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Via Facsimile

Nihad Awad
Executive Director
Council on American-Islamic Relations
453 New Jersey Avenue, S.E.
Washington, DC 20003

**An Open Letter regarding *Shqeirat, et al. v. US Airways Group, Inc., et al.*
("The Case of the Flying Imams")**

Dear Mr. Awad:

I write as the head of one NGO to another. As I believe you know, the Becket Fund for Religious Liberty has long been committed to securing the right to religious freedom for people of all faiths. We've represented Muslims (in addition to Christians, Jews, Hindus, Sikhs, and others), both before and since 9/11.

In 1998, for example, I argued *FOP v. City of Newark* before the U.S. Court of Appeals for the Third Circuit. That case established the right of Newark Police Officers who are Muslims to wear their beards. More recently, Becket Fund attorneys represented Muslim public school children in Texas and secured their ability to meet for prayer. And we are currently offering our services to an east coast Mosque in a property rights dispute. No one can call us Islamophobes. Nor are we naive. My father was an immigrant and several of my cousins are Catholics still living in Northern Ireland. I have no illusions about what it's like to be a religious minority in somebody else's culture.

I am nevertheless appalled at some of the tactics evident in what is being popularly described as "The Case of the Flying Imams," which you recently announced with great fanfare. The case has been filed by attorney Omar T. Mohammedi, who I believe is the president of your New York chapter, on behalf of several Muslim religious leaders who were removed from a U.S. Airways flight under disputed circumstances.

In your press release you say the lawsuit is against the airline and the government. But your press release leaves some defendants out—the "John Does." John Does are legal place-holders for defendants whose names are not yet known. And just who are the John Does the plaintiffs wish to identify and order to sue in this case? Paragraph 21 of the complaint states that some of these "John Does"

1350 Connecticut Avenue, NW
Suite 605
Washington, DC 20036-1735
Phone: 202-955-0095
Fax: 202-955-0090
www.becketfund.org

Mr. Nihad Awad
March 23, 2007
Page 2 of 3

were passengers...who contacted US Airways to report the alleged 'suspicious behavior' of plaintiffs." The complaint cites as an example an "older" gentleman who observed the imams while making a cell phone call. (Complaint paragraphs 36-38)

The press release quotes you as saying, "the decades-long movement to advance civil rights in this nation must not be sent into retreat because of post-9/11 fear and stereotyping." You reportedly added that, "When anyone's rights are diminished, the rights of all Americans are threatened." Indeed. But this works both ways.

The American "movement to advance civil rights," has a long and distinguished history, in which the Becket Fund has played its small part. It has been the tradition of lawyers engaged in that movement to sue the government, when necessary, private businesses, and sometimes their employees. It has never been in the civil rights tradition to sue ordinary citizens. That is universally considered not only to be bad form, but wildly counter-productive. This case is a perfect example why. The public perception will likely be one of Muslim lawyers running amok, trying to change public behavior by sowing fear of being suddenly hit by an unexpected lawsuit. This is far too close to the very stereotype the lawsuit says it is trying to eliminate.

In fact, threatening to sue fearful senior citizens who make telephone calls is about as far removed from the "movement to advance civil rights in this nation" as I can imagine. It is most certainly the right of individual citizens and, indeed, their duty - especially in wartime - to report their suspicions to the authorities. What actions those authorities take after receiving such calls may be fair game for litigation. The ability of the citizenry to make such calls in the first place is not. And as you point out, "when anyone's rights are diminished, the rights of all Americans are threatened."

Consequently, I strongly urge you to use whatever influence you may have in this case to convince the plaintiffs and their lawyer to publicly renounce any such intention to sue individual citizens. As for the Becket Fund, we are today announcing that we stand ready to represent, for free, any such individual citizens who may be sued in this case. In the meantime, we will immediately seek leave of court to file a brief urging the trial court to enter a protective order barring disclosure of the individual citizens' names during the discovery process.

This is a first for us. In the past twelve years, we have advanced religious liberty claims on behalf of a wide variety of clients. We have never before opposed someone else's claim for religious discrimination. But this tactic of threatening suit against ordinary citizens is so far beyond the tradition of civil rights litigation in the United States that we must oppose it to defend the good name of religious liberty itself. In short, we know religious liberty. Religious liberty is a client of ours. And this claim is not about religious liberty.

Mr. Nihad Awad
March 23, 2007
Page 3 of 3

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'K. Hasson', written in a cursive style.

Kevin J. Hasson
President
Becket Fund for Religious Liberty
1350 Connecticut Ave. NW, Suite 605
Washington, D.C. 20036