

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**SAAD BIN KHALID,**

*Plaintiff,*

v.

**MERRICK GARLAND,** Attorney  
General of the United States, U.S.  
Department of Justice, in his official  
capacity, only;

**CHRISTOPHER WRAY,** Director,  
Federal Bureau of Investigation, in his  
official capacity, only;

**CHARLES H. KABLE, IV,** in his  
official capacity as Director of the  
Terrorist Screening Center;

**ALEJANDRO MAYORKAS,**  
Secretary, U.S. Department of  
Homeland Security, in his official  
capacity, only;

**DAVID PEKOSKE,** Administrator,  
Transportation Security Administration,  
in his official capacity, only; and,

**TROY MILLER,** Commissioner, U.S.  
Customs and Border Protection, in his  
official capacity, only;

*Defendants.*

**Case No. 1:21-cv-02307-CRC**

**Hon. Judge Christopher R.**

**Cooper**

## **AMENDED COMPLAINT**

Plaintiff Saad Bin Khalid, by and through his attorneys, CAIR Legal Defense Fund, brings this Amended Complaint against Merrick Garland; Christopher Wray; Charles H. Kable, IV; Alejandro Mayorkas; and David Pekoske, for declaratory and injunctive relief, costs, and attorneys' fees for violations of the Fifth Amendment of the United States Constitution, violations of the Administrative Procedure Act, 5 U.S.C. §§ 702, 706, and violations of the Religious Freedom Restoration Act, 42. U.S.C. § 2000bb *et seq.*, committed when Defendants placed Plaintiff on the government's No Fly List that indefinitely bars Plaintiff from flying to, from, within, or over the United States. The government has wrongly stigmatized Plaintiff as a terrorism suspect. Plaintiff's improper placement on the Defendants' list has caused economic, reputational, and liberty harms. Plaintiff remains stranded abroad, due to his inability to travel, and cannot return to his home country, the United States.

## **INTRODUCTION**

1. For nearly two decades, the U.S. government has operated a No Fly List that indefinitely bars thousands of U.S. citizens and residents from flying to, from, within, or over the United States, and wrongly stigmatizes them as terrorism suspects. The government places people on the No Fly List based merely on a "reasonable suspicion" that unconstitutionally vague criteria are satisfied. U.S. citizens and residents on the No Fly List are disproportionately Muslim, and those of Arab, Middle Eastern, or South Asian descent.

2. Plaintiff Saad Bin Khalid is a twenty-seven-year-old United States Citizen of Pakistani descent who lived in Karachi, Pakistan with his wife and daughter. He currently resides in the United States, while his wife and children reside in Pakistan.

3. Mr. Khalid was a minor when he was initially flagged by the U.S. government. In 2012, at 16 or 17 years old, Mr. Khalid travelled from Karachi, Pakistan back to the United States. At Jinnah International Airport, his boarding pass was stamped with “SSSS” indicating that he had been designated as a “known or suspected terrorist.” His belongings were searched by security during his first leg of his trip, including at his layover at Dubai International Airport. At JFK, CBP officers searched through his cell phone and FBI agents interrogated him about his time in Pakistan, his parents, and his devotion to his faith.

4. After Mr. Khalid returned to his home in Cleveland, Ohio, FBI agents contacted him and set up an interrogation during which they interrogated him about whether he knew individuals who wanted to cause harm to the U.S and whether he was affiliated with any individuals or organizations who wanted to cause harm to the U.S.

5. Mr. Khalid learned he had been added to the No Fly List in 2019 when he tried to return to the U.S. from Karachi, Pakistan. DHS prohibited Mr. Khalid from boarding his flight and directed him to contact his local U.S. consulate, where FBI agents interrogated him while at the consulate. Mr. Khalid was told to file a DHS TRIP complaint and no information was given to him regarding Mr. Khalid’s placement on the No Fly List. Mr. Khalid remained stranded abroad and was unable to return to the United States until March 2022 due to his placement on the No Fly List.

6. Because the government has placed Mr. Khalid on the No Fly List, he was banned from returning to his home country, the United States. Mr. Khalid was unable to travel to see friends and family, particularly those in the United States. Though he was permitted to return to the United States, he was not removed from the No Fly List.

Thus, Mr. Khalid will not be able to travel to fulfill his religious pilgrimage obligation, which is a tenet of his Muslim faith. Due to his watchlist placement, Mr. Khalid has faced financial strains as a result of his placement on the No Fly List. He was forced to resign from his job and has lost several job opportunities due to his inability to return to the United States. As a result, Mr. Khalid has been unable to exercise his constitutionally protected liberty interests in travel and freedom from government-imposed stigma.

7. Mr. Khalid has faced additional harm due to his status on the No Fly List as it relates to an I-130 petition he filed for his Pakistani wife. Upon information and belief, any immigration petitions Mr. Khalid files will be unreasonably delayed due to his status on the No Fly List. Though Mr. Khalid filed the petition on August 13, 2019, it was not until June 25, 2022 that the National Visa Center provided him and his wife notice that the Immigrant Visa Case was documentarily qualified for an interview appointment. To date, no interview has been scheduled. As a result of the delay, Mr. Khalid's son will be born in Pakistan, rather than the United States, the country where his father is a citizen.

8. Furthermore, upon information and belief, according to the watchlisting guidance, because Mr. Khalid is on the No Fly List, his son will also be placed on the watchlist as a matter of course.

9. Two years ago, Mr. Khalid filed a DHS TRIP application, the government's administrative petition for redress, and DHS confirmed that Mr. Khalid was on the No Fly List. On April 6, 2020, Plaintiff requested additional information pursuant to Defendants' process about his placement on the No Fly List. On January 25, 2022, DHS provided Mr. Khalid with a letter stating that the U.S. Government had concerns about Mr. Khalid's association with a known terrorist organization, as well

as concerns regarding his candor during an FBI interview with Mr. Khalid when he was a minor. Mr. Khalid appealed DHS' determination and received a letter from TSA Administrator Pekoske stating that he determined Mr. Khalid to be properly included

on the U.S. Government's No Fly List.

10. Prior to receiving the final determination letter, FBI agents escorted Mr. Khalid to the Cincinnati field office where they coerced him into a polygraph interrogation and searched and seized his cell phone under the pretense that they would remove his name from the No Fly List.

11. Following the interview, Mr. Khalid learned that sometime between 2008 and 2012 his estranged biological mother had met with FBI agents on several occasions, at her home in Cleveland, at a restaurant, and at the FBI field office, and offered false information about Mr. Khalid and his father when he was a minor. Mr. Khalid believes his estranged mother did so to retaliate against his father.

