



Plaintiffs Ed Moloney and Anthony McIntyre, by and through their attorneys, Dornan & Associates PLLC, and the Law Offices of James J. Cotter III, as and for a Complaint against the Defendant, the Attorney General of the United States, hereby move the Court for a Writ of Mandamus under 28 U.S.C. §1361, compelling the Attorney General to perform the duty he owes to the Plaintiffs and/or for a Declaratory Judgment and Injunctive Relief, under 28 U.S.C. §2201 (Declaratory Judgment Act), 28 U.S.C. §§1331 (Federal Question), as well as the Administrative Procedure Act, 5 U.S.C. §702 *et seq*; and in support of their Complaint allege as follows:

### **I. NATURE OF THE ACTION**

1. On or about May 3, 2011, the Commissioner appointed by the Court and acting on behalf of the Defendant Attorney General issued three subpoenas (the “May Subpoenas”) to the Trustees of Boston College, as well as two of its representatives, Robert K. O’Neill, the Director of the John J. Burns Library, and Thomas E. Hachey, Professor of History and Executive Director of the Center for Irish Studies at Boston College (“Respondents”). The subpoenas seek, on behalf of the Police Service of Northern Ireland (“PSNI”), the production of materials gathered and maintained under the

strictest conditions of confidentiality which form an oral history archive of participants active during the period of conflict in Northern Ireland known as the “Troubles,” a conflict which was largely resolved as a result of the U.S. sponsored Good Friday Agreement (“GFA”) of April 10, 1998. The objective of the oral history archive (the “Belfast Project”) is to collect and preserve for academic research and possible future publication of the memories of members of republican and loyalist paramilitary and political organizations in the Northern Ireland conflict. **Exhibit A**, Affidavit of Ed Moloney in Support of Motion to Quash (“Moloney Affidavit”) ¶3. **Exhibit B**, Affidavit of Anthony McIntyre in Support of Motion to Quash (“McIntyre Affidavit”) ¶1, 3.

2. Specifically, the May Subpoenas commanded the production of tape recordings and interviews, and transcripts and materials relating to tape recorded interviews, with Brendan Hughes<sup>1</sup> and Dolours Price. Boston College Motion to Quash (“B.C. Motion to Quash”) at p. 2.

3. A second set of subpoenas dated August 3, 2011 (the “August Subpoenas”), was served on Boston College on August 4, 2011. The August Subpoenas seek original audio and video recordings of “any and all interviews containing information about the abduction and death of Mrs.

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<sup>1</sup> As Brendan Hughes is deceased, the conditions of confidentiality terminated, and Boston College has produced responsive documentation.

Jean McConville,” along with written transcripts, summaries, and indices of such interviews, and records that describe the arrangement and circumstances of the recordings and the chain of custody of the recordings.

4. The Attorney General, in issuing the underlying subpoenas, claims to derive authority to do so under 18 U.S.C. §3512 in conjunction with the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland (“UK”), signed December 16, 2004, implementing the Mutual Legal Assistance Agreement with the European Union, signed June 25, 2003, S. Treaty Doc. No. 109-13 (“US-UK MLAT”). **Exhibit C.**

5. The Plaintiffs bring this civil action pursuant to 28 U.S.C. §1361, and 28 U.S.C. §1331, praying for a writ in the nature of mandamus to compel the Attorney General, and those acting under him, to perform the duties he owes to the United States and to the Plaintiffs under the US-UK MLAT, in conjunction with both 18 U.S.C. §3512 and F.R. Crim. P. 17(c)(2).

6. Before any legal assistance may be provided under the US-UK MLAT, the Attorney General was obliged, under Article 18 of the US-UK MLAT, to engage in a consultation with his U.K. counterpart where either the United States or the United Kingdom “has rights or obligations under

another bilateral or multilateral agreement relating to the subject matter of this Treaty.” The Attorney General was also obliged, under Article 3 of the US-UK MLAT, to consider the essential interests of the United States, as well as public policy grounds, and whether or not the offence was one of a political character.

