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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES-GENERAL

Case No.: CV 03-6107 ABC (MCx)

Date: March 3, 2004

Title: Humanitarian Law Project, et al. v. John Ashcroft, et al.

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DOCKET ENTRY

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PRESENT: Hon. Audrey B. Collins, United States District Judge

Daphne Alex  
Deputy Clerk

Not Present  
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS

None

None

DOCKETED ON CM	
MAR - 3 2004	
BY	MB 009

PROCEEDINGS: ORDER GRANTING Plaintiffs' Motion to File  
Supplemental Declarations and Amend the Judgment  
(In Chambers)

Plaintiffs filed the instant motion on February 6, 2004. The Court considers the matter appropriate for submission without oral argument. Fed. R. Civ. P. 78; Local Rule 7-15. Accordingly, the scheduled hearing date of March 8, 2004 is VACATED. After reviewing the materials submitted by the parties and the case file, the Court GRANTS Plaintiffs' Motion to File Supplemental Declarations and Amend the Judgment.

This matter was decided on summary judgment on January 23, 2004. A corrected order was entered in this case on January 30, 2004. The order enjoins Defendants from enforcing the USA PATRIOT Act's prohibition against the provision of expert advice and assistance by Plaintiffs Humanitarian Law Project, Judge Ralph Fertig, Dr. Nagalingam Jeyalingam, Ilankai Thamil Sangam and the Tamil Welfare and Human Rights Committee to the Kurdistan Workers' Party and the Liberation Tigers of Tamil Eelam.

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Plaintiffs filed the instant motion on February 6, 2004. On February 23, 2004, Defendants filed their opposition, to which Plaintiffs replied on March 1, 2004.

A motion under Rule 59(e) "should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law." 389 Orange Street Partners v. Arnold, 179 F.3d 656, 665 (9th Cir. 1999). A motion under Rule 59(e) may also be granted to prevent manifest injustice. See Pacific Ins. Co. v. American Nat. Fire Ins. Co., 148 F.3d 396, 403 (4th Cir. 1998).

Plaintiffs seek an order allowing them to file supplemental affidavits on behalf of the World Tamil Coordinating Committee ("WTCC") and the Federation of Tamil Sangams of North American ("FETNA"), and to amend the judgment to apply to all of the named plaintiffs, including WTCC and FETNA. They claim that in the absence of such an order, WTCC and FETNA will be required to file a separate action to enjoin application of the relevant provision of the USA PATRIOT Act to them, and that they are certain to prevail.

Defendants oppose, arguing that Federal Rule of Civil Procedure 59(e) does not permit Plaintiffs to relitigate standing or to submit evidence that was available to them prior to the entry of judgment. They contend that the evidence Plaintiffs seek to submit was available to them prior to the entry of judgment, and that Plaintiffs have made no attempt to explain why it was not presented in response to Defendants' motion to dismiss.<sup>1</sup>

In their reply, Plaintiffs assert that an amendment of the judgment is necessary to prevent manifest injustice. Plaintiffs state that they believed in good faith that the declarations submitted to the Court provided sufficient detail regarding their members' expertise and the forms of "expert advice or assistance" they wished to provide. Based on the guidance provided by the Court in its January 22, 2004 Order, Plaintiffs assert that they

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<sup>1</sup>Defendants also argue that Plaintiffs are not entitled to reargue standing in a subsequent action, because a dismissal for lack of jurisdiction precludes relitigation of the issue actually decided, citing 18A Wright, Miller & Cooper §4436 and Perry v. Sheahan, 222 F.3d 309, 317-318 (7<sup>th</sup> Cir. 2000). The Court finds that it is unnecessary to address this contention in ruling on Plaintiffs' motion.

are now attempting to remedy the situation by submitting supplemental declarations which amplify their initial declarations, and that based on these supplemental declarations, an amendment of the judgment is necessary to prevent manifest injustice.

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The Court granted Defendants' motion to dismiss with respect WTCC and FETNA based on their failure to demonstrate the requisite threat of prosecution. Although the Court did not commit clear error, the Court finds that a grant of Plaintiffs' motion is necessary to prevent manifest injustice. Plaintiffs were not provided with any guidance on the level of detail required in their initial declarations, and the supplemental declarations they seek to submit sufficiently detail the expertise of the members of WTCC and FETNA and the nature of the expert advice or assistance they seek to provide. Accordingly, the Court GRANTS Plaintiffs' motion to file supplemental declarations and amend the judgment.<sup>2</sup>

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<sup>2</sup>The Court rejects Defendants' argument that the preliminary injunction should be limited to the individual declarants. However, as the Court has already granted Defendants' motion to amend the judgment, limiting the injunction to the provision of expert advice and assistance to the PKK and the LTTE, the Court similarly limits the injunction as it relates to FETNA and WTCC.