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8

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION  
12

13 RAHINAH IBRAHIM, an individual,  
14 Plaintiff

15 vs.

16 DEPARTMENT OF HOMELAND  
17 SECURITY, et al.,  
18 Defendants,

Case No.: C 06-0545 WHA

**PLAINTIFF’S RESPONSE TO THE  
COURT REGARDING PLAINTIFF’S  
DAUGHTER**

Trial: December 2, 2013  
Time: 7:30 a.m.  
Ctm.: 8, 19th Floor  
Judge: The Honorable William H. Alsup

Complaint Filed: January 27, 2006

21  
22 At the closed hearing on Friday, December 6, 2013, regarding the travel difficulties of  
23 plaintiff’s daughter, Raihan Mustafa Kamal, the Court allowed plaintiff the opportunity to  
24 consider whether to re-open evidence for Ms. Mustafa Kamal to testify. Because of concerns  
25 about the safety and liberty of Ms. Mustafa Kamal were she to attempt to travel to the United  
26 States, plaintiff elects to proceed on the evidence presented at the trial, with one caveat that  
27 plaintiff mentioned at the hearing on Friday.  
28

1 On Friday, plaintiff requested that the Court take notice of Friday's proceedings  
2 regarding Ms. Mustafa Kamal's status and her attendant travel difficulties in the record for Dr.  
3 Ibrahim's case. Defendants objected. The Court then allowed plaintiff to include such facts in  
4 her proposed findings of fact and conclusions of law on Friday, December 13, 2013 and allowed  
5 the government to object thereto, to be resolved at a later date.

6 A motion to reopen is addressed to the sound discretion of the trial court. *Zenith Radio*  
7 *Corp. v. Hazeltine Research, Inc.*, 401 U.S. 321, 331 (1971). The court should take into  
8 consideration the nature of the proposed testimony and the effect of granting the motion,  
9 including prejudice to the opposing party. *S.E.C. v. Rogers*, 790 F.2d 1450, 1460 (9th Cir. 1986).  
10 A trial court does not abuse its discretion when the request to reopen the record is reasonable and  
11 the opposing party is not prejudiced by the presentation of additional evidence. *United States v.*  
12 *Ramirez-Gonzales*, 116 Fed. Appx. 369, 372 (3d Cir. 2004). In deciding whether to reopen a  
13 case, the district court should be concerned with several factors: what burden, if any, will be  
14 placed on the parties and their witnesses; what undue prejudice may result by not taking new  
15 testimony; and what consideration should be given to judicial economy. *Ferranti Int'l, PLC v.*  
16 *Jasin*, 47 Fed. Appx. 103, 105 (3d Cir. 2002).

17 Here, plaintiff's request to include Friday's proceedings in the record places no burden on  
18 the parties and their witnesses because the Court has already heard the relevant testimony and  
19 admitted the relevant exhibits. For the same reason, the request comports with principles of  
20 judicial economy. Furthermore, it would be unduly prejudicial to plaintiff to omit Friday's  
21 testimony and exhibits from the record because Ms. Mustafa Kamal's status and the effects of  
22 are relevant to Dr. Ibrahim's right to travel. The government has denied the very adverse effects  
23 for Dr. Ibrahim that Ms. Dugan's testimony proves in fact occur. Ms. Dugan is an official of the  
24 Customs and Border Patrol who spoke knowledgeably regarding Department of Homeland  
25 Security Travel restrictions. Finally, the government is not prejudiced because it had adequate  
26 opportunity to present evidence on the issue through its own witness and to conduct re-direct  
27 after plaintiff's cross-examination on Friday.

28

1 Plaintiff will therefore include the relevant facts and conclusions of law from the hearing  
2 on Friday, December 6, 2013, in her submission on Friday, December 13, 2013, and requests that  
3 the Court overrule defendants' objections thereto at the appropriate time.

4  
5 DATED: December 9, 2013

McMANIS FAULKNER

6 /s/ Elizabeth Pipkin

7 JAMES McMANIS  
8 CHRISTINE PEEK  
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10 Attorneys for Plaintiff,  
11 Rahinah Ibrahim