

# 14-1688-

# CV

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IN THE  
**United States Court of Appeals**  
FOR THE THIRD CIRCUIT

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**SYED FARHAJ HASSAN, THE COUNCIL OF IMAMS IN NEW JERSEY, MUSLIM STUDENTS ASSOCIATION OF THE U.S. AND CANADA, INC., ALL BODY SHOP INSIDE & OUTSIDE, UNITY BEEF SAUSAGE COMPANY, MUSLIM FOUNDATION INC., MOIZ MOHAMMED, JANE DOE, SOOFIA TAHIR, ZAIMAH ABDUR-RAHIM, AND ABDUL-HAKIM ABDULLAH,**

*Appellants,*

—against—

**THE CITY OF NEW YORK**

*Appellee.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY, NO. 2:12-CV-3401  
BEFORE THE HONORABLE WILLIAM J. MARTINI

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**JOINT APPENDIX  
VOLUME I OF II  
(PAGES JA-1 TO JA-53)**

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APPEAL,CLOSED

**U.S. District Court**  
**District of New Jersey [LIVE] (Newark)**  
**CIVIL DOCKET FOR CASE #: 2:12-cv-03401-WJM-MF**

HASSAN et al v. THE CITY OF NEW YORK  
Assigned to: Judge William J. Martini  
Referred to: Magistrate Judge Mark Falk  
Case in other court: Third Circuit, 14-01688  
Cause: 42:1983 Civil Rights Act

Date Filed: 06/06/2012  
Date Terminated: 02/20/2014  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Movant****GINA ROMANO**

represented by **GINA ROMANO**  
143 ROEBLING ST.  
BROOKLYN, NY  
PRO SE

**Plaintiff****SYED FARHAJ HASSAN**

represented by **BAHER AZMY**  
CENTER FOR CONSTITUTIONAL  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**RAVINDER S. BHALLA**  
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(201) 610-9010  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff****THE COUNCIL OF IMAMS IN NEW  
JERSEY**

represented by **BAHER AZMY**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**JA-1**

**RAVINDER S. BHALLA**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**MUSLIM STUDENTS ASSOCIATION  
OF THE U.S. AND CANADA, INC.**

represented by **BAHER AZMY**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**RAVINDER S. BHALLA**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**ALL BODY SHOP INSIDE &  
OUTSIDE**

represented by **BAHER AZMY**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**RAVINDER S. BHALLA**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**UNITY BEEF SAUSAGE COMPANY**

represented by **BAHER AZMY**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**RAVINDER S. BHALLA**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**MUSLIM FOUNDATION INC.**

represented by **BAHER AZMY**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**RAVINDER S. BHALLA**  
(See above for address)

*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**MOIZ MOHAMMED**

represented by **BAHER AZMY**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**RAVINDER S. BHALLA**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**JANE DOE**

represented by **BAHER AZMY**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**RAVINDER S. BHALLA**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**SOOFIA TAHIR**

represented by **BAHER AZMY**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**RAVINDER S. BHALLA**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**ZAIMAH ABDUR-RAHIM**

represented by **BAHER AZMY**  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**RAVINDER S. BHALLA**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**ABDUL-HAKIM ABDULLAH**represented by **BAHER AZMY**

(See above for address)

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED***RAVINDER S. BHALLA**

(See above for address)

*ATTORNEY TO BE NOTICED*

V.

**Defendant****THE CITY OF NEW YORK**represented by **PETER G. FARRELL**

NEW YORK CITY LAW DEPARTMENT

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*LEAD ATTORNEY**ATTORNEY TO BE NOTICED*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
06/06/2012	<a href="#">1</a>	COMPLAINT against THE CITY OF NEW YORK (Filing fee \$ 350) with JURY DEMAND, filed by MUSLIM FOUNDATION INC., THE COUNCIL OF IMAMS IN NEW JERSEY, ALL BODY SHOP INSIDE & OUTSIDE, UNITY BEEF SAUSAGE COMPANY, JANE DOE, SYED FARHAJ HASSAN, MOIZ MOHAMMED, MUSLIM STUDENTS ASSOCIATION OF THE U.S. AND CANADA, INC.. (Attachments: # <a href="#">1</a> Supplement, # <a href="#">2</a> Civil Cover Sheet)(ld, ) (Entered: 06/07/2012)
06/06/2012	<a href="#">2</a>	Corporate Disclosure Statement by ALL BODY SHOP INSIDE & OUTSIDE, MUSLIM FOUNDATION INC., MUSLIM STUDENTS ASSOCIATION OF THE U.S. AND CANADA, INC., THE COUNCIL OF IMAMS IN NEW JERSEY, UNITY BEEF SAUSAGE COMPANY identifying NONE as Corporate Parent.. (ld, ) (Entered: 06/07/2012)
06/07/2012	<a href="#">3</a>	SUMMONS ISSUED as to THE CITY OF NEW YORK Attached is the official court Summons, please fill out Defendant and Plaintiffs attorney information and serve. Issued By *LEROY DUNBAR* (ld, ) (Entered: 06/07/2012)
06/11/2012	<a href="#">4</a>	APPLICATION/MOTION to Intervene as Pltf. by GINA ROMANO. (sr, ) (Entered: 06/11/2012)
06/28/2012	<a href="#">5</a>	MOTION for Leave to Appear Pro Hac Vice by ALL BODY SHOP INSIDE & OUTSIDE, SYED FARHAJ HASSAN, JANE DOE, MOIZ MOHAMMED, MUSLIM FOUNDATION INC., MUSLIM STUDENTS ASSOCIATION OF THE U.S. AND CANADA, INC.. (Attachments: # <a href="#">1</a> Motion, # <a href="#">2</a> Certification of Glenn Katon, # <a href="#">3</a>

**JA-4**

		Certification of Farhana Khan, # <a href="#">4</a> Certification of Ravinder S. Bhalla, # <a href="#">5</a> Text of Proposed Order)(BHALLA, RAVINDER) (Entered: 06/28/2012)
06/28/2012		Set Deadline as to <a href="#">5</a> MOTION for Leave to Appear Pro Hac Vice . Motion set for 8/6/2012 before Judge Susan D. Wigenton. The motion will be decided on the papers. No appearances required unless notified by the court. (sr, ) (Entered: 06/28/2012)
07/19/2012	<a href="#">6</a>	RESPONSE in Opposition filed by ALL BODY SHOP INSIDE & OUTSIDE, SYED FARHAJ HASSAN, JANE DOE, MOIZ MOHAMMED, MUSLIM FOUNDATION INC., MUSLIM STUDENTS ASSOCIATION OF THE U.S. AND CANADA, INC. re <a href="#">5</a> MOTION for Leave to Appear Pro Hac Vice <i>Corrected: Motion to Intervene</i> (Attachments: # <a href="#">1</a> Text of Proposed Order)(BHALLA, RAVINDER) (Entered: 07/19/2012)
07/31/2012	<a href="#">7</a>	ORDER granting <a href="#">5</a> Motion for Leave to Appear Pro Hac Vice re: Glenn Katon & Farhana Khera. Signed by Magistrate Judge Madeline C. Arleo on 7/30/12. (sr, ) (Entered: 07/31/2012)
08/14/2012		Pro Hac Vice fee: \$ 300, receipt number NEW014337 Re: Farhana Khera & Glenn Katon. (sr, ) (Entered: 08/14/2012)
08/28/2012	<a href="#">8</a>	NOTICE of Appearance by RAVINDER S. BHALLA on behalf of All Plaintiffs (BHALLA, RAVINDER) (Entered: 08/28/2012)
09/20/2012	<a href="#">9</a>	Request for Summons to be Issued by MUSLIM FOUNDATION INC., ALL BODY SHOP INSIDE & OUTSIDE, JANE DOE, SYED FARHAJ HASSAN, MOIZ MOHAMMED, MUSLIM STUDENTS ASSOCIATION OF THE U.S. AND CANADA, INC. as to All Plaintiffs. (BHALLA, RAVINDER) (Entered: 09/20/2012)
10/03/2012	<a href="#">10</a>	AMENDED COMPLAINT against THE CITY OF NEW YORK, filed by MUSLIM FOUNDATION INC., THE COUNCIL OF IMAMS IN NEW JERSEY, ALL BODY SHOP INSIDE & OUTSIDE, UNITY BEEF SAUSAGE COMPANY, JANE DOE, SYED FARHAJ HASSAN, MOIZ MOHAMMED, MUSLIM STUDENTS ASSOCIATION OF THE U.S. AND CANADA, INC., SOOFIA TAHIR, ZAIMAH ABDUR-RAHIM, ABDUL-HAKIM ABDULLAH.(BHALLA, RAVINDER) (Entered: 10/03/2012)
10/17/2012	<a href="#">11</a>	AFFIDAVIT of Service for Summons, Amended Complaint served on City of New York on 10/4/12, filed by ABDUL-HAKIM ABDULLAH, ZAIMAH ABDUR-RAHIM, ALL BODY SHOP INSIDE & OUTSIDE, SYED FARHAJ HASSAN, JANE DOE, MOIZ MOHAMMED, MUSLIM FOUNDATION INC., MUSLIM STUDENTS ASSOCIATION OF THE U.S. AND CANADA, INC., SOOFIA TAHIR, THE COUNCIL OF IMAMS IN NEW JERSEY, UNITY BEEF SAUSAGE COMPANY. (BHALLA, RAVINDER) (Entered: 10/17/2012)
10/19/2012		Answer Due Deadline Update - RE: <a href="#">11</a> Affidavit of Service as to THE CITY OF NEW YORK. The answer due date has been set for 10/25/12. (sr, ) (Entered: 10/19/2012)
10/22/2012	<a href="#">12</a>	Application and Proposed Order for Clerk's Order to extend time to answer Attorney PETER G. FARRELL for THE CITY OF NEW YORK added. (FARRELL, PETER) (Entered: 10/22/2012)



