

Civil Judgment (Rev. 04/00)

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

WILFRED SAMUEL RATTIGAN  
Plaintiff(s)

Civil Action No. 04-2009 (ESH)

v.

ERIC H. HOLDER, JR.  
Defendant(s)

**FILED**  
**JUL 30 2009**

**JUDGMENT ON THE VERDICT  
FOR PLAINTIFF**

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

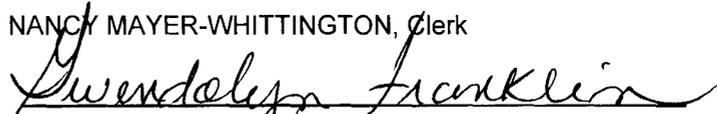
This cause having been tried by the Court and a Jury, before the Honorable, ELLEN SEGAL HUVELLE Judge presiding, and the issues having been duly tried and the Jury having duly rendered its verdict; now, therefore, pursuant to the verdict,

IT IS ORDERED, ADJUDGED AND DECREED that the plaintiff(s), WILFRED SAMUEL RATTIGAN, have and recover of and from the defendant(s) ERIC H. HOLDER, JR., in the amount of \$400,000.00. The judgment cap amount by law is \$300,000.00.

Dated. July 30, 2009

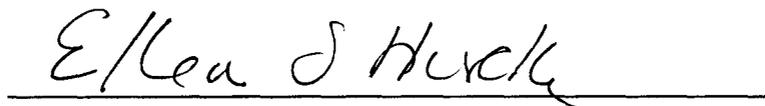
By:

NANCY MAYER-WHITTINGTON, Clerk



Gwendolyn Franklin, Deputy Clerk

Approved by:



Judge Ellen Segal Huvelle

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

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WILFRED SAMUEL RATTIGAN,	x	
Plaintiff,	x	<b>1:04 CV 02009 (ESH)</b>
-against-	x	<b>FIRST AMENDED COMPLAINT</b>
JOHN ASHCROFT, Attorney General, United States Department of Justice;	x	
Defendant..	x	<b>JURY TRIAL DEMANDED</b>
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**PRELIMINARY STATEMENT**

1. This is a civil action in which the plaintiff, WILFRED SAMUEL RATTIGAN (hereinafter referred to as “Rattigan” or “Plaintiff”), a current employee of the Federal Bureau of Investigation (hereinafter referred to as the “FBI” or the “Bureau”), seeks relief for violations of his rights secured by Title VII of the 1964 Civil Rights Act, 42 U.S.C. §2000e et seq., as a result of discrimination in the terms and conditions of his employment by the FBI on the basis of his race, national origin and religion, and for retaliation for complaints he has made about his treatment. The plaintiff seeks damages, both compensatory and punitive, affirmative and equitable relief, an award of costs and attorneys fee, and such other and further relief, as this Court deems just and equitable.

**JURISDICTION**

2. Jurisdiction is conferred upon this Court by 28 U.S.C. §§1331, 1343(3), this being an action seeking redress for violation of the plaintiff’s constitutional and civil rights.

3. Plaintiff’s claim for declaratory and injunctive relief is authorized by 28 U.S.C. §2201 and 2202 and Rule 57 of the Federal Rules of Civil Procedure.

4. The plaintiff demands a trial by jury on each and every one of his claims as pled herein.

#### **VENUE**

5. Venue is proper for the United States District Court for the District of Columbia pursuant to 29 U.S.C. §621 et seq., and 28 U.S.C. §§1391 (a), (b) and (c).

#### **EXHAUSTION**

6. On May 6, 2002, plaintiff filed an internal complaint with the FBI's EEO Office alleging discrimination on account of his race and national origin. On July 8, 2002, plaintiff contacted the FBI's EEO Office to request that his complaint be amended to include an allegation that he was the subject of a baseless investigation in retaliation for EEO activity.

7. On May 24, 2004, Joel A. Kravetz, Administrative Judge in the Washington Field Office of the United States Equal Employment Opportunity Commission, granted plaintiff's request to withdraw his complaint before the agency so that he might pursue his remedies in court. This original complaint was filed within 90 days of the order granting plaintiff the right to withdraw his administrative charge.

8. On or about August 18, 2004 the plaintiff was advised by said office that because of the pendency of this lawsuit, no further administrative action would be taken on those complaints.

#### **PARTIES**

9. The Plaintiff, WILFRED SAMUEL RATTIGAN, is a citizen and resident of the United States, and is currently a resident of the County of Queens, State of New York. Plaintiff, a Black male of Jamaican descent, received a B.A. in 1981 from John Jay College of Criminal

Justice, and a J.D. in 1984 from Howard University. Plaintiff is currently licensed to practice law in the states of New York and Connecticut.

10. The Defendant, JOHN ASHCROFT, is the Attorney General of the United States, and in that capacity is the chief executive officer of the United States Department of Justice, of which the Federal Bureau of Investigation is a component.

## **STATEMENT OF FACTS**

### **A. Rattigan's Early History in the FBI**

11. In December 1987, plaintiff was hired as a special agent with the FBI at an entry grade level. Following graduation from the FBI Academy in March 1988, Plaintiff was assigned to the FBI's New York Office ("NYO"), Foreign Counterintelligence Division. Plaintiff was later transferred to the Organized Crime Division in the NYO where his assignments centered primarily on the investigation of drug gangs. During this period, plaintiff also participated in several undercover operations in the NYO and Tampa Division of the FBI. In 1996, plaintiff was transferred to the FBI office at the JFK International Airport, where his duties included the investigation of white-collar crimes, cargo thefts, crimes aboard aircrafts and terrorism.

### **B. Rattigan Becomes the ALAT in Riyadh**

12. In February 1999, plaintiff, based on an earlier application, was transferred to the U.S. Embassy in Riyadh, Saudi Arabia and assigned to the Office of the Legal Attaché ("LEGAT Riyadh"), as the Assistant Legal Attaché ("ALAT"). His immediate supervisor was the Legal Attache (LEGAT) in Saudi Arabia, Bassem Youssef ("Youssef").

13. At all times relevant hereto, the FBI has maintained a number of offices around the world, known as Legal Attache Offices or “LEGAT” offices as they are known within the Bureau. These offices are managed by the Office of International Operations (“OIO”).

14. At the time that plaintiff began his assignment in Saudi Arabia, LEGAT Riyadh maintained territorial responsibility for the entire Arabian Peninsula: Kuwait, Saudi Arabia, Bahrain, Oman, United Arab Emirates, Yemen and Qatar.

**C. Rattigan is Subjected to Discriminatory Treatment as ALAT**

15. From February 1999 to approximately July 2000, plaintiff assumed the duties of ALAT Riyadh after which he was promoted to LEGAT Riyadh. During plaintiff’s entire assignment in Riyadh, the LEGAT Riyadh was budgeted by the FBI for a permanent staff consisting of three people: one (1) LEGAT, one (1) ALAT, and one (1) Office Assistant (“OA”).

16. In Riyadh, Saudi Arabia, the plaintiff was responsible for pursuing international aspects of the FBI’s investigative mandate through established liaison with principal law enforcement and intelligence/security services throughout the Arabian Peninsula; providing a prompt and continuous exchange of information with the various foreign law enforcement and intelligence agencies on the Arabian Peninsula; and, providing training to his Arabian Peninsula counterparts in crime-fighting techniques and methods.

17. From plaintiff’s arrival in Riyadh on or about February 3, 1999, until Youssef’s departure in or about June 1999, the FBI subjected the plaintiff to discriminatory treatment, through the actions of Youssef and others, based on his race and/or national origin. For example, Youssef constantly failed to inform plaintiff about key events and developments,

involve the plaintiff in significant meetings or provide results of same, which he did not do with the plaintiff's white predecessor, ALAT Mark Sofia.

