

# Leigh Day & Co

**By email and dx**

**FAO: Claire Jones**  
Litigation N1  
Treasury Solicitor's Department

**DX: 123242 Kingsway 6**

Direct Dial: 0207 650 1222  
Email: [smalik@leighday.co.uk](mailto:smalik@leighday.co.uk)  
Your Ref:  
Our Ref: SAP.81387.2  
Date: 7 November 2011

## *Letter of Claim*

Dear Sirs

**Re: Mr Abdel Hakim Belhadj and Ms Fatima Bouchar  
Dentention in Bangkok and Rendition to Libya in March 2004 and  
Subsequent Detention in Tripoli**

### **A. Claimant Details**

Name: Mr Abdel Hakim Belhadj  
Also known or referred to as: Abdul Hakim Khuaelide; Abu Abd Allah Al-Sadiq; Abu  
Abd Alla Al-Sadiq; Abdullah Sadiq; Abdullah Sadeq  
DOB: 1966 (Libya)  
Current Address: Tripoli, Libya

Name: Ms Fatima Bouchar  
DOB: 13 April 1974 (Morocco)  
Current Address: Tripoli, Libya

We have been instructed by Mr Belhadj and Ms Bouchar to bring claims for damages on their behalves against the following entities of Her Majesty's Government: (1) The Security Service, (2) The Secret Intelligence Service, (3) The Attorney-General, (4) The Foreign & Commonwealth Office and (5) the Home Office.

The above named potential Defendants are hereafter referred to as "your clients". Potential Defendants 1) and 2) above are jointly referred to as "The UK Security Services".

Mr Belhadj and Ms Bouchar accuse these entities, through their officers and/or agents of complicity in the following:

Leigh Day & Co	020 7650 1200
Priory House	020 7253 4433
25 St John's Lane	53326 Clerkenwell
London	<a href="http://www.leighday.co.uk">www.leighday.co.uk</a>
EC1M 4LB	<a href="mailto:postbox@leighday.co.uk">postbox@leighday.co.uk</a>

Service of documents by email will not be accepted

- their unlawful detention in South East Asia in March 2004 and the torture, inhuman and degrading treatment, batteries and assaults perpetrated on them by Thai and US agents during this detention;
- their extraordinary rendition to Libya in March 2004 and the torture, inhuman and degrading treatment, batteries and assaults perpetrated on them by US agents during this flight;
- their subsequent unlawful detention, torture, inhuman and degrading treatment, batteries and assaults perpetrated on them by the Libyan authorities (from March 2004 – March 2010 in the case of Mr Belhadj and March 2004 to July 2004 for Ms Bouchar); and
- their personal injuries and consequential losses arising from their treatment.

## **B. Background**

We outline below the circumstances giving rise to the claim, based on the evidence we have so far obtained.

Mr Belhadj is a Libyan citizen who formed the Libyan Islamic Fighting Group (“LIFG”), which led the opposition to the rule of Colonel Gaddafi. Between 1993 and 1996 the LIFG waged a low-level insurgency against the Gaddafi regime. As a result of his known resistance to the Gaddafi regime, Mr Belhadj lived outside Libya in various countries for several years.

Mr Belhadj and Ms Bouchar married in June 2003, having been introduced through friends. In or about July 2003, Ms Bouchar (who was then living in Morocco) travelled to join her husband in Malaysia, from where they travelled on to China (where Mr Belhadj was generally residing at that time). Ms Bouchar fell pregnant at the end of 2003. In early 2004, the couple felt that they were being monitored and that it was no longer safe for them to live in China. They decided to try to seek asylum in the UK.

In late February 2004, Mr Belhadj and Ms Bouchar attempted to fly from Beijing to the UK (Mr Belhadj was travelling on a false passport under a different name). They were detained at Beijing airport, held in prison for a couple of days and then deported back to Malaysia. Fearing deportation to Libya, on arrival in Kuala Lumpur, Mr Belhadj claimed that he was an Iraqi refugee and stated that he wished to claim refugee status under the UNHCR.

