

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF VIRGINIA BEACH

**COUNCIL ON AMERICAN-ISLAMIC
RELATIONS, INC.**

Plaintiff,

v.

ANDREW WHITEHEAD

Defendant.

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Law No. CL 04-926

**Defendant's Memorandum of Law in Reply to Plaintiff's Brief
in Support of Motion for Protective Order and In
Opposition to Defendant's Motion To Compel**

I. INTRODUCTION

Plaintiff in this defamation case is the Council on American Islamic Relations (CAIR). Without citing precedent, and contrary to controlling law, CAIR has refused to appropriately answer legitimate discovery requests and moved to block discovery.

CAIR's aim is to make Mr. Whitehead defend in the shadows.

CAIR is afraid to openly admit that it is a Moslem fundamentalist group. It is afraid to openly admit it supports, and has knowingly served as a conduit to raise funds for, the genocidal anti-Semites of Hamas. It is afraid to openly admit it works on behalf of, and relies on monies "donated" by, virulently anti-Christian Saudis. CAIR's fears - though well founded - do not constitute cognizable objections. This court should enforce law and grant Mr. Whitehead's Motions to Compel.

A. Background.

On March 31, 2004, plaintiff Council on American Islamic Relations sued Mr. Whitehead for posting these allegedly false and defamatory statements on his website:

- a) Let their (sic) be no doubt that CAIR is a terrorist supporting front organization that is partially funded by terrorists, and that CAIR wishes nothing more than the

implementation of a SHARIA law in American. ACAIR, August 13, 2003, Press Release.

- b) [CAIR is an] – organization founded by Hamas supporters which seeks to overthrow constitutional government in the United States and replace it with an Islamist theocracy using our own Constitution as protection... ACAIR, July 4, 2003, Press Release.
- e) ACAIR reminds our readers that CAIR was stated by Hamas members and is supported by terrorists supporting individuals, groups and countries. ACAIR, June 14, 2003. Press Release.
- f) Why oppose CAIR? CAIR has proven links to, and was founded by, Islamic terrorists. CAIR is not in the United States to promote the civil rights of Muslims. CAIR is here to make radical Islam the dominant religion in the United States and to covert our country into an Islamic theocracy along the lines of Iran. In addition, CAIR has managed, through the adroit manipulation of the popular media, to present itself as the “moderate” face of Islam in the United States. CAIR has succeeded to the point that the majority of its members are not aware that CAIR actively supports terrorists and terrorist supporting groups and nations. In addition, CAIR receives direct funding from Islamic terrorists supporting countries. ACAIR, May 29, 2003, Press Release.
- g) CAIR has proven leaks (sic) to, and was FOUNDED by, Islamic terrorists. ACAIR, May 29, 2003.
- h) CAIR is a fundamentalist organization dedicated to the overthrow of the United States Constitution and the installation of an Islamic theocracy in America. ACAIR, April 16, 2003. Press Release.

See CAIR Motion for Judgment (March, 2004) at ¶ 4.

Mr. Whitehead served discovery requests and requests for admission on CAIR.

CAIR objected, and then filed an amended motion for judgment, dropping many of its claims. Now, the only allegedly false and defamatory statements are:

- A. Let their (sic) be *no doubt that CAIR is a terrorist supporting front organization...* ACAIR, August 13, 2003, Press Release.¹

¹ “Front organization” does not have a fixed meaning. Extant definitions suggest front organizations (1) share common ideological goals with persons engaged in illegal or subversive activity, (2) propagandize to advance the shared goals, (3) provide financial or logistical support to advance the shared goals, and (4) have covert or hidden relationships with like-minded groups or persons. See THOMPSON, ET AL, Other People’s

- B. [CAIR is an](sic)...*seeks to overthrow constitutional government in the United States*... ACAIR, July 4, 2003, Press Release.²

See CAIR Amended Motion for Judgment (July, 2005) at ¶ 4.

B. The Controlling Law.

CAIR does not dispute Mr. Whitehead's statement of the controlling law.

