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11 Attorneys for Defendant John Yoo

FILED
JUL - 9 2009
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

*The Spikes
per [unclear]*

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 JOSE PADILLA AND ESTELA LEBRON,
16 PLAINTIFFS,

17 v.

18 JOHN YOO,
19 DEFENDANT.
20
21

CASE NO.: 3:08-cv-00035 JSW
**DEFENDANT JOHN YOO'S
NOTICE OF APPEAL**

1 Notice is hereby given that Defendant John Yoo appeals to the United States Court of
2 Appeals for the Ninth Circuit from the order entered in this action on June 12, 2009 (Docket No.
3 68) ("Order Denying in Part and Granting in Part Defendant's Motion to Dismiss") as well as the
4 order entered on June 18, 2009 that amended it (Docket No. 71) ("Amended Order Denying in
5 Part and Granting in Part Defendant's Motion to Dismiss"), concluding that Plaintiffs have stated
6 an implied right of action under the United States Constitution and denying his claim to qualified
7 immunity from suit. Copies of both orders are attached. Mr. Yoo invokes the jurisdiction of the
8 Court of Appeals pursuant to 28 U.S.C. § 1291.


9 Dated: July 9, 2009

Respectfully submitted,

10 ANN M. RAVEL
11 Deputy Assistant Attorney General

12 TIMOTHY P. GARREN
13 Director, Torts Branch, Civil Division

14 MARY HAMPTON MASON
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11 Attorneys for Defendant John Yoo

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
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CASE NO.: 3:08-cv-00035 JSW

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 23)
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 28)
**REPRESENTATION
 STATEMENT**

1 Pursuant to Federal Rule of Appellate Procedure 12 and Ninth Circuit Rule 3-2,
2 Defendant-Appellant John Yoo, through his counsel, provides the following Representation
3 Statement.

4
5 Representing Jose Padilla and Estela Lebron, Plaintiff-Appellees:

6 Jonathan M. Freiman
7 National Litigation Project-Allard K. Lowenstein
8 International Human Rights Clinic Yale Law School
9 P.O. Box 208215
New Haven, CT 06520
Tel: (203) 498-4584
Fax: (203) 782-2889

10 Hope R. Metcalf
11 National Litigation Project-Allard K. Lowenstein
12 International Human Rights Clinic Yale Law School
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18 Natalie Laura Bridgeman
19 Law Offices of Natalie L. Bridgeman, Esq.
20 468 Jackson Street, 3rd Floor
San Francisco, CA 94111
Tel: (415) 412-6704
Fax: (415) 520-0140

21
22 Representing John Yoo, Defendant-Appellant:

23 Robert M. Loeb, Attorney, Appellate Staff
24 United States Department of Justice, Civil Division
25 950 Pennsylvania Avenue, Rm 7268
Washington, DC 20530
26 Tel: (202) 514-4332
Fax: (202) 514-8151

1 Mary Hampton Mason, Senior Trial Counsel, Torts Branch
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4 Washington, DC 20044
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7 Glenn S. Greene, Trial Attorney, Torts Branch
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12 Fax: (202) 616-4314

13 Sarah Whitman, Trial Attorney, Torts Branch
14 United States Department of Justice, Civil Division
15 PO Box 7146, Ben Franklin Station
16 Washington, DC 20044
17 Tel: (202) 616-0089
18 Fax: (202) 616-4314

19 Please be advised that private counsel will be assuming representation of Mr. Yoo in this matter.

20 Dated: July 9, 2009

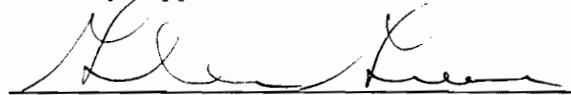
21 Respectfully submitted,

22 ANN M. RAVEL
23 Deputy Assistant Attorney General

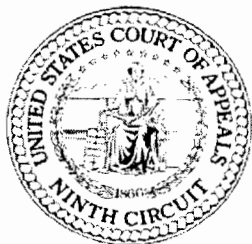
24 TIMOTHY P. GARREN
25 Director, Torts Branch, Civil Division

26 MARY HAMPTON MASON
27 Senior Trial Counsel

28 ROBERT M. LOEB
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USCA DOCKET # (IF KNOWN)

**UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
CIVIL APPEALS DOCKETING STATEMENT**

PLEASE ATTACH ADDITIONAL PAGES IF NECESSARY.

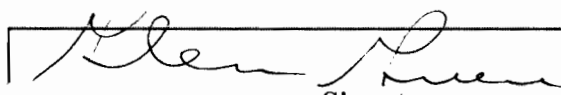
TITLE IN FULL: Jose Padilla and Estela Lebron, Plaintiffs v. John Yoo, Defendant	DISTRICT: N.D.Cal.	JUDGE: Jeffrey S. White
	DISTRICT COURT NUMBER: 3:08-cv-00035	
	DATE NOTICE OF APPEAL FILED: Jul 9, 2009	IS THIS A CROSS APPEAL? <input type="checkbox"/> YES
	IF THIS MATTER HAS BEEN BEFORE THIS COURT PREVIOUSLY, PLEASE PROVIDE THE DOCKET NUMBER AND CITATION (IF ANY): 	
BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW: Plaintiffs sued Defendant Yoo for alleged violations of their constitutional rights and the Religious Freedom Restoration Act. The district court denied Defendant Yoo's motion to dismiss as to all claims except Plaintiffs' claim for a violation of Jose Padilla's rights under the Fifth Amendment against compelled self-incrimination, which it permitted Plaintiffs to replead.		
PRINCIPAL ISSUES PROPOSED TO BE RAISED ON APPEAL: Whether the district court improperly recognized an implied cause of action for damages against Defendant Yoo, a former Deputy Assistant Attorney General in the Office of Legal Counsel for the U. S. Department of Justice for the constitutional harms alleged and whether the district court erred in denying qualified immunity to Yoo, determining that Plaintiffs sufficiently alleged he personally participated in a denial of their clearly established constitutional and federal statutory rights.		
PLEASE IDENTIFY ANY OTHER LEGAL PROCEEDING THAT MAY HAVE A BEARING ON THIS CASE (INCLUDE PENDING DISTRICT COURT POST-JUDGMENT MOTIONS): 		
DOES THIS APPEAL INVOLVE ANY OF THE FOLLOWING: <input type="checkbox"/> Possibility of Settlement <input type="checkbox"/> Likelihood that intervening precedent will control outcome of appeal <input type="checkbox"/> Likelihood of a motion to expedite or to stay the appeal, or other procedural matters (Specify) <input type="checkbox"/> Any other information relevant to the inclusion of this case in the Mediation Program <input type="checkbox"/> Possibility parties would stipulate to binding award by Appellate Commissioner in lieu of submission to judges		