10/23/2012		Clerk`s Text Order - The document <a href="#">12</a> Application for Clerk's Order to Ext Answer/Proposed Order submitted by THE CITY OF NEW YORK has been GRANTED. The answer due date has been set for 11/8/12. (sr, ) (Entered: 10/23/2012)
11/06/2012	<a href="#">13</a>	MOTION for Extension of Time to File Answer by THE CITY OF NEW YORK. (FARRELL, PETER) (Entered: 11/06/2012)
11/07/2012	<a href="#">14</a>	ORDER extending defts time to answer amended complaint until 12/6/12. Signed by Judge Susan D. Wigenton on 11/7/12. (sr, ) (Entered: 11/08/2012)
12/06/2012	<a href="#">15</a>	MOTION to Dismiss <i>First Amended Complaint pursuant to FRCP 12(b)(6) and 12(b)(1)</i> by THE CITY OF NEW YORK. Responses due by 12/26/2012 (Attachments: # <a href="#">1</a> Brief in Support of Motion To Dismiss, # <a href="#">2</a> Declaration of Peter G. Farrell with Exhibits, # <a href="#">3</a> Text of Proposed Order, # <a href="#">4</a> Certificate of Service)(FARRELL, PETER) (Entered: 12/06/2012)
12/07/2012		Set Deadline as to <a href="#">15</a> MOTION to Dismiss <i>First Amended Complaint pursuant to FRCP 12(b)(6) and 12(b)(1)</i> . Motion set for 1/7/2013 before Judge Susan D. Wigenton. The motion will be decided on the papers. No appearances required unless notified by the court. (sr, ) (Entered: 12/07/2012)
12/18/2012	<a href="#">16</a>	Letter re <a href="#">15</a> MOTION to Dismiss <i>First Amended Complaint pursuant to FRCP 12(b)(6) and 12(b)(1)</i> . (BHALLA, RAVINDER) (Entered: 12/18/2012)
12/27/2012	17	TEXT ORDER granting <a href="#">16</a> letter request. Ordered by Judge Susan D. Wigenton on 12/27/12. (ak, ) (Entered: 12/27/2012)
12/31/2012	<a href="#">18</a>	NOTICE of Appearance by BAHER AZMY on behalf of All Plaintiffs (AZMY, BAHER) (Entered: 12/31/2012)
01/04/2013	<a href="#">19</a>	Notice of Request by Pro Hac Vice Glenn Katon to receive Notices of Electronic Filings. (BHALLA, RAVINDER) (Entered: 01/04/2013)
01/04/2013	<a href="#">20</a>	Notice of Request by Pro Hac Vice Farhana Khera to receive Notices of Electronic Filings. (BHALLA, RAVINDER) (Entered: 01/04/2013)
01/25/2013	<a href="#">21</a>	MOTION for Leave to Appear Pro Hac Vice by ABDUL-HAKIM ABDULLAH, ZAIMAH ABDUR-RAHIM, ALL BODY SHOP INSIDE & OUTSIDE, SYED FARHAJ HASSAN, JANE DOE, MOIZ MOHAMMED, MUSLIM FOUNDATION INC., MUSLIM STUDENTS ASSOCIATION OF THE U.S. AND CANADA, INC., SOOFIA TAHIR, THE COUNCIL OF IMAMS IN NEW JERSEY, UNITY BEEF SAUSAGE COMPANY. (Attachments: # <a href="#">1</a> Certification Azmy Cert in Support of Pro Hac Appearances, # <a href="#">2</a> Certification Farah Cert in Support of Pro Hac Appearance, # <a href="#">3</a> Certification Schwarz Cert in Support of Pro Hac Apperance)(AZMY, BAHER) (Entered: 01/25/2013)
01/25/2013	<a href="#">22</a>	BRIEF in Opposition filed by ABDUL-HAKIM ABDULLAH, ZAIMAH ABDUR-RAHIM, ALL BODY SHOP INSIDE & OUTSIDE, SYED FARHAJ HASSAN, JANE DOE, MOIZ MOHAMMED, MUSLIM FOUNDATION INC., MUSLIM STUDENTS ASSOCIATION OF THE U.S. AND CANADA, INC., SOOFIA TAHIR, THE COUNCIL OF IMAMS IN NEW JERSEY, UNITY BEEF SAUSAGE COMPANY re <a href="#">15</a> MOTION to Dismiss <i>First Amended Complaint pursuant to FRCP 12(b)(6) and</i>

		<i>12(b)(1)</i> (Attachments: # <a href="#">1</a> Declaration Decl. of Glenn Katon, Esq., # <a href="#">2</a> Exhibit Exhibit A, # <a href="#">3</a> Exhibit Exhibit B, # <a href="#">4</a> Exhibit Exhibit C, # <a href="#">5</a> Exhibit Exhibit D, # <a href="#">6</a> Exhibit Exhibit E, # <a href="#">7</a> Exhibit Exhibit F)(AZMY, BAHER) (Entered: 01/25/2013)
01/25/2013		CLERK'S TEXT NOTE - DOCKET ENTRY NO. 21 WAS SUBMITTED IN ERROR. PLEASE DISREGARD. (dc, ) (Entered: 01/28/2013)
01/28/2013	<a href="#">23</a>	MOTION for Leave to Appear Pro Hac Vice by ABDUL-HAKIM ABDULLAH, ZAIMAH ABDUR-RAHIM, ALL BODY SHOP INSIDE & OUTSIDE, SYED FARHAJ HASSAN, JANE DOE, MOIZ MOHAMMED, MUSLIM FOUNDATION INC., MUSLIM STUDENTS ASSOCIATION OF THE U.S. AND CANADA, INC., SOOFIA TAHIR, THE COUNCIL OF IMAMS IN NEW JERSEY, UNITY BEEF SAUSAGE COMPANY. (Attachments: # <a href="#">1</a> Certification Azmy Cert in Support of Pro Hac Appearances, # <a href="#">2</a> Certification Farah Cert in Support of Pro Hac Appearance, # <a href="#">3</a> Certification Schwarz Cert in Support of Pro Hac Appearance, # <a href="#">4</a> Text of Proposed Order Proposed Order Re Farah & Schwarz Pro Hac Appearance)(AZMY, BAHER) (Entered: 01/28/2013)
01/30/2013		Set Deadline as to <a href="#">23</a> MOTION for Leave to Appear Pro Hac Vice . Motion set for 3/4/2013 before Judge Susan D. Wigenton. The motion will be decided on the papers. No appearances required unless notified by the court. (sr, ) (Entered: 01/30/2013)
01/31/2013	<a href="#">24</a>	ORDER granting <a href="#">23</a> Motion for Leave to Appear Pro Hac Vice RE: Omar Farah & Ghita Schwarz. Signed by Magistrate Judge Madeline C. Arleo on 1/30/13. (sr, ) (Entered: 01/31/2013)
02/11/2013	<a href="#">25</a>	MOTION for Extension of Time to File Response/Reply <i>on Defendant's Motion to Dismiss the First Amended Complaint</i> by THE CITY OF NEW YORK. (FARRELL, PETER) (Entered: 02/11/2013)
02/11/2013	<a href="#">26</a>	ORDER granting an extension of time for the City of NY to submit reply on its' Motion to Dismiss the Amended Complaint until 2/22/13. Signed by Judge Susan D. Wigenton on 2/11/13. (sr, ) (Entered: 02/13/2013)
02/13/2013	<a href="#">27</a>	Mail Returned as Undeliverable. Mail sent to Gina Romano (sr, ) (Entered: 02/13/2013)
02/19/2013	<a href="#">28</a>	Notice of Request by Pro Hac Vice Ghita Schwarz to receive Notices of Electronic Filings. ( Pro Hac Vice fee \$ 150 receipt number 0312-4837914.) (AZMY, BAHER) (Entered: 02/19/2013)
02/19/2013	<a href="#">29</a>	Notice of Request by Pro Hac Vice Omar A. Farah to receive Notices of Electronic Filings. ( Pro Hac Vice fee \$ 150 receipt number 0312-4837986.) (AZMY, BAHER) (Entered: 02/19/2013)
02/19/2013	<a href="#">30</a>	ORDER permitting deft City of NY an extension of time to submit reply Re: Motion to Dismiss until 2/22/13. Signed by Judge Susan D. Wigenton on 2/19/13. (sr, ) (Entered: 02/21/2013)
02/22/2013	<a href="#">31</a>	Consent MOTION for Extension of Time to File Response/Reply <i>Brief on Defendant's Motion to Dismiss</i> , Consent MOTION for Leave to File Excess Pages <i>on Reply Brief</i> by THE CITY OF NEW YORK. (FARRELL, PETER) (Entered: 02/22/2013)

