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Of Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BRANDON MAYFIELD, an individual, MONA
MAYFIELD, an individual, and SHANE
MAYFIELD, SHARIA MAYFIELD, and SAMIR
MAYFIELD, individuals, by and through their
guardian ad litem Mona Mayfield,

Plaintiffs,

v.

JOHN ASHCROFT, Attorney General of the
United States of America, RICHARD K.
WERDER, an individual, TERRY GREEN, an
individual, JOHN T. MASSEY, an individual,
MICHAEL WIENERS, an individual, THE
DEPARTMENT OF JUSTICE, an executive
department of the United States of America, THE
FEDERAL BUREAU OF INVESTIGATION, an
agency of the United States of America, and
JOHN DOES I – X, individuals,

Defendants.

CY 04 1427 AA
CASE NO.

**COMPLAINT FOR VIOLATION
OF CIVIL RIGHTS**

**DEMAND FOR TRIAL BY JURY
and REQUEST FOR ADVISORY
JURY**

Rec # 179594

Plaintiffs allege:

INTRODUCTION

1. This Complaint describes how Brandon Mayfield, an attorney in Portland, Oregon, was singled out by the U.S. government to be accused of terrorism based on the FBI's mistaken reading of a fingerprint, and based upon the fact that Mr. Mayfield and his family adhere to the Muslim faith. This complaint also describes how the FBI, for its own institutional reasons, and for the personal reasons of some of its employees, refused to acknowledge their mistake and instead described Mr. Mayfield to the national and international media as a terrorist, and subjected Mr. Mayfield to the risk of execution. This complaint also challenges the constitutionality of portions of the Patriot Act.

PARTIES

2. Brandon Mayfield, his wife Mona Mayfield, and their children Shane Mayfield, Sharia Mayfield, and Samir Mayfield are United States citizens living in Oregon. Mona Mayfield is the duly appointed guardian *ad litem* of said children.

3. John Ashcroft is the Attorney General of the United States of America, and is the head of the Department of Justice, responsible for the actions of said Department, and responsible for the actions of the Federal Bureau of Investigation. Richard K. Werder, Terry Green, and Michael Wieners are employees and agents of the Federal Bureau of Investigation.

4. John T. Massey is a contract employee and agent of the Federal Bureau of Investigation.

5. At all times herein pertinent, John Does I-X were employees and/or agents of the FBI and/or the Department of Justice.

6. The Department of Justice (hereinafter DOJ) and the Federal Bureau of Investigation (hereinafter FBI) are agencies of the United States Government as defined in the U.S. Privacy Act.

JURISDICTION

7. This Court has jurisdiction of these claims pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343(a)(3), 5 U.S.C. § 552a(g), and 28 U.S.C. § 2201.

FACTUAL ALLEGATIONS

8. On March 11, 2004, in Madrid, Spain, terrorists' bombs exploded on commuter trains, murdering 191 persons, and injuring another 1600 persons, including three U.S. citizens. International horror echoed the feelings Americans experienced after the cataclysm of September 11th. Shortly after the bombings, the Spanish National Police ("SNP") recovered fingerprints from a plastic bag containing explosive detonators. The bag was found in a Renault van located near the site of the carnage.

9. On March 13, 2004, the SNP submitted digital photographs of the latent fingerprints lifted from the bag to Interpol Madrid, which then transmitted the digital photographs to the FBI in Quantico, Virginia.

10. On the same day as the latent fingerprints were received by the FBI, the Latent Print Unit of the FBI initiated an "AFIS search" in an attempt to match the latent prints received from Spain with known prints in the FBI computer system. This

computer search by the FBI was unable to match any of the latent prints from Spain with any of the known prints in their database.

11. On March 14, 2004, the FBI requested and received from Spain “higher resolution” digital photographs of the eight latent prints and on March 15, 2004, another AFIS search was done. The computer was asked to return 20 candidates whose known prints had features in common with what was identified as Latent Finger Print #17 (LFP #17).

12. On March 15, 2004, a list of 20 candidates was returned by AFIS. Each candidate was identified by an AFIS “score,” a number that reflected a rank as to how closely the AFIS computer determined each candidate’s fingerprint matched certain features of LFP #17. Also on the AFIS list was an identification number for each candidate, which allowed the FBI to retrieve the names, original fingerprint cards, and demographic information of each candidate on the list. Demographic information available to the FBI included names, dates of birth, sex, race, and social security numbers. This information allowed the FBI to perform background checks on each individual on the list of 20 candidates produced by AFIS.

13. On the AFIS list of 20 candidates, the person ranked # 4 was Brandon Mayfield. Brandon Mayfield is an American citizen born in Oregon and reared in Kansas. He lives with his wife, Mona, and their three children in their family home in Aloha, Oregon, a suburb of Portland. Mr. Mayfield is 38 years old, a former Army officer with an honorable discharge, and a practicing Oregon lawyer. Prior to his arrest,

he had not been outside the United States since 1994, and he has never been convicted of a crime.

14. Based upon information and belief, plaintiffs allege that subsequent to March 15, 2004, FBI examiners and supervisors who examined the fingerprints of Mr. Mayfield were aware of his Muslim faith, and that this knowledge influenced their examination of Mr. Mayfield's fingerprints.

15. On or about March 17, 2004, two days after the AFIS list of 20 candidates was generated, Senior Fingerprint Examiner Terry Green concluded that Mr. Mayfield's left index fingerprint matched LFP #17, the fingerprint discovered by the SNP. Mr. Green made this identification of Mr. Mayfield's print:

- a. Without looking, or requesting to look, at a photo of the relative position of all the latent finger prints on the bag, which would have shown that based on the location of the prints on the bag, LFP #17 could not have been Mr. Mayfield's left index finger;
- b. Despite only having a few alleged points of similarity between the latent finger print and Mr. Mayfield's, so few points that no police agency in the world would find it sufficient for an identification;
- c. Despite the existence of significant unexplained areas of dissimilarity between LFP #17 and Mr. Mayfield's fingerprint;
- d. Despite obvious evidence that there were interruptions in the ridge flow between LFP #17 and Mr. Mayfield's print;

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- e. Despite obvious evidence that the Level One patterns in LFP #17 and Mr. Mayfield's prints were not the same, i.e. the core of LFP #17 showed an open delta in the arch pattern whereas Mr. Mayfield's print was a closed delta in an arch pattern; and
- f. Despite obvious evidence that the number of ridges on LFP #17 and Mr. Mayfield's print were not the same.

Had Mr. Green, an examiner of vast experience, properly performed the fingerprint identification analysis, he would have been compelled to declare that Mr. Mayfield's print was did not match to LFP #17. However, influenced by extraneous information, including Mr. Mayfield's adherence to the Muslim faith (the "Muslim Factor"), Mr. Green wrongly identified LFP #17 as matching one of Mr. Mayfield's known fingerprints.