7. In particular, before the Attorney General could issue any subpoenas under the US-UK MLAT, he was obliged by the terms of the Article 18 of the treaty to consult with the U.K. Secretary of State for the Home Department (or a person or agency designated by him) regarding the U.K.’s obligations under the related Extradition Treaty between the United States of America and the United Kingdom of Great Britain and Northern Ireland, and related exchanges of letters, signed at Washington on March 31, 2003 (“US-UK Extradition Treaty”) (Treaty Doc. 108-23). See **Exhibit D**, Congressional Research Report on Extradition Between the United States and Great Britain: the 2003 Treaty.

8. The proviso to the US-UK Extradition Treaty, considered by the same Senate Foreign Relations Committee to which was referred the US-UK MLAT, is directly relevant to the subject matter of the underlying request for assistance under the US-UK MLAT, and the proviso clearly sets

forth the sense of Congress regarding the prosecution of offences addressed in the Good Friday Agreement:

“The Senate is aware that concerns have been expressed that the purpose of the Treaty is to seek the extradition of individuals involved in offenses relating to the conflict in Northern Ireland prior to the Belfast Agreement of April 10, 1998. The Senate understands that the purpose of the Treaty is to strengthen law enforcement cooperation between the United States and the United Kingdom by modernizing the extradition process for all serious offenses and that the Treaty is not intended to reopen issues addressed in the Belfast Agreement, or to impede any further efforts to resolve the conflict in Northern Ireland.”

Exhibit D, CRS-28.

9. Relying upon assurances evidenced by an exchange of letters between the governments of the United Kingdom and the United States, the Senate noted with approval:

“[T]he statement of the United Kingdom Secretary of State for Northern Ireland, made on September 29, 2000, that the United Kingdom does not intend to seek the extradition of individuals who appear to qualify for early release under the Belfast Agreement.”

*Id.*, CRS-29.

10. Furthermore, the United Kingdom Home Secretary, in a letter to the Attorney General of the United States on March 31, 2006, reiterated this position:

“In September 2000 the Government decided that it was no longer proportionate or in the public interest to seek

the extradition of individuals convicted of terrorist offences committed prior to 10<sup>th</sup> April 1998, the date of the Belfast Agreement.”

*Id.*, CRS-30.

11. The public interest in not seeking the extradition of individuals for pre-GFA offenses could be read as having a global application. In fact, the subject matter of the U.K. government’s request involves a politically-related offense committed prior to the Good Friday Agreement, and will require the U.K. government to initiate extradition proceedings of an Irish national from the Republic of Ireland for an offense allegedly committed in the jurisdiction of the Republic of Ireland.

12. Either the Attorney General has failed to consult with his counterpart as required by Article 18, or he has failed to consider the import of those assurances given to the United States Senate by the United Kingdom, whereby the United Kingdom agreed not to reopen issues addressed in the GFA or to impede efforts to resolve the conflict in Northern Ireland. In their affidavits in support of the B.C. Motion to Quash, the Plaintiffs clearly have established that the subject matter of the subpoenas concerns matters addressed by the GFA, and that the material sought could impact on continuing efforts to resolve the conflict. **Exhibit A**, Moloney Affidavit ¶¶ 31-33. **Exhibit B**, McIntyre Affidavit ¶¶ 6, 8, 17.

13. The Plaintiffs further, or in the alternative, seek judicial review in the form of a declaratory judgment that the subpoenas issued by the Commissioner under 18 U.S.C. §3512, on behalf of the Attorney General, are unreasonable and oppressive contrary to F. R. Crim. P. 17(c)(2).

14. The provisions of 18 U.S.C. §3512 are clear, and must be read in the context of the self-executing US-UK MLAT to effect a result consistent with the intent and expectation of the treaty signatories, as well as the overriding legislative purpose.