02/22/2013	<a href="#">32</a>	ORDER granting the City of NY's request for an an extension of time to submit a reply on its' motion to dismiss until 2/22/13. Signed by Magistrate Judge Madeline C. Arleo on 2/20/13. (sr, ) (Entered: 02/22/2013)
02/22/2013	<a href="#">33</a>	TEXT ORDER re <a href="#">31</a> Consent MOTION for Extension of Time to File Response/Reply Brief on Defendant's Motion to Dismiss Consent MOTION for Leave to File Excess Pages on Reply Brief filed by THE CITY OF NEW YORK; is hereby GRANTED.ORDERED by Judge Susan D. Wigenton on 2/22/13. (cds, ) (Entered: 02/22/2013)
02/25/2013	<a href="#">34</a>	REPLY BRIEF to Opposition to Motion filed by THE CITY OF NEW YORK re <a href="#">15</a> MOTION to Dismiss <i>First Amended Complaint pursuant to FRCP 12(b)(6) and 12(b)(1)</i> (FARRELL, PETER) (Entered: 02/25/2013)
02/26/2013	<a href="#">35</a>	Mail Returned as Undeliverable. Mail sent to Gina Romano (sr, ) (Entered: 02/26/2013)
04/22/2013	<a href="#">36</a>	ORDER REASSIGNING CASE. Case reassigned to Judge William J. Martini and Magistrate Judge Mark Falk for all further proceedings. Judge Susan D. Wigenton, Magistrate Judge Madeline C. Arleo no longer assigned to case. Signed by Chief Judge Jerome B. Simandle on 4/22/13. (ak, ) (Entered: 04/23/2013)
05/23/2013	<a href="#">37</a>	Letter from Baher Azmy to Judge Martini. (AZMY, BAHER) (Entered: 05/23/2013)
05/30/2013	<a href="#">38</a>	Letter from B. Azmy Regarding Supplemental Authority. (AZMY, BAHER) (Entered: 05/30/2013)
08/09/2013	<a href="#">39</a>	Letter from Baher Azmy, Esq., counsel for Plaintiffs. (AZMY, BAHER) (Entered: 08/09/2013)
02/20/2014	<a href="#">40</a>	OPINION. Signed by Judge William J. Martini on 2/20/14. (gh, ) (Entered: 02/20/2014)
02/20/2014	<a href="#">41</a>	ORDER granting <a href="#">15</a> Motion to Dismiss ***CIVIL CASE TERMINATED. Signed by Judge William J. Martini on 2/20/14. (gh, ) (Entered: 02/20/2014)
03/21/2014	<a href="#">42</a>	NOTICE OF APPEAL as to <a href="#">40</a> Opinion, <a href="#">41</a> Order on Motion to Dismiss by ABDUL-HAKIM ABDULLAH, ZAIMAH ABDUR-RAHIM, ALL BODY SHOP INSIDE & OUTSIDE, SYED FARHAJ HASSAN, JANE DOE, MOIZ MOHAMMED, MUSLIM FOUNDATION INC., MUSLIM STUDENTS ASSOCIATION OF THE U.S. AND CANADA, INC., SOOFIA TAHIR, THE COUNCIL OF IMAMS IN NEW JERSEY, UNITY BEEF SAUSAGE COMPANY. Filing fee \$ 505, receipt number 0312-5575520. The Clerk's Office hereby certifies the record and the docket sheet available through ECF to be the certified list in lieu of the record and/or the certified copy of the docket entries. (AZMY, BAHER) (Entered: 03/21/2014)
03/24/2014	<a href="#">43</a>	USCA Case Number 14-1688 for <a href="#">42</a> Notice of Appeal (USCA) filed by ALL BODY SHOP INSIDE & OUTSIDE, ABDUL-HAKIM ABDULLAH, ZAIMAH ABDUR-RAHIM, MUSLIM FOUNDATION INC., UNITY BEEF SAUSAGE COMPANY, MOIZ MOHAMMED, THE COUNCIL OF IMAMS IN NEW JERSEY, MUSLIM STUDENTS ASSOCIATION OF THE U.S. AND CANADA, INC., SYED FARHAJ HASSAN, JANE DOE, SOOFIA TAHIR. USCA Case Manager Tina (Document Restricted - Court Only)(ca3tmk) (Entered: 03/24/2014)

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

_____	x	
	:	
SYED FARHAJ HASSAN, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Civ. No. 2:12-3401 (WJM)
	:	
THE CITY OF NEW YORK,	:	
	:	
Defendant.	:	
_____	x	

**NOTICE OF APPEAL**

Notice is hereby given that Plaintiffs Syed Farhaj Hassan, The Council of Imams in New Jersey, Muslim Students Association of the U.S. and Canada, Inc., All Body Shop Inside & Outside, Unity Beef Sausage Company, Muslim Foundation Inc., Moiz Mohammed, Jane Doe, Soofia Tahir, Zaimah Abdur-Rahim, and Abdul-Hakim Abdullah appeal to the United States Court of Appeals for the Third Circuit from the Final Judgment entered in the above-captioned matter on February 20, 2014, by the United States District Court, District of New Jersey (Dkt. No. 41), dismissing Plaintiffs’ claims against Defendant City of New York under the First and Fourteenth Amendments to the U.S. Constitution, and at common law for expungement of records.

Dated: March 22, 2014  
New York, New York

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By: /s/Baher Azmy  
Baher Azmy

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*Attorneys for Plaintiffs*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

**SYED FARHAJ HASSAN; THE  
COUNCIL OF IMAMS IN NEW JERSEY;  
MUSLIM STUDENTS ASSOCIATION OF  
THE U.S. AND CANADA, INC.; ALL  
BODY SHOP INSIDE & OUTSIDE;  
UNITY BEEF SAUSAGE COMPANY;  
MUSLIM FOUNDATION, INC.; MOIZ  
MOHAMMED; JANE DOE; SOOFIA  
TAHIR; ZAIMAH ABDUR-RAHIM; and  
ABDUL-HAKIM ABDULLAH,**

**Plaintiffs,**

**v.**

**THE CITY OF NEW YORK,**

**Defendant.**

Civ. No. 2:12-3401 (WJM)

**ORDER**

**THIS MATTER** comes before the Court on the Defendant's motion to dismiss the Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(1) and Fed. R. Civ. P. 12(b)(6). For the reasons set forth in the accompanying opinion,

**IT IS** on this 20th day of February 2014, hereby,

**ORDERED** that Defendants' motion to dismiss the Amended Complaint is hereby **GRANTED**; and it is further

**ORDERED** that the Amended Complaint is hereby **DISMISSED WITH PREJUDICE**.

/s/ William J. Martini

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**WILLIAM J. MARTINI, U.S.D.J.**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**SYED FARHAJ HASSAN; THE  
COUNCIL OF IMAMS IN NEW JERSEY;  
MUSLIM STUDENTS ASSOCIATION OF  
THE U.S. AND CANADA, INC.; ALL  
BODY SHOP INSIDE & OUTSIDE;  
UNITY BEEF SAUSAGE COMPANY;  
MUSLIM FOUNDATION, INC.; MOIZ  
MOHAMMED; JANE DOE; SOOFIA  
TAHIR; ZAIMAH ABDUR-RAHIM; and  
ABDUL-HAKIM ABDULLAH,**

**Plaintiffs,**

**v.**

**THE CITY OF NEW YORK,**

**Defendant.**

Civ. No. 2:12-3401 (WJM)

**OPINION**

**WILLIAM J. MARTINI, U.S.D.J.:**

This case involves the New York City Police Department’s surveillance of the Muslim community in New Jersey following the attacks of September 11, 2001. Plaintiffs are six Muslim individuals, two organizations that operate mosques, two Muslim-owned businesses, and the Muslim Students Association at Rutgers University. Plaintiffs allege that the New York City Police Department’s surveillance program targeted Muslims solely on the basis of religion, thereby violating their First and Fourteenth Amendment rights. Defendant City of New York (“the City”) filed a motion to dismiss for lack of standing under Federal Rule of Civil Procedure 12(b)(1) and for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). Plaintiffs opposed. There was no oral argument. L.Civ.R. 78(b). For the reasons set forth below, Defendant’s motion to dismiss is **GRANTED**.



## I. BACKGROUND

In early 2002, the New York City Police Department (“NYPD” or “the Department”) began a secret spying program (“the Program”) to infiltrate and monitor Muslim life in and around New York City. (Amended Complaint (hereinafter “Complaint”) at ¶ 2) According to Plaintiffs, the Program involved the “painstaking” documentation of the details of Muslim life in New Jersey. (Complaint at ¶ 47d)

The Complaint alleges that the NYPD used a variety of surveillance techniques to infiltrate Muslim businesses and organizations. For example, Plaintiffs allege the NYPD conducted continuous video surveillance of mosques via cameras posted on light polls. (Complaint at ¶ 46) The NYPD photographed and videotaped mosque congregants and collected their license plate numbers. (Complaint at ¶ 4)

Undercover officers infiltrated Muslim organizations and monitored sermons, meetings, conversations, and religious practices. (Complaint at ¶ 46-47, 50-51) The undercover officers created many reports on their observations. These reports named specific individuals without any evidence of wrongdoing. (Complaint at ¶ 51)

In their reports, the NYPD allegedly labeled many organizations as “Locations of Concern.” (Complaint at ¶ 58) The Complaint alleges that this label designated the subject organizations as demonstrating “a significant pattern of illegal activity.” (*Id.*) The Complaint alleges that this label was false and stigmatizing because the reports contain no evidence of illegal activity. (*see id.*)

The NYPD did not publicize the existence of the Program. The Program became public knowledge in August 2011 when the Associated Press broke a story about it. (*See* Complaint at ¶ 61; Declaration of Peter G. Farrell (“Farrell Decl.”) at ¶ 3) The Associated Press covertly obtained confidential NYPD documents and published unredacted versions of these documents, as well as articles interpreting the documents. (Farrell Decl. at ¶ 3; Moving Brief at 2-3, 4, 17-18) Upon the Associated Press’s publication of the documents, City officials publicly commented that the surveillance Program was focused on “threats” and documenting the “likely whereabouts of terrorists.”<sup>1</sup> (Complaint at ¶ 61)

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<sup>1</sup> Following the Associated Press publication about the secret Program, the Attorney General of New Jersey conducted an investigation and concluded that that NYPD had not violated any New Jersey civil or criminal laws. (Farrell Decl. at ¶ 4)

Collectively, Plaintiffs allege that the surveillance Program caused a series of spiritual, stigmatic, and pecuniary losses. Plaintiffs report diminished religious expression, employment prospects, property values, and revenue following the Associated Press's publication of its story about the Program.

