

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re Terrorist Attacks on September 11, 2001

03 MDL 1570 (GBD/FM)

This document relates to: *Ashton et al. v. Al Qaeda Islamic Army et al.*, 02 CV 6977  
(GBD/FM)

AFFIDAVIT IN SUPPORT OF REQUEST FOR ISSUANCE OF  
CLERK'S CERTIFICATE OF DEFAULT AGAINST THE REPUBLIC OF SUDAN

STATE OF NEW YORK     )  
  )     ss.:  
COUNTY OF NEW YORK    )

ANDREW J. MALONEY III, ESQ., deposes and says:

1. I am a partner of Kreindler & Kreindler LLP, attorneys for the *Ashton* Plaintiffs in the above action. I am familiar with the facts and circumstances in this action, and I am admitted to practice in this Court.

2. Pursuant to Local Civil Rules 55.1 and 55.2(a) of the United States District Court for the Southern District of New York ("SDNY"), I make this Affidavit in support of Plaintiffs' Application for the entry of default against Defendant, the Republic of Sudan ("Sudan").

3. This is an action to recover damages owed by Defendants to Plaintiffs for injuries resulting from the terrorist attacks upon the United States of September 11, 2001 (the "September 11<sup>th</sup> Attacks"). Defendant Sudan has been sued based on its participation in a conspiracy to commit acts of international terrorism against the United States, its citizens and allies, of which the September 11<sup>th</sup> Attacks were a direct, intended and foreseeable product. *See* Consolidated Master Complaint (02 CV 6977 Docket No. 11) at ¶¶ 17-18, 46-91.

4. Jurisdiction of this Court over Defendant Sudan is invoked pursuant to 28 U.S.C. § 1330, as the claims against Defendant Sudan fall within the exceptions to immunity set forth at 28 U.S.C. §§ 1605(a)(5) and 1605(a)(7) of the Foreign Sovereign Immunities Act ("FSIA").

5. This action was commenced on September 4, 2002 by the filing of the Complaint. *See* 02-CV-6977 Docket No. 1. The Consolidated Master Complaint was filed on March 6, 2003. *See* 02-CV-6977 Docket No. 11. Defendant Sudan was served with a copy of the Consolidated Master Complaint and Summons, in accordance with the FSIA, as set forth below.


6. Service was effectuated on Defendant Sudan through diplomatic channels by the United States Department of State on April 29, 2003. True and correct copies of the Return of Service and supporting U.S. Department of State documents are attached at Exhibit B of the Affidavit of Service that Plaintiffs filed in this action on September 16, 2005. *See* 02-CV-6977 Docket No. 358; *also at* 03 MDL 1570 Docket No. 1238. Those supporting U.S. Department of State documents show that proof of such service on Defendant Sudan was transmitted to J. Michael McMahon, SDNY Clerk, by the U.S. Department of State on May 15, 2003.

7. Defendant Sudan has not answered or otherwise responded to the Consolidated Master Complaint, and the time for Defendant Sudan to answer or otherwise respond to the Consolidated Master Complaint has expired.

8. Plaintiffs request a Clerk's Certificate of Default, which is attached hereto, to provide to Judge George B. Daniels in connection with a Motion for Default pursuant to Fed.R.Civ.P. 55.

WHEREFORE, the Plaintiffs in *Ashton v. Al Qaeda Islamic Army*, 02-CV-6977 (RCC), respectfully request a Certificate of Default against Defendant, the Republic of Sudan.

Dated: December 22, 2011  
New York, New York

  
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Sworn to before me this 22nd  
day of December 2011.

  
Notary Public  
EUGENIE L. MASTERSON  
Notary Public, State of New York  
No. 30-4719641  
Qualified in Nassau County  
Term Expires October 31, 2014

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CLERK'S CERTIFICATE OF DEFAULT

I, RUBY J. KRAJICK, Clerk of the United States District Court for the Southern District of New York ("SDNY"), do hereby certify that this action was commenced on September 4, 2002 with the filing of the Complaint, and the Consolidated Master Complaint was filed on March 6, 2003. The Consolidated Master Complaint and Summons were served on Defendant, the Republic of Sudan ("Sudan"), as follows:

Service was effectuated on Defendant Sudan through diplomatic channels by the United States Department of State on April 29, 2003. Proof of such service was transmitted to me, SDNY Clerk J. Michael McMahon, by the U.S. Department of State on May 15, 2003. Proof of such service was filed by the Plaintiffs on September 16, 2005.

I further certify that the docket entries indicate that Defendant, the Republic of Sudan, has not filed an answer or otherwise moved with respect to the Consolidated Master Complaint. The default of the Defendant, the Republic of Sudan, is hereby noted.

Dated: December \_\_\_\_, 2011  
New York, New York

RUBY J. KRAJICK  
Clerk of the Court

By: \_\_\_\_\_  
Deputy Clerk