

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

<i>In re:</i>	:	
JANE DOE, <i>et alii</i> ,	:	
Plaintiffs,	:	
<i>versus</i>	:	Civil Action No. 04-1361
YUSUF ABDI ALI,	:	
Defendant.	:	

***DEFENDANT'S REPLY TO PLAINTIFFS' OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS WITH PREJUDICE THE
COMPLAINT***

COMES NOW, before this Honorable Court, your defendant in respect of the above-encaptioned cause, *viz.*, YUSUF ABDI ALI, by and through his undersigned attorney and counsellor at bar, *in praesenti, viz.*, Joseph Peter Drennan, and replies to your plaintiffs' Opposition to your defendant's Motion to Dismiss With Prejudice the Complaint [Document No. 31, filed on 21 January 2005] (hereinafter: "the Opposition"), and, in support whereof, your defendant would state unto this Honorable Court as follows, *viz.*:

That, although the Opposition is characterized in the Clerk's *Pacer* entry as a "large pleading", a perusal of the extensive brief and exhibits comprising the Opposition yields the observation that the Clerk's said appellation is only descriptive of the pleadings volume, as opposed to its substance;

That, given the press of time (the undersigned has had his service copy of the Opposition for review but three business days at this writing), and the impendency of this Honorable Court's hearing in respect of, *inter alia*, your defendant's Motion to Dismiss With Prejudice the Complaint, the instant Reply by the undersigned will, necessarily, be uncharacteristically brief;

That, more to the point, the most poignant observation to be made about the Opposition is that, for all of its size, it utterly begs the question of why these particular plaintiffs, whomever they are, who allegedly sustained serious civil wrongs, in the 1980s, waited well over a decade and a half before filing the instant action. There is nary disability or impediment alleged to explain what each plaintiff was supposedly doing over the last two decades in supposedly exercising reasonable diligence in respect of endeavoring to prosecute their action in a suitable forum;

That, *inter alia*, it is noteworthy that neither of your plaintiffs offers any personal account as to why they have, as it were, to sit on their respective, putative legal rights for well over a decade; it is especially significant that neither of your anonymous plaintiffs has so much as verified the Complaint with an affidavit or declaration, much less giving affidavit(s) or declaration (s) based upon personal information, that could conceivably support your plaintiffs' bold effort to prosecute their Complaint at this late date;

That, indeed, the only, admittedly speculative, reason that appears objectively conceivable as to why your plaintiffs decided to file their meritless Complaint in November of 2004 is that such filing, accompanied by extensive publicity seeking by your plaintiffs¹, is that the filing appears to have been calculated to coincide with the November, 2004, conference, in Nairobi, Kenya, of the Somali Transitional Federal Government, which was then seeking, *inter alia*, recognition from the United Nations Security Council, which was then meeting, *in situ*, in Kenya, in order to address the Somali issue, as it were, in addition to the overshadowing specter of genocide in the Darfur province of The Sudan;

That, indeed, the *only* declaration of any kind offered in support of the Opposition is the 18 January 2005 Declaration of Martin R. Ganzglass (hereinafter: “the Declaration”), offered *qua* “Exhibit '1” to the Opposition;

That, insofar as the subject, pending Motion to Dismiss is concerned, the Declaration is more significant for what it does not cover than the marginally helpful background data that it does disclose, and, hence, is of small assistance to your plaintiffs' prayer for equitable tolling –for example: i.) the Declaration does not state that the declarant, however erudite he might be, ever read, much less studied, the Complaint; ii.) the

¹ See, e.g.: the 11 November 2005, press release issued by your plaintiffs' counsel, a true copy of which is annexed hereunto *qua* “Exhibit 'A””, and which has been posted, *inter loci*, on the Internet, at: <http://cja.org/cases/Somalia%20Press/Somali%20PR%2011.04.htm> .

Declaration, likewise, does not state that the declarant has ever met, much less interrogated, the individual plaintiffs; iii.) the averments set forth in the Declaration reveal, *inter alia*, the declarant's limited personal knowledge of conditions in Somaliland during the 1990s, *id est*, the period in which the plaintiffs were manifestly sitting, if not sleeping, on their putative legal rights, vis-a-vis your plaintiff²; iv.) that the Declaration, *passim*, simply views the plaintiffs as members of the Issaq clan, rather than as individuals³;

That, similarly, as regards the availability of justice in Somaliland, the Declaration contains nothing based on or drawn from the declarant's averred area of expertise, merely a series of equivocal and vague generalizations; and

That, just as your plaintiffs have apparently slept on their putative rights in bringing this law suit, they, similarly, have done likewise as regards the points raised in the Motion to Dismiss, as illustrated by the fact that the Declaration is nothing but a re-executed iteration of the declarant's 13 December 2004 Declaration that was filed herein, *qua* "Exhibit '5'" to the Memorandum of Points and Authorities in Support of your plaintiffs' Motion for Leave to Proceed Anonymously [Document No. 23, filed on 14 January 2005].

² *Inter alia*, in his Declaration, the declarant concedes that his only contact with Somaliland in the 1990s was a single visit to the town of Borama.

³ As your plaintiff has earlier observed, in the publicity attendant to the filing of the Complaint, one of your plaintiffs' representatives conceded, *inter alia*, that it was seeking "justice for this clan (the Issaqs)." See: "Exhibit 'A'", at p. 1.

WHEREFORE, upon the foregoing articulated circumstances, and the record herein, your defendant ever prays that your defendant's Motion to Dismiss With Prejudice the Complaint be denied.

Respectfully submitted,

/s/ Joseph Peter Drennan
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ATTORNEY FOR DEFENDANT
YUSUF ABDI ALI

CERTIFICATE OF SERVICE

I, Joseph Peter Drennan, undersigned, hereby and herewith certify that, on the 26th of January, 2005, a true cyclostyled facsimile of the foregoing was despatched by carriage of First Class Mail, through the United States Postal Service, with adequate postage prepaid thereon, , enshrouded in a suitable wrapper, unto:

Robert R. Vieth, Esquire
Daniel J. Wadley, Esquire
Tara M. Lee, Esquire
Cooley Godward, L.L.P.
One Freedom Square
11951 Freedom Drive
Reston, Virginia 20190-5656; and

Matthew Eisenbrandt, Esquire
Helene Silverberg, Esquire
Center for Justice & Accountability
870 Market Street
Suite 684
San Francisco, California 94102.; and, that, on even date,

Robert R. Vieth, Esquire, and Helene Silverberg, Esquire, were also served, electronically, with a true copy of the foregoing at the respective *e-mail* address of each, viz.: rvieth@cooley.com & hsilverberg@cja.org .

Respectfully submitted,

/s/ Joseph Peter Drennan
Joseph Peter Drennan