The organizational Plaintiffs allege that the Program impaired them from engaging members in open political and religious discussion and from fulfilling the spiritual needs of their members. (*See* Complaint at ¶ 15, 17, 23) The Plaintiffs that operate mosques report a drop in attendance. (Complaint at ¶ 14) They also report altering religious services and events to avoid being perceived as controversial. (Complaint at ¶ 23) Four of the individually-named Plaintiffs complain that they have avoided discussing religious and political topics, praying in public, or attending mosque service in order to avoid law enforcement scrutiny. (Complaint at ¶ 13, 26-30)

Plaintiffs Syed Hassan, Soofia Tahir, and Zaimah Abdur-Rahim fear that being the subjects of surveillance will interfere with their careers. Hassan is a U.S. Soldier and Tahir is expecting to begin a career in international social work. Both plaintiffs allege that career advancement will require background checks and security clearances. Both allege that their affiliations with organizations falsely labeled as "threats" will hinder their career advancement. (Complaint at ¶ 13, 29) Hassan also alleges that his career prospects will be harmed because his fellow soldiers and superiors will have diminished trust in him and treat him differently upon learning he was a regular congregant at a mosque that was the subject of surveillance. (Complaint at ¶ 13)

Abdur-Rahim is a teacher who has worked at two different Muslim girls' schools in Newark, one of which was run out of her own residence. (Complaint at ¶ 31-32) The NYPD conducted surveillance on both these schools. Abdur-Rahim alleges that as a result of working at two monitored schools, her future career prospects will be diminished. (Complaint at ¶ 32)

Abdur-Rahim and her husband, Plaintiff Abdul-Hakim Abdullah, are co-owners of the home in which one of the monitored schools was located. (Complaint at ¶ 32, 34) A police surveillance photograph of this school appears on the internet in connection with the NYPD's surveillance Program. (Complaint at ¶ 32) Abdur-Rahim and Abdullah both allege that the value of their home has been diminished because of its connection to the Program. (Complaint at ¶ 32, 34)

Plaintiffs All Body Shop Inside & Outside and Unity Beef Sausage Company are Muslim-owned businesses in Newark that were both subjects of the surveillance Program. (Complaint at ¶ 18-21) Both these Plaintiffs allege that business declined when it became publically known that the NYPD was monitoring them. (Complaint at ¶ 18, 20) Customers told the owner of Unity Beef Sausage Company that they felt uncomfortable going to the store knowing that the NYPD was monitoring them. (Complaint at ¶ 21) The Plaintiffs that operate mosques also complain of pecuniary losses in the form of decreasing financial support. (Complaint at ¶ 15)

The Complaint does not allege that the surveillance itself was illegal or unconstitutional. Rather, the Complaint alleges that the motivation for the surveillance was solely animus against Muslims, which, if true, could mean the City violated Plaintiffs' First and Fourteenth Amendment rights to be free from religious discrimination.

Plaintiffs seek expungement of the surveillance records, an injunction to end the targeting of Plaintiffs on the basis of religion, as well as compensatory, economic, and nominal damages. (Complaint at ¶ 73)

## II. RULE 12(b)(1) MOTION TO DISMISS FOR LACK OF STANDING

The City argues that Plaintiffs' Complaint should be dismissed for lack of standing. A case should be dismissed under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction if the Plaintiff has no standing. *Ballentine v. United States*, 486 F.3d 806, 810 (3d Cir. 2007). Plaintiff bears the burden of demonstrating standing "with the manner and degree of evidence required at the successive stages of the litigation." *New Jersey Physicians, Inc. v. President of U.S.*, 653 F.3d 234, 239 (3d Cir. 2011) (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992)). "Even at the motion to dismiss stage . . . [i]t is a long-settled principle that standing cannot be inferred argumentatively from averments in the pleadings but rather must affirmatively appear in the record." *Id.* at 239 (quoting *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 231 (1990)).

Article III standing is "fundamental to the judiciary's proper role in our system of government." *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 341 (2006). "If a dispute is not a proper case or controversy, the courts have no business deciding it, or expounding the law in the course of doing so." *Id.* at 341.

The starting point for the analysis of Plaintiffs' standing is *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992). In order to establish the "constitutional minimum

of standing,” a party must establish three elements. First, the plaintiff must have suffered an “injury in fact” – an invasion of a legally protected interest which is (a) concrete and particularized, and (b) “actual or imminent, not ‘conjectural’ or ‘hypothetical.’” Second, there must be a causal connection between the injury and the conduct complained of – the injury has to be “fairly . . . trace[able] to the challenged action of the defendant, and not . . . the result [of] the independent action of some third party not before the court.” Third, it must be “likely,” as opposed to merely “speculative,” that the injury will be “redressed by a favorable decision.” *Lujan*, 504 U.S. at 560-61 (internal citations omitted). Plaintiffs have not satisfied the first two prongs of the test.

### **A. Injury in fact**

Plaintiffs do not allege an injury in fact. In *Laird v. Tatum*, 408 U.S. 1 (1972), the Supreme Court considered allegations similar to those in this case and rejected them as a basis for Article III standing. In *Laird*, plaintiffs sought injunctive relief against the Army’s surveillance of civilian political activity. The Army’s information gathering system in *Laird* involved the attendance by Army intelligence agents at meetings that were open to the public, the preparation of field reports describing the meetings (containing the name of the sponsoring organization, the identity of the speakers, the number or persons present, and an indication of whether any disorder occurred), and the collecting of information from the news media. *Id.* at 6. This information was reported to Army Intelligence headquarters, disseminated from headquarters to major Army posts around the country, and stored in a computer data bank. *Id.* at 6-7.

The Supreme Court identified the issue before it as “whether the jurisdiction of a federal court may be invoked by a complainant who alleges that the exercise of his First Amendment rights is being chilled by the mere existence, without more, of a governmental investigative and data gathering activity that is alleged to be broader in scope than is reasonably necessary for the accomplishment of a valid governmental purpose.” *Id.* at 10. Accordingly, the Court found that the plaintiffs lacked standing because “[a]llegations of a subjective chill are not an adequate substitute for a claim of specific present objective harm or a threat of specific future harm [.]” *Id.* at 13-14. The plaintiffs were not able to demonstrate that they were chilled by “any specific action of the Army against them.” *Id.* at 3. Thus, the Court refused to grant the plaintiffs what they really sought through the litigation: “a broad-scale investigation, conducted by themselves as private parties armed with the

subpoena power of a federal district court and the power of cross examination, to probe into the Army's intelligence-gathering activities." *Id.* at 14.

The allegations in this Complaint mirror those in *Laird*. For this reason, the court finds that there was no injury-in-fact.

## **B. Causation**

Even if Plaintiffs had an injury in fact, they have not demonstrated the required causation element of standing. A party does not have standing when the injury-in-fact alleged is "manifestly the product of the independent action of a third party." *Duquesne Light Co. v. U.S. E.P.A.*, 166 F.3d 609, 613 (3d Cir. 1999). Defendant argues that the Associated Press and not the City is the manifest cause of Plaintiffs' alleged injuries. (Moving Brief at 17.) Plaintiffs argue that no existing case law holds the action of a newspaper reporting on a government program as an "independent action of a third party." (Plaintiffs' Brief at 36.) Defendant's argument is more persuasive.

None of the Plaintiffs' injuries arose until after the Associated Press released unredacted, confidential NYPD documents and articles expressing its own interpretation of those documents. Nowhere in the Complaint do Plaintiffs allege that they suffered harm prior to the unauthorized release of the documents by the Associated Press. This confirms that Plaintiffs' alleged injuries flow from the Associated Press's unauthorized disclosure of the documents. The harms are not "fairly traceable" to any act of surveillance. *See Lujan*, 504 U.S. at 560-61.

The court is also persuaded by a distinction between this case and *Philadelphia Yearly Meeting of Religious Soc. of Friends v. Tate*, 519 F.2d 1335, (3d Cir. 1975). Like this case, *Philadelphia Yearly* involved media coverage of a police surveillance program. The media coverage publicly disclosed the names of certain groups and individuals on whom the Philadelphia Police Department was keeping surveillance records. *Id.* at 1337. In *Philadelphia Yearly*, the court reiterated the Supreme Court's holding in *Laird* that the surveillance itself was legal and that the surveillance's mere existence did not cause a concrete injury to the Plaintiffs. *Id.* at 1337-38.

However, the government in *Philadelphia Yearly* openly cooperated with the press in the publicizing of the story. The Third Circuit found this cooperation with the media improper. *Id.* at 1338. The court stated:

It is not apparent how making information concerning the lawful activities of plaintiffs available to non-police groups or individuals could be considered within the proper ambit of law enforcement activity, particularly since it is alleged that plaintiffs are subject to surveillance only because their political views deviate from those of the “establishment.”

*Id.* at 1338 (3d Cir. 1975).

Thus, the *Philadelphia Yearly* court found the claim justiciable on the grounds that the police department had an “absence of a lawful purpose” in disclosing on nationwide television that “certain named persons or organizations are subjects of police intelligence files.” By contrast, the City of New York did not make any information about the NYPD's Program available to non-police groups. The Associated Press covertly obtained the materials and published them without authorization. Thus the injury, if any existed, is not fairly traceable to the City.

Although the *Philadelphia Yearly* court did find that the plaintiffs had a justiciable claim, had *Philadelphia Yearly* been decided today, the court would have had to dismiss it for lack of standing. The court in *Philadelphia Yearly* recognized that the plaintiffs’ alleged injuries were “not concrete.” *Id.* at 1339. *Philadelphia Yearly* was decided well before *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992). In *Lujan*, the Supreme Court held that standing required a “concrete and particularized injury.” *Lujan*, 504 U.S. at 560. Therefore, had *Philadelphia Yearly* reached the Third Circuit after *Lujan*, it would have been highly improbable that the plaintiffs would have had standing.

For these reasons, Plaintiffs have demonstrated neither the injury in fact element nor the causation elements of standing required to survive a Rule 12(b)(1) motion.

### **III. RULE 12(b)(6) MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM**

Even if Plaintiffs did have standing to sue, Plaintiffs still have not plead facts sufficient to state a claim for discrimination in violation of the First or Fourteenth Amendments.



Federal Rule of Civil Procedure 12(b)(6) provides for the dismissal of a complaint, in whole or in part, if the plaintiff fails to state a claim upon which relief can be granted. The moving party bears the burden of showing that no claim has been stated. *Hedges v. United States*, 404 F.3d 744, 750 (3d Cir. 2005). In deciding a motion to dismiss under Rule 12(b)(6), a court must take all allegations in the complaint as true and view them in the light most favorable to the plaintiff. *See Trump Hotels & Casino Resorts, Inc. v. Mirage Resorts Inc.*, 140 F.3d 478, 483 (3d Cir. 1998) (citing *Warth v. Seldin*, 422 U.S. 490, 501 (1975)).

