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Notice of Motion

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FEDERAL COURT

B E T W E E N:

ABOUSFIAN ABDELRAZIK

Applicant
(Moving Party)

-and-

**MINISTER OF FOREIGN AFFAIRS
and THE ATTORNEY GENERAL OF CANADA**

Respondent
(Responding Parties)

NOTICE OF MOTION

TAKE NOTICE THAT the Applicant will make a motion to the Court on a date to be determined by the Registrar, at 9:30 a.m. or as soon thereafter as the motion can be heard, at Ottawa, Ontario.

THE MOTION IS FOR:

- (a) Leave to file a supplementary affidavit of Abousfian Abdelrazik as attached; or, in a form as directed by this Honourable Court;

- (b) That the Court schedule any required cross examinations of the supplementary affidavit in a manner so as to preserve the scheduled May 7, 2009 hearing date of the Application;

(c) If opposed, costs payable forthwith on a substantial indemnity scale.

THE GROUNDS FOR THE MOTION ARE:

1. The Applicant filed an Application on May 7, 2008 for an order compelling the government to repatriate him by any safe means at its disposal.
2. The Applicant filed his application record on March 10, 2009.
3. On March 12, 2009, 115 Canadians purchased the Applicant a airline ticket to return from Khartoum to Toronto on Etihad airlines departing April 3, 2009;
4. The paid and confirmed itinerary was provided to the Manager of Consular Affairs in the Canadian Embassy in Sudan by the Applicant;
5. On December 23, 2008, the Applicant was promised by Passport Canada that upon providing to the Canadian Embassy in Sudan a paid and confirmed itinerary for his travel from Sudan to Canada he would be provided an emergency travel document;
6. On April 3, 2009, the Applicant was refused an emergency travel document by the Minister of Foreign Affairs on the basis of section 10.1 of the *Canadian Passport Order*;
7. The Applicant could not return to Canada on April 3, 2009 in view of the denial of an emergency passport;
8. On April 1, 2009, a listed person on the UN 1267 List was repatriated from the United Kingdom to Somalia;

9. Providing this new information regarding the purchase of the ticket on Etihad Airlines, denial of his emergency travel document and the policy framework for such denial is germane to the underlying Application and is in the interests of justice as revealing contradictions with evidence of the Respondents already in the record;
10. Information regarding the most recent repatriation and practical functioning of the 1267 sanctions regime directly informs the Respondents' position, which is founded upon the Applicant's alleged listing on the UN 1267 Consolidated List;
11. The supplementary affidavit of Abousfian Abdelrazik contains new information that the Applicant was unable to include in his record filed on March 10, 2009;
12. It would be in the interests of justice for this Honourable Court to consider such evidence in the context of assessing this application on its merits;
13. Section 18 of the *Federal Courts Act*;
14. Rules 312 and 352 of the *Federal Courts Rules*.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- i) The Affidavit of Abousfian Abdelrazik sworn April 14, 2009, with exhibits;
- ii) The Affidavit of Shannon Lee Mannion;

- iii) Such further and other materials as counsel may advise and this Honourable Court may permit.

April 14, 2009



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