16. FBI agent Green's wrongful conduct was further exacerbated when the print was submitted to Mr. John T. Massey, an allegedly "independent fingerprint examiner," for verification. Mr. Massey is a former employee of the FBI, engaged by the FBI on a contract basis to do fingerprint examinations. When Mr. Massey was an employee of the FBI he was reprimanded on at least three occasions for erroneously "identifying" fingerprints. Plaintiffs allege, based on information and belief, that Mr. Massey was selected to "verify" the identification because his employment history of discipline for poor performance would strongly motivate him to agree and verify the prior identification. It is believed that Mr. Massey was told of the prior identification by Senior Print Examiner Green of LFP #17 to Mr. Mayfield and that Mr. Mayfield was a

Muslim, increasing the likelihood that Mr. Massey would verify the identification and buttress the FBI's case against Mr. Mayfield on the basis of his religious beliefs.

17. The bogus match of Mr. Mayfield's print to LFP #17 was then submitted to a senior manager, Mr. Michael T. Wieners, for verification. It is the policy of the FBI Latent Print Unit that when there are less than 12 points of similarity between a latent print and a known print, a senior manager must review the alleged match. Mr. Wieners knew, before examining the prints, that two examiners before him had identified and verified the purported match and that Mr. Mayfield is Muslim. This knowledge precluded him from making an independent examination. Mr. Wieners wrongly verified LFP #17 as matching Mr. Mayfield's known print.

18. On or about March 20, 2004, the FBI issued a formal report matching Mr. Mayfield's print to that of LFP #17. On or about March 21, 2004, FBI surveillance agents began to watch Mr. Mayfield and to follow Mr. Mayfield and members of his family travel to and from the Bilal Mosque, the family's place of worship, to and from Mr. Mayfield's law office, to and from the children's schools, and to and from family activities.

19. At some point in time after the FBI's wrongful fingerprint identification, plaintiffs claim, based on information and belief, that the FBI made application to the Foreign Intelligence Security Court (FISC) for an order authorizing the FBI to:

- a. Place electronic listening devices ("bugs") in the shared and intimate rooms of the Mayfield family home;

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- b. Execute repeated “sneak and peek” searches of the Mayfield family home, occurring when the family was away from the home, which, to add insult to injury, were performed so incompetently that the FBI left traces of their searches behind, causing the Mayfield family to be frightened and believe that they had been burglarized;
- c. Obtain private and protected information about the Mayfields from third parties;
- d. Execute “sneak and peek” searches of the Law Office of Brandon Mayfield and examine confidential client materials;
- e. Place electronic listening devices (“bugs”) in the Law Office of Brandon Mayfield; and
- f. Place wiretaps on Mr. Mayfield’s office and home phones.

20. The application for the Foreign Intelligence Surveillance Act (FISA) order before the FISC was personally approved by John Ashcroft, the Attorney General of the United States. Ashcroft was under pressure to reestablish the reputation of the FBI in its “War on Terror,” particularly in light of the exposed failures of the FBI prior to September 11, 2001, which failures were being revealed by the investigative work of the 9/11 Commission. As a result, the Attorney General of the United States and his agents, in order to attempt to show that the FBI was a competent agency performing its functions in the “War on Terror,” knowingly and recklessly filed false and misleading affidavits with FISA court, as set forth in more detail below.

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21. It is unknown to Mr. Mayfield what, exactly, the U.S. government learned from Spain between March 17th and April 2nd. On April 2nd Mr. Mayfield's prints were sent by the FBI to Spain. By that date it is believed that the U.S. government had already been advised by the Spanish government that Moroccan immigrants were suspects in the Madrid bombing and had been taken into custody, and that the Spanish government was not aware of any information connecting the Moroccans with Mr. Mayfield or anyone in the U.S.

22. The SNP examined the FBI's report, and Mr. Mayfield's fingerprints, and concluded that there were dissimilarities in the comparison of the two prints for which there was no explanation. On April 13th the SNP provided a written report to the FBI explaining that they had compared LFP #17 to Mr. Mayfield's fingerprints, and stated their conclusion *that there was no match*.

23. For several reasons, the FBI and its fingerprint examiners involved in the case were now in a bind. The FBI, and its fingerprint examiners, knew that a "false positive" fingerprint identification would result in:

- a. Revocation of professional licensures of the individual examiners;
- b. Internal discipline;
- c. Internal lab review;
- d. Potential loss of American Crime Lab Certification;
- e. Job loss to examiners and supervisors;
- f. Congressional investigation; and
- g. Other external review.

24. In addition, the entire foundation of the “science” of fingerprint identification was at stake. In the two years previous to the Madrid bombings, challenges had been mounted against the admissibility into federal court of fingerprint examiners’ testimony that “matched” a known print to that of a suspect’s print found at a crime scene. The basis for the challenges was that fingerprint examination, as an alleged science, does not meet evidentiary standards required by the U.S. Supreme Court. The DOJ and the FBI vigorously contested these legal challenges, and in numerous hearings in federal courts FBI witnesses claimed fingerprint matching is an exact science. In fact, the supervisor of the Latent Print Unit of the FBI, Stephen Meagher, testified repeatedly that in the history of fingerprint examination the FBI had never testified in court to a “false positive,” i.e., that the FBI had NEVER made a misidentification.

25. During March and April, 2004, while the FBI was vehemently insisting that LFP #17 belonged to Mr. Mayfield, and while the FBI was aggressively attempting to convince the SNP of the correctness of the FBI fingerprint analysis, a case was pending in the U.S. Court of Appeals which was considered to be the most serious challenge ever raised to the FBI’s claims of fingerprint infallibility. In the case of *U.S. v Mitchell* the very admissibility of FBI fingerprint testimony was at issue. The FBI was acutely aware of this challenge, and could not risk public embarrassment or doubt to arise concerning its claimed infallibility in the identification of latent fingerprints.

26. Despite having been told by the SNP that LFP #17 and Mr. Mayfield’s print were not a match, knowing what was at stake and in the furtherance of their own personal

and institutional interests, the FBI personnel continued to insist that their match of the prints was correct.

27. In sum, the FBI was willing to subject Mr. Mayfield and his family to his public branding as a mass murderer, and an international terrorist, and subject Mr. Mayfield to the ultimate penalty of death, in order to save their own jobs, the reputation of the FBI, and in order to secure the admissibility of the alleged science of fingerprint in the courts.

28. On April 21, 2004, the FBI sent one or more agents to Madrid, Spain, to meet with their Spanish counterparts. Their intent and purpose was to exert whatever influence and pressure necessary to convince the SNP of the correctness of the FBI match. Spanish sources have publicly stated that still the Spanish authorities who met with the FBI agents on April 21st “refused to validate” the FBI’s conclusion that LFP #17 and the known print of Mr. Mayfield were a match.