12. Mr. Khalid now seeks to temporarily return to Pakistan for the birth of his son. The U.S. Government has not provided Mr. Khalid with a response regarding his request to travel. Should Mr. Khalid secure the ability for the birth of his son, upon information and belief, he will remain stranded abroad and unable to return to his home in the United States.

13. Mr. Khalid further seeks to have the US Government process his expedited passport renewal application. The US Department of State received Mr. Khalid's expedited passport renewal application on April 21, 2022. According to the State Department, processing times for expedited passport renewal applications are approximately five to seven weeks. Mr. Khalid has been waiting for the processing of his expedited passport renewal application for approximately nine weeks.

14. The government's actions violate Mr. Khalid's rights under the Constitution and federal law. Its placement of Mr. Khalid on the No Fly List and its refusal to provide a fair, meaningful, and timely process for him to challenge that

placement violate the Fifth Amendment guarantee of due process and the Administrative

Procedure Act. Its use of vague criteria to place Mr. Khalid on the No Fly List violates the Fifth Amendment. Its conduct in placement Mr. Khalid on the No Fly List after he rejected the FBI agents' repeated coercive pressure to acquiesce to interrogations constitutes retaliation in violation of the First Amendment. Through this action for declaratory and injunctive relief, Mr. Khalid asks the Court to find that the government's actions against him are unlawful and order his removal from the No Fly List.

### **JURISDICTION AND VENUE**

15. Plaintiff's claims for injunctive and declaratory relief are brought under the First and Fifth Amendments of the United States Constitution, the Administrative Procedure Act ("APA"), and the Religious Freedom Restoration Act ("RFRA").

16. This Court has original jurisdiction under 28 U.S.C. § 1331, 5 U.S.C. § 702, 5 U.S.C. § 706, the United States Constitution, and federal common law.

17. This Court has personal jurisdiction over Defendants because a substantial part of the unlawful acts alleged herein were committed within the jurisdiction of the United States District Court for the District of Columbia.

18. This Court has the authority to grant declaratory relief pursuant to the Declaratory Judgement Act, 28 U.S.C. § 2201 and 2202.

19. Under the APA, 5 U.S.C. § 706, this Court has the power to compel agency action that is unlawfully withheld or unreasonably delayed and to hold unlawful and set aside the challenged agency actions. The Due Process Clause also provides this Court with authority to order the injunctive relief requested against Defendants.

20. This Court also has the authority to grant declaratory and injunctive relief

under RFRA, 42 U.S.C. § 2000bb *et. seq.*

21. Plaintiff's claims for attorneys' fees and costs are predicated upon 28 U.S.C. § 2412.

22. Venue is proper under 42 U.S.C. § 1391(e)(1) because Defendants are officers or employees of agencies of the United States sued in their official capacities; because Defendants regularly conduct business in the District of Columbia; because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred within this district including the dissemination of the federal terrorist watchlist and the stigmatizing label of "known or suspected terrorist" attached to the Plaintiff to the District of Columbia, local law enforcement officers, D.C. courts, and other governmental and private partners within the district; and because the action involved no real property.

### **PARTIES**

23. Plaintiff Saad Bin Khalid is a twenty-seven-year-old U.S. Citizen. He was born in Yokohama, Japan, and resides in Karachi, Pakistan since 2012.

24. Defendant Merrick Garland is the Attorney General of the United States and head the Department of Justice ("DOJ"), which oversees the FBI. The FBI administers the Terrorist Screening Center ("TSC"), which was created to consolidate the government's counterterrorism-related watch listing operations. The TSC is responsible for the management and operation of the Terrorist Screening Database ("TSDB"), also known as "the watch list." The No Fly List is a component of the TSDB. Upon information and belief, the DOJ and/or its agency subcomponents accepted the nomination of Plaintiff.

The DOJ and/or its agency subcomponents also oversee the dissemination of the “known or suspected terrorist” stigmatizing label attached to Plaintiff to state and local authorities, courts, foreign governments, private corporations, private contractors, airlines, gun sellers, financial institutions, the captains of sea-faring vessels, and others. Additionally, the DOJ utilizes the TSDB to screen persons against it that are applying for security clearances or employment to work with the DOJ and/or its agency subcomponents to deny them employment. Defendant Garland is sued in his official capacity, only.

25. Defendant Christopher Wray is the Director of the FBI. Upon information and belief, the FBI and/or its agency subcomponents nominated Plaintiff Saad Bin Khalid to Defendants’ No Fly list. Additionally, the FBI utilizes the TSDB to screen persons against it that are applying for security clearances or for employment to work with the FBI and/or its agency subcomponents to deny them employment. Defendant Wray is sued in his official capacity, only.

26. Defendant Charles H. Kable, IV is the Director of the Terrorism Screening Center (“TSC”) of the Federal Bureau of Investigation (“FBI”). The TSC develops and maintains the federal government’s consolidated Terrorism Screening Database (“TSDB”), accepted the nomination the Plaintiff to the No Fly List. Defendant Kable, IV is being sued in his official capacity, only.

27. Defendant Alejandro Mayorkas is the Secretary of the U.S. Department of Homeland Security (“DHS”), which oversees the Transportation Security Administration (“TSA”). Upon information and belief, DHS and/or its agency subcomponents act as frontline agencies that utilize the TSDB to screen individuals against the TSDB, including Plaintiff Saad Bin Khalid, in order to deny them

government benefits and impose consequences upon them, including but not limited to: (1) impeding air travel at airports; (2) burdening travel at land border crossings and other ports of entry; (3) denying participation in programs that allow for expedited screening at ports of entry; and (4) indefinitely delaying or denying immigration benefits. Additionally, DHS is responsible for overseeing and administering DHS TRIP, the only administrative complaint process by which Plaintiff may challenge his watchlist nomination to the TSDB and No Fly list. DHS also utilizes the TSDB to screen persons against it that are applying for security clearances or for employment to work with DHS and/or its agency subcomponents to deny them employment. Defendant Mayorkas is sued in his official capacity, only.

28. Defendant David Pekoske is the Administrator of the Transportation Security Administration (“TSA”) of the United States Department of Homeland Security (“DHS”). Upon information and belief, TSA acts as a front-line agency that utilizes the TSDB to screen individuals against the TSDB, including Plaintiff, in order to deny them government benefits and impose consequences upon them, including but not limited to: (1) impeding air travel at airports; (2) burdening travel at land border crossings and other ports of entry; (3) denying participation in programs that allow for expedited screening at ports of entry; and (4) indefinitely delaying or denying immigration benefits. Moreover, TSA nominated Plaintiff to the TSDB and No Fly List. TSA implements the No Fly List through its Secure Flight program which prevents watch listed persons from boarding any aircraft. Additionally, TSA utilizes the TSDB to screen persons against it that are applying for security clearances or for employment to work with TSA to deny them employment. Defendant Pekoske is sued in his official capacity, only.