18. Youssef's failure to convey required information to plaintiff resulted in severe embarrassment to plaintiff, and created a perception in the U.S. embassy community in Riyadh that plaintiff was incompetent, thereby precipitating tensions in the LEGAT Riyadh office. In another instance, Youssef, with the concurrence of the defendant, OIO Section Chief (SC) Tom Knowles, ordered plaintiff to cease attending the Arabic language class in which plaintiff had enrolled.

19. This action by Youssef, acting for and on behalf of the Bureau, was particularly significant in light of the fact that 1) plaintiff was attending the course on his own time, at no cost to the U.S. government, during after-work hours; 2) plaintiff's enrollment in the class did not interfere with his work performance, and while taking the class, plaintiff continued to fulfill his assigned responsibilities; 3) plaintiff performed exceptionally well on his Arabic examinations; 4) knowledge of Arabic would serve as a valuable tool for plaintiff to facilitate communication and enhance the relationships between the LEGAT Riyadh office and its Arabian Peninsula counterparts; and 5) Youssef and OIO management allowed the plaintiff's predecessor ALAT Mark Sofia, a white male, to take Arabic language lessons. Additionally, ALAT Mark Sofia took Arabic lessons paid for by the US government during normal work hours.

20. The plaintiff made several unsuccessful attempts to contact SC Tom Knowles regarding the directive by Youssef that he cease taking Arabic language instruction. Knowles did not respond to the plaintiff's inquiries.

21. In or about August 1999, Jimmy Carter, a Black male and former Assistant Director In Charge (ADIC) of the Washington Field Office, traveled to Riyadh with an FBI delegation to discuss the status of an on-going investigation that was of crucial importance to the relationship between the FBI and Saudi liaisons with Saudi liaisons. The parties involved felt the issues to be discussed were of such significance that the entire LEGAT office should participate in the meetings, however, Youssef refused to let the plaintiff participate. Both ADIC Carter and the Saudi liaisons who attended these meetings later questioned the plaintiff regarding his absence.

22. In or about January 2000, in response to Youssef's continued unprofessional and disrespectful actions, plaintiff lodged a complaint with the Bureau. In March 2000, the Bureau dispatched an investigator, Special Agent (SA) Art Krinsky, from the FBI Atlanta Office to Riyadh to determine the veracity of the allegations. After investigating the claims, the investigator held a meeting in Riyadh to reveal his findings. The investigator determined that Youssef was at fault and indicated that remedial action by Youssef was required. At the meeting, Youssef agreed to recommended corrective action. However, once the investigator departed Riyadh, Youssef largely ignored the recommendations.

23. In May 2000, while the plaintiff was on leave, his temporary replacement, Supervisory Special Agent (SSA) Alfred Finch, acted jointly with Youssef to violate Bureau rules by conducting an unauthorized file review of files maintained by the plaintiff. Subsequently, a false and misleading performance report was submitted to the Inspection Division based on this unauthorized file review.

24. The plaintiff was informed that SSA Finch was announced as the new LEGAT to officials in Riyadh before the Bureau career board had met to select someone for the position. The plaintiff reported this matter, as well as other violations committed by SSA Finch and Youssef, to his superiors in Washington, D.C. Acting Section Chief Walt Smith, FBIHQ, expressed disbelief when the plaintiff complained to him, but did nothing to investigate the plaintiff's allegations.

25. In or about June 2000, Youssef failed to communicate his permanent departure from Riyadh to the plaintiff. Youssef's abrupt, unannounced departure, resulted in a troublesome transition for plaintiff, exemplified in part by embarrassing situations with local liaisons in Qatar, Saudi Arabia, the United Arab Emirates and Yemen.

26. The actions and conduct of Youssef toward the plaintiff were motivated by racial animus against the plaintiff and were done with the knowledge and acquiescence of plaintiff's supervisors at the Bureau in Washington, D.C.

27. After Youssef's departure, it was determined by the Regional Security Officer ("RSO") of the Bureau that Youssef had violated diplomatic security regulations by having an "unauthorized telephone" at his residence in Riyadh. The RSO reported this to his superiors in Washington, DC. Even though Youssef had an "unauthorized telephone," when the plaintiff requested a "secure" telephone, it was ignored by the Bureau.

**D. Rattigan is Promoted to LEGAT Riyadh**

28. In or about July 2000, the plaintiff was promoted to the position of LEGAT Riyadh.

29. Throughout the period of time that the plaintiff was LEGAT Riyadh, the defendant, acting through management personnel, including, *inter alia*, OIO Deputy Assistant Director (“DAD”) Leslie Kaciban, Jr.; OIO Special Agent in Charge (“SAC”) Roderick Beverly; OIO SC Michael Pyszczymuka; OIO Unit Chief (“UC”) Cary Gleicher, OIO UC Susan Curtis; and, Executive Assistant Director (“EAD”) Pasquale D’Amuro, Counterintelligence and Counterterrorism, subjected the plaintiff to a continuing course of racial discrimination and retaliation. Their actions were designed to humiliate and embarrass the plaintiff, undermine his efficiency as LEGAT Riyadh, were not justified by any legitimate agency objective, and were ultimately intended to serve as a pretext to justify his involuntary transfer from Riyadh and/or force his resignation from the FBI.

**E. The Bureau Failed to Provide Adequate Resources to Rattigan**

30. After his promotion to LEGAT Riyadh, and many times subsequent thereto, the plaintiff requested additional human and technical support and resources for the work of the Riyadh office. Despite his numerous requests, the defendant never provided the human and technical support which was necessary to handle or justified by the work of the Riyadh office of the FBI.

31. For example, in his conversation with OIO SC Tom Knowles about his promotion to LEGAT Riyadh, the plaintiff informed Knowles of the need for expanded resources, both human and technical, in order for the LEGAT Riyadh office to effectively discharge its duties. The plaintiff also reminded Knowles that the office in Riyadh, which was responsible for seven countries, was grossly understaffed with three (3) permanent employees and needed more personnel and support from the Bureau.

32. Despite the plaintiff's requests for personnel and other resources, which was repeated many times by the plaintiff while he was LEGAT Riyadh, the Bureau failed to provide the plaintiff with even adequate resources so that the plaintiff could fulfill the FBI's vital mission in the Arabian Peninsula. The lack of support became even more significant post-September 11, 2001 when the U.S. government intensified its focus and efforts in the region as a result of the war against terrorism. In contrast, the Bureau provided additional resources to other LEGAT offices with a connection, large or small, real or imagined, to the 9/11/01 investigation. The difference being that those LEGAT offices were overseen by white agents.

33. On October 12, 2000, the U.S.S. Cole was attacked in Aden harbor, Yemen. Because this attack occurred in the jurisdiction of LEGAT Riyadh, the workload of the office increased significantly. Even prior to the attack, the plaintiff had repeatedly requested additional resources and a reorganization of the vast territory covered by the Riyadh office so that the office could be more efficient, and the plaintiff had been told by SC Knowles that this matter would be addressed by FBIHQ management. However, even after the attack, when the workload of the office increased many fold, the defendant failed to address the critical lack of resources and the need for reorganization that Rattigan had consistently mentioned was necessary.

**F. DAD Kaciban Threatens Rattigan**

34. In late 2000, DAD Kaciban directed that plaintiff cease all contact with officials from the United Arab Emirates ("UAE") regarding the establishment of the Middle Eastern Law Enforcement Training Center in Dubai, UAE, even though that work was an important part of plaintiff's responsibility and mandate, and, more importantly, was an important part of the Bureau's mission in the Arabian Peninsula.