29. The FBI remained undaunted. Even though the FBI’s claim that LFP # 17 matched Mr. Mayfield’s left index finger was directly and competently challenged by the SNP, the FBI sought to bolster its conclusion by the collection of hoped for corroboration. Mr. Mayfield’s adherence to the Muslim religion became a driving force behind the continuing investigation. Resolute in upholding belief in its own infallibility in matching fingerprints, the FBI continued to use the powers and secrecy of the Patriot Act and FISA to perform electronic surveillance, including wiretaps, and “sneak and peek” physical searches of Brandon Mayfield’s home, law office, vehicles and communications. However, the government’s intensive surveillance and investigation of

Mr. Mayfield uncovered no criminal links whatsoever with Spain or the Madrid bombings.

30. According to published newspaper reports, the DOJ and FBI became concerned that the news media in Europe had learned of the FBI's investigation of Mr. Mayfield. Rather than risk full public exposure of the FBI-SNP disagreement over Mr. Mayfield's fingerprints, the DOJ and FBI decided the government had to make its move. The DOJ and FBI pressed on.

31. Employees of the FBI and the DOJ concocted false and misleading affidavits in order to justify even more intrusive searches and in order to justify the arrest of Mr. Mayfield as a "material witness." FBI investigator Richard K. Werder, submitted a concocted affidavit to a federal judge in Portland, presumably similar to affidavits filed earlier with the secret FISA court in Washington, D.C., which stated that defendants Green, Wieners, and Massey considered LFP #17 a "*100% positive identification*" of Brandon Mayfield. Although the concocted affidavits stated that "preliminary findings" of the SNP "were not consistent" with the FBI fingerprint analysis, no mention was made of Spain's April 13th report to the FBI that stated the SNP did not agree with the FBI's fingerprint match of LFP #17 and Mr. Mayfield. The concocted affidavits made no mention that the SNP "refused to validate" the FBI's fingerprint analysis. The concocted affidavits falsely claimed that the SNP "felt satisfied with the FBI laboratory's identification." The concocted affidavits did not mention defendant Massey's history of fingerprint misidentification.

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32. In addition, the concocted affidavits attempted to validate their identification of the latent print with lengthy, irrelevant, speculative and prejudicial narratives focusing on Mr. Mayfield's religion and association with co-practitioners, when defendants knew that Mr. Mayfield's associations with fellow Muslims was legal and in pursuit of his religion and his regular law practice. For example, Agent Werder included in the affidavit in support of the search and arrest warrants the fact that Mr. Mayfield attended a mosque. The FBI also claimed that Mr. Mayfield's advertisement for legal services in "Jerusalem Enterprises," or what are known as the "Muslim Yellow Pages," constituted evidence connecting him to the bombings as a material witness. A short look at the website of these "Muslim Yellow Pages," illustrates that major car rental agencies, hotels, and airlines, such as Avis, Best Western, and United Airlines, also advertise on this site – hardly "evidence" pointing to a person having information regarding a bombing in a foreign country.

33. The sole purpose of the inclusion of said narratives was to demonize Mr. Mayfield and create an aura of probable cause that Mr. Mayfield was an international terrorist, when in fact, the defendants had no evidence to support this conclusion, other than careless speculation and prejudice.

34. The concocted affidavit submitted to the federal court in Portland, as referred to above, was knowingly and/or recklessly false and misleading in one or more of the following particulars:

- a. In failing to inform the court that on April 13, 2004, the SNP submitted to the FBI a report disputing the FBI's match of Brandon

- Mayfield's fingerprint with the fingerprint found in Spain;
- b. In failing to inform the court that the April 13th document advised the FBI that the SNP found the alleged match of Brandon Mayfield's fingerprint with the fingerprint found in Spain to be "negative";
 - c. In falsely stating that at the conclusion of the April 21st meeting in Spain between representatives of the SNP and the FBI, "it was believed that the SNP felt satisfied with the FBI laboratory's identification" of the Spanish fingerprint as Brandon Mayfield's;
 - d. In failing to inform the court that at the conclusion of the April 21st meeting in Spain between representatives of the SNP and the FBI, the SNP "refused to validate" the FBI's fingerprint analysis;
 - e. In falsely stating that FBI agent Terry Green and the "FBI lab" considered the Spanish fingerprint a "100% positive identification" of Brandon Mayfield;
 - f. In failing to reveal defendant Massey's history of faulty fingerprint identification;
 - g. In falsely stating that "it is believed that Mayfield may have traveled [to Spain] under a false or fictitious name, with false or fictitious documents";
 - h. In failing to inform the court that the FBI had abandoned proper protocol in concluding that LFP #17 was a "100% match" with Mr. Mayfield's fingerprint in that the FBI used extrinsic evidence (the

Muslim Factor) focusing upon Mr. Mayfield's practice of the Muslim religion and association with co-practitioners to support their fingerprint matching.

35. Preparing and filing the concocted affidavits with the omissions and false statements as set forth above constituted a violation of Brandon Mayfield's clearly established constitutional rights. No reasonable law enforcement officer could reasonably believe that preparing and filing a false and misleading affidavit for the purpose of securing search and arrest warrants did not violate clearly established constitutional rights.

36. Based upon the concocted, false, and misleading affidavits, broad search warrants were sought and issued. Mr. Mayfield's family home and law office were searched. Computer and paper files from his family home, including his children's Spanish homework, were seized. Computer and paper files, including actual client files, from his law practice were seized. Based upon the concocted, false, and misleading affidavits, Brandon Mayfield was arrested, and he was initially held in the lock down unit of the Multnomah County Detention Center. His family was not told where he was being held. He was told, and his family was told, that he was being held as a primary suspect on offenses punishable by death. He was told, and his family was told, that the FBI had made a 100% match of his fingerprint with the Madrid fingerprint. Leaks to the media from the FBI and the DOJ led to local, national, and international headlines that Brandon Mayfield's fingerprints linked him to the Madrid carnage. Brandon Mayfield knew he was innocent, knew he had nothing whatsoever to do with the Madrid bombings, and yet

was confronted with the FBI's seemingly irrefutable evidence that his fingerprint had been found in Madrid. He was frightened, humiliated and outraged. While in custody he feared for his family's safety and well being. Mona Mayfield, whose husband was being held in an unknown place and whose home had been violated, was terrified, confused, and fearful for herself and her children. The Mayfields' three children were traumatized both by the arrest of their father and the search and seizure of items from their family home.

37. On May 19th, the SNP advised the FBI, and on May 20th news reports revealed, that Spain had matched the Madrid fingerprint with an Algerian, Mr. Ouhane Daoud. The FBI now admits that its fingerprint identification of Brandon Mayfield was an error, and, incredibly, the FBI now states that LFP # 17 is "of no value for identification purposes."

38. This lawsuit seeks compensatory and punitive damages from the FBI and DOJ employees who knowingly and/or recklessly misled the Foreign Intelligence Security Court in Washington, D.C., and the U.S. District Court for the District of Oregon, in order to justify intrusive and comprehensive electronic and physical surveillance and searches of Mr. Mayfield's family home, law office, vehicles and communications, and in order to arrest Brandon Mayfield as a primary suspect in the Madrid bombings. This lawsuit seeks compensatory and punitive damages from FBI and DOJ employees who falsely concluded that Mr. Mayfield was an international terrorist because of his religious faith. This lawsuit seeks compensatory damages from the FBI and DOJ arising from the actions taken by their employees to invade Mr. Mayfield's

privacy and ruin his reputation by leaking to the world news media that Brandon Mayfield was incontrovertibly linked by fingerprint evidence to the Madrid bombings. And this lawsuit seeks to affirm that not even a “War on Terror” allows the federal government to deprive U.S. citizens of their constitutionally protected rights to liberty and to enjoy the privacy and security of their homes and offices.