Although a complaint need not contain detailed factual allegations, “a plaintiff’s obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Thus, the factual allegations must be sufficient to raise a plaintiff’s right to relief above a speculative level, such that it is “plausible on its face.” *See id.* at 570; *see also Umland v. PLANCO Fin. Serv., Inc.*, 542 F.3d 59, 64 (3d Cir. 2008). A claim has “facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Twombly*, 550 U.S. at 556). While “[t]he plausibility standard is not akin to a ‘probability requirement’ . . . it asks for more than a sheer possibility.” *Id.* at 678. “Where a complaint pleads facts that are ‘merely consistent with’ a defendant’s liability, it ‘stops short of the line between possibility and plausibility of entitlement to relief.’” *Id.* at 662 (quoting *Twombly*, 550 U.S. at 557).

Where the claim is invidious discrimination based on religion, Plaintiffs must plead (and ultimately prove) that the Defendant acted with discriminatory purpose. *Ashcroft v. Iqbal*, 556 U.S. at 676 (citing *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520, 540-41 (1993)); *Abdul-Akbar v. McKelvie*, 239 F.3d 307, 317 (3d Cir. 2001). “Purposeful discrimination requires more than ‘intent as volition or intent as awareness of consequences. It involves a decisionmaker’s undertaking a course of action ‘because of, not merely in spite of, [the action’s] adverse effects upon an identifiable group.’” *Iqbal*, 556 U.S. at 676-77 (quoting *Personnel Administrator of Mass. v. Feeney*, 442 U.S. 256, 279 (1979)). It follows that, to state a claim based on a violation of a constitutional right, Plaintiffs must plead sufficient factual matter to show that the City adopted and implemented the surveillance program not for a neutral, investigative reason but for the purpose of discriminating on account of religion. *Iqbal*, 556 U.S. at 677, 682.

“[D]etermining whether a complaint states a plausible claim is context-specific, requiring the reviewing court to draw on its experience and common sense.” *Iqbal*, 556 U.S. at 663-64 (citing *Twombly*, 550 U.S. at 556). *Ashcroft v. Iqbal* is particularly instructive here because of the similar context. Both *Iqbal* and this case grow out of the same tensions between security and the treatment of Muslims that is particular to the post-September 11 time period.

In *Iqbal*, the plaintiff alleged that he was detained as a “high interest” suspect and subjected to particularly harsh conditions of detention based upon his race, religion, or national origin. Although his allegations were consistent with a discriminatory purpose, there was a “more likely explanation” for his treatment as a “high interest” suspect. *Id.* at 681. As the U.S. Supreme Court stated in *Iqbal*:

The September 11 attacks were perpetrated by 19 Arab Muslim hijackers who counted themselves members in good standing of al Qaeda, an Islamic fundamentalist group. Al Qaeda was headed by another Arab Muslim—Osama bin Laden—and composed in large part of his Arab Muslim disciples. It should come as no surprise that a legitimate policy directing law enforcement to arrest and detain individuals because of their suspected link to the attacks would produce a disparate, incidental impact on Arab Muslims, even though the purpose of the policy was to target neither Arabs nor Muslims. On the facts [alleged] the arrests . . . were likely lawful and justified by [a] nondiscriminatory intent to detain aliens who were illegally present in the United States and who had potential connections to those who committed terrorist acts. As between that “obvious alternative explanation” for the arrests, *Twombly*, 550 U.S. at 567, and the purposeful, invidious discrimination respondent asks us to infer, discrimination is not a plausible conclusion.

*Iqbal*, 556 U.S. at 682.

For similar reasons, the Plaintiffs in this case have not alleged facts from which it can be plausibly inferred that they were targeted solely because of their religion. The more likely explanation for the surveillance was a desire to locate budding terrorist conspiracies. The most obvious reason for so concluding is that surveillance of the Muslim community began just after the attacks of September 11, 2001. The police could not have monitored New Jersey for Muslim terrorist activities without monitoring the Muslim community itself. While this surveillance



Program may have had adverse effects upon the Muslim community after the Associated Press published its articles; the motive for the Program was not solely to discriminate against Muslims, but rather to find Muslim terrorists hiding among ordinary, law-abiding Muslims.

#### **IV. CONCLUSION**

For the reasons stated above, Defendant's motion to dismiss is **GRANTED**. An appropriate order follows.

/s/ William J. Martini

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**WILLIAM J. MARTINI, U.S.D.J.**

**Date: February 20, 2014**

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

SYED FARHAJ HASSAN; THE COUNCIL OF IMAMS  
IN NEW JERSEY; MUSLIM STUDENTS  
ASSOCIATION OF THE U.S. AND CANADA, INC.;  
ALL BODY SHOP INSIDE & OUTSIDE; UNITY BEEF  
SAUSAGE COMPANY; MUSLIM FOUNDATION  
INC.; MOIZ MOHAMMED; JANE DOE; SOOFIA  
TAHIR; ZAIMAH ABDUR-RAHIM; and ABDUL-  
HAKIM ABDULLAH

Case No. 2:12-cv-03401-SDW-  
MCA

Plaintiffs,

**Jury Trial Demanded**

v.

THE CITY OF NEW YORK,

Defendant.

**FIRST AMENDED COMPLAINT**

## PRELIMINARY STATEMENT

1. This is a civil rights action based upon the United States Constitution and 42 U.S.C. § 1983, to remedy the illegal and unconstitutional targeting of New Jersey Muslims for surveillance based solely upon their religion by the New York City Police Department (“NYPD” or “Department”). Plaintiffs seek an injunction prohibiting the NYPD from targeting them for unconstitutional surveillance, expungement of all records made pursuant to past unlawful spying, a declaratory judgment, and compensatory and nominal damages.

2. In early 2002, the NYPD began a secret spying program (“Program”) to infiltrate and monitor Muslim life in and around New York City. In all its years of operation, the Program has never generated a single lead.

3. The Department has focused, in particular, upon New Jersey Muslims. It has conducted surveillance of at least twenty mosques, fourteen restaurants, eleven retail stores, two grade schools and two Muslim Student Associations, in addition to an untold number of individuals who own, operate, and visit those establishments. The thoroughness and precision of the Department’s surveillance is reflected in its creation of more than twenty precinct-level maps of the City of Newark, noting the location of mosques and Muslim businesses and the ethnic composition of the Muslim community.

4. As part of the Program, the NYPD takes photographs and videos and collects license plate numbers at mosques. The Department also utilizes undercover officers and

informants to infiltrate and surveil Muslim communities, including mosques, Muslim Student Associations, and Muslim-owned businesses. Upon information and belief, the NYPD Program has not undertaken such surveillance with respect to non-Muslim communities in New Jersey.

5. The NYPD has created a series of reports documenting in detail the information obtained from its surveillance of New Jersey Muslim communities through its surveillance Program, including a report focusing on the Muslim community in Newark (“Newark report”). Plaintiffs include mosques, the national umbrella Muslim student association, Muslim-owned businesses, and the principal of an Islamic school for girls, that were identified in these reports, as well as associations whose members were identified in these reports. Plaintiffs also include individual members of New Jersey mosques and Muslim Student Associations that were identified in the NYPD reports as subjects of the surveillance Program.

6. The NYPD Program is founded and operated upon a false and constitutionally impermissible premise: that Muslim religious identity is a legitimate criterion for selection of law enforcement surveillance targets, or that it is a permissible proxy for criminality, and that Muslim individuals, businesses, and institutions can therefore be subject to pervasive surveillance not visited upon individuals, businesses, and institutions of any other religious faith or the public at large.

7. Through the Program, the NYPD impermissibly discriminates on the basis of religion and singles out Plaintiffs for disfavorable and unequal treatment by police. By targeting Muslim entities and individuals in New Jersey for investigation solely because they are Muslim

or believed to be Muslim, the Program casts an unwarranted shadow of suspicion and stigma on Plaintiffs and, indeed, all New Jersey Muslims. Each Plaintiff has suffered from the stigmatization that results from being singled out for surveillance on the basis of their religious beliefs, which is a harm that invites additional prejudice and discrimination against them and all American Muslims.

8. Plaintiffs bring this lawsuit in order to affirm the principle that individuals may not be singled out for intrusive investigation and pervasive surveillance that cause them continuing harm simply because they profess a certain faith.

#### **JURISDICTION AND VENUE**

9. The Court possesses jurisdiction to hear this matter pursuant to 28 U.S.C. § 1331 because it alleges violations of the United States Constitution and 42 U.S.C. § 1983, and therefore raises questions of federal law. Jurisdiction is also based upon 28 U.S.C. § 1343 because relief is sought for the deprivation of Plaintiffs' constitutional rights under color of State law.

10. Venue is proper in the District of New Jersey under 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to the claims herein occurred in this District.

## **PARTIES**

### Plaintiffs

11. **Syed Farhaj Hassan** is a New Jersey resident and a Soldier in a Civil Affairs Brigade who has served in the United States Army Reserves since September 2001. He is thirty-five years old and a U.S. Citizen. Hassan has served in Iraq (fourteen months of active duty and deployment to Iraq), during which time he worked in military intelligence, and has received numerous honors for his service, including the Army Service Ribbon, Global War on Terrorism Expeditionary Ribbon, National Defense Ribbon, Iraq Campaign Medal, Good Conduct Medal, three Army Commendation Medals, Army Achievement Medal, and Combat Action Badge. His address is 2403 Candlelight Court, Helmetta, NJ 08828.

12. Hassan is an observant Shi'a Muslim who attends mosque regularly. He has attended the Astaana-e-Zehra mosque most Fridays for the last two years and has been a congregant for 16 years. He also worships and attends events at the Masjid-e-Ali mosque approximately ten times per year, the Mehfile Shahe Khorasan mosque approximately four times per year, and the Imam-e-Zamana Foundation of North America mosque approximately twice per year. Each of these mosques is located in New Jersey and was identified in the NYPD reports as a subject of the NYPD surveillance Program.