Mr. Whitehead is entitled to discovery of information that is relevant to, or reasonably calculated to lead to the discovery of evidence relevant to, (1) the truth of the allegedly libelous statements, (2) plaintiff's reputation, and (3) plaintiff's damages. See Jordan v. Kollman, 269 Va. 569, 612 S.E. 2d 203 (2005) (citations omitted).³ The allegedly defamatory statements must be taken in context of each entire posting. See Yeagle v. Collegiate Times, 255 Va. 293, 298, 497 S.E. 2d 136 (1998)(citations omitted). This context sets the discovery parameters.

The first allegedly false and defamatory statement in CAIR's Motion for Judgment: "Let their (sic) be *no doubt that CAIR is a terrorist supporting front*

Wars: A Review of Overseas Terrorism in Canada, at p. 56-57 (Mackenzie Institute, 2003).

² Mr. Whitehead never said CAIR sought the violent overthrow of the United States government. His point, rather, was CAIR's principals had said CAIR sought to transform America into a Moslem country and implement Moslem religious law in place of the Constitution, resulting in the overthrow of constitutional government.

³ Our Supreme Court recently ruled the elements of libel are (1) publication of (2) an actionable statement with (3) the requisite intent. To be actionable, the statement must be both false and defamatory. CAIR is a public figure subject to New York Times Co. v. Sullivan, 376 U.S. 254, 279-80, 11 L. Ed. 2d 686, 84 S. Ct. 710 (1964). Thus, it is prohibited from recovering any damages for a defamatory falsehood unless it proves by clear and convincing evidence that Mr. Whitehead realized that his statements were false or that he subjectively entertained serious doubt as to the truth thereof. Kollman, 269 Va. at 575-577 (citations omitted).

organization...” was extracted from a posting dated August 13, 2003. The relevant portion of the complete post read:

We now live with the Council on American Islamic Relations, a suspected front group for the Hamas terrorist organization (emphasis in original). We live with the America-bashing of Mr. Ibrahim Hooper and his fellow bigots who hide behind the peaceful religion of Islam and spread their propaganda. We listen to Islamist cowards demand respect for their brand of Wahhabi Islam in the United States.

We don't listen to the ranting of Osama Bin Laden, why must we listen to the provocative, insulting statements of Mr. Nihad Awad? “I support Hamas!”, indeed you do, Mr. Awad and "thank you" for reminding us.

Americans, being the most tolerant people on Earth, accept concepts and notions that other nations wouldn't even consider. Let us ask ourselves. “Would a Muslim country accept a religious non-Islamic group in their country?” Will the day ever come when Saudi Arabia welcomes the Catholic Church to Mecca? Will we ever see a synagogue in Medina?

And yet, we allow the Saudis, through their *bought and paid for* terrorist supporters at CAIR, open numerous branches in America to “protect” the civil rights of Muslims in America.

Let there be no doubt that CAIR is a terrorist supporting front organization that is partially funded by terrorists, and that CAIR wishes nothing more than the implementation of Sharia law in America (emphasis in original).

In all of our wars, we have never knowingly allowed enemy front groups to operate in our country. Our President, the leader of our government, the Commander in Chief of the armed forces, has repeatedly told us we are at war with terrorism; let's take him at his word and demand that Islamist terror front groups in America be shut down...starting with CAIR.

"I am in support of the Hamas movement," Nihad Awad tells it like it is.

Earlier today in Israel, (8/12/03) two separate attacks - one at a bus stop and one at a mall, were carried out by Palestinian suicide bombers.

Hamas, the terrorist group that is dedicated to the eradication of Israel as a state, claimed responsibility for the second attack, at the bus stop near the entrance to Ariel, a large Jewish settlement in the West Bank, east of Tel Aviv.

Nihad Awad, the Executive Director for the Council on American-Islamic Relations, was quoted as saying "*I am in support of the Hamas movement,*" clearly telling the world that CAIR supports the Hamas organization.

ACAIR once again reminds our readers that CAIR is still supporting Hamas, and they have yet to publicly announce anything to the contrary. CAIR acts behind a mask of deception, claiming they are a "muslim civil rights group" when in fact they are terrorist sympathizers and supporters.