FIRST CLAIM FOR RELIEF

***Bivens* claim for Brandon Mayfield arising from his unlawful arrest and imprisonment**

39. Plaintiff Brandon Mayfield realleges and incorporates herein paragraphs 1—38, above.

40. Defendants Werder, Green, Wieners, Massey, and John Does I-X, acting individually and in concert, knowingly and/or recklessly caused a false and misleading material witness arrest affidavit to be filed in the U.S. District Court for the District of Oregon. As a direct result of said defendants’ knowing and/or reckless submission of a false and misleading affidavit to the U.S. District Court for the District of Oregon, Brandon Mayfield was arrested and imprisoned for the period May 6, 2004, through May 20, 2004, and then held on home detention through May 24, 2004. Brandon Mayfield’s arrest and imprisonment was in violation of Mr. Mayfield’s rights under the Fourth Amendment of the United States Constitution to be secure in his person, and not be arrested or imprisoned without probable cause.

41. Defendants Werder, Green, Wieners, Massey, and John Does I-X, acting individually and in concert, knowingly and wrongfully selected Brandon Mayfield for

arrest and imprisonment based upon his Muslim religion, despite being advised by the SNP that Mr. Mayfield's fingerprint did not match LFP # 17. These actions by defendants violated Brandon Mayfield's Fifth Amendment right to be free from selective and discriminatory arrest and imprisonment.

42. Defendants John Does I-X intentionally misused the Material Witness statute, 18 U.S.C. § 3144, for the purpose of arresting Brandon Mayfield in order to allow the FBI to continue its investigation of Mr. Mayfield while he was held indefinitely in custody. As reported in the *Oregonian* on May 8, 2004:

"He isn't likely to be taken before a federal grand jury soon because investigators anticipate he would not talk voluntarily, and he won't be given immunity to talk, officials said. Instead, the arrest gives the FBI time to finish their ongoing investigation."

This intentional misuse of the Material Witness statute violated Brandon Mayfield's Fourth Amendment right to be secure in his person, and not be arrested or imprisoned without probable cause.

43. Brandon Mayfield's unlawful arrest and imprisonment caused him to suffer and endure 19 days of false imprisonment, and he endured and continues to endure extreme mental anguish and humiliation, embarrassment, damage to his general reputation, damage to his reputation as a lawyer and an impairment of his earning capacity, all to his special and general damage in an amount to be determined at trial.

44. Defendants' intentional and/or reckless misconduct, as set forth above, entitle Brandon Mayfield to punitive damages from said defendants in an amount to be determined at trial.

SECOND CLAIM FOR RELIEF

Deprivation of familial rights claim for Mona Mayfield

45. Plaintiff Mona Mayfield realleges and incorporates herein paragraphs 1—38, above.

46. During the time when Brandon Mayfield was imprisoned, Mona Mayfield was deprived of her constitutionally guaranteed right to be with her husband, and was denied his familial companionship, love and society, all to her general damage in an amount to be determined at trial.

47. Defendants' intentional and/or reckless misconduct, as set forth above, entitle Mona Mayfield to punitive damages from said defendants in an amount to be determined at trial.

THIRD CLAIM FOR RELIEF

Deprivation of familial rights claim for Shane Mayfield

48. Plaintiff Shane Mayfield realleges and incorporates herein paragraphs 1—38, above.

49. During the time when Brandon Mayfield was imprisoned, Shane Mayfield, was deprived of his constitutionally guaranteed right to be with his father, and was denied his familial companionship, love and society, all to his general damage in an amount to be determined at trial.

50. Defendants' intentional and/or reckless misconduct, as set forth above, entitle Shane Mayfield to punitive damages from said defendants in an amount to be determined at trial.

FOURTH CLAIM FOR RELIEF

Deprivation of familial rights claim for Sharia Mayfield

51. Plaintiff Sharia Mayfield realleges and incorporates herein paragraphs 1—38, above.

52. During the time when Brandon Mayfield was imprisoned, Sharia Mayfield, was deprived of her constitutionally guaranteed right to be with her father, and was denied his familial companionship, love and society, all to her general damage in an amount to be determined at trial.

53. Defendants' intentional and/or reckless misconduct, as set forth above, entitle Sharia Mayfield to punitive damages from said defendants in an amount to be determined at trial.

FIFTH CLAIM FOR RELIEF

Deprivation of familial rights claim for Samir Mayfield

54. Plaintiff Samir Mayfield realleges and incorporates herein paragraphs 1—38, above.

55. During the time when Brandon Mayfield was imprisoned, Samir Mayfield, was deprived of his constitutionally guaranteed right to be with his father, and was denied his familial companionship, love and society, all to his general damage in an amount to be determined at trial.

56. Defendants' intentional and/or reckless misconduct, as set forth above, entitle Samir Mayfield to punitive damages from said defendants in an amount to be determined at trial.

SIXTH CLAIM FOR RELIEF

***Bivens* claims for Brandon Mayfield arising from unlawful searches and seizures**

57. Plaintiff Brandon Mayfield realleges and incorporates herein paragraphs 1—38, above.

58. Defendants Werder, Green, Wieners, Massey and John Does I-X, acting individually and in concert, knowingly and/or recklessly caused false and misleading search warrant affidavits to be filed in the U.S. District Court for the District of Oregon. On information and belief, plaintiff alleges that said defendants also caused false and misleading search warrant affidavits to be filed in the FISC in Washington, D.C.

59. As a direct result of said defendants' intentional and/or reckless submission of false and misleading affidavits to U.S. Courts, Brandon Mayfield and his family were subjected to broad and intrusive physical and electronic searches of their family home, law office, safety deposit box and vehicles, in violation of Brandon Mayfield's right under the Fourth Amendment of the United States Constitution to be secure in his home, law office, communications and vehicles from unreasonable searches.

60. Despite requests by Mr. Mayfield's attorneys to John Ashcroft for the removal of any illegally seized information from government records and computer databases, the DOJ and FBI have not done so. Despite requests by Mr. Mayfield's attorneys that the government destroy all copies of documents and things seized by the FBI in the searches of Mr. Mayfield's home, law office, vehicles and safety deposit boxes, the government has refused to do so and has subsequently further invaded Mr.

Mayfield's privacy and the privacy of his family, when the wrongfully seized material became known and reported in the media.

