

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

AMERICAN CIVIL LIBERTIES UNION,
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION, and CENTER FOR
CONSTITUTIONAL RIGHTS,

Plaintiffs,

v.

TIMOTHY F. GEITHNER, in his official capacity as
Secretary of the Treasury, and ADAM J. SZUBIN, in
his official capacity as Director of the Office of
Foreign Asset Control,

Defendants.

No.

PLAINTIFFS' APPLICATION FOR A TEMPORARY RESTRAINING ORDER

Pursuant to Fed. R. Civ. P. 65(b) and Local Rule 65.1, Plaintiffs American Civil Liberties Union, American Civil Liberties Union Foundation, and Center for Constitutional Rights hereby apply for the issuance of an order (1) temporarily restraining Defendants from requiring Plaintiffs to obtain a license in order to engage in uncompensated legal representation of Nasser al-Aulaqi, as next-friend for his son Anwar al-Aulaqi, a U.S. citizen; (2) temporarily restraining Defendants from imposing any penalty whatsoever on Plaintiffs for representing, without a license, Nasser al-Aulaqi in civil litigation or for other advocacy in connection with the targeting of his son for killing by the U.S. government; or, in the alternative, (3) directing Defendant to issue Plaintiffs a license.

The grounds for this motion are that Plaintiffs have a substantial probability of success on the merits of their claim that OFAC's regulations – which require lawyers to obtain a license before engaging in legal representation on behalf of designated individuals like Mr. Aulaqi – exceed the authority granted to it by statute and violate the First Amendment, the Due Process Clause and the Separation of Powers; that absent immediate relief, Plaintiffs will suffer irreparable harm; that the requested relief will not injure the Defendants or any other interested party and the balance of equities tips in Plaintiffs' favor; and that the public interest supports granting the requested relief.

Plaintiffs filed an application with OFAC on Friday, July 23, 2010 requesting the issuance of a license permitting them to engage in legal representation on behalf of Anwar al-Aulaqi, a U.S. citizen. Plaintiffs have received no response. Plaintiffs file this application now because of the urgent nature of the litigation that OFAC's regulations are preventing them from bringing. In the absence of the requested relief, a U.S. citizen could be killed by the U.S. government without any opportunity to test the constitutionality of this action in court.

In support of this application, Plaintiffs respectfully refer the Court to the Complaint, the Memorandum in Support of Plaintiffs' Application for Temporary Restraining Order and Motion for Preliminary Injunction, and the Declaration of Ben Wizner.

Plaintiffs request that the Court schedule a hearing on the application for a temporary restraining order at the earliest possible date. Plaintiffs propose the following schedule: the Defendants' opposition shall be due Thursday, August 5, 2010 at 5:00pm; Plaintiffs' reply shall be due Friday, August 6, 2010 at 11:59 pm; and the hearing, if one

is required, shall occur on Monday, August 9, 2010, or as soon thereafter as the matter can be heard, depending on the Court's availability.

A proposed order is filed herewith.

Respectfully submitted,

/s/ Arthur B. Spitzer

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August 3, 2010

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No.

[PROPOSED] TEMPORARY RESTRAINING ORDER

Upon consideration of Plaintiffs' application for a temporary restraining order prohibiting the Defendants from requiring Plaintiffs to obtain a license in order to engage in legal representation, and seeking related relief, of the Complaint, of the Memorandum of Law filed in support thereof, of accompanying declarations, and of any opposition thereto, of the arguments of counsel, and of the entire record in this action;

It appearing to the Court that the Plaintiffs are likely to succeed on the merits of their action, that they will suffer irreparable injury if the requested relief is not issued, that the Defendants will not be harmed if the requested relief is issued, and that the public interest favors the entry of such an order, it is, therefore,

ORDERED that Plaintiffs' application for a temporary restraining order is hereby GRANTED; and it is further

ORDERED that Defendants Timothy F. Geithner and Adam J. Szubin are hereby PROHIBITED, pending further order of this Court, from requiring Plaintiffs to obtain a license in order to engage in uncompensated legal representation on behalf of Nasser al-Aulaqi, as next-friend for his son Anwar al-Aulaqi; and it is further

ORDERED that Defendants Timothy F. Geithner and Adam J. Szubin are hereby PROHIBITED, pending further order of this Court, from imposing any penalty whatsoever on Plaintiffs for representing, without a license, Nasser al-Aulaqi in civil litigation or for other advocacy in connection with the targeting of his son for killing by the U.S. government; and it is further

ORDERED, in accordance with Fed. R. Civ. P. 65(c), that this injunction shall be effective upon Plaintiffs' giving of security in the amount of \$10 by depositing that amount with the Clerk of Court; and it is further

ORDERED, in accordance with Fed. R. Civ. P. 65(b), that this temporary restraining order shall expire ten days after its entry upon the docket, unless extended for good cause shown.

Date: _____

Time: _____

Judge, United States District Court