ACAIR wonders why so many top leaders of CAIR moved to America, some to become *naturalized* citizens, and create an organization that openly supports terrorists? What is their true purpose? What does this mean for Americans?

Shortly after posting the above, Mr. Whitehead linked the statement "**Let there be no doubt that CAIR is a terrorist supporting front organization that is partially funded by terrorists, and that CAIR wishes nothing more than the implementation of Sharia law in America**" to an article dated September 24, 2003 titled "A Bad Day for CAIR," <http://www.frontpagemag.com/Articles/Printable.asp?ID=9981> (Sept. 24, 2003)(Exhibit 1).⁴

The second allegedly false and defamatory statement in the amended Motion for Judgment: "[CAIR is an](sic)...*seeks to overthrow constitutional government in the*

⁴ The article stated in part:

Last Wednesday, The Senate Judiciary Subcommittee on Terrorism, Technology and Homeland Security held the second in a series of hearings aimed at examining Saudi Arabia's role in exporting Islamic extremism abroad...CAIR Executive Director Nihad Awad and Chairman Omar Ahmed were invited to testify at the hearing, but both declined to attend. In their absence – and in front of their empty witness chair - the committee heard compelling evidence that Saudi Arabia financially and ideologically supports a network of American organizations that act as the defenders, financiers, and front groups of international terrorists. CAIR has been a major player in this network since its creation in 1994, with a particularly soft spot for the suicide-bombing death squads of Hamas.

United States...”, was extracted from a post dated July 4, 2003. That post read in relevant part:

CAIR Attacks California Supporter, Politically Motivated?

On 12 May, 2003, CAIR (Council on American Islamic Relations, www.cair-net.org) issued an American Muslim News Brief with a letter to the editor entitled “Muslims have not been silent about terrorism” The letter was written by Dalia Mogahed who heads up the Outreach Program for the Islamic Center of Pittsburgh. Mogahed is responding to a letter, “The True Outrage” claiming it shows how evangelists like the Rev. Franklin Graham are “tearing our nation apart”.

Dalia Mogahed claims the following organizations “condemned” the Islamist terrorist attacks of Sept. 11th, 2001: (Note: all are either terrorist or terrorist supporting organizations/people).

1. *The League of Arab States* – This organization condemned the US-led effort to free Iraq.
2. *President Muhammad Khatami of Iran* – The “President” of Iran has roundly condemned the United States on many occasions.
3. *Jamaat-e-Islami* – A Pakistan-based Islamic group dedicated to the establishment of an Islamic theocracy.
4. *Muslim Brotherhood of Egypt* – An Islamist terrorist group.
5. *Chief Mufti of Saudi Arabia* – Whose clerics regularly call for the destruction of the United States.
6. *Islamic Research Academy in Cairo, Egypt* – Which called for “Jihad” against the United States should the US seek to liberate Iraq.

In the United States, Mogahed cited the following organizations:

1. *CAIR* – An organization **founded by Hamas supporters which seeks to overthrow Constitutional government in the United States and replace it with an Islamist theocracy using our own Constitution as protection** (internet link in original). CAIR consistently demands Constitutional protections and then readily denies these same protections to those who disagree with them.
2. *Islamic Society of North America* – Same aim as CAIR.
3. *Muslim Student Association* – A radical Muslim organization that imparts

Islamist propaganda on college campuses in the US and Canada. The MSA routinely distorts the truth and seeks to shut down free speech on college campus' when the speaker does not comport with their version of the "truth".

What do these organizations and people have in common? *We believe all of them are anti-American and anti-Democratic.* Each one of these groups or people has at one time or another called for the overthrow of the United States government and its replacement by an Islamic theocracy. CAIR, once again, defends the indefensible. We find CAIR's keeping company with these groups and people perfectly in line with their policy of accommodation with Islamist terrorists and their supporters.

The bold type language, only a part of which is cited in CAIR's motion for judgment, linked to an article by John Perazzo titled " Hamas and Hizzoneer" regarding CAIR's connections to terrorism. See <http://www.frontpagemag.com/Articles/Printable.asp?ID=6473> (Exhibit 2).