29. Defendant Troy Miller is Commissioner of the United States Customs and Border Protection (“CBP”) of the United States Department of Homeland Security (“DHS”). CBP acts as a front-line agency that utilizes the TSDB to screen individuals against the TSDB, including Plaintiff, in order to deny him government benefits and impose consequences upon him, including but not limited to: (1) impeding air travel at airports; (2) burdening travel at land border crossings and other ports of entry; (3) denying participation in programs that allow for expedited screening at ports of entry; and (4) indefinitely delaying or denying immigration benefits. Moreover, upon information and belief, CBP nominated Plaintiff to the No Fly List. Additionally, CBP utilizes the TSDB to screen persons against it that are applying for security clearances or for employment to work with CBP to deny them employment. Defendant Miller is being sued in his official capacity, only.

## **FACTUAL ALLEGATIONS**

### **General Factual Allegations**

30. President George W. Bush executed Homeland Security Presidential Directive 6 on September 16, 2003. HSPD-6 directed the U.S. Attorney General to “establish an organization to consolidate the Government’s approach to terrorism screening.” HSPD- 6 created the Terrorist Screening Center (“TSC”), which is administered by the FBI.

31. HSPD-6 also directs the Attorney General to consolidate terrorism related information and then use it to support (a) federal, state, local, territorial, tribal, foreign government, and private-sector screening processes, and (b) diplomatic, military, intelligence, law enforcement, immigration, visa, and protective processes. The TSC

thus houses the Terrorist Screening Database (“TSDB” or “watchlist”). The TSDB is a centralized collection of information about listed individuals (i.e. “TSDB Listees”). The individual identifying information includes biographic and biometric data, such as names, aliases, birthdates, photographs, fingerprints, and iris scans.

32. The TSDB is updated continuously and disseminated around the country and to more than 60 foreign governments around the world in real-time.

33. Federal government agencies and foreign government partners draw the information supporting their nominations from intelligence, law enforcement, homeland security, embassy, consulate, financial, and immigration records.

34. New additions to the TSDB must include minimal identifying and substantive information. The minimum identifying information must be sufficient to allow screeners to determine whether an individual’s identity is an actual match to a TSDB record.

35. The minimum substantive information must be enough to satisfy the TSDB inclusion standard, which the Government calls the “reasonable suspicion that the individual is a known or suspected terrorist” standard.

36. The Government defines a “Known Terrorist” as “an individual who has been (1) arrested, charged by information, or indicted for, or convicted of, a crime related to terrorism and /or terrorist activities by the United States Government or foreign government authorities; or (2) identified as a terrorist or member of a terrorist organization pursuant to statute, Executive Order or international legal obligations pursuant to a United Nations Security Council Resolution.”

37. The Government defines a “Suspected Terrorist” as “an individual who is reasonably suspected to be engaging in, has engaged in, or intends to engage in conduct

constituting, in preparation for, in aid of, or related to terrorism and /or terrorist activities.”

38. The Government adds individuals to the TSDB if their nomination is based “upon articulable intelligence or information which, based on the totality of the circumstances and, taken together with rational inferences from those facts, creates a reasonable suspicion that the individual is engaged, has been engaged, or intends to engage, in conduct constituting in preparation for, in aid or in furtherance of, or related to, terrorism and/or terrorist activities.”

39. The Terrorist Screening Center reviews all nominations to the TSDB and their supporting facts. The final authority to accept, reject, or modify a nomination rests with the TSC alone.

40. The TSC may consider an individual’s “race, ethnicity, or religious affiliation” as well as their “beliefs and activities protected by the First Amendment, such as freedom of speech, free exercise of religion, freedom of the press, freedom of peaceful assembly, and the freedom to petition the government for redress of grievances” as information supporting a nomination to the TSDB.

41. The TSC may consider an individual’s travel history, associates, business associations, international associations, financial transactions, and study of Arabic as information supporting a nomination to the TSDB.

42. TSDB records are not criminal records. The TSC includes individuals in the TSDB who have not been convicted, arrested, investigated, or suspected of any crime. Inclusion in the TSDB does not require evidence that an individual has engaged in any criminal activity. Inclusion in the TSDB does not require evidence that an individual has committed a crime, is committing a crime, or will commit a crime in the

future. Individuals who have been acquitted of a terrorism-related crime may still be listed in the TSDB.

43. Based on the specific needs and missions of its various partners, the TSC annotates TSDB records. TSC assigns these annotations based on distinct criteria from TSDB's overall inclusion standard. The final authority to accept, reject, or modify a nomination or annotation to a TSDB rests with the TSC alone. Defendant TSC is responsible for including, maintaining, and/or removing Plaintiff from the No Fly List and the TSDB.

44. For the TSA, the TSC annotates TSDB entries in three ways: (1) No Fly, (2) Selectee, and (3) Expanded Selectee.

45. The TSC assigns a No Fly annotation when the TSC determines the individual poses:

- (a) a threat of committing an act of international terrorism (as defined in 18 U.S.C. § 2331(1)) or domestic terrorism (as defined in 18 U.S.C. § 2331(5)) with respect to an aircraft (including a threat of piracy, or a threat to airline, passenger, or civil aviation security);
- (b) a threat of committing an act of domestic terrorism (as defined in 18 U.S.C. § 2331(5)) with respect to the homeland;
- (c) a threat of committing an act of international terrorism (as defined in 18 U.S.C. § 2331(1)) against any U.S. Government facility abroad and associated or supporting personnel, including U.S. embassies, consulates and missions, military installations (as defined by 10 U.S.C. 2801(c)(4)), U.S. ships, U.S. aircraft, or other auxiliary craft

owned or leased by the U.S. Government; or,

(e) a threat of engaging in or conducting a violent act of terrorism and who is operationally capable of doing so.

46. TSDB Listees with the No Fly List annotation are prohibited from boarding an aircraft that traverses U.S. airspace.

47. TSDB Listees, whether bearing the No Fly List annotation are not, are also subjected to intensive scrutiny by the Government as a matter of TSDB encounter policy. This includes the Government subjecting TSDB Listees to lengthy and onerous secondary screening at airports; subjecting TSDB Listees to lengthy and onerous secondary inspection at land borders; subjecting TSDB Listees to the mandatory search and copying of their electronic devices at borders; subjecting TSDB Listees to handling codes requiring their arrest or other adverse treatment during any encounter with federal, state, local, or private law enforcement officers; barring TSDB Listees from access to employment or credentials across federal agencies and public and private infrastructure industries; and subjecting TSDB Listees' traveling companions, relatives, and other associates to comparable scrutiny.