The couple were detained on their arrival at Kuala Lumpur for approximately 2 weeks. For about the first week of their detention, the Malay authorities showed little interest in Mr Belhadj or his wife. However, after about a week their attitude changed; both Mr Belhadj and Ms Bouchar began to be interrogated. Mr Belhadj was informed by the Malay authorities that they knew who he was and that "other countries were now involved." Ms Bouchar was asked what she would do if the Libyans took her husband and was shown a Libyan arrest warrant which had been issued against him. Ms Bouchar told the Malay interrogators that they hoped to seek asylum in the UK. She explained her pregnancy and that the family hoped to raise their child somewhere safe. Mr Belhadj also requested that they be allowed to fly on to London. Eventually, the couple were told by the Malay authorities that they would be permitted to travel to the UK, but only via Bangkok.

Mr Belhadj subsequently learned that while they were detained in Kuala Lumpur, a British Libyan he knew travelled to the UK Embassy in Kuala Lumpur and spoke to UK officials about Mr Belhadj's imprisonment.

As set out in more detail below, from documents formerly held by Moussa Koussa and recently released into the public domain, it is clear that, on or about 1 March 2004, the British Security Services notified the Libyan authorities that Mr Belhadj was being held at Sepang Immigration Detention Centre in Malaysia, having travelled to Malaysia with his pregnant wife, Fatima Bouchar. It further appears that the Libyan authorities then sought Mr Belhadj's forcible transfer to Libya, following which the US government requested the Libyan government to cease engaging with the Malaysian government on the issue, while the US sought the transfer of Mr Belhadj into their custody, for onward rendition to Libya. The US sought to reassure the Libyans that once Mr Belhadj was in their custody, they would be very happy to 'service' their 'debriefing requirements' and share the information with them.

On 6 March 2004, US authorities informed the Libyans that Mr Belhadj and his pregnant wife were due to be put on a commercial flight from Kuala Lumpur to London via Bangkok on the evening of 7 March 2004. The US stated they planned to take control of the couple in Bangkok and render them to Libya, via a 2 hour stop in the British Indian Ocean Territory of Diego Garcia on 9 March 2004.

On or about 7 March 2004, Mr Belhadj and Ms Bouchar were made to board a flight in Kuala Lumpur scheduled for London via Bangkok.

### **i. Detention in Bangkok**

On arrival at Bangkok airport Mr Belhadj and Ms Bouchar were handed over to people they assumed to be US agents and detained in what they believe was a US secret prison.

#### Mr Belhadj

On arrival at the "prison" Mr Belhadj was stripped and hung by his wrists from hooks in his cell wall. His legs were tied together and he was viciously beaten. He was left hanging by his wrists from the hooks for what felt like hours. He was blindfolded, hooded, and for most of the time, made to wear ear defenders – which would only be removed for an interrogation, or to blast loud music or noise at him. The nature of his treatment appeared geared to disorientate him as well as to cause him great fear. Mr Belhadj recalls being badly beaten on various occasions whilst detained at this site, including: on arrival, when being moved from one cell to another and just prior to his rendition to Tripoli.

Mr Belhadj was interrogated on several occasions at this site by people he assumed to be US agents. Most of his questioning was in English; there was no interpreter present.

At one point during his detention, Mr Balhadj felt several needles inserted into his back and, for much of the time he spent at this site, he felt as if he had been drugged. He lost consciousness many times during this detention.

#### Ms Bouchar

On being separated from each other in Bangkok, Mr Belhadj said to his wife words to the effect, *'This is it. If you don't see me, you probably won't see me again. Please look after our son.'* Ms Bouchar was terrified. She was then marched to a truck by Thai officials, where she was handed over to US officials.

An American man grabbed her head and dragged her inside the truck compartment, which was pitch black. She was blindfolded and made to wear ear defenders; a plastic tie was wound around her legs from her ankles to her knees. Her wrists were cuffed with what felt like nylon. She could neither see nor hear and could barely move. She was terrified.

Ms Bouchar was driven for about 30 minutes and then taken out of the truck on a stretcher into what she refers to as the 'American centre'. She was taken into a cell and her restraints removed. The people with her were dressed in black, their

faces covered by balaclavas; they spoke English with American accents, and she was later told that they were American.

Despite clearly being pregnant, Ms Bouchar was chained to a wall in the cell by her wrist and the opposite ankle. There was just enough slack in the chains for her to sit or lie on the cell floor on one side. Being pregnant, she found this extremely painful and tiring. [REDACTED]

During her detention at this site, despite her pregnancy, Ms Bouchar was brought no food, just some water. She could feel her temperature fluctuating wildly between very hot and freezing cold. She felt extremely ill and feared for the life of her child.