Rule 4:1(b)(1) authorizes Mr. Whitehead to obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claims made by the plaintiff, or to Mr. Whitehead's defenses. The information sought need not be admissible at trial; all information reasonably calculated to lead to the discovery of admissible evidence should be produced. Among other things, Mr. Whitehead may obtain an admission of the truth of any matters within the scope of Rule 4:1(b) that relate to statements or opinions of fact, or of the application of law to fact, including the genuineness of any documents described in the request. See Rule 4:11(a).

CAIR's associations and relationships, and its financial ties with terror financiers and Islamic fundamentalists, are the epicenter of this case. Mr. Whitehead's discovery requests were structured accordingly. First, he requested information regarding the historic activities and associations of CAIR and its officers, directors, and key employees,

the historic and current beliefs and views of CAIR and its officers, directors, and key employees. For the reasons set forth in Mr. Whitehead's brief in support of his motions to compel, this information is directly relevant to the claims and defenses in this action.⁵

Second, Mr. Whitehead requested discovery into CAIR's funding sources and its fund-raising activity for others. This discovery is not idle "fishing," for it bears directly on the truth of Mr. Whitehead's terror front organization statement.⁶ Furthermore, evidence that CAIR is being supported by foreign individuals, non-governmental agencies, and governments to make America a Moslem country is directly relevant and probative.

C. CAIR'S Meritless Objections.

1. CAIR's "Introduction".

CAIR does not cite law to justify its objections. Instead, it argues meetings with public figures dating back to 1996 demonstrate Mr. Whitehead's statements are conclusively false and defamatory. See Plaintiff's Brief in Support of Motion for Protective Order and in Opposition to Defendant's Motion to Compel at 3-6 (November

⁵ A corporation speaks through its employees, its officers, its directors, its board members, and its agents. Oberbroeckling v. Lyle, 362 S.E. 2d 682 (Va. 1987) (corporations liable for statements of agent or employee); Slaughter v. Valleydale Packers, 94 S.E. 2d 260 (Va. 1956) (corporation liable at tort for statements of its employees); White Hall Company v. Hall, 46 S.E. 290 (Va. 1904). CAIR's views and the views of its officers, directors, and key employees, are directly relevant and discoverable.

⁶ For example, CAIR used its website to knowingly funnel money, under false pretenses, to the Holy Land Foundation (HLF), the U.S. finance arm of the terror group Hamas. CAIR even issued an email "alert" stating the federal action against HLF and its principals was part of an "anti-Muslim witch hunt" promoted by "the pro-Israel lobby in America." See "FBI Agents Raid Muslim-Owned Internet Company," <http://www.islam-online.net/English/News/2001-09/07/article2.shtml> (September 6, 2001).

22, 2005)(Plaintiff's Brief). It asserts it has "condemned terrorism" and that it provides "educational services." Id. at 6-14.

CAIR's demonstrably false protestations of benevolence do not address the discovery issues before the court. The Ku Klux Klan's formerly prominent and powerful role in American politics pointedly demonstrates access to politicians is dispositive of absolutely nothing.⁷ CAIR's "condemnations" of terrorism have been disingenuous, and in one case, a vehicle to crudely insult Jewish terror victims.⁸ Finally, CAIR bleeds the

⁷ In President Woodrow Wilson's *History of the American People*, he wrote: "The white men were roused by a mere instinct of self-preservation ... until at last there had sprung into existence a great Ku Klux Klan, a veritable empire of the South, to protect the Southern country." In fact, upon seeing the notorious movie "Birth of Nation" that glorified the Klan in a special White House screening on February 18, 1915, President Wilson exclaimed, "It is like writing history with lightning, and my only regret is that it is all so terribly true." Wilson's endorsement of the Klan did not make its ideology any less odious, nor render its activities any less reprehensible. See generally THE READER'S COMPANION TO AMERICAN HISTORY, "The Ku Klux Klan," http://college.hmco.com/history/readerscomp/rcah/html/ah_051100_kukluxklan.htm (December 1, 2005)(noting the Klan once numbered over 3 million members nationwide, winning power in Indiana, Oklahoma, Oregon, and other states). Similarly, CAIR's meetings with elected officials do not make it any less of a terrorist front, nor render its activities any less despicable. While CAIR brazenly wraps itself in the mantle of the NAACP or the ADL, in truth, it is the KKK to which it bears the most striking resemblance.