48. TSC does not notify individuals about their nominations or additions to the TSDB, or their nominations or additions to the No Fly List. There are no "adversarial hearings" regarding TSDB Listee status.

49. The TSDB, since 2006, retains copies of all prior versions of listed persons' records. TSDB Listees are not permitted to know the history of any changes to their watch-list status, or the factual basis for those changes.

50. Following 2015 litigation in *Latif v. Holder*, the federal government

modified the redress process for TSDB Listees who are U.S. persons and who have the No Fly List annotation. If a U.S. Person on the No Fly List files a DHS TRIP complaint, DHS TRIP (following referral to and consultation with TSC) must inform the individual if they are currently on the No Fly List. The No Fly Listee may then request additional information, including TSC's unclassified summary of the information supporting their No Fly List annotation. The No Fly Listee may respond by submitting information they consider potentially relevant or responsive to that unclassified factual summary.

51. The redress policy which governs No Fly List annotations (as set forth below) does not apply to any other TSDB Listees, including those who remain on the TSDB although their No Fly List annotation has been removed.

52. The TSC Redress Office has final authority to modify or remove a TSDB record during the redress process, including by adjusting or removing the No Fly List annotation.

53. If the TSC chooses to maintain a person's No Fly List annotation, the TSC must prepare a recommendation to the TSA Administrator regarding the continuing No Fly List annotation on that TSDB Listee's record. The TSA Administrator then makes the final written determination concerning the maintenance or removal of the No Fly List annotation for U.S. Persons. The TSC will then technically implement any change to the No Fly List annotation the TSA Administrator directs.

54. The TSC removing an individual's No Fly List annotation does not mean that the individual is also removed from the TSDB. The TSC alone remains responsible for a U.S. Person's overall TSDB Listee status.

55. If the U.S. Person remains on the No Fly List following both TSC and TSA Administrator review, the TSA Administrator will issue a final order regarding the basis for that individual's continuing placement. The final order will also notify the individual with the continuing No Fly List annotation of their ability to seek judicial review.

56. Apart from the DHS TRIP Redress process, the TSC periodically reviews its TSDB listings and No Fly List annotations, based on new or additional information the TSC receives. Pursuant to that process, the TSC occasionally imposes or removes No Fly List annotations.

57. Nothing prevents the TSC, after removing an individuals' No Fly List annotation, from re-adding the same individual to the No Fly List based on the same or similar derogatory information.

58. Plaintiff is justifiably skeptical of Defendants' willingness to engage in meaningful introspection or self-correction. Famously, in *Ibrahim v. Department of Homeland Security, et al.*, 06-CV-00545, ECF 701-1 (N.D. Cal. Feb. 6, 2014), Defendants vigorously contested a Muslim graduate student's challenge to her No Fly List designation and subsequent revocation of her student visa. Defendants' actions stranded her in Malaysia for nine years. Following trial, it was ultimately revealed that her placement on the No Fly List was the result of an FBI agent's error in November 2004. He had accidentally checked the wrong box. *Id.* at 9.

59. Defendants have a pattern of using the TSDB and No Fly List as a bludgeon to coerce everyday American Muslims into spying on their fellow religious adherents and neighbors and becoming government informants. Presence on the watchlist is deployed as an intimidation tactic and used to coercively justify the denial of American-Muslims' civil

rights, such as the right to have an attorney present during law enforcement questioning. *See, e.g., Latif v. Holder*, 28 F. Supp. 3d 1134, 1145 (D. Or. 2014) (an FBI agent told Steven Washburn that he “would help remove Washburn’s name from the No-Fly List if he agreed to speak to the FBI”); *Id.* at 1146 (FBI agents told Ibrahim Meshal that “his name would be removed from the No-Fly List and he would receive compensation if he helped the FBI by serving as an informant”); *Id.* (FBI agents offered Amir Meshal “the opportunity to serve as a government informant in exchange for assistance in removing his name from the No-Fly List”); *Tanvir v Tanzin*, 894 F.3d 449 (2d Cir. 2018) (multiple Muslim Plaintiffs asked to gather information on members of Muslim communities and report that information to the FBI” and “[i]n some instances, the FBI’s request was accompanied with severe pressure, including threats of deportation or arrest; in others, the request was accompanied by promises of financial and other assistance”).

60. Agencies throughout the federal government utilize the federal terrorist watchlist to conduct and promote screening, subjecting listed persons to a comprehensive portfolio of consequences that cover large aspects of their lives.

61. Government agencies routinely cross reference the TSDB in connection with applications for or audits of a wide range of government benefits. The TSDB is referenced in connection with and used as a basis to deny federal government employment, security clearances (regardless of whether the individual needs that clearance for either government or private contractor employment), travel benefit programs like TSA Pre-Check and Global Entry, and a wide variety of government licenses and credentials, used in both public and private employment, including FAA licenses, Hazmat licenses, Transportation Worker Identity Credentials, and security credentials needed for critical infrastructure projects like power plans.

62. Defendants disseminated the federal terrorist watchlist to government authorities, private corporations and individuals with the purpose and hope that these entities and/or individuals will impose consequences on those individuals Defendants have listed, including Plaintiff.

63. Upon information and belief, family-based immigration applications filed by individuals listed on the federal terrorist watchlist are delayed indefinitely due to an “FBI name check” and not adjudicated, thereby denying and hindering Plaintiff of the rights that flow from citizenship, including the ability to sponsor lawful permanent residency for relatives living abroad.

64. As detailed below, Plaintiff’s watchlist status and his No Fly List annotation has been the subject of personal harm and contention with the United States government, for more than a decade.

#### **Specific Factual Allegations**

65. Plaintiff Saad Bin Khalid is a United States Citizen who was living in Karachi, Pakistan from 2012 to 2021 where he recently married his wife, Ms. Zaenab Afzal Mirajkar, and was raising their newborn daughter. Mr. Khalid’s wife and daughter are not U.S. citizens, they are Pakistani citizens. Mr. Khalid has filed an I-130 petition on behalf of his wife who is awaiting an interview. Mr. Khalid has a son on the way, who will also not be a U.S. citizen until Mr. Khalid files and receives approval for his immigration petition.