15. The Attorney General is further charged under Article 3 of the US-UK MLAT with the requirement to have regard to essential interests of the United States or requests which would be contrary to important public policy considerations of the United States, as well as to assess the political character of the offense at issue, before legal assistance may be considered.

**Exhibit C** p.8.

16. The Attorney General improperly and unreasonably has failed to have regard to the essential interests and/or important public policy considerations of the United States, as required by Article 3.1(a) of the US-UK MLAT, relating to offenses committed prior to the Good Friday Agreement, as articulated by the United States Senate.

17. Furthermore, the Attorney General improperly and unreasonably has failed to assess whether the criminal investigation at issue involved an offense of a political character as required by Article 3.1(c)(i) of the US-UK MLAT.

18. The Attorney General has further failed to have regard to the unreasonableness and oppressiveness of the PSNI's request for assistance, as required by 18 U.S.C. §3512 and F.R. Crim. P. 17(c)(2).

19. Upon information and belief, prior to burdening the Honorable Court with a request for legal assistance, the PSNI has not engaged in any good faith attempts to seek the production of any interviews of Dolours Price from news reporting sources in Northern Ireland within the PSNI's own jurisdiction. See Government's Opposition to Motion to Quash and Motion to Compel ("Government Opposition") at p.4; **Exhibit A**, Moloney Affidavit ¶ 31.

20. Furthermore, the PSNI has not advised the Honorable Court of the limits of the PSNI's prosecutorial reach. Upon information and belief, Dolours Price lives in the Republic of Ireland and is not subject to personal jurisdiction in the United Kingdom. For any chance of a prosecution to arise from production of the requested materials, the United Kingdom would be required to seek her extradition from the Republic of Ireland, a process

which will necessarily be fraught with difficulty.<sup>2</sup> Upon information and belief, such an event is highly improbable, based in part on past history of extradition between the U.K. and the Republic of Ireland, the GFA and the European Arrest Warrant procedures. See **Exhibit F**, European Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA).

21. The United Kingdom stated to the Attorney General of the United States on March 31, 2006 that it was “no longer proportionate or in the public interest to seek the extradition of individuals convicted of terrorist offences committed prior to 10<sup>th</sup> April 1998, the date of the Belfast Agreement.” Upon information and belief, the PSNI cannot proceed with a prosecution without seeking the extradition of Dolours Price from the Republic of Ireland.

22. Furthermore, the subpoenas were issued upon representation to the Honorable Court that the stated purpose was to “assist[] the United Kingdom regarding an alleged violation of the laws of the United Kingdom.” However, the PSNI request for assistance is disingenuous, as the Republic of Ireland has subject matter jurisdiction over some or all of the

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<sup>2</sup> See European Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA). Article 4.7: The executing judicial authority may refuse to execute the European arrest warrant where the European arrest warrant relates to offences which are regarded by the law of the executing Member State as having been committed in whole or in part in the territory of the executing Member State or in a place treated as such.

alleged offenses which underpin the documents subject to subpoena. See Exhibit 1 to the Government Opposition, which alleges that the alleged execution(s) of IRA informers transported by Dolours Price occurred in County Monaghan, which is in the jurisdiction of the Republic of Ireland.

23. The PSNI's request for legal assistance under 18 U.S.C. §3512 conceals an attempt to circumvent proof-gathering limits in the United Kingdom, as well as the laws and policies of the both the United States and the Republic of Ireland, and renders this request unduly intrusive and burdensome<sup>3</sup>. See *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 245 (2004). The PSNI has requested information under 18 U.S.C. §3512 which it has made no attempt to discover in the United Kingdom. See *Application of Asta Medica, S.A.*, 981 F.2d 1, 5 (1st Cir. 1992). Limitation of the requested material is not an adequate remedy, as the physical harm to the Plaintiffs would be heightened, and the harm to the oral history project would be irreparable, once any materials from the oral history project are released without the consent of the confidantes. **Exhibit A**, Moloney Affidavit ¶¶31-33; **Exhibit B**, McIntyre Affidavit ¶¶8, 17-19.