Before being transferred out of the detention centre for rendition to Libya, Ms Bouchar was forced onto a stretcher. US agents in balaclavas proceeded to wind tape around her body from her feet to her neck, fixing her to the stretcher. The agents taped one of her hands so that it pressed tightly against her womb. Her eyes were also taped over – when the tape was applied, her left eye had been closed, however, her right eye had been open and it remained taped open for the next 17 or so hours. Ms Bouchar was in such excruciating pain that she almost lost consciousness. She was hooded, made to wear ear-defenders and driven back to the airport. She had no idea whether her husband was being transferred with her, indeed whether he was dead or alive.

On arrival at the airport, the tape was cut from Ms Bouchar's body, but kept on her eyes. The ear-defenders remained. Ms Bouchar's clothes were then cut off her and she was made to wear a loose pair of trousers and a loose shirt. She managed to nudge the tape over her eyes a little and could briefly see around her. She heard a man's voice shouting and felt someone, she believes the man, pressing his finger sharply into her belly button. The pain was excruciating and she cried out. [REDACTED]

[REDACTED] She felt herself being injected in her arm and fell very weak.

Ms Bouchar was then again forced on a stretcher and re-taped from her feet up to her neck. Her head, however, remained uncovered, again an affront to her religious sensibilities. Her back was in extreme pain. After a while, she was loaded on to the flight to Tripoli.

## ii Rendition Flight to Tripoli

Following their detention in Bangkok, Mr Belhadj and Ms Bouchar were forcibly taken by US agents to Libya, stopping to refuel at Diego Garcia in the British Indian Ocean Territory. Their torture, inhuman and degrading treatment continued to be perpetrated by US agents during the rendition flight, as summarised below.

### Mr Belhadj

Mr Belhadj was hooded, shackled and strapped to the floor of the plane by US agents. At that time he could not see or hear his wife and was not aware that she was on the plane with him. He describes the flight as 'hell.'

He was shackled to the floor of the plane in a stress position, with his hands shackled to his feet in a way that made it impossible for him to either to sit or lie down. The position was agonising. His wrist and ankle cuffs cut into him deeply when he strained against them. During the flight he would scream out in pain or try to move. Sometimes his screaming would be met by a kick; other times what felt like a cushion would be placed under his elbows, only to be taken away after a short time. When the rendition crew noticed him move, one or more of them would attack him.

The plane stopped for a while en route to Tripoli. Mr Belhadj's maltreatment continued following the stopover as it had done before. On arrival at Tajoura prison, he was informed by Moussa Koussa, then head of Libya's foreign security service, that this stopover had taken place on the island of Diego Garcia.

Mr Belhadj was not permitted to use a toilet for the duration of the flight, often being beaten following a request. Shortly before the landing in Tripoli Mr Belhadj felt ice being poured over his body.

### Ms Bouchar

Ms Bouchar was loaded on to the plane, taped onto a stretcher and remained lying on the floor of the plane for the 17 or so hour flight to Tripoli, apart from when she was allowed to use the toilet. She did not know where she was being taken or whether her husband was on the flight. She felt extremely sick and her temperature would oscillate between very high (when water would be splashed on her face and ice cubes put on her feet) to very cold, when she would be covered with a blanket.

When she was allowed to go to the toilet, the tape would be cut from her body.

At the end of each toilet break she would be re-taped. Ms Bouchar was given no food throughout the flight – despite her known pregnancy and vulnerable state.

The plane stopped for a while en route to Tripoli, in a place her husband later told her was an island. Her maltreatment continued following the stopover as it had done before.

On landing for the second time, Ms Bouchar was kept on the plane for what felt like an hour. She could hear someone grunting in pain and realised that this was her husband. This was the first she had heard any sign of him, or that he was alive, since their separation in Bangkok.

Before being ordered off the plane, the tape around Ms Bouchar's body was cut for the last time and zipties were tied around her wrists and ankles. She was made to stand, but felt dizzy and found it difficult to walk. She could no longer feel her baby move inside her womb and was very concerned. She also felt very uncomfortable that her head was uncovered.

Still hooded, Ms Bouchar was then escorted off the plane by two people and handed over to someone who grabbed her, shoved her into a car, and ordered her to sit down using a distinctly Libyan phrase. At that moment she realised that they were in Libya and was petrified.