35. In January 2001, SSA Gary Swinkey, International Training and Assistance Unit, OIO, falsely reported to DAD Kaciban that the plaintiff was continuing to arrange meetings with UAE officials to discuss training. Upon receiving SSA Swinkey's false report, DAD Kaciban contacted the plaintiff on January 25, 2001 and began to threaten and insult the plaintiff. The plaintiff attempted to explain the situation but was repeatedly interrupted by DAD Kaciban. Eventually, DAD Kaciban threatened the plaintiff by stating: "If I catch you doing something...you won't be talking to Santana, the gas station attendant, you'll be talking to me, and I promise you I'll cut your balls off."

36. The plaintiff understood DAD Kaciban's comment, in its context, to be direct evidence of racial bias against the plaintiff. "Santana" was identified as UC Sammy Santana, SSA Swinkey's immediate supervisor.

**G. Rattigan Complains to the Bureau About DAD Kaciban**

37. On January 29, 2001, the plaintiff submitted a letter of complaint against DAD Kaciban to FBI Director Freeh's office, specifically to Director Freeh's Chief-Of-Staff Robert Bucknam, alleging racial bias in light of DAD Kaciban's remarks. On or about January 30, 2001, Kaciban called the plaintiff and said he was sorry that the plaintiff took it that way. The plaintiff did not perceive this to be an apology and did not accept it as such. The Bureau never responded to the plaintiff's allegation, nor did it take any disciplinary action against DAD Kaciban.

**H. The Bureau Fails to Provide Information to the Plaintiff Concerning Contacts by His Superiors With Saudi Officials**

38. In or about March 2001, UC Cary Gleicher, the plaintiff's immediate supervisor, needed information from Saudi Arabia regarding a sensitive issue. Instead of contacting the

plaintiff, as was both mandated and logical, UC Gleicher bypassed the plaintiff and sought to obtain the information from former LEGAT Youssef, who had permanently departed Saudi Arabia almost a year prior. The plaintiff inadvertently learned of Gleicher's actions and intervened to prevent severe negative repercussions that might adversely effect the relationship between the FBI and its Saudi counterparts.

39. The plaintiff discussed this matter with Gleicher and indicated that he believed that UC Gleicher's behavior was racially motivated because Gleicher would not have acted in this manner with other LEGATs who were white.

**I. Events Following the Terrorist Attack on September 11, 2001**

40. In a signed sworn statement on May 30, 2003, Timothy M Stone, a former liaison analyst in OIO, stated that prior to the terrorist attacks on 9/11/01, he noticed that LEGAT Riyadh was handling an overwhelming amount of leads. He further stated that "LEGAT Riyadh with a permanent staff of two, was receiving as many leads as LEGAT Mexico City, with a permanent staff of twenty five". Stone also stated that the plaintiff requested additional personnel, which were not provided.

41. Following the terrorist attack in New York City and Washington, D.C., on September 11, 2001, LEGAT Riyadh's workload greatly increased, especially since seventeen (17) of the nineteen (19) hijackers came from the region covered by the LEGAT Riyadh office. The plaintiff's request for additional personnel immediately after the 9/11/01 attacks was willfully ignored by his management structure at the Bureau (DAD Kaciban, SC Pyszczymuka and UC Gleicher). This failure to immediately address the situation negatively impacted the efficiency of LEGAT Riyadh. Meanwhile, other LEGAT offices headed by white agents were

afforded almost immediate assistance by the Bureau, *e.g.*, LEGATs Berlin and Ottawa, while other offices, like London, had more help than was necessary.

42. On or about September 30, 2001, DAD Kaciban and his staff held a meeting in Washington, D.C. to discuss, among other things, the 9/11/01 investigation, and LEGAT Riyadh. During the discussion, DAD Kaciban reportedly stated the following: “Let’s see how much his (plaintiff’s) Arab brothers are going to help him on this one.”

43. In an apparent attempt to appease the plaintiff, DAD Kaciban authorized the travel of UC Judson Ray to the Arabian Peninsula. UC Ray arrived in Saudi Arabia on or about October 2, 2001, and assumed the responsibilities as the administrator for the 9/11 investigation in Riyadh. Ironically, upon his arrival, UC Ray observed, documented, and complained to the Bureau about the lack of resources in the Riyadh office.

44. Sometime thereafter, the Bureau started to dispatch a additional temporary personnel to Riyadh. However, the Bureau was well aware that temporary duty support for short periods of time, *i.e.*, less than sixty (60) days, yielded limited productivity, particularly in the Arabian Peninsula, which served, initially, as the focal point of the 9/11 investigation. Despite the comprehensive knowledge of the situation at Riyadh, the Bureau failed to increase Riyadh’s permanent staff or implement a regular rotation of temporary personnel for an extended period, as it did for the Plaintiff’s white LEGAT counterparts in other locations, such as Ottawa, Berlin and London.

45. On October 3, 2001, plaintiff sent a written communication to UC Gleicher, SC Pyszczymuka and DAD Kaciban expressing several pressing needs of LEGAT Riyadh, including the need to address a significant security issue. Although the plaintiff was verbally assured by

UC Gleicher that SC Pyszczymuka would address the issues raised in his written communication, the promised assistance did not materialize. Rather, the response was to initiate another investigation, this time by UC Gleicher, of the plaintiff's running of the Riyadh office.

**J. UC Gleicher Travels to Riyadh to Investigate Rattigan**

46. Approximately two weeks after the plaintiff's October 3, 2001 communication, UC Gleicher traveled to Riyadh. Upon his arrival, Gleicher was met and transported from the airport to his hotel by ALAT Gamal Abdel-Hafiz ("Gamal"). On the way to the hotel, UC Gleicher asked Gamal to verify whether Riyadh, in fact, needed assistance. Gamal corroborated the plaintiff's repeated requests for the need for additional assistance in the Riyadh office.

47. During Gleicher's visit to the Riyadh office he met with the plaintiff, who repeated his request for additional assistance, both in personnel and equipment. Instead of providing the requested assistance, UC Gleicher chose to investigate the plaintiff's performance in Riyadh, Saudi Arabia and Abu Dhabi, UAE, in an attempt to discredit and undermine his leadership of the Riyadh office and to create a justification for removing the plaintiff from the position of LEGAT Riyadh.

48. According to UC Ray, he and UC Gleicher discussed the failure of the Bureau to adequately address the needs of Riyadh. During the discussion he questioned UC Gleicher about his true motive for traveling to Riyadh and UC Gleicher stated: "I will take it with me to my grave."

49. This continued pattern of institutional neglect by the Bureau of the legitimate needs of the Riyadh office was motivated, in whole or in part, by racial animus, and was not

present in the way the Bureau treated the plaintiff's white colleagues in other LEGAT offices around the world.

50. Additionally, during Gleicher's visit to Riyadh, the plaintiff requested a status report on the outstanding request related to the security situation at the embassy as mentioned in paragraph 46 above. UC Gleicher failed to provide the requested status report.

**K. The Use of Temporary Duty Personnel to Undermine Rattigan**

51. During plaintiff's tenure as LEGAT Riyadh, the Bureau sent temporary duty personnel to Riyadh, ostensibly to assist the office, but often to surreptitiously investigate plaintiff.

52. The Bureau subjected returning temporary duty personnel to interviews and intimidation techniques designed to obtain derogatory information about plaintiff. Plaintiff has been informed that the Bureau made wide-ranging inquiries concerning the plaintiff, ranging from the plaintiff's personality to his social affairs and dress code.

53. One such instance occurred when SA Beth Babyak returned from temporary duty in Riyadh. Upon her return to the U.S., SA Babyak was questioned by SC Pyszczymuka for approximately ninety (90) minutes. SA Babyak later described the interview as an attempt to coerce her into making derogatory statements against the Plaintiff.

