

# Exhibit A



U.S. Department of Justice  
Office of the Solicitor General

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Washington, D.C. 20530

January 8, 2014

Honorable Scott S. Harris  
Clerk  
Supreme Court of the United States  
Washington, D.C. 20543

Re: Samantar v. Yousuf, No. 12-1078

Dear Mr. Harris:

This letter responds to the supplemental brief that petitioner filed on January 7, 2014. On December 30, 2013, counsel for respondents informed this Court that on December 28, 2013, the Legal Adviser to the President of Somalia sent a letter to the Secretary of State, purporting to waive petitioner's immunity from suit in this case. By letter dated January 6, 2014, the United States informed the Court that the "Department of State intends to initiate diplomatic discussions as soon as practicable in order to clarify the position of the Government of Somalia on the immunity issue." The United States additionally observed that "any further determination by the United States with respect to immunity" will be "made in light of developments in this case that post-date the Fourth Circuit's judgment," including "the December 28, 2013, letter filed by respondents, as well as further communications between the United States Government and the Federal Republic of Somalia."

In his supplemental brief, petitioner urges the Court to disregard the December 28, 2013, letter from the President of Somalia's Legal Adviser because, petitioner asserts, the President of Somalia has renounced the December 28 letter. Petitioner states that President Mohamoud "instructed" his Chief of Staff "to communicate officially" with the United States" that the December 28 letter is "null and void." Pet. Supp. Br. 1. Petitioner cites a January 2, 2014, email from Kamal Hassan, Chief of Staff to the President of Somalia, to a U.S. Government employee at the U.S. Embassy in Nairobi, Kenya, which (we are informed by the Department of State) has an interests section for purposes of conducting relations with the Government of Somalia. In that two-sentence email, Mr. Hassan states that the December 28 letter from the Somali President's Legal Adviser is "null and void" and that the Somali President has "instructed me to communicate officially with you on those lines." Pet. Supp. Br. App. 2a. The email then adds: "Let us talk." *Ibid.*

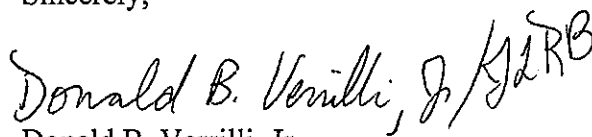
Petitioner's supplemental brief also cites and attaches a copy of a formal letter subsequently sent by Mr. Hassan on January 7, 2014, to the U.S. Special Representative for Somalia at the U.S. Embassy in Kenya, stating that the December 28, 2013, letter is "null and void." Pet. Supp. Br. App. 4a-5a. This Office and the Office of the Legal Adviser in the Department of State were unaware of the January 7 letter prior to receiving petitioner's supplemental brief.

Apparently on the basis of the January 2, 2014, email from Mr. Hassan, petitioner asserts that in our January 6 letter, the United States "withh[e]ld from the Court that" communications from Somalia "*repudiated* [the Legal Adviser's] letter." Pet. Supp. Br. 1 (emphasis in original). Petitioner's assertion is unfounded. After receiving the December 28 letter from the Somali President's Legal Adviser, the Department of State began endeavoring to determine the status of the December 28 letter. In the course of inquiring about the December 28 letter, the Department of State received information that raised questions about its status. Those questions, together with the fluid situation created by governmental transition currently under way in Somalia, highlighted the need for the Department of State to engage in diplomatic communications at the appropriate levels in order to ascertain the official status of the December 28 letter and the position of the Government of Somalia on the immunity issue. In view of the uncertainty surrounding the legal status and legitimacy of the December 28 letter, and the subsequent communications raising questions about the letter, it would have been imprudent for the United States in its January 6 letter to publicly disclose or opine upon governmental interactions with the Government of Somalia, much less to express a definitive public position discrediting what purported to be an official communication from that Government in the December 28 letter. Indeed, as of January 6, the December 28 letter had not been repudiated in a manner that was comparably formal and purportedly official to the December 28 letter itself.

The developments recited in petitioner's supplemental brief further underscore the need, expressed in our letter of January 6, 2014, for further diplomatic discussions between the United States and Somalia to clarify the position of the Government of Somalia on the immunity issue.

I would appreciate it if you would circulate copies of this letter to the Members of the Court.

Sincerely,



Donald B. Verrilli, Jr.  
Solicitor General

cc: See Attached Service List

12-1078

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