66. Mr. Khalid graduated in Fall 2016 from DHA Suffa University in Karachi, Pakistan with a bachelor’s degree in business administration. Plaintiff also received a master’s degree. Mr. Khalid currently is a partner and technical director for Global Services Marketplace (GSM). In this position, Mr. Khalid works on software

development and provides resources necessary to develop technical solutions to developers. Plaintiff's employment is imperative to support his family.

67. Since approximately 2012, because of Mr. Khalid's No Fly List designation, Mr. Khalid was prohibited from boarding a flight to the United States. He remained stranded in Pakistan until approximately March 2022, after his attorneys filed this action.

68. When Mr. Khalid was only 16 or 17 years old, around 2012, he arrived at Jinnah International Airport (KHI) in Karachi, Pakistan for an international flight to John F. Kennedy International Airport (JFK) in New York.

69. Mr. Khalid was unable to check-in for his flight online. Instead, he was directed to an airline agent for further assistance.

70. The airline agent contacted Defendants to obtain clearance to print his boarding pass. Mr. Khalid's boarding pass had an "SSSS" stamp, indicating he had been designated as a "known or suspected terrorist."

71. During his layover at Dubai International Airport (DXB), security personnel escorted Mr. Khalid into a private room where they thoroughly searched his belongings.

72. Upon arrival at JFK, unidentified agents immediately escorted Mr. Khalid to CBP secondary inspection where CBP officers searched his personal belongings.

73. Additionally, CBP officers confiscated his electronics and upon information and belief, downloaded information from them, including cell phone, without his consent.

74. Two FBI agents then escorted Mr. Khalid into a private room where they

interrogated him about his time in Pakistan and why he had returned to the U.S. after two years.

75. FBI agents further interrogated Mr. Khalid about his parents, asking about their jobs and devotion to their religion. They interrogated him about how he prays, whether he attended madrasa in Pakistan, why he lived in Islamabad for one year, if he had a girlfriend, and what he had been doing in Pakistan. Finally, the FBI agents forced Mr. Khalid to draw his family tree and provide contact information for all those individuals.

76. They finally allowed Mr. Khalid to leave for his connecting flight to Cleveland after approximately six or seven hours.

77. Two days later, FBI agents contacted Mr. Khalid and requested he meet them in Washington, DC. Mr. Khalid was only a minor at the time.

78. Mr. Khalid's guardian, his sister, told the agents that Mr. Khalid could not travel to meet with FBI agents alone because he was a minor.

79. Instead, the FBI agents traveled to Columbus, Ohio where they interrogated Mr. Khalid for approximately two hours.

80. FBI agents interrogated Mr. Khalid asked him about his residence, whether he knew individuals who wanted to cause harm to the U.S., and whether he was affiliated with any individuals or organizations who wanted to cause harm to the U.S.

81. On March 28, 2019, Mr. Khalid learned he was on the No Fly List when he tried to return to the U.S. from Jinnah International Airport (KHI) in Karachi, Pakistan.

82. Mr. Khalid was prevented from checking in online or at the kiosk in the airport. Rather, he was directed to an airline representative for further assistance.

83. The airline representative called Defendants in order to obtain clearance to print his boarding pass and allow him to board his flight.

84. An Emirates airline representative arrived at the desk and informed Mr. Khalid that CBP would not allow him to board his flight and he should contact his local U.S. consulate.

85. When Mr. Khalid arrived at the consulate in Karachi, Pakistan, FBI agents interrogated him for nearly two hours.

86. FBI agents interrogated Mr. Khalid about where he attended school, his whereabouts in Pakistan for the last seven years, whether he was familiar with Lashkar-e-Taiba, a terror group in Pakistan, and what mosques he frequented.

87. FBI agents showed Mr. Khalid photos of different people and interrogated him about whether he or his family members knew any of them.

88. The FBI agents instructed him to return to the U.S. consulate the next day for a second interview.

89. On April 16, 2019, Mr. Khalid once again arrived at the U.S. consulate in Karachi, Pakistan. Consulate officers requested his passport and escorted him into a private room.

90. FBI Agent Lee escorted Mr. Khalid into a backroom where he pulled out a list of names from a red folder and interrogated Mr. Khalid about the individuals on the list.

91. Agent Lee also interrogated Mr. Khalid about a hostel where he stayed approximately seven years ago and whether he and his family had any marital problems

with his wife.

92. Agent Lee also requested to search Mr. Khalid's phone, which Mr. Khalid refused.

93. Agent Lee then provided Mr. Khalid with a 24-hour deadline to provide additional information.

94. Agent Lee also informed him that this would be their last meeting, and that he should file a DHS TRIP complaint to resolve his No Fly List issues. The U.S. consulate did not provide Mr. Khalid with any information regarding his placement on the No Fly List.

95. Since this ordeal, Mr. Khalid remained stranded in Pakistan until approximately March 2021, after his attorneys filed this complaint.

96. Upon information and belief, Mr. Khalid was added to the No Fly List after he left the United States, and accordingly he was unable to board a flight to return to his home in the United States.

97. Currently, Mr. Khalid resides in the United States without his family, and remains on the U.S. Government's No Fly List. Thus, he is unable to return to Pakistan to see his family. Should he succeed in returning to Pakistan, he will again be denied boarding to the United States.

98. Defendants have subjected Mr. Khalid to additional harms due to their unlawful placement of Mr. Khalid on their federal terror watchlist and No Fly List.

99. In early 2019, Mr. Khalid's employer tasked him with a project valued at \$600,000 which required Mr. Khalid to fly to the U.S. by April 26, 2019 to meet with Amazon representatives.

100. Mr. Khalid was unable to complete the project because he was unable to

return to the United States due to his placement on Defendants' No Fly list.

101. Moreover, Mr. Khalid's employer tasked him with a \$1.5 million project for Delta, requiring Mr. Khalid to travel to meet with representatives in the United States.

102. Mr. Khalid was unable to complete the project because he was unable to return to the United States due to his placement on Defendants' No Fly list.

103. On March 21, 2019, Mr. Khalid's employer offered him a job promotion as a "Business Development Consultant—America" based in their Mexico office.

104. Due to Mr. Khalid's placement on Defendant's No Fly List, Mr. Khalid was unable to travel and was forced to resign his job and forego his promotion.

105. In February 2020, Mr. Khalid received an employment opportunity requiring him to return to the U.S. in April for business meetings. This was a temporary position but could become permanent based on Mr. Khalid's performance.

106. Due to Mr. Khalid's placement on Defendant's No Fly list, Mr. Khalid was unable to travel and lost yet another employment opportunity to support his wife and newborn daughter.

