

Leigh Day & Co

By Hand

Direct Dial: 0207 650 1222
Email: smalik@leighday.co.uk
Your Ref:
Our Ref: SAP.81387.4
Date: 26 January 2012

Letter of Claim

Dear Sir

**Re: Mr Abdel Hakim Belhadj and Ms Fatima Bouchar
Detention 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 you for complicity in the following:

- 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;

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Service of documents by email will not be accepted

- 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.

Our clients also intend to bring proceedings 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.

B. Background and Evidence in Support of the Claim

We enclose for your information a letter of claim served on the above government entities, via the Treasury Solicitor, last November outlining the circumstances giving rise to our clients' claims, based on the evidence we have so far obtained.

Our clients rely on the same factual and legal allegations and evidence set out in the enclosed letter in respect of their claims against you, given in particular:

- Your role as director of counter-terrorism at MI6 at the material time; and
- Your letter 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)

For the avoidance of doubt, our clients intend to bring claims against you for:

- i) Complicity in torture, conspiracy to injury and trespass to the person;*
- ii) Misfeasance in public office; and/or*
- iii) Negligence*

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

C. 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 you agree to a limitation holiday from the date of this letter applying to our clients' claims as outlined above.

D. Period for Response to Letter of Claim

Our clients are aware that ordinarily you would have 6 months in which to investigate and respond to the allegations set out in this letter, under the Civil Procedural Rules Pre-Action Protocol. However, given HMG's previous notification of this matter (of which you have no doubt been aware for some considerable time) and HMG's 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 response to their allegations within 6 weeks of the date of this letter, that is by close of business on 8 March 2012, following which our clients may issue and serve proceedings against you without further notice.

Our clients will further consider whether and when to issue proceedings protectively in light of your response, within 14 days, to the query in respect of a limitation holiday raised at section C. above.

E. Disclosure

Should you deny (or not admit) liability in this matter within the 6 week 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 control¹, within the meaning of Part 31.8 the Civil Procedure Rules ("CPR"):

- All communications (including attachments) sent from you and/or other servants or agents of MI6 to the former Libyan government/ authorities and/or their servants or agents, pertaining to our clients;
- All communications (including attachments) sent from you and/or other servants or agents of MI6 to the US authorities and/or their servants or agents, pertaining to our clients;
- All communications (including attachments) sent from you and/or other servants or agents of MI6 to the Malaysian authorities and/or their servants or agents, pertaining to our clients;
- All communications (including attachments) sent from you and/or other servants or agents of MI6 to the Thai authorities and/or their servants or agents, pertaining to our clients;
- All communications (including attachments) sent between you and/or other servants or agents of MI6 pertaining to our clients;
- All communications (including attachments) sent between you and/or other servants or agents of MI6 to other branches of Her Majesty's Government, including the Security Service (MI5) and/or HMG's servants or agents;
- Your diaries, memoirs and/or notes over the material period (March 2004 to March 2010) relating to our clients and/or to matters regarding Libya and/or the Libyan Islamic Fighting Group ("LIFG") and/or LIFG's alleged members.

¹ "Control" under Part 31.8 of the CPR means a document which: is or was in your physical possession; you have or had a right to possession of it; or you have or have had a right to inspect or take copies of it. Further, the meaning of "document" under Part 31.4 of the CPR is anything in which information of any description is recorded; and 'copy', in relation to a document, means anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly.

We also remind you of your obligation to preserve documents (as defined in CPR Part 31.4) as per CPR Practice Direction 31B, Paragraph 7, set out below:

As soon as litigation is contemplated, the parties' legal representatives must notify their clients of the need to preserve disclosable documents. The documents to be preserved include Electronic Documents which would otherwise be deleted in accordance with a document retention policy or otherwise deleted in the ordinary course of business.

F. Address for Service

Finally, please confirm your address for service of proceedings, including service of the claim form in this matter.

We look forward to your prompt acknowledgment of this letter.

Yours faithfully



Leigh Day & Co

cc Oliver Gilman, Guy Richardson and Piers Doggart, Treasury Solicitor's Department (Ref: Z1186918/N1/PWD)

Clive Stafford Smith OBE and Cori Crider, Reprieve