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17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA

19 JANE DOE I, JANE DOE II, HELENE PETIT,)
20 MARTIN LARSSON, LEESHAI LEMISH, and)
21 ROLAND ODAR)

22 Plaintiffs,)

23 v.)

24 LIU QI, and DOES 1-5, inclusive)

25 Defendants.)

No. **C 02 0672 CW EMC**

**NOTICE OF CHANGE IN
DEFENDANT'S STATUS;
DECLARATION OF MATTHEW
EISENBRANDT**

26 Plaintiffs respectfully submit this Notice of Change in Defendant's Status to advise the
27 Court that on January 19, 2003, the Beijing People's Congress appointed a new mayor of Beijing,
28 and that Defendant Liu Qi, accordingly, no longer serves in that position. See *New Beijing Mayor
Pledges Help for Retrenched, Clean Govt*, Wall Street Journal (online edition), Jan. 19, 2003,
(attached as Exhibit A to the accompanying Declaration of Matthew Eisenbrandt ("Eisenbrandt

1 Decl.”); *New Mayor for Beijing is Chosen*, Asian Wall Street Journal, Jan. 20, 2003, at A4 (page 2
2 of online printout) (attached as Exhibit B to Eisenbrandt Decl.). Plaintiffs are informed and believe
3 that Defendant now serves only in positions with the Chinese Communist Party (“CCP”) to which
4 he was appointed in November 2002. Those positions are: Member of the Political Bureau of the
5 CCP Central Committee, and Secretary of the Beijing Municipal CCP Committee. See *China’s Hu*
6 *Jintao Inspects Beijing’s Enterprises, Rural Areas*, BBC Monitoring Asia Pacific – Political,
7 Jan. 26, 2003 (attached as Exhibit C to Eisenbrandt Decl.) (identifying Defendant Liu’s current
8 positions).

9 Defendant Liu no longer holds any position in the Chinese government and is no longer
10 properly considered a current or sitting official of the Chinese government. See Plaintiffs’ Notice
11 of Anticipated Change in Defendant’s Status and accompanying declaration of China scholar
12 Andrew Nathan. Concerns raised about the Court’s adjudication of a suit against a sitting official
13 of a foreign government, therefore, no longer apply. Defendant Liu’s change in status substantially
14 diminishes any foreign policy implications this private lawsuit may present. Thus, even if the
15 Court finds that the threshold for consideration of the act of state doctrine is met in this case, the
16 balance of factors under *Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398 (1964) is now tipped
17 even further in favor of justiciability.

18
19
20 Dated: February 3, 2003

Respectfully submitted,

21
22 s/Joshua Sondheimer
23 JOSHUA SONDHEIMER (SBN 152000)

24 TERRI MARSH, Esq. (Admitted *Pro Hac Vice*)
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Attorneys for All Plaintiffs

1 **DECLARATION OF MATTHEW EISENBRANDT**

2
3 I, MATTHEW EISENBRANDT, declare as follows:

4 1. I am counsel of record in this action for all plaintiffs. I make this declaration in support of
5 plaintiffs' request for entry of default.

6 2. Attached to this Declaration are three articles submitted in support of plaintiffs' Notice of
7 Change in Defendant's Status.

8 a. Exhibit A is a true and accurate copy of an article from the Wall Street
9 Journal (online edition) entitled *New Beijing Mayor Pledges Help for Retrenched, Clean*
10 *Govt*, which was printed from the url
11 http://online.wsj.com/article_print/0,,BT_CO_20030119_000679,00.html on January 29,
12 2003.

13
14 b. Exhibit B is a true and accurate copy of an article entitled *Briefs* from the
15 Asian Wall Street Journal including an item entitled *New Mayor for Beijing is Chosen*,
16 which was printed from the website www.westlaw.com on January 29, 2003.

17
18 c. Exhibit C is a true and accurate copy of an article from BBC Monitoring
19 Asia Pacific entitled *China's Hu Jintao Inspects Beijing's Enterprises, Rural Areas*, which
20 was printed from the website www.westlaw.com on January 29, 2003.

21 I declare under penalty of perjury under the laws of the United States that the foregoing is
22 true and correct.

23 Executed on this 3rd day of February, 2003, in San Francisco, California.

24
25 s/Matthew Eisenbrandt
26 Matthew Eisenbrandt

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, declare under penalty of perjury that:

3 On February 3, 2003, I served a true copy of the following document:

4 **NOTICE OF CHANGE IN DEFENDANT’S STATUS; DECLARATION OF**
5 **MATTHEW EISENBRANDT**

6 on the following persons:

7 Alison N. Barkoff Attorney for United States
8 U.S. Department of Justice
9 Room 1030
10 P.O. Box 883
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12 Morton Sklar Attorney for *Deren* Plaintiffs
13 World Organization Against Torture USA
14 1725 K St., N.W., Suite 610
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16 Karen Parker Attorney for *Deren* Plaintiffs
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19 Thomas A. Willis Attorney for Amicus Curiae
20 Remcho, Johansen & Purcell SF Chinese Chamber of Commerce
21 201 Dolores Avenue
22 San Leandro, CA 94577

23 Michael S. Sorgen Attorneys for *Liu* Plaintiffs
24 Tania Rose
25 Law Offices of Michael Sorgen
26 240 Stockton Street, 9th Floor
27 San Francisco, CA 94108

28 Terri Marsh Attorney for *Liu* Plaintiffs
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By placing a true copy of said document, enclosed in a sealed envelope, and by placing said envelope, with postage thereon fully prepaid, in the United States mail in San Francisco, California, addressed to said persons.

Executed in San Francisco, California, on February 3, 2003.

I declare under penalty of perjury that the foregoing is true and correct.

/s/Douglas Conrad
DOUGLAS CONRAD