite 1200 South
Washington, D.C. 20005-3823
(202) 639-6095

One of His Attorneys

Andrew A. Jacobson
David E. Walters
Hillary A. Victor
Andrew W. Vail
pro hac vice
Jenner & Block LLP
One IBM Plaza
Chicago, IL 60611
(312) 222-9350

Joshua L. Dratel
Joshua L. Dratel, P.C.
Civilian Defense Counsel
pro hac vice
14 Wall Street, 28th Floor
New York, New York 10005
(212) 732-0707
Attorney Registration No. 1795954
Attorneys for Petitioner David M. Hicks

Leon Friedman, Esq.
District Bar No. NY0028
148 East 78th Street
New York, New York 10021
(212) 737-0400

Major Michel D. Mori, U.S. Marine Corps
pro hac vice
Office of Military Commissions
Office of the Chief Defense Counsel
1931 Jefferson Davis Highway, Suite 103
Arlington, Virginia 22202
(703) 607-1521, ext. 193