

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

```

-----X
SUHAIL NAJIM ABDULLAH AL      :   Civil Action No.:
SHIMARI,et al.,              :   1:08-cv-827
      Plaintiffs,             :
      versus                  :   Friday, June 14, 2024
                              :   Alexandria, Virginia
CACI PREMIER TECHNOLOGY,      :
INC.,                          :   Pages 1-7
      Defendant.             :
-----X

```

The above-entitled motions hearing was heard before the Honorable Leonie M. Brinkema, United States District Judge. This proceeding commenced at 9:43 a.m.

A P P E A R A N C E S:

```

FOR THE PLAINTIFFS:  BAHER AZMY, ESQUIRE
                    THE CENTER FOR CONSTITUTIONAL RIGHTS
                    666 Broadway
                    7th Floor
                    New York, New York  10012
                    (212) 614-6464

                    THOMAS KICAK, ESQUIRE
                    PATTERSON BELKNAP WEBB & TYLER LLP
                    1133 Avenue of the Americas
                    New York, New York  10036
                    (212) 336-2000

                    SHEREEF AKEEL, ESQUIRE
                    AKEEL & VALENTINE, PLC
                    888 West Big Beaver Road
                    Suite 910
                    Troy, Michigan  48084
                    (248) 269-9595

```

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A P P E A R A N C E S:

FOR THE DEFENDANT: JOHN O'CONNOR, JR., ESQUIRE  
LINDA BAILEY, ESQUIRE  
JOSEPH MCCLURE, ESQUIRE  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, NW  
7th Floor  
Washington, D.C. 20036  
(202) 429-3000

NINA GINSBERG, ESQUIRE  
DIMUROGINSBERG PC  
1101 King Street  
Suite 610  
Alexandria, Virginia 22314  
(703) 684-4333

COURT REPORTER: STEPHANIE M. AUSTIN, RPR, CRR  
Official Court Reporter  
United States District Court  
401 Courthouse Square  
Alexandria, Virginia 22314  
(571) 298-1649  
S.AustinReporting@gmail.com

COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES



1 carefully considered them. And this is a very difficult  
2 case, and I've gone back and forth myself and with my clerks  
3 about how we should resolve this. I, in part, to get ready  
4 for today, reread some of the trial testimony, including  
5 Mr. Porvaznik's, who I think is quite critical to this case.  
6 Because as you both know from your pleadings, the borrowed  
7 servant issue was a key issue in this case. And it was key  
8 not only -- obviously, and it was problematic for the jury.  
9 I think the largest number of questions we got from the jury  
10 related to that concept.

11 I mean, one very interesting question that the  
12 jury raised was, well, if the conclusion of the various  
13 reports by the generals who reviewed what happened at Abu  
14 Ghraib was that there had been a complete loss of command by  
15 the military who was in charge, and that whole issue was  
16 whether or not the CACI employees were -- or CACI, through  
17 their employees, was able to exercise any dominion and  
18 control over the conduct or whether the military still had  
19 that ability.

20 If you read Mr. Porvaznik's testimony in toto, it  
21 cuts both ways. There are times when he says yes he could  
22 have pulled somebody if he knew they were violating the  
23 Geneva Convention, and then there are other times when he  
24 said, no, the military controlled everything.

25 So I cannot, and I am not going to grant the

1 Rule 50 motion. I've read it very carefully, Mr. O'Connor;  
2 I understand your frustration. There's clearly a lot of  
3 difficult issues in this case, but I am denying the motion.

4 I recognize, again -- and I said this at the  
5 trial, and I'll say it again for the record, the state  
6 secret issue in this case created problems for both sides.  
7 I think the plaintiffs, just as well as the defendants, have  
8 issues with whether they got a completely fair trial given  
9 the amount of information that could not be presented to the  
10 jury; however, since it affected both sides, I don't think  
11 that's a basis to grant the Rule 50 motion. So having  
12 denied the motion, I'm going to grant the motion for a new  
13 trial.

14 Now, the reason -- I could have done this on the  
15 papers, but the reason I'm having you here today, did you by  
16 any chance talk among yourselves or between yourselves about  
17 potential retrial dates? Because I want this case tried  
18 this year, and I have obviously some blackout times. The  
19 month of September is gone; however, I can try this case on  
20 August 5th or October 21 or 28. So I want to avoid having  
21 this case run too close to the holiday season, which, for  
22 all practical purposes, starts by the end of November and  
23 runs through Hanukkah and Christmas, and so we need to  
24 get -- and also avoids weather issues like snow. I want  
25 this case to get resolved one way or the other. So I'll let

1 you, among yourselves, decide which of those work.

2 Now, in terms of the logistics, the one plaintiff  
3 who was able to come to the United States, do you foresee  
4 any difficulty in his ability to get another visa to come  
5 back here?

6 MR. AZMY: No. He should be able to return.

7 THE COURT: Has he gone back to his home?

8 MR. AZMY: Yes. Yes. He's in Sweden.

9 And one note, we can confer, I think what we've  
10 heard from local folks is that July and August --

11 THE COURT: At the lectern, Counsel.

12 MR. AZMY: July and August are particularly  
13 miserable months in Iraq, like massive power outages, et  
14 cetera. So we will discuss, but our preference -- I think  
15 it's safer for October. Because of the intense heat there,  
16 they have massive power outages, and I think they were  
17 testifying morning here so afternoon there where that might  
18 become an issue.

19 THE COURT: All right. Mr. O'Connor, you've not  
20 given any thought to dates when your witnesses would be  
21 available?

22 MR. O'CONNOR: We've not cleared specific dates,  
23 Your Honor. I would suspect we can probably make one of  
24 those in October work.

25 THE COURT: All right.

1 MR. O'CONNOR: But we will -- now that we have  
2 concrete dates on offer, we will promptly get up with our  
3 witnesses and confer with plaintiffs' counsel.

4 THE COURT: All right. And I will, once again, as  
5 I often do, you know, my mantra in most civil cases is I  
6 would hope that both sides might think about trying to  
7 resolve this case without any admission of liability.  
8 You've already had a jury that couldn't find liability. All  
9 right. So it might be a wise thing to consider, but I'll  
10 leave that with you. All right.

11 MR. O'CONNOR: We're going to try it, Your Honor.

12 THE COURT: All right. That's fine. We'll see  
13 you then in a few weeks. All right. Thank you.

14 (Proceedings adjourned at 9:49 a.m.)

15 -----  
16 I certify that the foregoing is a true and accurate  
17 transcription of my stenographic notes.

18  
19 Stephanie Austin

20 Stephanie M. Austin, RPR, CRR

21

22

23

24

25