61. The illegal and intrusive searches and seizures from Mr. Mayfield's family home, law office, safety deposit box and vehicles have caused Mr. Mayfield to endure, and he continues to endure, extreme mental anguish and humiliation, embarrassment, damage to his general reputation, damage to his reputation as a lawyer and an impairment of his earning capacity, all to his special and general damage in an amount to be determined at trial.

62. Defendants' intentional and/or reckless misconduct, as set forth above, entitle Brandon Mayfield to punitive damages from said defendants in an amount to be determined at trial.

SEVENTH CLAIM FOR RELIEF

Bivens claims for Mona Mayfield arising from unlawful searches and seizures

63. Plaintiff Mona Mayfield realleges and incorporates herein paragraphs 1—38, 58—60, above.

64. As a direct result of said defendants' intentional and/or reckless submission of false and misleading affidavits to U.S. Courts, Mona Mayfield was subjected to broad and intrusive physical and electronic searches of the Mayfields' family home, office, safety deposit box and vehicles, in violation of Mona Mayfield's rights under the Fourth Amendment of the United States Constitution to be secure in her home, office, vehicles and communications from unreasonable searches. These illegal and intrusive searches

and seizures have caused Mona Mayfield extreme emotional pain and suffering, anguish and humiliation, all to her general damage in an amount to be determined at trial.

65. Defendants' intentional and/or reckless misconduct, as set forth, above entitle Mona Mayfield to punitive damages from said defendants in an amount to be determined at trial.

EIGHTH CLAIM FOR RELIEF

***Bivens* claims for Shane Mayfield arising from unlawful searches and seizures**

66. Plaintiff Shane Mayfield realleges and incorporates herein paragraphs 1—38, 58—60, above.

67. As a direct result of said defendants' intentional and/or reckless submission of false and misleading affidavits to U.S. Courts, Shane Mayfield was subjected to broad and intrusive physical and electronic searches of the Mayfields' family home, in violation of Shane Mayfield's rights under the Fourth Amendment of the United States Constitution to be secure in his home from unreasonable searches. These illegal and intrusive searches and seizures have caused Shane Mayfield extreme emotional pain, fear, insecurity, suffering, anguish and humiliation, all to his general damage in an amount to be determined at trial.

68. Defendants' intentional and/or reckless misconduct, as set forth, above entitle Shane Mayfield to punitive damages from said defendants in an amount to be determined at trial.

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NINTH CLAIM FOR RELIEF

***Bivens* claims for Sharia Mayfield arising from unlawful searches and seizures**

69. Plaintiff Sharia Mayfield realleges and incorporates herein paragraphs 1—38, 58—60, above.

70. As a direct result of said defendants' intentional and/or reckless submission of false and misleading affidavits to U.S. Courts, Sharia Mayfield was subjected to broad and intrusive physical and electronic searches of the Mayfields' family home, in violation of Sharia Mayfield's rights under the Fourth Amendment of the United States Constitution to be secure in her home from unreasonable searches. These illegal and intrusive searches and seizures have caused Sharia Mayfield extreme emotional pain and suffering, fear, insecurity, suffering, anguish and humiliation, all to her general damage in an amount to be determined at trial.

71. Defendants' intentional and/or reckless misconduct, as set forth, above entitle Sharia Mayfield to punitive damages from said defendants in an amount to be determined at trial.

TENTH CLAIM FOR RELIEF

***Bivens* claims for Samir Mayfield arising from unlawful searches and seizures**

72. Plaintiff Samir Mayfield realleges and incorporates herein paragraphs 1—38, 58—60, above.

73. As a direct result of said defendants' intentional and/or reckless submission of false and misleading affidavits to U.S. Courts, Samir Mayfield was subjected to broad and intrusive physical and electronic searches of the Mayfields' family home, in violation

of Samir Mayfield's rights under the Fourth Amendment of the United States Constitution to be secure in his home from unreasonable searches. These illegal and intrusive searches and seizures have caused Samir Mayfield extreme emotional pain and suffering, fear, insecurity, suffering, anguish and humiliation, all to his general damage in an amount to be determined at trial.

74. Defendants' intentional and/or reckless misconduct, as set forth above, entitle Samir Mayfield to punitive damages from said defendants in an amount to be determined at trial.

ELEVENTH CLAIM FOR RELIEF

Brandon Mayfield's Privacy Act Claim

75. Plaintiff Brandon Mayfield realleges and incorporates herein paragraphs 1—38, above.

76. From at least the day before Brandon Mayfield's arrest on May 6, 2004, until the date Mr. Mayfield was released from custody, unknown persons within the DOJ and/or the FBI, agencies of the federal government within the meaning of the U.S. Privacy Act, 5 U.S.C. § 552a, began "leaking" information contained within DOJ and FBI files to the national and international media regarding Brandon Mayfield and his arrest. In fact, the press was "tipped off" to Mr. Mayfield's arrest, and even though he was booked under a fictitious name, the media was reporting within 24 hours the fact of Mr. Mayfield's arrest, his profession, his place of residence, his religion, and that the FBI linked him to the Madrid bombings by fingerprint evidence. Michael Isikoff, an

investigative correspondent for NEWSWEEK, reported in an on-line news story titled “An American Connection?”:

“May 6 - FBI agents today detained a Portland, Ore., lawyer after receiving evidence from Spanish authorities that the man’s fingerprints allegedly were found on bomb-related evidence associated with the March 11 railway attack in Madrid that killed 191 people and wounded 2,000 people, NEWSWEEK has learned. The arrest of the lawyer was *described by federal law-enforcement authorities* as a major investigative breakthrough that for the first time suggests links between an individual inside the United States and the Madrid bombing.

The man was identified as Brandon Mayfield, a convert to Islam who is tangentially linked to one of the chief defendants in the so-called ‘Portland Seven’ case — a suspected terror cell in Oregon whose six surviving members pled guilty last year of plotting to fight for the Taliban against U.S. soldiers during the war in Afghanistan.

Sources said that Mayfield had been under round-the-clock surveillance by the FBI for some time. *According to law-enforcement sources*, he was picked up by agents in Portland today and is being held as a “material witness” in a Grand Jury investigation—a status that allows the Justice Department to hold him in secret without formally filing charges against him.

* * *

Law-enforcement officials today provided few details about the evidence against Mayfield, but said the alleged presence of physical evidence tying the man to the Madrid bombing made it an extremely serious matter. *Sources said* Mayfield's fingerprints were found on a bag containing bomb material connected to the Spanish attack. * * *” (Emphasis added.)

77. MSNBC reporter Joe Scarborough interviewed Mr. Isikoff on May 6, 2004:

[Scarborough:] “There’s big news today in the war on terror. An American may be connected to the Madrid attacks that killed 191 people.

Newsweek's Michael Isikoff broke the story tonight. And he joins us now on the phone from Silver Spring, Maryland.

Michael, tell us about the story that you broke tonight.

[Michael Isikoff, "Newsweek":] "Well, it's a pretty startling development. There are still a lot of unanswered questions.