24. Accordingly, the Attorney General, in evaluating the reasonableness of the request, has failed to ascertain if the materials

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<sup>3</sup> Article 1 (1bis) of the US-UK MLAT also states that "Assistance shall not be available for matters in which the administrative authority anticipates that no prosecution or referral, as applicable, will take place."

requested would be more readily discoverable under the laws of the United Kingdom, whether any attempt has been made to discover these materials by the Requesting Party, and/or if they are intended for use in a viable prosecution in Northern Ireland.

25. In issuing the subpoenas, the Attorney General has violated the Plaintiffs' constitutional right to freedom of speech, and in particular their freedom to impart historically important information for the benefit of the American public, without the threat of adverse government reaction. See *In Re Special Proceedings*, 373 F.3d 37, 45 (1st Cir. 2004):

The three leading cases in this circuit require “heightened sensitivity” to First Amendment concerns and invite a “balancing” of considerations (at least in situations distinct from *Branzburg*). *Cusumano*, 162 F.3d at 716-17; *LaRouche*, 841 F.2d at 1182-83; *Bruno*, 633 F.2d at 596-99. In substance, these cases suggest that the disclosure of a reporter's confidential sources may not be compelled unless directly relevant to a nonfrivolous claim or inquiry undertaken in good faith; and disclosure may be denied where the same information is readily available from a less sensitive source. See *Cusumano*, 162 F.3d at 716-17; *LaRouche*, 841 F.2d at 1180; *Bruno*, 633 F.2d at 597-98.

26. The Attorney General has ignored the reporters' privilege in the protection of their confidential sources. See B. C. Motion to Quash p. 9. See also *Sinnott v. Boston Retirement Board*, 524 N.E.2d 100 (Mass. 1988), cert. denied, 109 S.Ct. 528 (1988) [the Court may weigh the public interest

in the free flow of information against the litigant's need for the information and the availability of information from other sources in deciding whether a reporter should be protected from disclosure of a source or information].

27. As discussed in the Plaintiffs Affidavits submitted in support of Boston College's Motion to Quash, the Attorney General's actions further endanger the Plaintiffs' inherent Constitutional right to life. **Exhibit A**, Moloney Affidavit ¶¶31-33; **Exhibit B**, McIntyre Affidavit ¶¶8, 17-19.

28. Under 5 U.S.C. §702, a person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.

29. As a result of the failure of the Attorney General, and those acting under him, to perform the duties owed to the Plaintiffs, and to have regard to important public policy considerations, or to assess the political character of the offense at issue, the Plaintiffs have been placed in danger of physical harm and the important public policy of maintaining an unique oral history record relating to the "Troubles" in Northern Ireland is in danger of irreparable damage. See B.C. Motion to Quash at p13-15.

30. As the Plaintiffs have no means of redress other than this instant action, they have exhausted all administrative remedies prior to filing this Complaint. In the alternative, they claim an exception as this case raises

constitutional questions, and also because any delay for administrative action would cause irreparable injury to the Plaintiffs.

## II. PARTIES AND JURISDICTION

31. Plaintiff Ed Moloney resides in the Bronx, New York, and Plaintiff Anthony McIntyre is a resident of Drogheda in the Republic of Ireland. Both Plaintiffs are interviewers of a number of the participants in the Belfast Project, and are interested parties.

32. Eric H. Holder, Jr. is the Attorney General of the United States, and has authority under the Article 2.2 of the MLAT to provide or withhold legal assistance to the United Kingdom. The Attorney General is sued herein in his official capacity.

33. The jurisdiction of this Court in this action is asserted pursuant to 28 U.S.C. §§1331 (federal question), as well as 28 U.S.C. §2201 (Declaratory Judgment Act) as well as the Administrative Procedure Act (“APA”), 5 U.S.C. §702 *et seq.* There is an actual controversy between the parties within this Court’s jurisdiction as hereinafter more fully appears.

