

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

EL-SHIFA PHARMACEUTICAL)	
INDUSTRIES COMPANY, and)	
SALAH EL DIN AHMED MOHAMMED IDRIS,)	
)	
Plaintiffs,)	
)	
vs.)	Civil Action No. 1:01CV00731 (RWR)
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

PLAINTIFFS’ SECOND NOTICE OF ADDITIONAL AUTHORITY

Plaintiffs El-Shifa Pharmaceutical Industries Company and Salah Idris respectfully inform the Court of supplemental authority relevant to the Government’s political question defense. Plaintiffs allege that the Government negligently targeted the El-Shifa pharmaceutical plant as a terrorist facility and then, in an attempt to justify the destruction of the El-Shifa plant, falsely and recklessly identified Mr. Idris as an associate of Osama bin Laden with financial ties to international terrorism. *See* Complaint ¶¶ 88-116. In the motion currently pending before this Court, the Government has moved to dismiss these claims on the ground that the political question doctrine bars any judicial review of actions taken by the President pursuant to his constitutional authority over foreign affairs and as commander in chief of the military. *See* Gov. Mem. at 28-34.

Similar arguments based on separation of powers were advanced by the Government and rejected by the Supreme Court in two recent decisions. In one, *Hamdi v. Rumsfeld*, 72 U.S.L.W. 4607 (U.S. June 28, 2004), the United States Supreme Court “reject[ed] the Government’s assertion that separation of powers principles mandate a heavily circumscribed role for the

courts” in reviewing the President’s designation of an individual as an enemy combatant. *Id.* at 4616 (plurality op.); *id.* at 4617, 4621 (Souter, J., concurring in part, dissenting in part, and concurring in the judgment). In the other, *Rasul v. Bush*, 72 U.S.L.W. 4596 (U.S. June 28, 2004), the Supreme Court held that the federal courts have jurisdiction to consider claims by aliens captured abroad that their detention in Guantanamo Bay by the United States is unlawful because they were not in fact enemy combatants or terrorists. *See id.* at 4600 & n.15; *id.* at 4601-02 (Kennedy, J., concurring in the judgment). For the Court’s convenience, copies of the *Hamdi* and *Rasul* decisions are attached as Exhibits A & B.

Dated: July 16, 2004

Respectfully submitted,

/s/

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Salah El Din Ahmed Mohammed Idris*

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of July, 2004, I caused a true and correct copy of the foregoing Plaintiffs' Second Notice of Additional Authority to be served via United States mail, first class, postage pre-paid, upon the following individuals:

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