### iii. Detention in Tripoli

#### Mr Belhadj

On arrival at Mitiga Airport, Tripoli, Mr Belhadj was pushed down from the aircraft, forced into a vehicle and driven, blindfolded and hooded, to Tajoura prison - the 'external security' prison run by Moussa Koussa. Mr Belhadj was exhausted, having not eaten and scarcely slept since being taken into US custody in Bangkok.

It was Moussa Koussa who removed his hood and blindfold, on arrival at Tajoura prison. Mr Belhadj recalls Koussa commenting that he was late. When Mr Belhadj responded that they had stopped somewhere to refuel, Koussa replied in words to the effect, '*ah yes, I know all about it – it's Diego Garcia, an island the British let us use.*'

Mr Belhadj remained detained at Tajoura prison for approximately 4 years. During the initial part of his detention he was interrogated by a number of foreign intelligence agents, including those from the UK.

Mr Belhadj recalls that the UK agents asked him fairly generic questions about the LIFG, al-Qaeda and international terrorism. The agents appeared to be well briefed on LIFG members in the UK, about whom they questioned him. When the Libyan interrogator, who remained present during most of the session, left the room Mr Belhadj tried to indicate to the UK agents the abusive treatment to which he had been subjected – gesturing the beatings and hangings he had experienced and showing them the scarring which remained on his wrists from his overly tight shackling. The UK agents nodded in response.

Mr Belhadj recalls other European interrogators questioning him fairly shortly after his torture in Bangkok and rendition to Tajoura, when he was in a poor condition. US agents also interrogated him during this stage of his detention. They would accuse him of being a member of al-Qaeda, which he would vehemently deny.

Libyan interrogators – members of his regular interrogation team – would generally be present when the foreign agents questioned him. When Mr Belhadj denied membership of al-Qaeda or involvement in attacks on the West, he would subsequently be badly beaten by his Libyan interrogators/guards.

In between, and following, his interrogations by “foreign” agents, Mr Belhadj would regularly be interrogated by Libyan agents. Moussa Koussa would frequently interrogate him personally, often taunting him that he would die in his custody. Mr Belhadj would regularly be accused of participating in joint operations with Libyans abroad. When he denied such allegations, he would be tortured. He would be savagely beaten, deprived of sleep to the point of delirium, hung from walls (in much the way the US agents had done in Bangkok). His treatment worsened over time. His access to his family was also cut off.

After some time at Tajoura, Mr Belhadj was moved to a tiny, dank cell. He wasn't allowed to bathe for three years and would be deprived of natural light for extensive periods. He recalls not seeing the sun for a whole year during this time. He was almost completely cut off from human contact during this period, save for his interrogators.

After about 4 years of detention at Tajoura, one day without warning Mr Belhadj was hauled into a room described as a ‘court’ and placed before a ‘judge’. His ‘trial’ lasted about 15 minutes. The ‘prosecutor’ read out a dozen or so charges, each of which carried the death penalty. One of the charges was for having waged an



armed insurrection against Gaddafi. Mr Belhadj saw his (apparent) defence counsel at the trial for the first time, who merely repeated what he said in his own defence. He was then transferred back to his cell. It was only after he had been transferred to the Abu Salim prison that Mr Belhadj realised he had been sentenced to death.

After about 4 years of detention at Tajoura prison, Mr Belhadj was transferred to Libya's most notorious prison, Abu Salim. This prison is operated by Libya's internal security organisation and was the site of a well-known prison massacre in 1996. Here the conditions were primitive and the beatings and brutality fierce.

Mr Belhadj's initial time in Abu Salim was spent in isolation, without contact with other detainees and no natural light. When, under the duress of the pending death sentences, Mr Belhadj and other detained leading LIFG members agreed to participate in the 'de-radicalisation and reconciliation process' initiated by Saif Al Islam Gaddafi, conditions were eased. Mr Belhadj was eventually released from detention on 23 March 2010.

#### Ms Bouchar

On landing at Mitiga airport, Ms Bouchar was driven separately from her husband to Tajoura prison. There, she was taken to a room, where she remained blindfolded with tape, and her wrists and ankles zip-tied, for several more hours. She could sense people coming in and out of the room and screamed at them to remove the tape from her eyes – as well as being in great pain she felt insulted, as if she were being treated like an exhibit.

After about 3 hours a guard came into the room and ripped the tape from her eyes, taking most of her eyelashes with it – Ms Bouchar was in excruciating pain. Her wrists and ankles remained tied for another hour or so.