⁸ Plaintiff's Brief discourses extensively on CAIR's alleged condemnations of 9/11, and a notorious bombing in Israel. However, upon further review, it is plain CAIR dissembles. First, although CAIR "condemned" the 9/11 atrocities, it used those attacks to raise money under false pretenses for two terror financing conduits: HLF (which funded Hamas) and the Global Relief Foundation (GRF) (which supported and assisted al Qaida and the Taliban). Second, its March, 2002 "condemnation" of the infamous Passover bombing of a hotel in Netanya, Israel (attached as Plaintiff's Brief Exhibit 15) defamed the victims. According to CAIR, the bombing occurred "in the Middle East"; although the terrorists knew they were going to Israel to kill Jews in service of their religion, CAIR could not find Israel on the map. Furthermore, CAIR did not condemn Hamas, which planned, carried out, and celebrated this attack. Instead, it used anti-Semitic murder as a platform for a frenzied, spittle-laced and false attack against "the Israeli armed forces."

truth to hide its face, lying about Hamas⁹ and stating “there *is* no connection whatever between CAIR and [terrorist leader and key Hamas operative] Marzook” (Plaintiff’s Brief at 13)(emphasis added) to hide an historic relationship that *was* (and likely remains) deep and tight.¹⁰

2. CAIR’s general objections.

CAIR has raised several general objections.

First, seems to argue that because Mr. Whitehead’s web statements were made in the present tense, CAIR’s historic activities and relationships are off-limits. It cites no

⁹ CAIR asserts: “Whitehead makes much of CAIR statements about Hamas more than a decade ago... Hamas was place (sic) on the terrorist list... on January 25, 1995. Prior to that time, Hamas was generally believed to perform humanitarian relief work, and many legitimate organizations then maintained some level of contact with it.” Plaintiff’s Brief at 13. CAIR lies. The Hamas Charter then (and now) in effect specifically called for the eradication of Jews and Israel. Between 1988 and January 1995, Hamas claimed “credit” for over *eighty-five* terror attacks. During the period April to December 1994 alone, Hamas atrocities included, but were not limited to, the following: (1) on April 6, 1994, detonating a car bomb next to a city bus, killing eight in the city of Afula, (2) on April 13, 1994, a suicide bomber killed five in the city of Hadera, (3) on October 9, 1994, two terrorists opened fire on shoppers in Jerusalem, killing two and wounding 15, (4) on October 19, 1994, a suicide bomber killed 22 and wounded 56 on a Tel Aviv bus, (5) on December 25, 1994, a Christmas suicide bomber wounded 13 at a Jerusalem bus stop. Hamas did not hide its culpability; it published effusive descriptions of “successful operations” (in which it referred to the “extermination” of Jews) on a published “Glory List.” Given these facts, it would seem CAIR believes the intentional murder of Jews constitutes “humanitarian relief work.”

¹⁰ Marzook was found to be a Hamas leader, designated a terrorist and deported from the United States. On May 10, 1996, approximately fifteen months after Hamas had been designated a terrorist organization, CAIR’s leadership organized a press conference to support Marzook at which Awad said, “[t]he arrest, detention and extradition is politically motivated... [and] this campaign has been orchestrated to serve as a wedge between America and Islamic countries.” MARZOOK LEGAL FUND, JUSTICE FORUM (June, 1996). In June 1996, CAIR signed an open letter to then Secretary of State Warren Christopher that railed against “the injustice that has prevailed against Dr. Marzook” and alleged that “our judicial system has been kidnapped by Israeli interests.” CAIR further labeled Marzook’s incarceration a hate crime in a 1996 report. See AMERICAN MUSLIM RESEARCH CENTER, THE PRICE OF IGNORANCE (1996); Goodstein, Harassment of Muslims, The Washington Post, April 20, 1996.