54. Other SAs, including, inter alia, Matt Taylor, reported similar experiences upon their return from temporary duty in Riyadh. SA Taylor also stated that his professional career was derailed by OIO managers, particularly by UC Gleicher, because of SA Taylor's adamant refusal to "submarine" or report derogatory information on the plaintiff.

55. As he continued to press for additional assistance throughout his tenure as LEGAT Riyadh, the plaintiff also voiced his concern to OIO management that he was being subjected to racial discrimination in the way he was being treated by the Bureau. Moreover, others who were aware of the situation corroborated the plaintiff's complaints. For example, on April 9, 2003, SA Leroy Dempsey, Jr., who had been to Riyadh on two occasions, stated in a signed sworn statement that, based on what he observed in Riyadh, it appeared that the plaintiff was the victim of racial discrimination by Bureau.

56. As a result of both his requests for additional assistance and his complaints that the failure to provide such assistance, *inter alia*, was based on racial animus toward the plaintiff, Bureau management in Washington, D.C., including, but not limited to, DAD Kaciban, UC Gleicher and SC Pyszczymuka, essentially discontinued their communication with the plaintiff.

**L. The Bureau Continues to Undermine Rattigan's Work in the UAE**

57. Although the United Arab Emirates ("UAE") was under Riyadh's territorial responsibility, OIO management sent a team of temporary duty personnel to Abu Dhabi, the capital of the UAE, to address the mounting outstanding leads being generated after 9/11. Rather than report to or even inform the plaintiff of what they were doing, the team largely reported only to OIO management, without informing the plaintiff. As a result, Riyadh was completely unaware that only 1% of the more than two hundred (200) un-addressed leads relating to the 9/11/01 investigation in the UAE had been addressed.

58. In October 2001, the plaintiff planned a two-day trip to meet with his UAE liaison contacts to address the outstanding leads relating to the 9/11 investigation. On or about October 23, 2001, plaintiff advised UC Susan Curtis, who was acting in UC Gleicher's absence, of this proposed trip and received her support. However, approximately two days before the scheduled

trip, UC Pyszczymuka, via e-mail, without any prior discussion or input from the plaintiff, directed the plaintiff to cancel the trip. This conduct is another example of OIO management's racial animus against the plaintiff and their steadfast efforts to ensure his failure, even at the expense of compromising or delaying the most significant investigation conducted by the Bureau to date.

59. Even prior to the 9/11 terrorist attacks, the plaintiff requested OIO to provide personnel assistance to address outstanding investigative issues at the LEGAT Riyadh office. SA Beth Babyak, an experienced investigator who had been to the LEGAT Riyadh office on several occasions expressed an interest in the position. On September 12, 2001, LEGAT Riyadh was staffed by the plaintiff, ALAT Gamal, and a temporary OA

**M. The Bureau's Failure to Promptly Transfer Temporary Personnel to LEGAT Riyadh**

60. On September 12, 2001, it became abundantly clear to the plaintiff that LEGAT Riyadh would be a significant focus of the investigation because of preliminary reports that seventeen (17) of the nineteen (19) hijackers came from the Arabian Peninsula. Based on the number of leads coming in to Riyadh at that time, the plaintiff advised UC Gleicher that he would need one or two agents to travel to Riyadh immediately. The plaintiff advised UC Gleicher that SA Babyak had expressed an interest and readiness to travel to Riyadh immediately. Nevertheless, and notwithstanding the urgency of the 9/11 investigation, UC Gleicher insisted that SA Babyak would have to undergo the scrutiny of a selection panel. This resulted in Babyak's unnecessary delay, which had a severe negative impact on the investigative abilities and production of LEGAT Riyadh. By the time SA Babyak arrived in Riyadh, there were hundreds of outstanding leads.

61. On information and belief, white LEGATs whose offices had an investigative nexus to the 9/11 investigation, such as LEGAT Berlin, were not subjected to this imposed delay by OIO for the assignment of temporary duty personnel.

62. Moreover, it appears that, with regard to the assignment of temporary duty personnel to the Riyadh office, the Bureau chose to strictly follow the guidelines set out in the so-called BADGE Mediation Settlement Agreement (the agreement resulting from the settlement of a class action brought by Black special agents of the FBI, (*see, Emanuel Johnson, Jr., et al v. Janet Reno, and Emanuel Johnson, et al., v. Stuart M. Gerson, Acting Attorney General of the United States*), even though the Bureau failed to follow those same strict guidelines with respect to the assignment of temporary duty personnel to LEGAT offices headed by white agents.

63. For example, the plaintiff is aware that the strict guidelines set forth in the BADGE Agreement were not followed by the Bureau in its immediate dispatch of temporary duty personnel to the LEGAT Berlin office, which was headed by a white agent.

64. In fact, although the Bureau followed the strict guidelines set forth in the BADGE Agreement to frustrate the plaintiff's need for additional personnel for the Riyadh office, management personnel in the Bureau admitted that they were violating that same agreement when it came to assignments elsewhere.

**N. The FBI's Continued Violation of the BADGE Agreement**

65. In May 2002, OIO requested an appraisal by the plaintiff of SA Nael Sabha's suitability to function in a temporary capacity in another country to cover for a LEGAT who was taking scheduled leave. The plaintiff advised OIO that this procedure appeared to be in violation of the practice resulting from the BADGE agreement because, absent an emergency, the Bureau

should have posted the position and selected from the candidates without giving the appearance that SA Sabha was pre-selected.

66. On August 14, 2002, SAC Beverly admitted to the plaintiff that the Bureau did violate the BADGE agreement, both in its delay with respect to the temporary assignment of SA Babyak to Riyadh, which would have been justified as an emergency, and its consideration of SA Sabha outside of the guidelines, which was not justified as an emergency.

**O. The FBI Fails to Approve the Use of Translators for the Riyadh Office**

67. In June 2002, the Plaintiff sought to address the continuing logistical and bureaucratic delays in getting documents translated from Arabic to English. The plaintiff requested the Bureau's authorization for the usage of linguists with the proper clearance and attached to the U.S. military in Riyadh. The Bureau rejected this idea. The plaintiff then requested authorization to use a linguist with the proper clearance and attached to the U.S. embassy in Riyadh. With any legitimate justification, the Bureau also rejected this idea and opted to continue the inefficient and expensive practice of providing an intermittent flow of translators or faxing the documents to FBIHQ for translation.

68. Moreover, despite the Bureau's failure to permanently assign a translator to the Riyadh office, one of the focal points of its anti-terrorism efforts, it did provide such personnel for other LEGAT offices. For example, the Bureau assigned a permanent translator to the LEGAT Rome office for many years, which was headed by a white male, despite the fact that the LEGAT staff was proficient in Italian.

**P. Rattigan is Excluded From the Annual LEGAT Conference**

69. Approximately once a year the FBI holds a conference in Washington, D.C., of all heads of LEGAT offices. In October 2002, the plaintiff was directed by UC Gleicher and SC Pyszczymuka, and UC Fowler, who replaced UC Gleicher, that instead of attending the annual LEGAT conference, he was to attend a supervisor's management seminar. In response, plaintiff complained he was being unfairly selected to attend the seminar since, based on what he knew at the time, there were other LEGATs who had not attended the supervisor training, but were allowed to attend the LEGAT conference. Notwithstanding this complaint, FBI management insisted that he attend the management seminar.

70. The plaintiff attended the supervisors seminar, which was held in Quantico Virginia, from November 4, 2002 to November 7, 2002. Following the completion of the seminar, UC Fowler requested that plaintiff attend the last day of the LEGAT conference, November 8, 2002. Although he was unable to attend because of a conflict, this request was seen by the plaintiff as an attempt to humiliate and embarrass the plaintiff in front of his LEGAT colleagues.