13. Hassan has been unfairly targeted and stigmatized by the NYPD's surveillance of his mosques as part of a program targeting Muslim organizations. He has decreased his mosque

attendance significantly since learning that the mosques he attends have been under surveillance by the NYPD because he has a reasonable and well-founded fear that that his security clearance would be jeopardized by being closely affiliated with mosques under surveillance by law enforcement. Any blemish in his background check jeopardizes his security clearance and thus his career. Hassan is also concerned that his fellow soldiers, including his superiors, will have diminished trust in him and treat him differently – thereby harming his career prospects – if they learn he is a regular congregant at mosques under NYPD surveillance. He believes, reasonably, that if he decreases his attendance, he is less likely to be seen and/or recorded at the mosques.

14. **The Council of Imams in New Jersey** (“Council” or “CINJ”) is a non-profit corporation organized under the law of New Jersey and based in the Newark area. Its address is 62-70 Howard Street, Irvington, NJ 07111. Among other things, the Council is formed to conduct what is called Mutual Consultation (“Shuraa Baynahum”) for the purpose of establishing a whole and balanced society and facilitating the current and future circumstances that shape the continuous improvement of the Muslim Community. The Council is a membership organization comprising a dozen New Jersey mosques, at least two of which, Masjid al-Haqq and Masjid Ali K. Muslim, have been surveilled as part of the NYPD’s Program in New Jersey. Photographs and descriptions of both of these mosques are included in the Department’s Newark report.

15. Masjid al-Haqq and Masjid Ali K. Muslim have been a part of the Newark community for thirty and over forty years, respectively. Leaders and congregants in both mosques have been unfairly targeted and stigmatized by the NYPD’s surveillance of their

mosques as part of a program targeting Muslim organizations. Both mosques have also seen a decline in attendance and contributions as a result of the Department's surveillance. Losses in attendance and financial support that followed the disclosure of the Program targeting Muslims have directly harmed both mosques' ability to fulfill their religious missions.

16. **Muslim Students Association of the U.S. & Canada, Inc.** ("MSA National") is a non-profit corporation organized under the law of Indiana, based at 6555 South 750 East, Plainfield, IN 46168. MSA National serves Muslim students during their college and university careers by facilitating their efforts to establish, maintain and develop local MSA chapters. It strives to facilitate networking, educating and empowering the students of today to be citizens of tomorrow's community. To achieve its objectives, MSA National develops tools and resources to facilitate information sharing and to unite students across North America.

17. Two of MSA National's members, the Muslim Student Associations for the Rutgers University campuses at Newark and New Brunswick, were subject to surveillance in New Jersey through the NYPD Program. These MSAs were singled out for surveillance by the NYPD simply because their membership is made up of Muslim students. Student organizations affiliated with other religious denominations were not subject to similar surveillance. Such biased police spying invites additional discrimination and prejudice against all current and former MSA students and diminishes the MSAs' ability to fulfill their spiritual and practical missions. As affinity student groups, MSAs subject to surveillance of their activities and discussions are diminished in their ability to establish viable student organizations that students



will feel secure joining and participating in. Their ability to embark upon integral partnerships with campus administrators and other organizations and fulfill the spiritual needs of their members in a confidential manner is also impaired.

18. **All Body Shop Inside & Outside** is a New Jersey corporation that owns and operates a retail store and cafe in downtown Newark (20 Branford Place, Newark, NJ 07102). The store was founded in 1998. Its owners, Gary Abdul Karim Abdullah and Hamidah Z. Abdullah, are Muslims who have lived and worked in the Newark community for their entire lives. All Body Shop Inside & Outside was identified in an NYPD report as “Hamidah’s Body Shop” and was subject to surveillance as part of the NYPD Program.

19. The owners of All Body Shop Inside & Outside have been unfairly targeted and stigmatized by the NYPD’s surveillance of their business as part of a program targeting Muslim organizations. The NYPD’s Program has also harmed their business by scaring away customers. A photograph and description of their store is included in the NYPD’s Newark report, which has been widely publicized. Since people learned that All Body Shop Inside & Outside was under NYPD surveillance, the number of customers visiting the store has decreased and some customers have told the owners by telephone that they did not feel comfortable visiting the location because of the threat of NYPD surveillance.

20. **Unity Beef Sausage Company** (“Unity”) is a New Jersey corporation that owns and operates Unity Brand Halal Products, Inc., a halal meat store in downtown Newark (94 Orange Street, Newark, New Jersey 07102). It has a store for retail and wholesale and a building

for manufacturing. Founded in 1968, Unity is owned by Akbar Salaam, who is Muslim. Unity was surveilled as part of the NYPD Program in New Jersey, and a photograph and description of the Unity store appears in the NYPD's Newark report, which has been widely publicized.

21. Unity's owner, his employees, and his customers have been unfairly targeted and stigmatized by the surveillance of Unity as part of a program targeting Muslim organizations. The NYPD surveillance has also hurt business at the Unity halal meat store. Many regular customers have not been coming to the store since the NYPD's Newark report was made public. For example, the store typically experiences a rush of business after Friday prayer services, when many Newark area Muslims do food shopping and run errands. That rush slowed considerably immediately after the Newark report became public. Some customers have called to ask the owner about the NYPD's surveillance and told him they are no longer comfortable visiting the store. The store's owner now fears conducting his legitimate business; he is concerned that anyone who comes in or looks at him from across the street might be an NYPD spy.

22. **Muslim Foundation Inc.** ("MFI") is a New Jersey non-profit corporation that owns and operates the Masjid-e-Ali mosque, located at 47 Cedar Grove Lane, Somerset, NJ, 08873. MFI's congregation comprises approximately 250 families. The Masjid-e-Ali mosque was surveilled as part of the NYPD's Program in New Jersey, and was identified in an NYPD report as a subject of surveillance.

23. Leaders and congregants in MFI have been unfairly targeted and stigmatized by the NYPD's surveillance of their mosque as part of a program targeting Shi'a Muslim

organizations. The NYPD's surveillance of the mosque, and its inclusion in an NYPD report casts an unwarranted cloud of suspicion upon the mosque and its membership. MFI has also changed its religious services and programming as a direct result of the NYPD surveillance. Prior to learning that it had been surveilled by the NYPD, the mosque hosted a variety of visiting Islamic scholars and religious authorities to provide guidance to the congregation on how to conduct their daily lives in accordance with religious laws. These discussions are integral to MFI's religious mission, which includes promoting the lives of its congregants in accordance with divine laws, fellowship, and religious discourse. After learning that it had been targeted for surveillance, MFI decided not to invite otherwise amenable religious authorities who might nevertheless be perceived to be controversial because of their previous spiritual or religious training in Iran, views on or history of vocalizing religious edicts aligned with certain prominent centers of learning in Shi'a Islam, or their opinions on the proper role of the Islamic faith and scholarship in the daily lives of adherent Muslims; MFI's leaders reasonably feared that the views of such religious authorities and guides would be attributed to the mosque's membership. As a result, MFI's ability to fulfill its religious mission has been harmed.

24. **Moiz Mohammed** is a New Jersey resident (22 Woodbridge Street, New Brunswick, NJ 08901) currently enrolled as a full-time student at Rutgers New Brunswick, where he is pursuing a degree in Molecular Biology and Biochemistry. He is currently a junior and has been active in the Muslim Students Association (MSA) since his freshman year. The

Rutgers New Brunswick MSA was surveilled as part of the NYPD's Program in New Jersey, and was identified in an NYPD report as a subject of surveillance.

25. Mohammed has been unfairly targeted, and stigmatized by the NYPD's surveillance of his MSA as part of a program targeting Muslim organizations. The NYPD's surveillance of his MSA unfairly targets him and other Muslim students. Members of other religious groups are not subjected to such surveillance and monitoring. The stigma now attached to being a Muslim member of the MSA has caused Mohammed to avoid discussing his faith or his MSA participation in public and to avoid praying in places where non-Muslims might see him doing so. Thus, Mohammed bears the burden of being discriminated against by the government, solely on account of his religion, which sends a signal that he is a less worthy member of the political community.

26. **Jane Doe** is a New Jersey resident currently enrolled as a full-time student at Rutgers New Brunswick in her junior year and is active in the Muslim Students Association. She will be moving the Court for leave to proceed under pseudonym after counsel for Plaintiffs confers with counsel for Defendant.

27. Doe suffers the same stigma as Mohammed as a result of the NYPD's surveillance of the activities of Muslim students on campus. She experiences this stigma in a variety of ways. For instance, she no longer discusses religious topics at MSA meetings, such as the differences between Sunni and Shi'a Islam, because of a reasonable fear that such discussions would be misunderstood and taken out of context by those suspicious of her religion.

She also has a reasonable fear that her discussions with other students and other participation in MSA activities may be observed by NYPD and taken out of context, resulting in unwarranted scrutiny premised solely on her Muslim faith and participation in religious discourse.

28. **Soofia Tahir** is a New Jersey resident (56 Southside Avenue, Somerville, NJ 08876) who was a member of the Rutgers Newark MSA during the 2003-2004 school year. She then attended Rutgers University's New Brunswick campus as an undergraduate from 2004 through 2008, and graduated with a bachelor's degree. She was a member of the Rutgers New Brunswick MSA during those years and served as its Vice President during the 2006-2007 school year. Tahir went on to attend graduate school at the Rutgers New Brunswick campus from 2010 through 2012, and graduated with a master's degree.

29. Like Mohammed and Doe, Tahir has been unfairly targeted, and stigmatized by the NYPD's surveillance of the Rutgers MSAs in a way that is likely to endanger her future educational and employment opportunities. In particular, she focused her graduate studies on international social work, a field in which many employment opportunities are with governmental or non-governmental agencies that require background checks and/or security clearance. She reasonably fears that her membership and leadership in organizations that have been surveilled by the NYPD as part of a program it describes as focused on "threats" and an attempt to document the "likely whereabouts of terrorists" will adversely affect her future job prospects and any further educational pursuits.