cases for this proposition. It cites none, because there are none. CAIR's historic activities and relationships formed the basis for the allegedly defamatory statements. That CAIR now suffers heartburn because its hateful actions and objectives are discoverable is of no legal moment. As one respected Virginia commentator has noted:

[T]he constitutional requirement of falsity allows defendants to conduct discovery in an effort to establish in an ex post facto way that they spoke the truth. Defendant's right to conduct such discovery contributes to the risk that plaintiffs take in filing defamation actions because of the potential to turn up "skeletons in the closet."

See Sphan, THE LAW OF DEFAMATION IN VIRGINIA (2d Ed.) at 22-23 (Va. Law Foundation 2003).

Second, CAIR reiterates its claim that its corporate views and opinions are not relevant. However, it does not cite any legal precedent to support this absurd proposition, nor does it address Mr. Whitehead's arguments demonstrating the relevance and probity of each specific question seeking this information. CAIR has opinions. It expresses those opinions frequently and loudly.¹¹ Yet now, in response to Mr. Whitehead's requests, it goes silent.

Third, CAIR objects to definition 19. As previously stated in his motion papers, Mr. Whitehead is prepared to work with CAIR's counsel to limit this definition.

2. CAIR's specific objections.

a. *Interrogatories.*

¹¹ See CAIR's Core Principles No. 7 available at <http://www.cair.com/default.asp?Page=corePrinciples>, stating "CAIR believes the active practice of Islam strengthens..."; see also CAIR News Release, CAIR Presents Award to Imam W. Deen Mohammed (September 6, 2005) available at www.cair-net.org/default.asp?Page=articleView&id=1735&theType=NR, stating "CAIR believes in community empowerment..."; see also CAIR Initiates Islam in the Workplace, (December 4, 1996) available at www.hartford-hwp.com/archives/27/027.html, stating "CAIR believes in a pro-active approach..."

All of CAIR's objections have been previously addressed. Regarding Interrogatories 7-9, Mr. Whitehead is prepared to work with CAIR's counsel to limit the scope of the requested information.

b. Requests for Admission.

CAIR recently filed 16 pages of objections. (Exhibit 3). The objections are substantially identical - in most cases, CAIR claims, without explanation, that the requested admission is "not reasonably calculated to lead to the discover (sic) of admissible evidence, because overbroad, and because vague." These "objections" are not sufficient, and CAIR should be ordered to answer, for the following reasons.

Requests 151 - 3. These requests concern CAIR financial relationships with terror financing groups HLF, GRF and Hamas. One of the central issues in this case is CAIR's support for such terror groups, and evidence regarding those financial relationships is highly probative. These requests are not vague, the information is relevant to the truth of Mr. Whitehead's statements and to the question of malice, and the requests should be answered.

Request 156-7. These requests concern CAIR relationships with the IAP (found civilly liable for murder carried out by Hamas) and Infocom, a company run by CAIR board member and convicted terrorist financier Ghashan Elashi. These requests are not vague, the information is relevant to the truth of Mr. Whitehead's statements and to the question of malice, and the requests should be answered.

Request 158. This request concerns the connections between a CAIR board member and the first World Trade Center bombing. This request is not vague, the information is relevant to the truth of Mr. Whitehead's statements and to the question of

malice, going directly to the “front organization” allegation, and the request should be answered.

Requests 163-72. These requests concern the connections between CAIR and individuals associated with the Kingdom of Saudi Arabia. As Mr. Whitehead’s internet posts demonstrate, the Saudi connection is another key issue in this case. These requests are not vague, the information is relevant to the truth of Mr. Whitehead’s statements and to the question of malice, and the requests should be answered.

Requests 173-76. These requests concern financial connections between CAIR, terror supporters, and terror organizations. These requests are not vague, the information is relevant to the truth of Mr. Whitehead’s statements and to the question of malice, and the requests should be answered.

Request 180. This request concerns the connection between CAIR and the Hamas leader Marzook. It is not overbroad, and should be answered.