**Q. The Pretextual Nature of the LEGAT London Training**

71. Also in November 2002, SAC Beverly told the plaintiff that OIO had made arrangements for the plaintiff to get "hands-on training at LEGAT London for a week." This assignment for a week's training in London was a pretext to conduct still another investigation of the plaintiff's stewardship of the Riyadh office.

72. Plaintiff learned of this pretext from UC Curtis. She had advised the plaintiff that LEGAT London could only provide three days instead of the week-long, hands-on training that had been recommended. When plaintiff suggested that the training be delayed until he could be afforded a full week's worth of training, she stated that the plaintiff must go to London for the

three-day training and that the real reason for plaintiff's trip to London was that the Bureau was conducting an inspection of LEGAT Riyadh and did not want plaintiff present in Riyadh during the inspection. This was a clear violation of Bureau practice and custom regarding inspections. During inspections, barring ill health, family emergencies or investigative exigencies, supervisors are required to be present.

73. Additionally, SAC Beverly, UC Curtis and UC Fowler told the plaintiff that the temporary assignment in London was a new Bureau procedure designed to provide hands-on training for new LEGATs prior to the assumption of their responsibilities. However, during this time period, the plaintiff was not a new LEGAT. Moreover, the plaintiff is not aware that this purported "new Bureau procedure" has actually been implemented for new LEGATs. For example, plaintiff was informed that his successor in Riyadh, who was a new LEGAT, had never been assigned outside of the U.S., and was not assigned to a LEGAT office for hands-on training prior to the assumption of his role as LEGAT Riyadh.

**R. The Investigation of UC Sandy Fowler**

74. In August 2002, while the plaintiff was home on leave in the U.S., he was directed to report to SAC Beverly in Washington, D.C. Upon reporting to Beverly, the plaintiff was told that UC Sandy Fowler ("Fowler"), former LEGAT Brussels, was conducting an administrative inspection of LEGAT Riyadh's in the plaintiff's absence. SAC Beverly then canceled the remainder of plaintiff's home leave and ordered the plaintiff to return to Riyadh in order to discuss the recommendations with Fowler based on her inspection of the Riyadh office.

75. Upon his return to Riyadh, the plaintiff learned that Fowler's inspection was, instead, an investigation which severely disrupted the morale and production of the office; and, she had improperly ordered the destruction of files relating to the September 11, 2001

investigation, causing inordinate delay in the exchange of information between the LEGAT Riyadh and the Saudi counterparts, and extreme embarrassment for the plaintiff. Plaintiff confirmed that she had implemented several new procedures in the office without consulting with plaintiff or anyone else, contrary to assurances made to plaintiff by SAC Beverly.

76. Plaintiff also discovered that Fowler, without any prior discussion with the plaintiff, erased the contents of the plaintiff's Bureau e-mail account after he had indicated to his superiors at FBIHQ that he had e-mail evidence concerning his allegations of racism against them.

77. In plaintiff's first meeting with Fowler in Riyadh, she berated him for his administration of the office without considering the plaintiff's continued request for additional resources to handle investigative leads generated by the 9/11 investigation of the terrorist attacks. She advised him that he should, in effect, falsify his reports in order that the office's production would be statistically appealing to FBIHQ. She also said that the plaintiff needed to attend the supervisor's management seminar.

78. In early September 2002, Fowler left the Riyadh office without providing plaintiff the list of recommendations for change which she had promised. In addition, plaintiff's Saudi liaison complained about Fowler's lack of liaison skills and their apparent confusion over the leadership of the office because Fowler submitted documents to them identifying herself as LEGAT Riyadh, as well as providing them with documents containing "a forged signature." The plaintiff had to devote precious time to rectify the situation.

79. On November 8, 2002, Fowler, who had replaced UC Gleicher and was now plaintiff's immediate supervisor severely berated the plaintiff for not meeting with her for a meeting and also for refusing to accept her invitation for a social event the previous night.

Fowler then presented the plaintiff with her written findings and recommendations (dated October 22, 2002) pertaining to her August 2002 inspection of the LEGAT Riyadh office. Later that day, plaintiff in a scheduled meeting with SAC Beverly was instructed to respond to Fowler's recommendations/findings "in a couple of days." SAC Beverly also advised plaintiff that Fowler had complained to him about the plaintiff. The plaintiff then provided SAC Beverly with a history of his relationship with Fowler, which included a period of intimate involvement back in 1995 and 1996 that the plaintiff broke off.

**S. UC Fowler is Removed as Rattigan's Unit Chief**

80. On November 12, 2002, SAC Beverly advised the plaintiff that UC Susan Curtis would assume administrative responsibility over Riyadh "for now." Plaintiff perceived that this "for now" comment meant that, in time, he would be removed from his assignment in Riyadh. On November 14, 2002, the plaintiff submitted to SAC Beverly a written response to Fowler's findings. On or about November 15, 2002, SAC Beverly told plaintiff that as a result of Fowler's findings and the plaintiff's response, an inspection team would be sent to Riyadh to conduct a comprehensive inspection of the office. LEGAT Sanchez, a member of the inspection team, described this last statement of SAC Beverly as a fabrication.

**T. Another Inspection of the Riyadh Office Takes Place**

81. The plaintiff went to London for three days of training as scheduled (November 20, 2002 to November 22, 2002). On or about November 23, 2002, the plaintiff met in Riyadh with the inspectors who conducted the inspection of the LEGAT Riyadh office. They were Charles Goodwin, Special Assistant to the Assistant Director; Nathan Gray, Assistant Special Agent in Charge; and, Eduardo Sanchez, LEGAT Madrid. The inspection team produced a report that was markedly different than Fowler's.

82. Goodwin, Gray and Sanchez advised the plaintiff of their findings and stated that the deficiencies in Riyadh were directly related to the following: the Bureau's lack of support for the Riyadh office; the vast area under Riyadh's territorial responsibility; Riyadh's limited personnel; and the lack of training of personnel in the Riyadh office. They acknowledged that Riyadh had covered seven countries with only three (3) permanent staff members and recommended a permanent staff of six (6) people to cover Saudi Arabia only. Their report is in stark contradiction to a report produced by UC Fowler just weeks before the inspectors' report was completed.

83. Special Assistant Goodwin further advised plaintiff that LEGAT Sanchez would remain in Riyadh to take control of the office and plaintiff would be demoted, although he would remain the titular head of the office. Plaintiff is not aware of this type of action ever being taken against any of the plaintiff's white LEGAT colleagues, although it is believed that inspection records will show that some of them were performing at a sub-standard level.

**U. Rattigan Handles Arrangements for Director Mueller's Trip to Saudi Arabia in January 2002**

84. In January 2002, the plaintiff arranged for Director Mueller's trips to Saudi Arabia, Yemen and the UAE. The meetings were highly successful and Director Mueller roundly congratulated plaintiff on the comprehensive success of his liaison activities in the Gulf region. The plaintiff notified the Director that FBI offices, particularly the New York Office and the Counterterrorism and Counterintelligence Division (CTD), were consistently failing to adhere to FBI protocols regarding notification of LEGAT Riyadh prior to the travel of FBI personnel to and from the Arabian Peninsula. The Director was also notified that plaintiff's superiors, particularly UC Gleicher, were duly notified of this problem and consistently failed to

address the issue. The Director advised the plaintiff to raise the issue with Pasquale D'Amuro, who was assigned to FBIHQ and was providing daily briefings to Director Mueller.