After the tape had been removed, Ms Bouchar found that she couldn't take the light in her right eye. For 2 weeks her right eye was watering very badly and the area around her eyelid was inflamed. She was brought some eye drops, which she applied until eventually the tearing stopped. The area around her mouth had also become very swollen with watery pimples/blisters, which started to weep. She found it difficult to eat for the first week, despite being starved since her detention in Bangkok. Her glasses, which had been taken off her in Thailand, were not returned to her throughout the rest of her time in detention.

The first time that she went to the toilet at Tajoura, Ms Bouchar urinated blood, which added to her distress and concern about her baby's welfare. Yet she was not taken for a medical examination until 2 months later.

About 4 days after her arrival at Tajoura, Ms Bouchar's interrogations started. She had not been allowed to see her husband by then and had no idea if he was dead or alive. She was asked similar questions to those she'd been asked in Malaysia - how she had met and married her husband; who would visit them; if anyone from the UK would come to see them; and how they got their money. She was also shown photographs and asked to identify various people.

For about a week, she would have two interrogation sessions per day - one from about 1000-1300 hours and another from 1500-1700 hours. The tone of the interrogations was usually very aggressive - telling her to confess. She would be threatened; agents said that they were respecting her because she was pregnant, but could use other methods if she didn't cooperate.

Ms Bouchar then had a break from interrogations for more than 15 days before they resumed. This time she was questioned about a friend of hers who had lived in China and had moved to the UK. She was also questioned about Sami Al Saadi. She was again brought many photographs of people to identify. She would recognise some but not others. These interrogations lasted for a couple of days and took place in the mornings. Only Libyan agents interrogated her.

At the prison, Ms Bouchar could not sleep well, lost her appetite and felt psychologically very down. She had lost her will by this point, not knowing if she would survive, let alone her baby. She felt dizzy, lacking in energy and could hardly walk. The conditions of her cell were poor, with a toilet inside the room and no sunlight.

After about 2 months in detention, Ms Bouchar was taken to hospital to check if her baby was still alive. She travelled to hospital in a cordon, with about 15 security guards around her. On the way to and from the hospital she was blindfolded (this time with fabric) and made to bend down in the car, so that she was hidden from view. At hospital she was examined by a female doctor, in the presence of a female guard from Tajoura, and told that both she and her baby were very weak. Ms Bouchar was informed that her baby had a very faint heartbeat, that she had inflammation in her womb, which was also too dry for the baby to move properly, and that her blood pressure was high. She was told to drink fluids, given some vitamin tablets then driven back to her cell at Tajoura. She was about 6 months pregnant by this time.

On returning to Tajoura prison, Ms Bouchar's treatment did not improve despite her precarious state. The guards took away her vitamin tablets, so that she would have to bang on the wall whenever she wanted them. She tried to eat a bit more for her baby's sake, but was very depressed.

After the hospital visit, the hospital doctor visited her at the prison about a fortnight later and then about once a month. The doctor didn't bring any equipment with her, not even a stethoscope, she would just touch different parts of Ms Bouchar's abdomen, asking her if it hurt. Ms Bouchar would occasionally feel her baby's heartbeat and clung to the hope that he or she was somehow still alive.

Ms Bouchar understood that, at that time, her captors were not prepared to release her as they did not want it to become known that her husband was in detention in Libya. They were apparently aware that his friends/associates at that time did not know where he was and wanted to maintain that position. Initially, she was told that she would give birth in the prison and a cot was brought into her cell. Ms Bouchar kept asking to be sent to Morocco instead (where her family was based). She felt utterly disgusted at the prospect of giving birth in prison. Her future and that of her baby seemed very bleak.

Then word apparently got out that Mr Belhadj was being detained in Libya and there was no longer any reason to keep his wife hidden in prison. Ms Bouchar was finally allowed to meet with her husband about 2 weeks before her release. She noticed that he had lost weight and had dark circles under his eyes. She also saw scars on his wrists from the tight handcuffs. The meeting lasted only about 10 minutes with 4 guards present, so they could hardly interact. At that time they didn't know whether or when they would see each other again, or if Mr Belhadj would ever see their child.

Ms Bouchar was released from detention on or about 21<sup>st</sup> June 2004, and gave birth to a boy on 14<sup>th</sup> July 2004, just over 3 weeks later.