Request 184. This request concerns communications between CAIR and terrorists, terror financiers, and terror supporters since 9/11. It is neither overbroad nor vague, and should be answered.

Request 185-6. These requests concern the financial relationship between CAIR and a Saudi prince known for financing Islamic fundamentalism and supporting terror. These requests are not vague, the information is relevant to the truth of Mr. Whitehead’s statements and to the question of malice, and the requests should be answered.

Request 187. This request concerns a financial relationship between CAIR and a Saudi Islamic fundamentalist group formed and operating for the purpose of converting “non-believers” by whatever means necessary, that agreed to underwrite CAIR activities

in the United States. This request is not vague, the information is relevant to the truth of Mr. Whitehead's statements and to the question of malice, and it should be answered.

Requests 188, 93-96, 225, 227-8. These requests concern anti-Semitic and anti-American statements and activities (including communications with the terrorist Marzook, speeches supporting suicide bombing, donating and soliciting donations to terrorists, co-ventures with the Islamic Association for Palestine, and advocacy of violence against Jews) undertaken by CAIR's executive director and founder Nihad Awad. These requests are not vague, the information is relevant to the truth of Mr. Whitehead's statements and to the question of malice, and the requests should be answered.

Request 229-30, 35, 37-8. These requests seek to establish the identity of a CAIR board member, and determine his nationality, his connections with the terrorist Marzook, and his financial relationships with terror supporters. These requests are not vague, the information is relevant to the truth of Mr. Whitehead's statements and to the question of malice, and the requests should be answered.

Requests 239-42, 46, 48-49. These requests seek to establish the identity of a CAIR board member, reveal his fund raising activities on behalf of terror groups, his membership in radical Islamist organizations, and his financial contributions to terror financiers. These requests are not vague, the information is relevant to the truth of Mr. Whitehead's statements and to the question of malice, and the requests should be answered.

Requests 250-53. These requests seek to demonstrate communications between CAIR and its principals with terror financier, CAIR board member, and convicted felon,

Elashi. These requests are not vague, the information is relevant to the truth of Mr. Whitehead's statements and to the question of malice, and the requests should be answered.

Request 254. This request concerns CAIR's fund raising efforts for terrorists and terror supporters. It is not vague, the information is relevant to the truth of Mr. Whitehead's statements and to the question of malice, and it should be answered.

Requests 255-69. These requests seek admission regarding the financial contributions made by terror groups and radical Islamists to CAIR. These requests are not vague, the information is relevant to the truth of Mr. Whitehead's statements and to the question of malice, and the requests should be answered.

Requests 289-90. These requests seek admission that CAIR's key personnel are identified in a Federal Bureau of Investigation surveillance report of a Hamas leadership meeting in the United States, a copy of which is attached to the requests for admission. These requests are neither overbroad nor vague. As Mr. Ahmad testified in deposition during the case titled Boim v. Quaranic Literacy Institute, he has a number of alias that hinder clear identification. This information is relevant to the truth of Mr. Whitehead's statements and to the question of malice, and the requests should be answered.

Requests 293-97, 313-17, 325-26. These requests seek admissions regarding certain associations with known terrorists and/or statements made by CAIR's leaders regarding the need to hide their support for Hamas while engaged in political action in the U.S., alleged "attacks" against Islam in the United States arising from federal action against HLF, which funded Hamas, and the fact that appointment of a person opposed by CAIR to the United States Institute of Peace by the President constituted an attack on

Islam. This information bears directly on CAIR's front group activities, its organizational goals (including support for Islamic terrorists), and its role as a source of violence and instability in the United States. The evidence will show that under Moslem law, "attacks against Islam" must be fought with violence. CAIR's intentional and repeated use of the "attack" imagery is, therefore, a potential call to violence.

IV. CONCLUSION.

Wherefore, Mr. Whitehead respectfully requests his Motion to Compel be granted.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Defendant's Memorandum of Law In Reply was emailed and mailed via first class mail on this 5th day of December, 2005 to:

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Reed D. Rubinstein