107. Mr. Khalid's current employer did not want him in Pakistan. The company's shareholder agreement states that once Mr. Khalid is state side, 25% of company shares will be transferred to Khalid; Mr. Khalid could not receive this while he remained in Pakistan. With his inability to travel, Mr. Khalid's placement on the No Fly list was preventing him from receiving funds necessary to support his family. In 2022, Mr. Khalid was forced to return to the United States without his family so he would not risk his employment opportunity, his family's primary means of financial support.

108. In addition to the many employment opportunities Mr. Khalid has lost and continues to lose, Mr. Khalid's placement on Defendants' No Fly list and TSDB prohibits him from obtaining any government security clearances required by Mr. Khalid's employers. Thus, Mr. Khalid continues to be prevented from growing his career and obtaining financial security for his family.

109. Moreover, Mr. Khalid risks detention and physical harm as a result of the dissemination of the TSDB and No Fly list to foreign countries.

110. On July 16, 2019, Mr. Khalid's attorneys filed a DHS TRIP application on his behalf via electronic mail. DHS responded, "Due to our current backlog, it is taking a minimum of 8 months to process applications that were not submitted online."

111. Nearly a year later, on April 6, 2020, DHS TRIP emailed Mr. Khalid informing him they had made a final determination of his case. In the same email, a letter dated April 6, 2020, was attached, which confirmed Mr. Khalid was on Defendants' No Fly List.

112. On April 6, 2020, Mr. Khalid's attorneys requested additional information about his placement on Defendants' No Fly List.

113. Nearly two years later, on January 25, 2022, DHS TRIP emailed Mr. Khalid additional information. The letter stated, "You are on the U.S. Government's No Fly list because the U.S. Government continues to have concerns about your association with a known terrorist organization. The information you shared during your March 27, 2012, interview with FBI Special Agents regarding your contacts and activities in Pakistan from 2008 to 2012 did not assuage the U.S. Government's concerns. In particular, the U.S. Government has continuing concerns relating to your candor during this interview."

114. The letter went on to say, “Additional reasons for and details regarding your placement on the U.S. Governments’ No Fly List cannot be provided to you due to law enforcement and national security concerns.”

115. Mr. Khalid’s attorneys appealed the determination within 60 days of the issuance of the DHS TRIP letter, and in accordance with DHS TRIP’s appeal procedures.

116. Mr. Khalid explained that he was a minor at the time he was interrogated by the FBI, that he does not wish to cause harm to the United States, that he has no intentions of engaging in any acts of terrorism, and that he is not aware of any associations with anyone the Government considers a known terrorist.

117. On April 15, 2022, the FBI coerced Mr. Khalid into an FBI interrogation and polygraph, without the consent of his attorneys.

118. FBI agents visited Mr. Khalid at his home and escorted him to the Cincinnati field office for a polygraph. Among the FBI agents present was Special Agent Amy Dalpiaz.

119. When Mr. Khalid refused their request to be hooked up to a polygraph, the FBI claimed that this would be the only way to have his name cleared. They stated that the lawsuit would not have an impact on Mr. Khalid’s No Fly List status. They claimed that they could immediately remove his name from any type of list if he consented to the polygraph.

120. They also claimed that if Mr. Khalid did not consent, they would need to resort to other tactics that may include tapping his electronics, actively surveilling Mr. Khalid, and calling past companies Mr. Khalid worked with, including active business connections and anyone else Mr. Khalid may have been in contact with.

121. Mr. Khalid consented because he believed that compliance would result in the removal of his name from the No Fly List. He further wished to deter the possibility that FBI agents would harass employers and co-workers, which would likely result in the termination of Mr. Khalid's employment.

122. Following some initial questioning, Mr. Khalid asked to go to the restroom. When he was escorted out, the FBI agents asked Mr. Khalid for a debrief. They claimed that there was a large file of Mr. Khalid meeting with individuals who have associations with a known terrorist group.

123. They accused Mr. Khalid of being a threat to national security. One of the agents stated that she would not be able to sleep at night because Mr. Khalid was not consenting to a search of his phone or to sit for a polygraph. The FBI agent asked, "What would I hear in the news in the next couple of days?"

124. Exhausted, Mr. Khalid consented to the search of his phone and the FBI agent became more cordial with Mr. Khalid.

125. FBI agents further interrogated Mr. Khalid about whether his father forced him into doing anything or meeting with individuals that wanted to harm the United States, or whether he was involved in any plans to ruin the United States. Mr. Khalid denied these allegations and the FBI agent responded by claiming that Mr. Khalid's father was a horrible father who should not have put Mr. Khalid through what he did.

126. The FBI agents also interrogated Mr. Khalid about his religious practices, and specifically why he chose not to follow certain tenants within the Islamic faith.

127. The interrogation also included similar questions to those Mr. Khalid was asked while at the U.S. embassy in Karachi.

128. When Mr. Khalid asserted his right to his attorneys, the FBI agents told Mr. Khalid that lawyering up and not cooperating with their investigations would prove that Mr. Khalid had something to hide.

129. The FBI demanded to confiscate Mr. Khalid's cell phone overnight. When he refused, they claimed that he had something to hide.

130. Mr. Khalid left the FBI field office exhausted and shaken.

131. Following the interview, Mr. Khalid learned, from his brother in law and his sister, that Mr. Khalid's estranged mother had met with FBI agents while he was a minor. Mr. Khalid's estranged mother is not Muslim. At the time of the interviews, Mr. Khalid's parents were divorced. Mr. Khalid was residing in Pakistan with his father, his primary caregiver. Though Mr. Khalid's estranged mother had legal custody, she resided in the United States.

132. Mr. Khalid's brother in law and sister informed him that FBI agents met with Mr. Khalid's estranged mother regarding his expired passport because they had concerns about a forged signature. They told Mr. Khalid that his estranged mother relayed to FBI agents that her ex-husband likely forged her signature on Mr. Khalid's passport papers, and that she believed her ex-husband was sending Mr. Khalid to training facilities in Pakistan. She believed so because she claimed Mr. Khalid's father had unusual friends.

133. Mr. Khalid met with his estranged mother and learned that, sometime between 2008 and 2010, she had met with the FBI on several occasions and offered false information about Mr. Khalid while he was a minor. She does not recall what information she offered at the time.

134. Mr. Khalid maintains that the information his estranged mother may have

offered to FBI agents is false. Furthermore, Mr. Khalid and his siblings maintain that his estranged mother has a habit of concocting false stories, and then forgetting what version of the story she shared with each individual.