But, basically, it boils down to this. Some time ago, some weeks ago, Spanish authorities presented the FBI with some evidence showing that the fingerprints found on a bag containing bomb material connected with the Spanish bombing was, in fact, from a Portland, Oregon, lawyer, a man by the name of Brandon Mayfield. He's an American convert to Islam.

He had popped up in connection [with] the case with the Portland seven case. This is the case of the seven individuals charged with plotting with go to Afghanistan after September 11 to fight for the Taliban against U.S. soldiers. Mr. Mayfield had represented the interests of one of the main defendants in that case, a man by the name of Jeffrey Battle, in a custody dispute that arose after Battle was picked up by the FBI.

* * *

But this was taken extremely seriously by the FBI. He's been on around-the-clock surveillance. And just today, this afternoon, he was picked up, detained, and is being held as a material witness in a grand jury investigation. Material witness is a technique that's commonly used by the FBI since September 11 and the Justice Department to detain all sorts of suspects. No formal charges have been filed against him.

And it is somewhat controversial, because material witness matters are not made public.

There was a court proceeding today. There was nothing made public about it. *We learned about it from law enforcement sources.*" (Emphasis added.)

78. On May 7, 2004, Mr. Mayfield's hometown newspaper, THE WICHITA EAGLE, in an article titled *Madrid Probe Nets Ex-Kansan*, reported:

"Brandon Mayfield . . . was taken into custody on a material witness warrant, *said a senior law enforcement official in Washington, D.C., speaking on condition of anonymity.* . . . The FBI also searched Mayfield's home, which he shares with his wife, the official said. Mayfield's fingerprints were found on materials related to the Madrid bombings, *said a second senior law enforcement official, also speaking on condition of anonymity.*" (Emphasis added.)

These leaks were repeated and reported throughout the world. On May 7, 2004, *Agence France Presse* reported:

"FBI agents detained a lawyer tied to an Islamist cell, the first US detention in connection with March bombings, which killed 191 in Madrid, federal law enforcement official said Thursday.

Brandon Mayfield was taken into custody in the northwestern city of Portland, Oregon, after Spanish authorities gave the Federal Bureau of Investigation evidence linking him to the attacks, *one official said, speaking on condition of anonymity.*

Mayfield was held as a 'material witness' in a grand jury investigation, meaning he may be held indefinitely without charges, *the official said.*

Sources at the Federal Bureau of Investigation told the weekly that Spanish authorities had found Brandon Mayfield's fingerprints on a bag that had carried explosives used in the March 11 attack, which has been tied to radical Islamists.

Mayfield was detained in Portland. The convert to Islam had served as a child-custody lawyer for one of the Portland Seven, a group of Muslims accused [of] attempting to wage war on the United States." (Emphasis added.)

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79. By May 8, 2004, the national and international press was reporting that “The FBI found 15 points matching Mayfield’s fingerprint when they compared it to the one found in the bag.” Rosa Townsend, EL PAIS, *An Attorney Linked to the Killings was Arrested in the USA*, May 8, 2004; Editorial, THE OREGONIAN, *Fingerprints Links Oregon with Spain*, May 8, 2004, etc. At no time prior to Spain’s announcement of the match of LFP #17 with Mr. Daoud, and the release of Mr. Mayfield from custody, did the FBI or DOJ reveal Spain’s disagreement with the FBI’s claim that LFP #17 matched Mr. Mayfield’s fingerprint.

80. Throughout Mr. Mayfield’s imprisonment, the national and international media continued to report leaks from official sources regarding, for example, the FBI’s abiding confidence that Brandon Mayfield’s fingerprint matched the Spanish fingerprint, links between Mr. Mayfield and Al Qaeda, the fact that Mr. Mayfield had been under FBI surveillance for weeks, government strategy regarding the pending grand jury proceedings, etc. For example, on May 8, 2004, the Oregonian reported:

”Officials have been watching Brandon Mayfield of Aloha since two weeks after the March 11 Madrid terror bombings. Federal investigators are examining whether a Washington County lawyer shipped materials later used by terrorists to blow up four commuter trains in Madrid on March 11, *a law enforcement official said Friday*.

He isn’t likely to be taken before a federal grand jury soon because investigators anticipate he would not talk voluntarily, and he won’t be given immunity to talk, *officials said*. Instead, the arrest gives the FBI time to finish their ongoing investigation.” (Emphasis added.)

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The New York Times, May 8th, reported:

“The authorities arrested a Portland lawyer in connection with the Madrid railway bombings before they had a clear idea about the strength of their case and they cut short a planned covert surveillance of him because of concerns that information was leaking out to the news media, *law enforcement officials* said Friday.

On Thursday the FBI arrested the lawyer, Brandon Mayfield, 37, on a material witness warrant in connection with the attacks, which killed 191 people on March 11. Mr. Mayfield, who practices immigration and family law, is a former Army lieutenant and a convert to Islam.

The law enforcement officials said they were afraid that Mr. Mayfield, who is originally from Kansas, might become a fugitive if he knew he was under suspicion. So monitoring that was just getting started was abruptly halted. Mr. Mayfield was arrested before investigators had fully examined his phone records, before they knew if he had ever met with any of the bombing suspects, before they knew if he had ever traveled to Spain or elsewhere overseas. His relatives said he had not been out of the United States for 10 years.” (Emphasis added.)

USA Today, May 10th, reported:

“U.S. authorities on Sunday stood by fingerprint analyses that led to last week’s detention of a local attorney as a potential witness in the railway bombings March 11 in Madrid, *said a federal law enforcement source with knowledge of the investigation.*” “Before his arrest Thursday, Mayfield had been the subject of intense surveillance by federal agents, the U.S. official said. The surveillance operation started within days of the March bombings. It was abruptly halted, and Mayfield was taken into custody, when his name was leaked and authorities began to fear the attorney might flee.” (Emphasis added.)

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The Independent (London), May 13th, reported:

“US officials appear willing to concede that Mr. Mayfield has no record of traveling to Spain, but suggest he might have done so in secret using false documents. He has not been formally arrested or charged with any crime, and the LA Times reported disagreement in law enforcement ranks about the wisdom of taking him into custody before they had more of a case against him.” (Emphasis added.)

Associated Press Newswire, May 16th, reported:

“According to senior law enforcement officials who spoke on condition of anonymity, the FBI is convinced the fingerprint in Madrid is Mayfield’s.” (Emphasis added.)

Even after Mr. Mayfield was released from jail, even after Spain concluded that the fingerprints found after the bombing belonged to Daoud, the leaks continued. *The New York Times*, May 22, 2004:

“A senior FBI official said on Friday that Mr. Mayfield had not been ruled out as a suspect and continued to be a subject of interest. ‘The whole case hasn’t played out yet,’ the official said.” (Emphasis added.)