LOWER COURT INFORMATION			
JURISDICTION		DISTRICT COURT DISPOSITION	
FEDERAL	APPELLATE	TYPE OF JUDGMENT/ORDER APPEALED	RELIEF
<input checked="" type="checkbox"/> FEDERAL QUESTION <input type="checkbox"/> DIVERSITY <input type="checkbox"/> OTHER (SPECIFY): 	<input checked="" type="checkbox"/> FINAL DECISION OF DISTRICT COURT <input type="checkbox"/> INTERLOCUTORY DECISION <input checked="" type="checkbox"/> APPEALABLE AS OF RIGHT <input type="checkbox"/> INTERLOCUTORY ORDER CERTIFIED BY DISTRICT JUDGE (SPECIFY): <input type="checkbox"/> OTHER (SPECIFY): 	<input type="checkbox"/> DEFAULT JUDGMENT <input type="checkbox"/> DISMISSAL/JURISDICTION <input type="checkbox"/> DISMISSAL/MERITS <input type="checkbox"/> SUMMARY JUDGMENT <input type="checkbox"/> JUDGMENT/COURT DECISION <input type="checkbox"/> JUDGMENT/JURY VERDICT <input type="checkbox"/> DECLARATORY JUDGMENT <input type="checkbox"/> JUDGMENT AS A MATTER OF LAW <input checked="" type="checkbox"/> OTHER (SPECIFY): Denial of Motion to Dismiss	<input checked="" type="checkbox"/> DAMAGES: SOUGHT \$ 1 AWARDED \$ <input type="checkbox"/> INJUNCTIONS: <input type="checkbox"/> PRELIMINARY <input type="checkbox"/> PERMANENT <input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED <input type="checkbox"/> ATTORNEY FEES: SOUGHT \$ AWARDED \$ <input checked="" type="checkbox"/> PENDING <input type="checkbox"/> COSTS: \$

CERTIFICATION OF COUNSEL

I CERTIFY THAT:

- COPIES OF ORDER/JUDGMENT APPEALED FROM ARE ATTACHED.
- A CURRENT SERVICE LIST OR REPRESENTATION STATEMENT WITH TELEPHONE AND FAX NUMBERS IS ATTACHED (SEE 9TH CIR. RULE 3-2).
- A COPY OF THIS CIVIL APPEALS DOCKETING STATEMENT WAS SERVED IN COMPLIANCE WITH FRAP 25.
- I UNDERSTAND THAT FAILURE TO COMPLY WITH THESE FILING REQUIREMENTS MAY RESULT IN SANCTIONS, INCLUDING DISMISSAL OF THIS APPEAL.


Signature

Jul 8, 2009
Date

COUNSEL WHO COMPLETED THIS FORM

NAME	Glenn S. Greene, Trial Attorney		
FIRM	United States Department of Justice, Civil Division, Torts Branch		
ADDRESS	P.O. Box 7146 Ben Franklin Station		
CITY	Washington	STATE	DC
		ZIP CODE	20044
E-MAIL	glenn.greene@usdoj.gov		
		TELEPHONE	202-616-4143
FAX	202-616-4314		

****THIS DOCUMENT SHOULD BE FILED IN DISTRICT COURT WITH THE NOTICE OF APPEAL. ****
****IF FILED LATE, IT SHOULD BE FILED DIRECTLY WITH THE U.S. COURT OF APPEALS.****

1
2 **CERTIFICATE OF SERVICE**

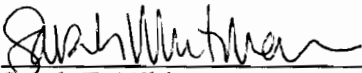
3 I hereby certify that I caused to be served a true and correct copy of the foregoing
4 Defendant John Yoo's Notice of Appeal, Docketing Statement, Representation Statement and the
5 Orders appealed from by Federal Express on July 9, 2009 addressed to the following:

6 Jonathan M. Freiman, Esq.
7 Hope R. Metcalf, Esq.
8 Tahlia Townsend, Esq.
9 National Litigation Project-Allard K. Lowenstein
10 International Human Rights Clinic
11 Yale Law School
12 127 Wall Street
13 New Haven, CT 06520-8215
14 Tel: (203) 498-4584

15 Natalie Laura Bridgeman, Esq.
16 Law Offices of Natalie L. Bridgeman, Esq.
17 468 Jackson Street, 3rd Floor
18 San Francisco, CA 94111
19 Tel: (415) 412-6704

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

21 Dated: July 9, 2009

22 
23 _____
24 Sarah E. Whitman
25 Counsel for John Yoo
26
27
28