### **C. Evidence in Support of the Claim**

In addition to our clients' own testimonies, as you are no doubt aware, documents held by the Libyan security services which have come to light subsequent to the fall of Colonel Gaddafi's regime provide further evidence of the complicity of the UK government in our clients' detention in Bangkok and rendition to, and detention in, Libya. We enclose (by dx only) copies of a number of these documents and highlight particularly relevant extracts below:

- A fax from the British Security Services to the office of Mr Al-Sadiq Karima, head of the Libyan International Relations Department dated 1 March 2004 informing them of Mr Belhadj's whereabouts in Malaysia: *'ABDULLAH SADEQ is being held at Sepang Immigration Detention Centre in Malaysia. He travelled under a French passport in the name of JAMAL KADERI with his pregnant wife around 21 February. His now listed under his Moroccan passport name ABDUL AL-NABI with his wife down as FATIMA BOUCHAR. SADEQ may also have claimed that his real identity is QAHTAN ALI, an Iraqi.'*
- A US government memo headed 'Secret Release Libya Only' dated 4 March 2004 on the subject: 'Urgent request regarding the extradition of Abdullah Al-Sadiq from Malaysia' stating: *'We are working energetically with the Malaysian government to effect the extradition of Abdullah Al-Sadiq from Malaysia. The Malaysians have promised to cooperate and to arrange for Sadiq's transfer to our custody. Of course, once we have Sadiq in custody, we will be very happy to service your debriefing requirements and we will share the information with you.'*
- A US government memo headed 'Secret Release Libya Only' dated 6 March 2004 on the subject: "Planning for the capture and rendition of Abdullah Al-Sadiq" noting that *'The Malaysian Government has informed us that they are putting Libyan Islamic Fighting Group (LIFG) leader Abdullah Al-Sadiq and his pregnant (4 months) wife on a commercial flight from Kuala Lumpur to London via Bangkok on the evening of 7 March 2004...We are planning to arrange to take control of the pair in Bangkok and place them on our aircraft for a flight to your country'.*
- A US government memo headed 'Secret Release Libya Only' dated 6 March 2004 on the subject: "Schedule for the rendition of Abdullah Al-Sadiq" setting out the planned flight schedule for the rendition of Al-Sadiq and his wife to Libya, noting that the flight was to pass through the territory of Diego Garcia at 03:30 hours on 9 March 2004.
- A letter from Mark Allen of MI6 to Musa Kusa, Libyan Department of International Relations and Collaboration, dated 18 March 2004, passing on thanks for helping to sort out Tony Blair's recent visit to Colonel Gaddafi and stating:

*'Most importantly, I congratulate you on the safe arrival of Abu Abd Allah Sadiq. This was the least we could do for you and for Libya to demonstrate the remarkable relationship we have built over the*

years. I am so glad. I was grateful to you for helping the officer we sent out last week. Abu 'Abd Allah's information on the situation in this country is of urgent importance to us. Amusingly, we got a request from the Americans to channel requests for information from Abu 'Abd Allah through the Americans. I have no intention of doing any such thing. The intelligence on Abu 'Abd Allah was British. I know I did not pay for the air cargo. But I feel I have the right to deal with you direct on this and am very grateful for the help you are giving us'.  
(emphasis added)

#### **D. The Legal Claim**

It is our clients' case that the actions and omissions outlined above on the part of your clients, acting through their officers, servants and/or agents amounted to:

##### *i) Complicity in torture, conspiracy to injury and trespass to the person:*

Our clients allege that the above-named intended Defendants, their servants and/or agents assisted, encouraged, acquiesced in and/or were otherwise unlawfully complicit in their unlawful detention in Bangkok, rendition to Libya (via Diego Garcia), unlawful detention in Libya and in the torture, inhuman and degrading treatment, batteries and assaults inflicted upon them by the Thai, US and Libyan authorities.

For the avoidance of doubt, our clients allege that your clients, their servants and/or agents were further complicit in their prolonged unlawful detention and treatment, by providing the Libyan authorities with material to be used in their interrogations and, in the case of Mr Belahdj, by directly questioning him themselves, while he remained in Libyan custody.

##### *ii) Misfeasance in public office:*

The above-named intended Defendants, their servants or agents were acting in purported exercise of their powers as public officers. Our clients allege that their knowledge, or at least reckless indifference to the injuries caused to them, by their conduct amounts to misfeasance in public office.