81. The “leaks” by DOJ and/or FBI employees violated both the U.S. Privacy Act and DOJ/FBI regulations and policies.

82. The Privacy Act prohibits the DOJ and the FBI from disclosing records kept by the DOJ and the FBI pertaining to Mr. Mayfield. The DOJ and FBI, however, have chosen to ignore this federal law, and leak to the media details regarding its activities in combating so-called terrorists. For example, employees of the DOJ and/or FBI leaked to the media information pertaining to Dr. Wen Ho Lee during their investigation of him in the late 1990s on charges of espionage at Los Alamos National

Laboratory. And employees of the DOJ and/or FBI leaked to the media information pertaining to Dr. Steven J. Hatfill during their investigation of him as a suspect in the 2001 anthrax mailings.

83. The leaks to the media concerning Brandon Mayfield also violated DOJ regulations and FBI policies. DOJ regulations prohibit DOJ and FBI personnel from releasing information about a criminal suspect which could reasonably be expected to influence the outcome of a pending or future trial “from the time a person is the subject of a criminal investigation until any proceeding resulting from such an investigation has been terminated by trial or otherwise.” 28 C.F.R. § 50.2(b). Furthermore, when a suspect is arrested, the regulations prohibit releasing information “relating to the circumstances of an arrest or investigation [which] would be highly prejudicial or the where the release thereof would serve no law enforcement function.” *Id.* The regulations give even more detailed guidance when it comes to releasing information regarding investigative procedures. “The release of certain types of information generally tends to create dangers of prejudice without serving a significant law enforcement function. Therefore, personnel of the Department should refrain from making available the following: . . . reference to investigative procedures such as fingerprints.” 28 C.F.R. § 50.2(b)(6).

84. Notwithstanding the detailed regulations set forth above, DOJ and/or FBI personnel released specific information regarding their claim of a fingerprint identification of Brandon Mayfield and linkage with the Madrid bombing tragedy.

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85. The reason for these regulations is publicly published by the FBI on its website. There, the FBI asks and answer the following question:

"[Question:] Can I obtain detailed information about a current FBI investigation that I see in the news?

[Answer:] No. Such information is protected from public disclosure, in accordance with current law and DOJ and FBI policy. This policy preserves the integrity of the investigation and the privacy of individuals involved in the investigation prior to any public charging for violations of the law. It also serves to protect the rights of people not yet charged with a crime."

See, www.FBI.gov/aboutus/faqs/faqsone.htm.

86. The actions of the DOJ/FBI were intentional and willful, and these disclosures caused Brandon Mayfield to endure extreme mental anguish and humiliation, embarrassment, damage to his general reputation, damage to his reputation as a lawyer and impairment of his earning capacity. Mr. Mayfield has suffered and endured actual damage and is entitled to compensatory damages from the DOJ/FBI in an amount to be determined at trial, and for his reasonable and necessary costs of the action together with reasonable attorney fees as determined by the Court. Plaintiff requests that the Court seek an advisory verdict on this claim from the jury empanelled to try the other issues in this case.

TWELFTH CLAIM FOR RELIEF

Claim for injunctive and declaratory relief re FISA searches and surveillance

87. Plaintiffs Brandon Mayfield, Mona Mayfield, Shane Mayfield, Sharia Mayfield, and Samir Mayfield reallege and incorporate herein paragraphs 1—38, above.

88. Plaintiffs allege, based on information and belief, that pursuant to FISA they were subjected to secret surveillance and searches of their family home, law office, vehicles, and communications. Plaintiffs allege, based on information and belief, that pursuant to FISA the information collected by said secret surveillance and searches has been disseminated to at least seven agencies of the Federal Government, including but not limited to the Central Intelligence Agency, the National Security Council, the Department of Defense, the Department of Homeland Security, the Department of Justice/Federal Bureau of Investigation, the Department of the Treasury and the National Security Agency. Prior to the commencement of this lawsuit, Mr. Mayfield, through his court appointed public defenders, demanded that defendant Ashcroft detail the FISA searches and surveillance performed, and purge all government files of information collected. Defendant Ashcroft has refused, and said agencies continue to retain information collected during the illegal and unconstitutional searches and surveillance that were perpetrated against plaintiffs.

89. The collection, dissemination and retention of information pursuant to FISA, as described herein, violate plaintiffs' constitutionally protected right to be secure from unreasonable searches and seizures, and constitutionally protected right to privacy. Plaintiffs seek a declaration:

- a. That the provisions of the Patriot Act and FISA which permit the federal government to secretly collect, disseminate and retain information from a person without first requiring the government to

demonstrate to a court the existence of probable cause that the person has committed a crime, are unconstitutional;

- b. That the provisions of the Patriot Act and FISA which permit the federal government to secretly perform “sneak and peek” physical searches of the home, office and vehicles of a person without first requiring the government to demonstrate to a court the existence of probable cause that the person has committed a crime, are unconstitutional;
- c. That the provisions of the Patriot Act and FISA which permit the federal government to perform electronic surveillance and wiretaps of a person without first requiring the government to demonstrate to a court the existence of probable cause that the person has committed a crime, are unconstitutional.

90. Based on information and belief, plaintiffs allege that the federal government utilized the challenged provisions of the Patriot Act and FISA to secretly and wrongfully collect, disseminate and retain information and communications from them,. Because defendants Ashcroft, the DOJ and FBI refuse to divulge the full extent of said collection, dissemination and retention of information and communications, because said collection, dissemination and retention of information and communications violate plaintiffs’ Fourth Amendment right to be secure in their home, law office, vehicles and communications from unreasonable searches and seizures, and because plaintiffs have no

other plain, speedy or adequate remedy at law, plaintiffs seek an injunction requiring defendants Ashcroft, the DOJ and the FBI:

- a. To retrieve and destroy all illegally collected, disseminated and retained information and communications collected pursuant to FISA authorized searches and surveillance relating to plaintiffs from government agencies and computer databases;
- b. To seek the return and destruction from agencies of other governments of all information and communications collected pursuant to FISA authorized searches and surveillance relating to plaintiffs which was illegally collected and then disseminated to said agencies;
- c. To refrain from distributing to any requesting party any information illegally collected or retained collected pursuant to FISA authorized searches and surveillance relating to plaintiffs.

THIRTEENTH CLAIM FOR RELIEF

Claim for return of property improperly seized

91. Plaintiffs Brandon Mayfield, Mona Mayfield, Shane Mayfield, Sharia Mayfield and Samir Mayfield reallege and incorporate herein paragraphs 1—38, above.

92. Prior to the commencement of this lawsuit, Mr. Mayfield's criminal defense attorneys requested that defendants Ashcroft, DOJ and FBI return all material seized from Mr. Mayfield pursuant to search warrants issued by the U.S. District Court for the District of Oregon, and destroy all copies of said material. Although the DOJ and

FBI have returned originals, they have refused to destroy copies of said material. Based upon information and belief, plaintiffs allege that copies of said materials have been disseminated to various government agencies and departments.