34. Venue in this District is proper pursuant to 28 U.S.C. § 1391(b) and (e). The claims in this suit arose in this District, and the Attorney General is an officer or employee of the United States acting in his official capacity or under color of legal authority. No real property is involved in

this action. Venue also is proper pursuant to 28 U.S.C. §§1331 (federal question) and 1332(a)(1) (diversity of citizenship).

35. The scope of review under the APA is set forth at 5 U.S.C. §706, pursuant to which the Court shall decide “all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.” The Court shall (1) compel agency action unlawfully withheld or unreasonably delayed; and (2) hold unlawful and set aside agency action, findings, and conclusions found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. (B) contrary to constitutional right, power, privilege, or immunity; (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (D) without observance of procedure required by law etc.

36. Plaintiffs respectfully request that the Court compel the Attorney General to perform his duties under Article 3 of the US-UK MLAT to consider how legal assistance in this case (a) would impair the essential interests of the United States which are, *inter alia*, set forth in the US-UK MLAT, and expressed in the Extradition Treaty and attached letters, as well as the GFA; (b) would be contrary to important public policy

considerations of the United States; and (c) is directed to an offense of a political character.

37. Plaintiffs respectfully request that the Court compel the Attorney General to perform his duties under Article 18 of the US-UK MLAT to consult with the U.K. Secretary of State for the Home Department with regard to the U.K.'s request for legal assistance, in light of both the U.K.'s obligations and assurances under the US-UK Extradition act, and the GFA, as well as the likelihood of any prosecution arising from the production of the requested materials.

38. The Plaintiffs further request that the Court declare that the subpoenas issued by the Commissioner, on behalf of the Attorney General, are unreasonable and oppressive contrary to F. R. Crim. P. 17(c)(2), in that the Attorney General, contrary to his obligations, has (a) failed to have due regard to the sense of Congress clearly expressed in the proviso to the US-UK Extradition Treaty, which bears direct relevance to the assistance sought and (b) failed to have due regard to important public policy considerations before agreeing to provide legal assistance (c) failed to assess the political character of the offense at issue before legal assistance may be provided, and (d) failed to have due regard to the unlikelihood of any prosecution arising as a result of the materials requested.

39. Further, or in the alternative, the Plaintiffs seek a declaration from the Court that the 18 U.S.C. §3512 request conceals an attempt to circumvent proof-gathering limits in the United Kingdom and/or other policies of the United Kingdom, and that the request is otherwise unduly intrusive and burdensome.

### **III. FACTS AND PROCEDURAL HISTORY**

40. The facts and procedural history have been set out comprehensively in the Motion to Quash and the Motion to Quash New Subpoenas filed by Boston College on June 7, 2011 and August 17, 2011 respectively; as well as the Government's Opposition to Motion to Quash and Motion to Compel, filed on July 1, 2011 and the Government's Opposition to Motion to Quash New Subpoenas and Motion to Compel, filed on August 25, 2011.

41. On September 28, 2006, President George W. Bush referred the US-UK MLAT to the Senate Committee on Foreign Relations, along with 24 other similar bilateral agreements, to implement the Mutual Legal Assistance between the United States of America and the European Union ("EU2), signed on June 25, 2003. **Exhibit E.**

42. In the same letter of referral, the President stated that a "parallel agreement with the European Union on extradition, together with bilateral

instruments” would be transmitted to the Senate separately, and stated that these law enforcement agreements would “modernize and expand in important respects the law enforcement relationships between the United States and the 25 EU Member States, as well as formalize and strengthen the institutional framework for law enforcement relations between the United States and the European Union itself.” *Id.* The President made clear that The Agreement includes a non-derogation provision making clear that the US-UK MLAT is “without prejudice to the ability of the United States or an EU Member State to refuse assistance where doing so would prejudice its sovereignty, security, public, or other essential interests.” *Id.*