30. The revelation of the NYPD's spying on Muslims in New Brunswick and at Rutgers also caused Tahir to change the way she prayed and limit her conversations with others on certain topics. She curtailed discussions of religious and political topics while on the Rutgers campus out of a reasonable fear that NYPD informants or undercover officers might be eavesdropping and misconstrue what she said. She avoided religious and political topics rather than be subject to law enforcement scrutiny. Tahir also went to pray in very remote areas of the buildings in which she studied and worked on campus in order to try to avoid NYPD surveillance because of the uniquely visible way in which Muslims pray. On occasion, she would also go to work early in the morning so she could leave earlier in the day and do her mid-afternoon prayer at home, thereby reducing the Department's ability to surveil and scrutinize her worship.

31. **Zaimah Abdur-Rahim** resides at 35 Finlay Place, Newark, NJ 07106. She is currently a math teacher at Al Hidaayah Academy ("AHA"), a position she has held since 2010. A record of the NYPD's surveillance of AHA appears in the Newark report, which includes a photograph and description of the school. Abdur-Rahim was also the principal of Al Muslima Academy ("AMA"), a school for girls grades five through twelve, from 2002 through 2010. Like AHA, a record of the NYPD's surveillance of AMA appears in the Newark report, including a photograph, the address, and notations stating, among other things, that the school was located in a private house and that the ethnic composition of the school was African American.

32. Abdur-Rahim has been unfairly targeted and stigmatized by the NYPD's surveillance of AHA, where she is currently employed, and AMA, where she was last employed, as part of the Department's program targeting Muslim organizations. She reasonably fears that her future employment prospects are diminished by working at two schools under surveillance by law enforcement. Moreover, the Newark report's photograph of AMA is also Abdur-Rahim's home, where she has lived since 1993 with her husband and, at various times, her children and grandchildren. The fact that a photograph of her home appears on the internet in connection with the NYPD's surveillance program that the City of New York has since publicly exclaimed is necessary for public safety, has decreased the value of the home and diminished the prospects for sale of the home.

33. Abdur-Rahim is especially concerned with the Department's spying on AMA, because she and the all-female population of students there did not wear head coverings while attending classes. One of Abdur-Rahim's and her students' most sacred religious tenets is modesty, their practice of which requires them to always keep their heads covered in the presence of men or boys. If NYPD officers entered the property surrounding the school and looked inside – for example to determine that it was attended by African Americans as reported – they would be violating this religious tenet.

34. **Abdul-Hakim Abdullah** is married to Abdur-Rahim and co-owns the 35 Finlay Place home with her. He also served on the Board of Directors of Al Muslimaat from 2002 through 2010. Abdullah has suffered the same harm as Abdur-Rahim in connection with a

decrease in the value of his home caused by the NYPD's surveillance and subsequent statements by Department officials.

Defendant

35. **The City of New York** is a municipal corporation duly incorporated and existing pursuant to the laws of the State of New York and having its principal offices at City Hall, New York, NY 10007. The City of New York has established and maintains the NYPD as a constituent department or agency. The NYPD acts as the City of New York's agent in the area of law enforcement. The NYPD's operations include the activities described herein.

**STATEMENT OF FACTS**

The NYPD Program Intentionally Targets Muslims for Surveillance on the Basis of Religion

36. In January 2002, the NYPD created a secret spying program to analyze and surveil the Muslim community in New York City and nearby regions, including Muslim religious institutions, schools, businesses, associations, and congregations. The Department created the Program following the September 11, 2001, attacks based on the mistaken and unconstitutional premise that Muslim religious identity is a legitimate criterion for selection of law enforcement surveillance targets, or that it is a permissible proxy for criminality, and that Muslims can therefore be subject to pervasive surveillance not visited upon any other religious group or the public at large, simply because of their religion. This Program reflects a policy, custom, usage and/or practice of the NYPD to target the Muslim community for surveillance solely on the basis of religion.



37. As part of this Program, the NYPD specifically and purposefully targets mosques, Muslim-owned businesses, Muslim Student Associations, and Muslim schools for surveillance based only upon the religious beliefs of their owners or members. The NYPD Program intentionally targets only the Muslim faith and does not undertake similar surveillance with respect to any other religious group. Thus, the Program perpetuates odious and unfounded stereotypes about Muslims, including Plaintiffs, and stigmatizes them as members of a disfavored community that is inherently dangerous and inferior.

38. The Department has focused, in particular, upon New Jersey Muslims as part of its Program. The Department has conducted surveillance of at least twenty mosques, fourteen restaurants, eleven retail stores, two grade schools and two Muslim Student Associations in New Jersey, in addition to an untold number of individuals who own, operate, and visit those establishments. Furthermore, the Department has created over twenty precinct-level maps of the City of Newark, noting the location of mosques and Muslim businesses and the ethnic composition of the Muslim community. As part of the Program, it has also created a series of reports documenting in detail the information obtained from its surveillance of New Jersey Muslim communities.

39. The Program uses a variety of methods to spy on Muslims. It has, among other measures, taken video and photographs at mosques, Muslim-owned businesses, and schools. It has sent undercover officers to those locations to engage in pretextual conversations to elicit information from proprietors and patrons. And it has planted informants in mosques, and

monitored websites, listserves, and chat rooms. The Department does not conduct similar surveillance of houses of worship, businesses, and schools associated with other religions. For example, on information and belief, no other religious group is uniformly and categorically viewed as a legitimate target for investigation merely because of the actions of an exceedingly small fraction of people of the same faith who have violated the law.

40. In addition to targeting Muslims by focusing on mosques, Muslim-owned businesses, and other Muslim-associated organizations as subjects of surveillance, the Program also intentionally targets Muslims by using ethnicity as a proxy for faith.

41. As part of the Program, the Department has designated twenty-eight countries and “American Black Muslim” as “ancestries of interest.” The twenty-eight countries are: Afghanistan, Albania, Algeria, Bahrain, Bangladesh, Chechnya, Egypt, Guyana, India, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Morocco, Pakistan, Palestine, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, Turkey, U.A.E., Uzbekistan, Yemen, and Yugoslavia. Those twenty-eight countries constitute about 80% of the world’s Muslim population. All but five of the countries on the list are more than three-fourths Muslim. Of these five, all but two countries are majority Muslim and one of the remaining two countries is India, which alone is home to 11% of the world’s Muslims.

42. However, the Department does not surveil all people and establishments with “ancestries of interest,” but expressly chooses to exclude people and establishments with such “ancestries” if they are not Muslim. Thus, for example, the NYPD does not surveil Egyptians if

they are Coptic Christians, Syrians if they are Jewish, or Albanians if they are Catholic or Orthodox Christian.

43. The NYPD's report analyzing Newark observes: "There appears to be a sizable and growing non-immigrant, African-American Muslim population." No analysis of non-Muslim African-Americans appears in the Newark report.

44. The NYPD's surveillance is not limited to those Muslims with "ancestries of interest." In its surveillance of Newark, the Department has observed that the largest immigrant communities in that city are from Portugal and Brazil, countries not found on its list of twenty-eight "ancestries." Nevertheless, the Department's Newark report examines these communities for the presence of Muslims: "No Muslim component within these [Portuguese and Brazilian] communities was identified, with the exception of one identified location being owned and operated by a Brazilian Muslim of Palestinian descent." No non-Muslim individuals or establishments from Newark's Portuguese or Brazilian immigrant communities are identified in the NYPD's Newark report. The Department's investigation, surveillance, and analysis are concerned only with Muslims. Religious affiliation is employed as the sole predicate for investigation pursuant to the Program.

#### NYPD's Surveillance Activities Against Muslims

45. The NYPD Program utilizes numerous forms of surveillance in its monitoring of Muslim communities, including its surveillance of Muslim communities in New Jersey. The NYPD Program does not undertake similar surveillance of non-Muslim communities. Despite

its initial secrecy, public knowledge of the NYPD program to single out Muslims for surveillance has become widespread in New Jersey and elsewhere.

46. As part of the Program, NYPD officers snap pictures, take video, and collect license plate numbers of congregants as they arrive at mosques to pray, making records of those in attendance. They also mount surveillance cameras on light poles, aimed at mosques, for the purpose of round-the-clock surveillance. Officers can control the cameras with their computers and use the footage to help identify worshippers. The NYPD has not conducted similar surveillance at non-Muslim houses of worship.

47. The Department also utilizes informants and undercover officers, who identify and report upon, among other things, businesses owned or frequented by Muslims; which stores sell halal meat; the subject of conversations overheard at mosques; and where religious schools are located. For example:

- a. The NYPD uses undercover officers called “rakers” to monitor daily life in neighborhoods it believes to be heavily Muslim. Rakers surveil locations such as bookstores, bars, cafes, and nightclubs. They do so not based upon evidence of wrongdoing, but because the Department believes it should surveil and investigate American Muslims comprehensively in a way that it does not other religious communities.
- b. The NYPD also has informants called “mosque crawlers” who monitor sermons and conversations in mosques and report back to the NYPD. Mosque crawlers are

used at mosques as part of a broader plan for blanket surveillance of Muslim communities. The Department has strived to have an informant inside every mosque within a 250-mile radius of New York City and has, in fact, prepared an analytical report on every mosque within 100 miles, including Plaintiff MFI and at least two of the members of CINJ. Upon information and belief, the NYPD's mosque crawlers have monitored thousands of prayer services in mosques, collecting detailed information about worshippers simply because they are Muslim, without evidence they engaged in any wrongdoing.

c. Rakers and mosque crawlers have monitored discussions in mosques about the controversy surrounding the publication of a Danish artist's cartoons of the Prophet Muhammad, the results of which were included in a February 2006 report. That report, for example, documents twenty-three conversations at twenty mosques. None of the information collected showed any indication of criminal activity. The NYPD prepared a similar report after an accidental plane crash in Manhattan in October 2006. Upon information and belief, the Department prepares many such reports targeting Muslims, none of which even allegedly involve any wrongdoing.

d. Using mosque crawlers, rakers, and other officers and agents, the NYPD has documented painstaking details of American Muslim life, including in New Jersey, and plaintiff institutions and businesses. For example, Department surveillance reports note the fact that flyers are posted in shops advertising for Quran tutoring; a

picture of a mosque hangs in a grocery store; a restaurant serves “religious Muslims;” customers visit a Dunkin’ Donuts after Friday prayer; a restaurant is located near a particular mosque; employees or customers of establishments are observed wearing “traditional clothing;” Muslim prayer mats are hanging on the wall at an Indian restaurant; and a store posts a sign that it will be closed on Friday in observance of Friday prayer.