93. Despite the fact that neither Brandon Mayfield nor any member of his family has committed any crime, defendants Ashcroft, the DOJ and FBI are insisting that copies of all material seized from his family home, law office, safety deposit box and vehicles remain available for use by said defendants, remain available for inspection by additional government employees and agencies, and remain available to all government agencies and departments that received copies of the material. Because Mr. Mayfield has no other plain, speedy or adequate remedy at law, he seeks an injunction requiring defendants Ashcroft, the DOJ and the FBI to immediately return or destroy all copies of material or information seized, disseminated, during the investigation of Brandon Mayfield. Mr. Mayfield also seeks an injunction prohibiting defendants Ashcroft, the DOJ and the FBI from using said material or information in any way, or disseminating said material or information relating to Brandon Mayfield or his family to any government agency or government department or government employee, or to any non-government person or entity.

WHEREFORE, plaintiffs pray for relief, as follows:

On Plaintiff Brandon Mayfield's First Claim for Relief, for special and general damages, together with punitive damages, in amounts to be determined at trial from defendants Werder, Green, Wieners, Massey, and John Does I-X arising from Mr. Mayfield's false arrest and imprisonment, all of which caused him to endure extreme

mental anguish and humiliation, embarrassment, damage to his general reputation, damage to his reputation as a lawyer and impairment of his earning capacity.

On Plaintiff Mona Mayfield's Second Claim for Relief, general damages, together with punitive damages, in an amount to be determined at trial from defendants Werder, Green, Wieners, Massey, and John Does I-X arising from their denial of her constitutionally guaranteed right to be with her husband, and from the denial of her husband's familial companionship, love and society.

On Plaintiff Shane Mayfield's Third Claim for Relief, general damages, together with punitive damages, in an amount to be determined at trial from defendants Werder, Green, Wieners, Massey, and John Does I-X arising from their denial of his constitutionally guaranteed right to be with his father, and from the denial of his father's familial companionship, love and society.

On Plaintiff Sharia Mayfield's Fourth Claim for Relief, general damages, together with punitive damages, in an amount to be determined at trial from defendants Werder, Green, Wieners, Massey, and John Does I-X arising from their denial of her constitutionally guaranteed right to be with her father, and from the denial of her father's familial companionship, love and society.

On Plaintiff Samir Mayfield's Fifth Claim for Relief, general damages, together with punitive damages, in an amount to be determined at trial from defendants Werder, Green, Wieners, Massey, and John Does I-X arising from their denial of his constitutionally guaranteed right to be with his father, and from the denial of his father's familial companionship, love and society.

On Plaintiff Brandon Mayfield's Sixth Claim for Relief, for special and general damages, together with punitive damages, in amounts to be determined at trial from defendants Werder, Green, Wieners, Massey, and John Does I-X arising from the illegal and intrusive searches, surveillance and seizures from his family home, law office, safety deposit box, vehicles and communications, all of which caused him to endure extreme mental anguish and humiliation, embarrassment, damage to his general reputation, damage to his reputation as a lawyer and impairment of his earning capacity.

On Plaintiff Mona Mayfield's Seventh Claim for Relief, for special and general damages, together with punitive damages, in amounts to be determined at trial from defendants Werder, Green, Wieners, Massey, and John Does I-X arising from the illegal and intrusive searches, surveillance and seizures from her family home, law office, safety deposit box, vehicles and communications, all of which caused her to endure extreme mental anguish and humiliation, and embarrassment.

On Plaintiff Shane Mayfield's Eighth Claim for Relief, for special and general damages, together with punitive damages, in amounts to be determined at trial from defendants Werder, Green, Wieners, Massey, and John Does I-X arising from the illegal and intrusive searches, surveillance and seizures from his family home which caused him to endure extreme mental anguish and humiliation, and embarrassment.

On Plaintiff Sharia Mayfield's Ninth Claim for Relief, for special and general damages, together with punitive damages, in amounts to be determined at trial from defendants Werder, Green, Wieners, Massey, and John Does I-X arising from the illegal

and intrusive searches, surveillance and seizures from her family home which caused her to endure extreme mental anguish and humiliation, and embarrassment.

On Plaintiff Samir Mayfield's Tenth Claim for Relief, for special and general damages, together with punitive damages, in amounts to be determined at trial from defendants Werder, Green, Wieners, Massey, and John Does I-X arising from the illegal and intrusive searches, surveillance and seizures from his family home which caused him to endure extreme mental anguish and humiliation, and embarrassment.

On Plaintiff Brandon Mayfield's Eleventh Claim for Relief, for actual damages in an amount to be determined at trial, together with his reasonably incurred attorney fees, from defendants DOJ and FBI arising from their wrongful and inaccurate disclosures which caused him to suffer extreme emotional distress, humiliation, embarrassment, damage to his general reputation, damage to his reputation as a lawyer and impairment of his earning capacity.

On Plaintiffs Brandon Mayfield, Mona Mayfield, Shane Mayfield, Sharia Mayfield and Samir Mayfield's Twelfth Claim for Relief, for a declaration that the portions of the Patriot Act and FISA which permit the federal government to (a) secretly collect, disseminate and retain information from a person, (b) secretly perform "sneak and peek" physical searches of the home, office and vehicles of a person, and (c) perform electronic surveillance and wiretaps of a person, all without first requiring the government to demonstrate to a court the existence of probable cause that the person has committed a crime, are unconstitutional. *Plaintiffs also seek* an injunction requiring defendants Ashcroft, the DOJ and the FBI to (a) retrieve and destroy all illegally collected,

disseminated and retained information and communications relating to plaintiffs from government agencies and computer databases, (b) seek the return and destruction from agencies of other governments of all information and communications relating to plaintiffs which were illegally collected and then disseminated to said agencies, and (c) refrain from distributing to any requesting party any information illegally collected or retained relating to plaintiffs.

On Plaintiffs Brandon Mayfield, Mona Mayfield, Shane Mayfield, Sharia Mayfield and Samir Mayfield's Thirteenth Claim for Relief, for an injunction requiring defendants Ashcroft, the DOJ and the FBI to immediately return all material or information seized during the investigation of Brandon Mayfield and requiring defendants to destroy all copies of said material retained by the Federal government. Mr. Mayfield also seeks an injunction prohibiting defendants Ashcroft, the DOJ and the FBI from using said material or information in any way, or disseminating said material or information relating to Brandon Mayfield or his family to any government agency or government department or government employee, or to any non-government person or entity.

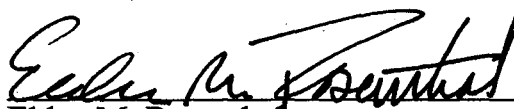
Plaintiffs also seek their costs and disbursements necessarily incurred herein.

DATED this 4th day of October, 2004.

THE SPENCE LAW FIRM LLC

Gerry Spence
Wyoming Bar No. 4-0657

ROSENTHAL & GREENE, P.C.

A handwritten signature in black ink, appearing to read "Elden M. Rosenthal", is written over a horizontal line.

Elden M. Rosenthal
Oregon State Bar No. 72217

MICHELE LONGO EDER, LLC

Michele Longo Eder
Oregon State Bar No. 79305

Of Attorneys for Plaintiffs

JURY TRIAL DEMANDED and ADVISORY JURY REQUESTED