85. In January 2002, in Saudi Arabia, the plaintiff, ALAT Gamal, SAC Tim Caruso and Director Mueller discussed the lack of resources to Riyadh and the state of the relations with LEGAT Riyadh's Saudi counterparts regarding lead coverage. On January 25, 2002, in a one-and-one conversation held in Abu Dhabi, UAE, the plaintiff and Director Mueller discussed several issues, including SC Pyszczymuka's refusal to let plaintiff address outstanding leads in the UAE and the plaintiff's belief that he was the victim of racial discrimination committed by the Bureau. The plaintiff further revealed to Director Mueller his intention to pursue the matter through the EEO process.

86. On January 28, 2002, DAD Kaciban told the plaintiff that D'Amuro was "upset" that the Plaintiff had discussed the unauthorized travel of FBI personnel to the Arabian Peninsula with Director Mueller. On said date, the plaintiff also discussed this with D'Amuro and advised that he would provide evidence of the allegation if requested by Director Mueller. The plaintiff reminded D'Amuro that this practice was in violation of FBI policy. The plaintiff also indicated to D'Amuro that he believed this practice was evidence of racial discrimination because this practice did not occur in offices headed by the plaintiff's white LEGAT colleagues.

**V. EAD D'Amuro Undermines Rattigan's Work in Saudi Arabia**

87. Upon information and belief, on February 24, 2003, D'Amuro, who was now promoted to the position of Executive Assistant Director (EAD) of CTD, met with a Saudi official in Washington, D.C. and arranged for meetings between an FBI delegation and Saudi officials in Saudi Arabia without informing the plaintiff. This was once again a direct violation of FBI policy regarding the role of LEGATs, which EAD D'Amuro was obviously familiar with.

On information and belief, EAD D'Amuro did not treat the plaintiff's white LEGAT colleagues in this manner.

88. EAD D'Amuro's actions caused extreme embarrassment and humiliation for the Plaintiff with his Saudi counterparts in Riyadh. EAD D'Amuro's action led to the Saudis serious contemplation as to whether they should continue the relationship with the LEGAT Riyadh office.

89. In April 2003, the plaintiff's Saudi liaison alerted him to the fact that EAD D'Amuro had, and continued to pass investigative requests to Saudi embassy officials in Washington, D.C. without prior notification to the plaintiff. Again, this was a clear violation of FBI policy, and further evidence of the discriminatory and disparate treatment to which the plaintiff was subjected. This was also discriminatory because, as far as plaintiff knew, his white LEGAT counterparts were not subject to this type of conduct. Saudi liaison in Riyadh confided to the plaintiff that EAD D'Amuro's action was clearly embarrassing to both services and would serve to undermine the plaintiff's and the FBI's efforts in Saudi Arabia.

90. In January 2003, LEGAT Sanchez advised Gamal that he had "never seen headquarters treat a LEGAT office as badly as they treat this one".

**W. Derogatory Email About Rattigan by SSA Robert Jones**

91. In January 2003, the Bureau requested the plaintiff to provide assistance in a terrorism-related matter in Saudi Arabia. In response, the plaintiff provided concrete reasons why the request could not be addressed in the manner in which it was presently formulated, but nevertheless offered to present the request as formulated to his Saudi liaison. A few days later the plaintiff mistakenly received an email wherein SSA Robert Jones, of the Bureau's Counter Terrorism Division ("CTD"), which falsely and maliciously indicated that the FBI should not

expect any assistance from the plaintiff because he was working for the Saudi Government. Jones's email, in effect, accused the plaintiff of being disloyal to the U.S. government and suggested it would be futile to seek his assistance.

92. In response to this outrageous and blatantly inflammatory accusation, the plaintiff complained to several people, including EAD D'Amuro, SAC Beverly, and UC Joseph Demarest, who was SSA Jones' superior. To date, no one has responded to the plaintiff's complaint.

**X. Rattigan is Investigated Because he Converts to Islam**

93. In or about 1997 plaintiff began his study of Islam and on December 12, 2001, he converted to Islam.

94. On January 28, 2002, in Washington, D.C., Plaintiff advised UC Gleicher, SC Pyszczymuka and DAD Kaciban of his conversion to Islam.

95. In late April 2002, while on her annual leave in the U.S., LEGAT Riyadh's OA Diane Edge was ordered by the Bureau to interrupt her leave and expeditiously report to FBIHQ for questioning concerning observations she may have made in Riyadh, Saudi Arabia. She was questioned by the Bureau and in a signed sworn statement dated June 11, 2003, she described the process as a "witch-hunt or fishing expedition" against the plaintiff. In the mentioned signed, sworn statement, OA Edge indicated that the plaintiff's religion seemed to pose a problem for the Bureau because the Bureau seemed concerned that the plaintiff would not do his job well because he became "one of them" by converting to Islam.

96. Shortly thereafter, the plaintiff learned that he was the subject of an investigation being conducted by the Bureau. The investigation focused on, *inter alia*, his conversion to Islam. In August 2002, the new head of OIO, SAC Roderick Beverly confirmed said

investigation and told the plaintiff that the investigation was concluded and the charges were determined to be baseless.

**Y. The FBI Improperly Denied Rattigan the Right to Perform Hajj**

97. One of the religious obligations of every Muslim is to perform the faith-based journey known as Hajj. During this period, lasting one week, the US embassy is closed in observance of this National Holiday. In February 2002, while the plaintiff was performing his Hajj, he was subjected to undue harassment by SSA Donovan Leighton, OIO.

98. On January 31, 2003, the plaintiff advised UC Curtis of his intention to go on the Hajj, in Mecca, Saudi Arabia, in February 2003. This journey, a religious rite, came at the personal invitation of the plaintiff's counterparts in Saudi Arabia. Permanent and temporary personnel at the LEGAT Riyadh office were made aware of this planned journey. Shortly thereafter, the plaintiff began to make firm plans and purchased his airline ticket for the journey from Riyadh to Mecca.

99. On February 7, 2003, the plaintiff reminded UC Curtis of his plans to attend the religious pilgrimage in Mecca.

100. On February 8, 2003, approximately two hours before the plaintiff's departure from Riyadh to Mecca, he received a call from SSA Andre Zawitkowsky, OIO, who ordered him to cancel his plans to perform the Hajj because of an alleged investigative emergency. Based on information and belief, there was no emergency. Instead, it was determined to be the calculated effort of OIO to prevent the plaintiff from observing a religious practice. This denial of the plaintiff's right to practice his religion did not go unnoticed by the plaintiff's Saudi counterparts who expressed regret and opined that the plaintiff was being persecuted for being a Muslim.

101. Upon information and belief, the defendant, propagated the perception that the plaintiff was disloyal or/and incompetent and this was based on the plaintiff's conversion to Islam. Eventually, the defendant's action resulted in a widespread and undeserved taint of the plaintiff. In a signed sworn statement dated May 30, 2003, Timothy M. Stone, former Liaison Analyst, OIO, stated that he "had heard people talk about SSA Rattigan's religion". Stone also stated that "throughout the counterterrorism division (which was headed by EAD D'Amuro) there was a general rumor regarding SSA Rattigan's loyalty to the United States versus the Saudi Arabian Government", and Stone stated that "religion was the issue at hand."

**Z. EAD D'Amuro Continues to Undermine Rattigan's Position in Saudi Arabia**

102. Upon information and belief, on February 24, 2003, D'Amuro, who was promoted to the position of Executive Assistant Director (EAD) of CTD, met with a Saudi official in Washington, D.C. and arranged for meetings between an FBI delegation and Saudi officials in Saudi Arabia without informing the Plaintiff. This was a direct violation of FBI policy regarding the role of LEGATs, which EAD D'Amuro was, or ought to have been familiar with. As per Stone's statement, religious discrimination can be attributed to EAD D'Amuro's actions. Upon information and belief, EAD D'Amuro did not treat the plaintiff's white LEGAT colleagues, who were not Muslim in this manner, *e.g.*, LEGAT's.