135. Mr. Khalid believes those meetings between his estranged mother and FBI agents may be a contributing factor to his placement on the No Fly List. However, the U.S. government has yet to confirm the basis for the placement, other than offering vague information about potential associations Mr. Khalid may have.

136. In an email sent to Plaintiff's counsel on June 28, 2022, Mr. Khalid's mother admitted that at the time she "was pressuring him to stay" for education-related reasons. Mr. Khalid's mother "remember[s] discussing his situation of being pressured and expressed that I wanted him to stay not knowing what he was returning to" but has "no idea what I may have said or what may have been misinterpreted by the agents that is now the result that Saad is on the No Fly List and is unable to see the birth of his son and be certain of the health of his now pregnant wife and little daughter." Mr. Khalid's mother further elaborated that she knew nothing of relevance about any of Mr. Khalid's father's friends or associates during the time of the FBI interrogations.

137. Upon information and belief, as explained above, Plaintiff's placement on the watchlist was caused by what Mr. Khalid's estranged mother had said to the FBI in 2012.

138. Upon information and belief, because the FBI relied on false or misinterpreted statements made by Mr. Khalid's estranged mother, who had no knowledge of any connection Plaintiff had with terrorism (because no such connection existed), the FBI's placement of Plaintiff on the watchlist was legally and factually erroneous.

139. Upon information and belief, it was improper for the FBI to rely on whatever statements Mr. Khalid's estranged mother said to the FBI when those statements were clearly

made by someone who was desperate to keep her son in the United States during a custody dispute.

140. On June 9, 2022, TSA responded with a Notice of Final Order and Decision. TSA Administrator Pecoske stated, “Based on my review of information available to the Transportation Security Administration, I have determined that you are properly included on the U.S. Government’s No Fly List.”

141. In particular, Pecoske stated, “I find that Mr. Khalid may be a threat to civil aviation or national security; in particular, I find that he is an individual who represents a threat of engaging in or conducting a violation act of terrorism and who is operationally capable of doing so.” At no point did TSA provide any detail or evidence to corroborate their assertion that Mr. Khalid is a capable of acts of terrorism.

142. In fact, TSA’s final determination letter is solely backed by a vague assertion that Mr. Khalid is a terrorist, without any detail whatsoever. TSA states, “These conclusions do not constitute the entire basis of my decision. I am unable to provide additional information in this Notice of Final Order and Decision...”

143. On August 13, 2019, Mr. Khalid filed an I-130 Petition for Alien Relative on behalf of his wife. Upon information and belief, as a result of his status on the TSDB and No Fly List, Mr. Khalid’s I-130 immigration application will be significantly, if not permanently, delayed. It was not until June 25, 2022, nearly two years later, that Mr.

Khalid and his wife received confirmation from the National Visa Center that the case was documentarily qualified. Mr. Khalid and his wife are still awaiting an interview at the U.S. Embassy/Consulate General in Islamabad, Pakistan.

144. Upon information and belief, when Mr. Khalid applies for immigration benefits for his daughter and son, their applications will be similarly delayed because of his designation on the federal watchlist and his placement on the No Fly List.

145. Mr. Khalid's inability to bring his wife and children to the United States means that he will have to decide whether to return in Pakistan, where he is unable to support his family long-term due to a lack of a job opportunities and financial stability, or forcibly separate from his family by remaining to the United States.

146. Upon information and belief, according to the watchlisting guidance, because Mr. Khalid is on the No Fly List, his son will also be placed on the watchlist as a matter of course.

147. Due to the increased financial strain caused by Mr. Khalid's watchlist status and No Fly List, and because it is unlikely his immigration petitions will be processed, Mr. Khalid was forced to return to the United States without his family in order to provide financial support for them.

148. On June 15, Mr. Khalid's attorneys requested permission from the U.S. Government to have Mr. Khalid temporarily return to Pakistan so he may attend the birth of his son. Upon information and belief, the U.S. Government will deny Mr. Khalid the ability to see his new son and support his wife during her labor.

149. Mr. Khalid's only option may be to drive across the border to an airport Mexico, during which he will surely be subjected to enhanced screenings and interrogations.

150. Upon information and belief, the U.S. Government will deny Mr. Khalid

the right to return to his home in the United States, leaving him stranded abroad once again.

151. Even if the U.S. Government approves Mr. Khalid's ability to travel for the birth of his son, his expedited passport renewal application is currently delayed (and may be permanently delayed), due to, upon information and belief, his status on the No Fly List. The State Department received Mr. Khalid's expedited passport renewal application on April 21, 2022. According to their website, processing times for expedited passport renewal applications range from five to seven weeks. Mr. Khalid has waited approximately nine weeks for the processing of his expedited passport renewal application. He has not received a decision.

152. Upon information and belief, Mr. Khalid remains on the TSDB and the No Fly List.

**COUNT I**  
**VIOLATION OF THE FIFTH**  
**AMENDMENT (PROCEDURAL DUE**  
**PROCESS)**

**28 U.S.C. § 1331 and 5 U.S.C. § 702**

153. Plaintiff realleges and incorporates the allegations throughout this Complaint.

154. Defendants' placement of Plaintiff on the No Fly List has interfered with and unreasonably burdened Plaintiff's ability to travel domestically and internationally and to return to the United States.

155. Plaintiff has a protected liberty interest in traveling domestically and internationally to, from, within, or over U.S. airspace free from unreasonable burdens.

156. Plaintiff only learned he was placed on the federal terrorist watchlist after being added on the watchlist and suffering harm as a result.

157. Defendants' actions as described above in refusing to provide Plaintiff any notice of his placement deprived Plaintiff of constitutionally protected liberty interests.

158. Plaintiff was denied boarding on commercial flights, promptly sought to challenge his placement on the No Fly List and is entitled to a constitutionally adequate Legal process that provides him notice of the reason and bases for his placement on the No Fly List and a meaningful opportunity to contest that placement. Defendants have deprived Plaintiff of a meaningful opportunity to contest that placement. Defendants have deprived Plaintiff of a meaningful opportunity to challenge his placement on the No Fly List through their unreasonable delay and failure to provide Plaintiff with (i) a full statement of the reason or bases on which Defendants relied to place and maintain him on the No Fly List; (ii) the evidence supporting that placement; (iii) any exculpatory evidence Defendants possess; (iv) the opportunity to challenge his placement through a live hearing before a neutral decisionmaker; and (v) other procedures as Due Process may require.

159. As described above, Plaintiff has experienced economic, reputational, and liberty harms due to his placement on the No Fly List.

160. The stigma caused by Plaintiff being placed on the watchlist has caused Plaintiff injuries in the form of lost jobs and business opportunities, injury to social and familial relationships, and delay to the immigration status of family members.