43. On September 29, 2006, of all the parallel extradition agreements with EU member states, the same Senate Committee on Foreign Relations which considered the US-UK MLAT<sup>4</sup>, raised concerns in only matter, namely, the Extradition Treaty with the United Kingdom (Treaty Doc. 108-23). **Exhibit C**, CRS-1. The Senate addressed concerns that the purpose of the Extradition Treaty was “to seek the extradition of individuals involved in offenses relating to the conflict in Northern Ireland prior to the Belfast Agreement of April 10, 1998.” *Id.*, CRS-28. Accordingly, the

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<sup>4</sup> The US-UK MLAT was ratified on September 23, 2008.

Senate included language in a proviso to the treaty, based on assurances it had received from the United Kingdom, to the effect that the law enforcement provisions of the Extradition Treaty were “not intended to reopen issues addressed in the Belfast Agreement, or to impede any further efforts to resolve the conflict in Northern Ireland.” *Id.*

44. The underlying subpoenas seek records regarding offenses relating to the conflict in Northern Ireland prior to the Belfast Agreement of April 10, 1998. Government Motion in Opposition to Motion to Quash pp 2-4.

45. Upon information and belief, the PSNI, which is the law enforcement agency responsible for investigating criminal offenses in Northern Ireland, has not made any attempts to seek the production of any interviews of Dolours Price from news reporting sources in Northern Ireland, where the PSNI has jurisdiction. See Government’s Opposition to Motion to Quash and Motion to Compel at p.4; Government’s Opposition to Motion to Quash New Subpoenas and Motion to Compel at p.1, 2.

46. Upon information and belief, Dolours Price is not subject to personal jurisdiction in the United Kingdom, as she is resident in the Republic of Ireland, and in the event of a prosecution arising from the

requested materials, the United Kingdom would be required to seek her extradition from the Republic of Ireland.

47. Whereas the subpoenas were issued with the stated purpose of “assisting the United Kingdom regarding an alleged violation of the laws of the United Kingdom,” upon information and belief, the Republic of Ireland has subject matter jurisdiction over some or all of the alleged offenses which underpin the subpoenas requests.

#### **V. CAUSE OF ACTION**

48. Pursuant to Article 18 of the US-UK MLAT, the Attorney General was obliged to consult with the United Kingdom regarding those of the United Kingdom’s obligations under the US-UK Extradition Treaty (Treaty Doc. 108-23) which related to the subject matter of the US-UK MLAT.

49. In particular, pursuant to Article 18, the Attorney General was obliged to consider the proviso to the US-UK Extradition Treaty, which is directly relevant to the subject matter of the underlying request for assistance under the US-UK MLAT, and which clearly sets forth the sense of Congress regarding the prosecution of offences addressed in the Good Friday Agreement.

50. In considering the law enforcement treaties, the clear intent of Congress was that the United Kingdom would not employ the Extradition Treaty, and by extension the companion law enforcement provisions of the US-UK MLAT, to reopen issues addressed in the Belfast Agreement, or to impede any further efforts to resolve the conflict in Northern Ireland.

51. Pursuant to Article 3, the Attorney General is further charged under the US-UK MLAT with the obligation to have regard to important public policy considerations, and to assess the political character of the offense at issue, before legal assistance may be provided.

52. The Attorney General has failed to carry out his obligations under the US-UK MLAT, by failing (a) to make the findings required by Article 3 prior to issuing the subpoenas and (b) to carry out the consultative functions delegated to him by law under Article 18. In so doing, he has breached the duties he owes to the United States, his duty to have regard to important public policy considerations, and his duties to those directly affected by his subpoenas requests.

53. The Attorney General has failed to have regard to the important public policy, as articulated by the Senate, of prescribing law enforcement efforts which seek to reopen matters address by the Belfast Agreement.