103. In April 2003, the plaintiff's Saudi liaison alerted him to the fact that EAD D'Amuro had, and continued to pass investigative requests to their Saudi embassy officials in Washington, D.C. without prior notification to the plaintiff. Again, this was a clear violation of FBI policy and based in part on the plaintiff's conversion to Islam. Saudi liaison in Riyadh confided to the plaintiff that EAD D'Amuro's action was clearly embarrassing to both services and would serve to undermine the Plaintiff's efforts in Saudi Arabia.

104. In an article in the October 20, 2003 edition of the *Newsweek* magazine, page 6, entitled “Tensions in the FBI: Why Was This Agent Fired?”, it was reported that “a top FBI official” in Washington complained when the plaintiff and Gamal previously went to Mecca. The article also stated that the Bureau became nervous and recalled the plaintiff from Riyadh to New York because of ‘administrative’ reasons. However, the plaintiff’s performance appraisal for the period, the only official measurement of performance in the FBI, does not reflect this. Instead the plaintiff’s performance appraisal for the period reflected that the Bureau rated him as a success in every listed category.

**AA. Rattigan Receives Approval to Extend His Stay in Riyadh Until 2005**

105. In May 2002, plaintiff received a communication from Mary Conway of the Protocol Unit of OIO stating that the plaintiff could extend his assignment as LEGAT Riyadh up to 2005. In 2002, the Plaintiff submitted a request to OIO requesting an extension for the period 2003 to 2004. After several months passed without receiving a response from OIO, the Plaintiff contacted Mary Conway. In the ensuing discussion, Conway advised the Plaintiff that the extension would be a “rubberstamp approval.”

**BB. The December 3, 2002 Meeting at FBIHQ**

106. On December 3, 2002, FBI Director Mueller, Deputy Director Bruce Gebhardt, SAC Beverly and others met to discuss the status of the LEGAT Riyadh office and plaintiff’s future. On said date, Director Mueller and the named parties, violated several Bureau policies in their decisions to remove from Riyadh and demote the plaintiff, such as the policy on direct placement and demotions, particularly where the performance appraisal shows the employee is meeting expectations.

**CC. Rattigan’s Extension of Service as LEGAT Riyadh is Rescinded**

107. On December 4, 2002, UC Curtis notified the plaintiff that the extension he had previously been notified by Conway was approved was not being rescinded by UC Curtis and he should prepare to permanently depart from Riyadh. UC Curtis also told the plaintiff that OIO would issue the plaintiff a “does not meet expectations” performance appraisal and SAC Beverly would be contacting the plaintiff regarding his future. Finally, UC Curtis stated that Gamal would also be removed from Riyadh within six (6) months.

108. The decision to rescind the approval that plaintiff had previously received to extend his stay as LEGAT Riyadh, and to demote the plaintiff in grade, constituted both discrimination and retaliation against the plaintiff for complaining of discrimination.

109. The plaintiff informed LEGAT Eduardo Sanchez of this development. LEGAT Sanchez commented that it was his belief that the matter was handled in a wrongful and disgraceful manner. He also told the plaintiff that he had recommended that the Bureau should address the resource problem in Riyadh and keep the plaintiff in Riyadh as the LEGAT, all to no avail. LEGAT Sanchez also advised in an earlier conversation that SAC Beverly and OIO misstated the facts when plaintiff was told that the inspection was going to be conducted as a result of his response to Fowler’s report. LEGAT Sanchez advised the plaintiff that, to the contrary, the team was selected and instructed before Fowler submitted her report.

110. Shortly thereafter, SAC Beverly told the plaintiff that he was being recalled because Riyadh was a “high-stress post,” and it would be best if plaintiff came back and “adjust” to living in the U.S.

111. On December 6, 2002, Charles Goodwin, Special Assistant to the Assistant Director, drafted a communication to Director Mueller’s office describing the conditions at Riyadh.

112. On December 9, 2002, SC Pyszczymuka signed plaintiff's performance appraisal, in the capacity as the plaintiff's reviewing official, indicating that the Plaintiff "meets expectations" in every rated category.

113. This review was subsequently endorsed, on April 8, 2003, by former UC Cary Gleicher. Plaintiff received this document in June 2003. Plaintiff was informed that every LEGAT received their performance appraisal in or about November 2002.

114. UC Curtis composed a document, dated December 9, 2002, which was approved by SAC Beverly and SC Pyszczymuka and sent to the Administrative Unit, indicating that the shortcomings of the LEGAT Riyadh office had been addressed by training and the dispatch of much-needed temporary personnel which would enable the plaintiff to continue in Riyadh to perform at the "meets expectations" level. Upon information and belief, the submission of this document to the Administrative Unit was a violation of established policy governing personnel issues. Additionally, no LEGAT has ever been recalled where he/she was eligible for an extension, had requested same, and had received a "meets expectations" performance evaluation.

**DD. Rattigan's Tour as LEGAT Riyadh is Extended**

115. In May 2003, after the bombings in Saudi Arabia resulted in the deaths of several Americans, OIO requested the plaintiff to extend his stay in Saudi Arabia to assist in the investigation. Plaintiff agreed. However, plaintiff later learned that his LEGAT replacement, Ed Gibson, a white male, was permitted to delay his arrival in Riyadh in order to visit family members in the U.S.

116. In May 2003 the plaintiff was again requested by OIO to postpone his return to the U.S. in order to facilitate Director Mueller's trip to Saudi Arabia in June 2003. The plaintiff requested Gibson's return to assist with the plans to receive Director Mueller and his delegation,

including EAD D'Amuro, in Riyadh. Despite the exigent circumstances pertaining to the Director's trip, OIO allowed Gibson to arrive less than 24 hours before Director Mueller's arrival. During the visit, Gibson informed Director Mueller that he was no longer interested in the position. Gibson was allowed to return to his duties with no disciplinary action taken against him. During said trip, the plaintiff noticed a radical departure in the way he was treated by Director Mueller as compared to the treatment he received in January 2002.

117. Two days after Director Mueller's departure from Saudi Arabia, LEGAT Sanchez, who was requested to extend his stay in Riyadh in light of Gibson's change of heart, contacted UC Curtis and requested that the plaintiff be extended a week to facilitate LEGAT Sanchez' introduction to liaisons in the region so that he would have ready access to the liaisons if there was a catastrophic event. UC Curtis denied this request and directed that the plaintiff was to depart Riyadh at once. After terminating the telephone call Sanchez expressed to plaintiff that the Bureau's actions were a disappointment and it was clear that they were allowing a personal matter to take precedence over the mandates of the office.

**EE. UC Curtis Threatens Rattigan**

118. In January 2003, plaintiff, who was a Grade 15 as the LEGAT at the Riyadh office, submitted two applications for Grade 15 positions at FBIHQ. Subsequently, UC Curtis contacted the plaintiff and advised him that he should select a position from several job vacancies in New York, which were beyond the filing deadlines, and warned that if he insisted on applying for a Grade 15 position he could end up in a Grade 13 position.

**FF. Rattigan Leaves Riyadh for New York**

119. Plaintiff departed Riyadh on June 13, 2003, and reported for duty in the New York office in July 2003, where he is presently assigned.