161. Plaintiff has the right to be free from false governmental stigmatization as an individual who is “known or suspected to be” a terrorist, or who is otherwise associated with terrorist activity. Defendants have officially imposed on Plaintiff the stigmatizing label of “known or suspected terrorists” without a constitutionally adequate legal mechanism for doing so.

162. By failing to provide Plaintiff with a constitutionally adequate means to challenge placement on the No Fly List, Defendants have deprived Plaintiff of his

protected liberty interests, and thus have violated Plaintiff's constitutional rights without affording him due process of law. Defendants will continue to do so if Plaintiff is not afforded the relief requested below.

163. Plaintiff is entitled to declaratory relief that Defendant's actions constitute willful, intentional, and unlawful violations of the Fifth Amendment to the U.S. Constitution.

WHEREFORE, Plaintiff requests this Honorable Court grant relief in the form described in the Prayer for Relief below, plus all such other relief this Honorable Court deems just and proper, including costs and attorneys' fees incurred in this action.

**COUNT II**  
**VIOLATION OF THE FIFTH**  
**AMENDMENT (SUBSTANTIVE DUE**  
**PROCESS)**

**28 U.S.C. § 1331 and 5 U.S.C. § 702**

164. The foregoing allegations are realleged and incorporated herein.

165. Substantive due process protects Americans' freedom from government action which infringes upon their fundamental constitutional rights. Government action which fringes upon these rights cannot be arbitrary and must be narrowly tailored to serve a compelling government interest.

166. Plaintiff has constitutionally protected liberty interests in travel and freedom from government-imposed stigma.

167. Defendants' conduct in placing and maintaining Plaintiff on the watchlist, without there being any reasonable suspicion that Plaintiff is a known, suspected, or potential terrorist, violates Plaintiff's right to substantive due process under the Fifth Amendment to the U.S. Constitution.

168. Defendants lack a compelling government interest in placing innocent persons, such as Plaintiff with no prior terrorism related criminal record and no probable cause for suspicion of terrorism related crimes, on the federal terrorist watchlist.

169. Defendants have thus violated Plaintiff's constitutional rights without affording him due process of law. Defendants will continue to do so into the future if Plaintiff is not afforded the relief demanded below.

170. Plaintiff is entitled to declaratory relief that Defendant's actions constitute willful, intentional, and unlawful violations of the Fifth Amendment to the U.S. Constitution.

WHEREFORE, Plaintiff requests this Honorable Court grant relief in the form described in the Prayer for Relief below, plus all such other relief this Honorable Court deems just and proper, including costs and attorneys' fees incurred in this action.

**COUNT III**  
**VIOLATION OF THE ADMINISTRATIVE PROCEDURE**  
**ACT 5 U.S.C. §§ 702, 706**  
**28 U.S.C. § 1331 and 5 U.S.C. § 702**

171. The foregoing allegations are realleged and incorporated herein.

172. Defendants' actions in placing Plaintiff on the No Fly List, officially imposing on Plaintiff the stigmatizing label of "known or suspected terrorist" and providing no constitutionally adequate avenue for redress are arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law, and contrary to constitutional rights, power, privilege, or immunity, and should be set aside as unlawful pursuant to 5 U.S.C. § 706.

173. Defendants have failed to provide Plaintiff with notice of the reasons for his placement on the No Fly List and has failed to provide a meaningful opportunity

for Plaintiff to contest his continued inclusion on the federal terrorist watchlist. Defendants' action is arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law, and contrary to constitutional rights, power, privilege, or immunity, and should be set aside as unlawful pursuant to 5 U.S.C. § 706.

174. Plaintiff is neither a known nor appropriately suspected terrorist, thus Defendants' conduct in placing him on the No Fly List is arbitrary, capricious, an abuse of discretion, otherwise not in accordance with the law, and contrary to constitutional rights and should be set aside as unlawful pursuant to 5 U.S.C. § 706.

175. Plaintiff is entitled to declaratory relief that Defendant's actions constitute willful, intentional, and unlawful violations of 5 U.S.C. § 706.

WHEREFORE, Plaintiff requests this Honorable Court grant relief in the form described in the Prayer for Relief below, plus all such other relief this Honorable Court deems just and proper, including costs and attorneys' fees incurred in this action.

**COUNT IV**  
**VIOLATION OF THE RELIGIOUS FREEDOM RESTORATION**  
**ACT**

**42. U.S.C. § 2000bb *et seq.***

**28 U.S.C. § 1331 and 42 U.S.C. § 2000bb(c)**

176. Plaintiff holds a sincere religious belief that he must perform Hajj, a pilgrimage to Mecca, Saudi Arabia, in accordance with the tenets of his Muslim faith. Defendants' conduct in placing Plaintiff on the No Fly List substantially burdens his religious exercise because it bans him from international travel for his religious purpose.

177. Under RFRA Defendants cannot impose a substantial burden on Plaintiff's exercise of religion unless they can establish that the burden is the least

restrictive means of furthering a compelling government interest.

178. Defendants have no compelling interest in burdening Plaintiff's right to perform Hajj because Plaintiff is neither a known nor appropriately suspected terrorist and poses no threat to aviation security.

179. As a result of Defendants' actions, Plaintiff suffers injury to his fundamental religious exercise rights protected by RFRA and will continue to suffer injury absent the relief requested below.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgement in his favor and against Defendants, on each and every count in this Complaint, and enter an Order awarding the following relief:

1. A declaratory judgment that Defendants have violated Plaintiff's rights under the Fifth Amendment to the United States Constitution, and the Administrative Procedure Act.
2. An injunction that:
  - A. requires Defendants to remedy the constitutional and statutory violations identified above, including the removal of Plaintiff from any watchlist or database that burdens or prevents him from flying or entering the United States across the border;
  - B. enjoins Defendants from re-adding Plaintiff to the No Fly List on any future date based on the same reasons and evidence on which Plaintiff's placement is currently based;
  - C. enjoins Defendants, their officers, agents, servants, employees,

and attorneys, and those persons in active concert or participation with them, from applying the No Fly List criteria to Plaintiff; and

D. requires Defendants to provide Plaintiff with a legal mechanism that affords him notice of the reasons and bases for his placement on the federal terrorist watchlist and a meaningful opportunity to contest his continued inclusion;

3. An award of attorneys' fees, costs, and expenses of all litigation; and,
4. Any further relief to which Plaintiff is entitled or that this Honorable Court deems just and proper.

CAIR LEGAL DEFENSE FUND

BY: /s/ Lena F. Masri

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Dated: June 29, 2022