54. In issuing the subpoenas, the Attorney General has violated the Plaintiffs' constitutional right to freedom of speech, and in particular their freedom to impart historically important information to the American public, without the threat of adverse government reaction. The Attorney General's action threatens Boston's College's oral history project to which the Plaintiffs have made historic contributions, contrary to the constitutional rights and privileges of the Plaintiffs

55. The Attorney General's subpoenas further violates the Plaintiffs' constitutional right to life, in that the material requested, if produced, could expose the Plaintiffs to an increased risk of physical harm.

56. The Attorney General is further in violation of his obligations under the US-UK MLAT and 5 USC § 706, by failing to consider whether the underlying offense at issue was political in character, and in doing so acted in excess of his authority or limitations, and without observance of procedure required by law.

57. The Attorney General is aware, or should be aware, that the request for mutual legal assistance on the part of the PSNI is unreasonable as it is merely a fishing expedition which is highly unlikely to lead to any prosecution in the requesting jurisdiction.

58. The Attorney General's knowledge, in light of the above, would render the enforcement of the subpoenas unreasonable and/or oppressive contrary to F.R. Crim. P. 17(c).

WHEREFORE, Plaintiffs hereby respectfully request an order and judgment in their favor against the Defendants, jointly and severally, for the following relief:

(a) that the Court remand this matter and compel the Attorney General and those acting under him, to (a) to make the findings required by Article 3 prior to issuing the subpoenas and (b) consult with the U.K. Secretary of State for the Home Department (or a person or agency designated by him), as required by Article 18, regarding the related Extradition Treaty between the United States of America and the United Kingdom of Great Britain and Northern Ireland, and related exchanges of letters, signed at Washington on March 31, 2003 ("US-UK Extradition Treaty") (Treaty Doc. 108-23);

(b) stay the enforcement of the subpoenas until such time as the Attorney General has provided the Honorable Court with a report of such consultation;

(c) declare that the Attorney General has failed in his obligation to consider the proviso to the US-UK Extradition Treaty, and that

the US-UK Extradition Treaty is directly relevant to the subject matter of the underlying request for assistance under the US-UK MLAT;

(d) declare that the Attorney General has failed to have regard to important public policy considerations in seeking to reopen matters address by the Belfast Agreement;

(e) declare that the Attorney General has violated the Plaintiffs' constitutional right to freedom of speech, and in particular their freedom to impart historically important information to the American public, without the threat of adverse government reaction;

(f) declare that the Attorney General has endangered the Plaintiffs' constitutional right to life;

(g) declare that the Attorney General has failed in his obligations to consider whether the underlying offense at issue was political in character, and in doing so acted in excess of his authority or limitations, and without observance of procedure required by law contrary to the Administrative Procedures Act at 5 U.S.C. § 706;

(h) declare that the 18 U.S.C. §3512 request conceals an attempt to circumvent proof-gathering limits in the United Kingdom, or laws or policies of the Republic of Ireland, and that the request is otherwise unduly intrusive and burdensome.

(i) grant to the Plaintiffs those costs and reasonable attorneys' fees incurred by the Plaintiffs in this action pursuant to the 5 USC § 552(a)(4)(E) and/or the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d) and 5 U.S.C. § 504 *et seq.*

(j) grant such other and further relief as the Court may deem just and proper under the circumstances.

Dated: August 30, 2011  
Long Island City, New York

Respectfully submitted,

DORNAN & ASSOCIATES PLLC

By: \_\_\_\_\_  
/s/Eamonn Dornan (ED 7990)  
*Appearing Pro Hac Vice*

1040 Jackson Avenue, Suite 3B  
Long Island City, New York 10017  
Tel: (718) 707-9997  
Fax: (718) 228-5940

LAW OFFICES OF JAMES J.  
COTTER, III MA BBO 101620

By: \_\_\_\_\_  
/s/James J. Cotter, III

Post Office Box 270  
N. Quincy, MA 02171  
Tel. 617 899-0549  
Fax 617 984-5858  
*Attorneys for Plaintiffs*  
Ed Moloney and Anthony McIntyre