**GG. Post-Transfer Changes in the LEGAT Riyadh Office**

120. On information and belief, the region previously covered by LEGAT Riyadh is now covered by FBI LEGAT offices in Sana'a, Yemen; Abu Dhabi, the United Arab Emirates; and Riyadh, Saudi Arabia. The LEGAT office in Riyadh is now staffed by one (1) LEGAT, two (2) ALATs, two (2) Office Assistants, a Language Specialist, and a constant rotation of temporary duty personnel, including analysts. Additionally, LEGAT Riyadh's territorial responsibility has been reduced from seven countries to just two. Moreover, the position of LEGAT Riyadh was elevated to a Senior Executive Service position. Several of these changes had been requested by plaintiff during his tenure as LEGAT Riyadh, but were not made until after his demotion and departure.

121. On information and belief, the present LEGAT in Riyadh, Fred Brink, a white male, had no terrorism experience, no overseas experience, and no LEGAT experience prior to his selection. Moreover contrary to statements made by OIO managers, Brink was not required to undergo "hands-on training" at an established LEGAT office before assuming his responsibilities in Riyadh. Brink's selection is contrary to the policies of the Bureau with regard to the qualifications necessary for the LEGAT position. In addition, a superbly qualified candidate who expressed interest in the LEGAT Riyadh position, SSA Steve Cocco, who at the time had 18 years of investigative experience and a prior posting overseas in the LEGAT office in Rome, was overlooked because, it is believed, of his close friendship with the plaintiff.

**HH. Additional Retaliation Against Rattigan**

122. In addition to the fact that he was subjected to discriminatory treatment based on his race, national origin and religion, which adversely effected the terms and conditions of his employment with the Bureau, the plaintiff was a victim of retaliation for his having complained

about discriminatory treatment. See, *e.g.*, the decision by the defendant to rescind the extension he had been previously granted to remain in Riyadh, to demote the plaintiff and to transfer him to New York, all of which was motivated, in part, to retaliate against the plaintiff for his having complained about discrimination.

123. In addition, not only the plaintiff, but those who worked for him, were subjected to unjustified and illegal conduct by the defendant because of defendant's discriminatory treatment of the plaintiff. In June 2002, SC Pyszczymuka contacted Gamal and arranged for him to travel To FBIHQ, without plaintiff's knowledge, to discuss the status of LEGAT Riyadh and also for the completion of Gamal's 5-year reinvestigation. The Plaintiff contacted SC Pyszczymuka regarding his failure to inform the plaintiff about Gamal's trip and purpose. SC Pyszczymuka told the plaintiff that it was an "oversight."

124. Following Gamal's interview at FBIHQ regarding the plaintiff, the Bureau initiated proceedings against Gamal, resulting in his dismissal from the FBI on May 27, 2003. Gamal filed an appeal with the Bureau and was reinstated on 1/30/04 with his internal investigation against him being closed as "No Action". Gamal has maintained, to date, that the real reason for his dismissal was his refusal to provide the Bureau with derogatory information regarding the plaintiff. Gamal also maintains, to date, that he was not aware of any derogatory information against the plaintiff and if he did, he would have provided it without any prompting from the Bureau.

125. On February 14, 2003, the Bureau notified the plaintiff of his demotion, transfer to the New York Office and that he had in ninety (90) days to report to the FBI New York office.

126. The plaintiff timely requested OIO to authorize his earned R&R leave. OIO delayed the authorization and then informed the plaintiff, in error, that his request was denied

because he had taken leave in mid-September 2001. When the plaintiff pointed out the error, OIO then delayed the authorization again and advised the plaintiff in April 2003 that his request for R&R was denied because he did not fulfill a time requirement, which was caused by OIO's error and delays.

## **II. The Bureau's Failure to Complete Rattigan's 5-Year Reinvestigation**

127. It is standard Bureau procedure that a background reinvestigation is conducted on all agents every five years.

128. As of November 2004, the 5-year reinvestigation of the plaintiff, which should have been completed in 2002, had still not been completed. In fact, in July 2004, the plaintiff was contacted by the Bureau regarding his 5-year reinvestigation and advised that he needed to resubmit the forms necessary for the investigation, which had been done twice since 2002.

129. The delay in completing the 5-year reinvestigation means that plaintiff is at a disadvantage in competing for promotion against candidates whose background investigation has been completed.

130. Additionally, the Bureau has indicated to the plaintiff that his personnel file in New York was sent to FBIHQ where a companion file was kept. In October 2004, the plaintiff was advised that both files could not be located.

131. The actions of the defendant as described in detail above, acting through the above named individuals, were motivated, in part, by the fact that OIO management did not want plaintiff, a black male and a naturalized U.S. citizen of Jamaican descent, to succeed in the Bureau, particularly since plaintiff was actively involved in the most important investigation conducted by the Bureau. This motivation reflects the ongoing legacy of racial discrimination that has roiled the Bureau in the past 10 to 15 years.

132. The actions of the defendant as described in detail above, acting through the above named individuals, were further motivated by animus toward plaintiff because of his conversion to Islam and the practice of his faith.

133. The actions of the defendant as described in detail above, acting through the above named individuals, constituted retaliation for the plaintiff having complained that he was being discriminated against.

134. Following the filing of his internal complaint on May 6, 2002, and subsequent complaints that he has filed, the plaintiff was subjected to continual harassment and retaliation for having complained about how he was treated, leading up to his eventual ordered transfer out of Riyadh and demotion in rank. In addition, plaintiff has been subjected to harassment and discrimination in the terms and conditions of his employment based on his refusal to the continued sexual relationship with Fowler and his revelation of this fact to Fowler's admitted mentor, SAC Beverly; and, the fact that he converted to the Islamic religion in December, 2001.

135. As a direct and proximate result of the conduct of FBI supervisory officials toward him, plaintiff has been injured, including mental pain and suffering, embarrassment, humiliation, degradation, the denial of promotional opportunities, and involuntary re-assignment and demotion in grade.

#### **FIRST CLAIM**

136. The Plaintiff incorporates by reference the allegations set forth in Paragraphs 1 through 135 as if fully set forth herein.

137. The conduct and actions of the defendant as described above against the plaintiff was based on his race and/or national origin, was done intentionally, maliciously and/or with a reckless disregard for the natural and probable consequences of its acts, was done without lawful

justification and was designed to and did cause specific and serious injury, mental pain and suffering, in violation of the Plaintiff's rights under 42 U.S.C. §2000e et seq.

### **SECOND CLAIM**

138. The Plaintiff incorporates by reference the allegations set forth in Paragraphs 1 through 137 as if fully set forth herein.

139. The conduct and actions of the defendant as described above against the plaintiff was based on his religion, was done intentionally, maliciously and/or with a reckless disregard for the natural and probable consequences of its acts, was done without lawful justification and was designed to and did cause specific and serious injury, including mental pain and suffering, in violation of the Plaintiff's rights under 42 U.S.C. §2000e et seq.

### **THIRD CLAIM**

140. The plaintiff incorporates by reference the allegations set forth in Paragraphs 1 through 139 as if fully set forth herein.

141. The conduct and actions of the defendant as described above in subjecting the plaintiff to discrimination based on his race and/or his national origin was done intentionally, maliciously and/or with a reckless disregard for the natural and probable consequences of its acts, was done without lawful justification and was done in retaliation for the plaintiff having complained about discriminatory treatment, and was designed to and did cause specific and serious injury, including mental pain and suffering, in violation of the Plaintiff's rights under 42 U.S.C. §2000e et seq.

**WHEREFORE**, the plaintiff demands the following relief jointly and severally against the defendant:

- A. Compensatory damages for the plaintiff in an amount to be determined by the jury or the finder of fact, including, but not limited to, back pay, front pay, lost pension benefits and retirement benefits, and the value of other lost benefits, mental anguish, pain and suffering, embarrassment and humiliation;
- B. Punitive damages in an amount to be determined;
- C. The convening and impaneling of a jury to consider the merits of the claims herein;
- D. Attorney's fees and the costs of this action;

