

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 ISLAMIC REPUBLIC OF IRAN

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

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 Islamic Republic of Iran ("Iran").

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 11th Attacks"). Defendant Iran 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 11th Attacks were a direct, intended and foreseeable product. *See* Consolidated Master Complaint (02 CV 6977 Docket No. 11) at ¶¶ 19-20, 194-216.

4. Jurisdiction of this Court over Defendant Iran is invoked pursuant to 28 U.S.C.

§ 1330, as the claims against Defendant Iran 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 Iran 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 Iran through diplomatic channels by the United States Department of State on April 30, 2003. True and correct copies of the Return of Service and supporting U.S. Department of State documents are attached at Exhibit A 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 Iran was transmitted to J. Michael McMahon, SDNY Clerk, by the U.S. Department of State on July 7, 2003.

7. Defendant Iran has not answered or otherwise responded to the Consolidated Master Complaint, and the time for Defendant Iran 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 Islamic Republic of Iran.

Dated: December 22, 2011
New York, New York


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


Notary Public
EUGENE L. WASTERSON
Notary Public, State of New York
No. 30-4718641
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 Islamic Republic of Iran ("Iran"), as follows:

Service was effectuated on Defendant Iran through diplomatic channels by the United States Department of State on April 30, 2003. Proof of such service was transmitted to me, SDNY Clerk I. Michael McMahon, by the U.S. Department of State on July 7, 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 Islamic Republic of Iran, has not filed an answer or otherwise moved with respect to the Consolidated Master Complaint. The default of the Defendant, the Islamic Republic of Iran, is hereby noted.

Dated: December __, 2011
New York, New York

RUBY J. KRAJICK
Clerk of the Court

By: _____
Deputy Clerk