48. The NYPD Program has not utilized informants and undercover agents to undertake such focused or intensive surveillance of non-Muslim communities.

49. The NYPD also closely monitors the activities of Muslim Student Associations at colleges and universities in New York, New Jersey, Connecticut, and Pennsylvania. It places informants or undercover officers in all or virtually all MSAs, without any indication whatsoever of criminal activity or any connection whatsoever to wrongdoing.

50. NYPD officers monitor the web sites of Muslim student organizations, troll student chat rooms, and talk to students online. Undercover NYPD officers sometimes pose as students to attend MSA events. One officer, for example, went on a rafting trip with an MSA and monitored and recorded how often the student participants on the trip prayed, and that they discussed religious topics. Knowing that undercover NYPD officers are recording the topics of Muslims’ conversations and the frequency with which they pray reasonably causes Plaintiffs and other Muslims in the jurisdictions surveilled by the Department to chill their religious practices.

51. On a weekly basis, the Department prepares an MSA Report on schools, including reports on Rutgers New Brunswick and Rutgers Newark. Its reports include the names of professors, scholars, and students without any evidence that they engaged in wrongdoing.

52. The Department does not conduct similar blanket surveillance of the activities of Christian, Jewish, or any other religious student group.

53. To facilitate future surveillance of entire American Muslim communities, the NYPD has created maps indicating the locations of mosques, restaurants, retail establishments, and schools owned by or serving Muslims, as well as ethnic populations from heavily Muslim countries. The Department has over twenty such maps of Newark, New Jersey.

54. The NYPD has not compiled similar maps of non-Muslim communities.

55. The NYPD also inspects records of name changes and compiles databases of new Muslim converts who take Arabic names, as well as Muslims who take names that are perceived to be “Western.” The Department does not compile similar information for other kinds of name changes.

56. The NYPD’s surveillance of the Muslim community in New Jersey, including its surveillance of Plaintiffs, is extensive and sustained. For example, undercover NYPD officers participating in the Program operated a base of operations in an off-campus apartment near Rutgers New Brunswick. On information and belief, the NYPD Program in New Jersey, including its surveillance of Plaintiffs, is ongoing.

The NYPD Program Harms the Plaintiffs and the Muslim Community as a Whole

57. The NYPD's blanket surveillance of Muslims casts guilt on all people of that faith by suggesting that Muslims pose a special threat to public safety. As targets of the NYPD's discriminatory Program that endorses and perpetuates such false stereotypes, the Plaintiffs and other New Jersey Muslims have been gravely stigmatized and will continue to suffer significant harm as a group disfavored by the government.

58. The Department's Newark report analyzes more than forty "Locations of Concern," which include mosques, restaurants, retail establishments, and a school for grades one through four recognized by the New Jersey Department of Education. The report defines "Location of Concern" as, among other things, a "location that individuals may find co-conspirators for illegal actions" and a "location that has demonstrated a significant pattern of illegal activities." The report does not identify any "illegal activity" in respect to any of these locations. Rather, these establishments, which include Plaintiffs Unity halal meat store, All Body Shop Inside & Outside, and two of the mosques represented by the Council of Imams in New Jersey, were surveilled and are documented in the report only because they are Muslim-owned or -affiliated. The sole basis for the Department's stated belief that illegal activity occurred or is likely to occur is the religious identify of those surveilled. Nonetheless, the Department's use of such a description for mosques, businesses, and schools casts a dark shadow of suspicion on congregations, customers, lenders, children and parents – indeed, the community



as a whole – gravely stigmatizing and otherwise having a significant deleterious impact upon them.

59. The NYPD causes similar damage in its report on the threat to New York City of a potential U.S. - Iran conflict. Among the “key findings” and “recommended actions,” included in the report are to “[e]xpand and focus intelligence collections at Shi'a mosques.” While the report observes that “the majority of Iranian nationals residing in the US are either Zoroastrian, Jewish, or Christian,” the report only targets Muslim institutions, without any justification. Moreover, the report’s focus on Shi’a Muslim mosques sweeps up vast numbers of individuals with no connection to Iran or to any threat arising from a potential conflict between the United States and Iran. Indeed, the report observes that the Shi’a Muslim community includes many individuals of Iraqi, Lebanese and Pakistani descent. Yet the report targets the Shi’a Muslim community as an undifferentiated whole. The report therefore unmistakably targets Muslim institutions simply because they are Muslim and unconstitutionally deploys religious affiliation as a criterion for selection of law enforcement surveillance targets, or as a proxy for criminality.

60. The U.S – Iran report describes organizations believed to pose serious threats to New York City, such as Hezbollah and Hamas, supporters of those organizations and their locations, followed by a list of “Other Shi'a Locations in the vicinity of NYC.” This list of twelve Shi’a Muslim locations includes six in New Jersey, including Plaintiff MFI and its Masjid-e-Ali mosque, as well as three additional mosques attended by Plaintiff Hassan (Astaana-e-Zehra, Mehfile Shahe Khorasan, and Imam-e-Zamana Foundation of North America). The

clear implication of the report is that Shi'a mosques pose a threat to public safety unlike other establishments and places of worship. But under the NYPD's Program the only reason that these mosques, including Plaintiff MFI and those attended by Hassan, were included in the report is that they are affiliated with Shi'a Islam, not because of any wrongdoing, any affiliation with designated organizations such as Hamas or Hezbollah, or any other legitimate reason.

61. The harm the NYPD inflicts on Plaintiffs and Muslim communities results not just from the surveillance, and from the stigma of being targets of discrimination, but also from the public statements that defendant New York City officials make in support of the surveillance. These statements have acknowledged the existence of the NYPD program, describing it as focused on "threats" and as an attempt to document the "likely whereabouts of terrorists." By singling out American Muslims for unequal treatment and as "threats," government officials have sent a signal that they are less worthy participants in the political community.

62. Because the NYPD Program did not limit itself to threats or terrorists but rather targeted the Muslim community as a whole, such statements suggest that all Muslim establishments are dangerous or likely to harbor terrorists, thereby engendering suspicion and distrust of Muslim individuals and Muslim establishments, including Plaintiffs, affecting people's livelihoods, damaging the fabric of Muslim communities and the broader society within which Muslims live, and inviting prejudice and discrimination against Plaintiffs and other Muslim individuals.

63. On information and belief, the NYPD Program in New Jersey, including broad surveillance of mosques, Muslim businesses and MSAs and, in particular surveillance of Plaintiffs, is ongoing.

64. As part of the Program, NYPD officers frequently go back to surveillance locations to make sure they have not changed, and updating their information is part of their duties and responsibilities. Indeed, New York City officials have made clear that they believe the NYPD's targeting of Muslims for surveillance on the basis of their religion is appropriate and will continue. Discussing the surveillance, Mayor Bloomberg has stated publicly, "We're doing the right thing. We will continue to do the right thing." Commissioner Kelly has said, "We're going to continue to do what we have to do to protect the city." Under our Constitution, however, what the NYPD may not do is continue to target American Muslims for investigation and pervasive surveillance simply because they are Muslim.

65. The Mayor and Police Commissioner have justified this sweeping, discriminatory policy by repeatedly claiming that it is necessary to protect the public's safety. These public officials' statements conflate religion with a security risk and falsely suggest that Muslims alone present a unique law enforcement threat. Such official proclamations, made exclusively in reference to the Muslim community, stigmatize Plaintiffs and the Muslim community in New Jersey, and invite additional prejudice and discrimination against them.

## **CLAIMS FOR RELIEF**

### FIRST CAUSE OF ACTION

#### **VIOLATIONS OF THE FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION**

66. Plaintiffs repeat and reallege the foregoing paragraphs as if the same were fully set forth at length herein.

67. The Defendant's Program impermissibly and intentionally discriminates against Plaintiffs because of their religion. As a direct and proximate result of the acts of the Defendant and its agents, the Plaintiffs have therefore been deprived of their rights under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

### SECOND CAUSE OF ACTION

#### **VIOLATIONS OF THE FIRST AMENDMENT TO THE U.S. CONSTITUTION**

68. Plaintiffs repeat and reallege the foregoing paragraphs as if the same were fully set forth at length herein.

69. The Defendant's Program is neither neutral with respect to religion, nor of general applicability. The Program instead singles out Plaintiffs' religion for disfavor and intentionally denigrates Islam. As a direct and proximate result of the acts of the Defendant and its agents, the Plaintiffs have therefore been deprived of their rights under the Free Exercise Clause and the Establishment Clause of the First Amendment to the United States Constitution and 42 U.S.C. § 1983.



### **PRAYER FOR RELIEF**

WHEREFORE the Plaintiffs respectfully request that the Court:

(a) Declare that the Defendant's actions violate the Plaintiffs' rights under the First and Fourteenth Amendments of the United States Constitution;

(b) Enjoin further violations of the Plaintiffs' constitutional rights, including but not limited to an injunction that requires the Defendant to refrain from targeting Plaintiffs for surveillance on the basis of religion;

(c) Order the expungement of all records of Plaintiffs made pursuant to past unlawful spying;

(d) Award Compensatory Damages to those Plaintiffs who have suffered economic harm;

(e) Award Nominal Damages for the harms suffered by Plaintiffs who are not awarded compensatory damages;

- (f) Award attorney's fees and costs associated with this action; and
- (g) Award any further relief as is just and proper and any other relief as allowed by law.

Respectfully submitted,

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