##### *iii) Negligence:*

If it is alleged by your clients that above-named intended Defendants are not in law vicariously liable for all or any of the intentional torts described above, then our

clients will assert that there were negligent omissions on behalf of your clients in failing to prevent the passing of information and assistance in respect of Mr Belhadj and Ms Bouchar to the Libyan and/or US authorities where it should have been apparent that our clients faced a real risk of unlawful treatment as a consequence.

Our clients reserve the right to claim against other HMG entities, officers and/or agents on receipt of further evidence, including disclosure from your clients.

#### **E. Reparations**

As a result of the abovementioned unlawful acts and omissions, our clients have suffered personal injuries and consequential losses, further details of which will be provided in due course.

In addition to seeking monetary compensation for the losses and injuries they have sustained, our clients also seek the following reparations from the British government for the role the last government played in their rendition and torture:

- a. A public apology;
- b. Appropriate prosecutions;
- c. An independent and transparent public inquiry into the role played by the previous British government in their, and other Libyan's, rendition and by the Gaddafi regime. For the avoidance of doubt our clients consider that the "Detainee Inquiry " to be chaired by Sir Peter Gibson falls well short of this mark.

#### **F. Limitation**

Without prejudice to any arguments on limitation which may subsequently be raised by any party to the anticipated proceedings, please confirm within 14 days whether your clients agree to a limitation holiday from the date of this letter applying to our clients' claims as outlined above.

#### **G. Period for Response to Letter of Claim**

We are of course aware that ordinarily your clients would have 6 months in which to investigate and respond to the allegations set out in this letter, under the CPR

Pre-Action Protocol. However, given HMG's clear intention to seek to pass legislation authorising a 'closed materials procedure' to be used in cases such as these, (as espoused in the Justice and Security Green Paper published last month) our clients consider it necessary to seek your clients' response to their allegations within a curtailed period of 3 months, following which proceedings may be issued, as appropriate, without further recourse to yourselves.

#### H. Disclosure

Should your clients deny (or not admit) liability in this matter within the 3 month time period set out above, in accordance with the Pre-Action Protocol for Personal Injury claims, on notification of such denial or non-admission, we expect you to provide us with copies of the following documents which are or have been within your clients' control, within the meaning of CPR Part 31.8:

- All communications (including attachments) sent from your clients and/or their servants or agents to the former Libyan government/ authorities and/or their servants or agents, pertaining to our clients;
- All communications (including attachments) sent from your clients and/or their servants or agents to the US authorities and/or their servants or agents, pertaining to our clients;
- All communications (including attachments) sent from your clients and/or their servants or agents to the Malaysian authorities and/or their servants or agents, pertaining to our clients;
- All communications (including attachments) sent from your clients and/or their servants or agents to the Thai authorities and/or their servants or agents, pertaining to our clients;
- All communications (including attachments) sent between your clients and/or their servants or agents, including to other branches of Her Majesty's Government and/or her servants or agents, pertaining to our clients;

We enclose (by dx only) copies of signed authorities from our clients authorising us to receive records relating to them in respect of this matter.

Please also confirm within 7 days that your clients have been notified of their need to preserve documents as per CPR PD 31B, Paragraph 7. We remind you that you will also need to ensure that documents held in the British Indian Ocean Territory

are preserved. This firm has previously been involved in litigation where an inadequate search was made for such documents, leading to critical documents held in BIOT being disclosed at a very late stage.

### **I. Funding and Costs**

We confirm that we entered into a Conditional Fee Agreement with Mr Belhadj on 20 October 2011 and that we entered into a Conditional Fee Agreement with Ms Bouchar on 21 October 2011 in respect of their claims outlined above, which each provide for a success fee within the meaning of section 58(2) of the Courts and Legal Services Act 1990.

Our clients do not yet have ATE insurance cover in place in respect of their potential claims. Should your clients not fully admit liability in this matter, please confirm whether they will agree to one-way costs shifting, failing which our clients will take steps to obtain such cover. We will revert to you on this issue should your clients not agree to the limitation holiday sought above.

Our client reserves the right to draw this letter to the attention of a costs judge on any subsequent application for pre-action disclosure or generally on the issue of costs.

We look forward to your prompt acknowledgment of this letter.

Yours faithfully



Leigh Day & Co

enc by dx only

cc Clive Stafford Smith and Cori Crider, Reprieve