

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JACQUELINE STEVENS,)

Plaintiff,)

vs.)

ERIC HOLDER, JR., Attorney)

General of the United States, in)

his official capacity; JUAN OSUNA)

Director, Executive Office of)

Immigration Review, in his official)

capacity; FRAN MOONEY, Assistant)

Director, Office of Management)

Programs, Executive Office of)

Immigration Review, in her)

individual and official capacity;)

MARYBETH KELLER, Assistant)

Chief Immigration Judge,)

Executive Office of Immigration)

Review, in her individual and)

official capacity; GARY SMITH,)

Assistant Chief Immigration Judge,)

Executive Office of Immigration)

Review; in his individual and official)

capacity; WILLIAM CASSIDY,)

Immigration Judge, Executive)

Office of Immigration Review, in his)

official capacity; CYNTHIA LONG,)

Court Administrator, in her individual)

and official capacity; DARREN)

EUGENE SUMMERS, Regional)

District Supervisor, Federal Protective)

Services, in his individual and official)

capacity; INSPECTOR DOE,)

CIVIL ACTION FILE NO.:
1:12-CV-1352-ODE

Jury Trial Demanded

Federal Protective Services, in his)
individual and official capacity;)
PARAGON SYSTEMS, INC.'s,)
GUARD DOE 1, (a/k/a)
NATHANIEL HAYES);)
PARAGON SYSTEMS, INC.'s,)
GUARD DOES 2-3;)
and PARAGON SYSTEMS, INC.'s)
SUPERVISOR DOE;)
)
Defendants.)

PLAINTIFF'S FIRST AMENDED AND RESTATED COMPLAINT

COMES NOW the Plaintiff, Jacqueline Stevens (hereinafter referred to as "Plaintiff"), and files this, her First Amended and Restated Complaint (hereinafter referred to as "Amended Complaint") against the Defendants, Eric Holder, Jr., Attorney General of the United States, in his official capacity (hereinafter referred to as "Defendant Holder"); Juan Osuna, Director, Executive Office of Immigration Review, in his official capacity (hereinafter referred to as "Defendant Osuna"); Fran Mooney, Assistant Director, Office of Management Programs, Executive Office of Immigration Review, in her individual and official capacity (hereinafter referred to as "Defendant Mooney"); MaryBeth Keller, Assistant Chief Immigration Judge, Executive Office of Immigration Review, in her individual and official capacity (hereinafter referred to as "Defendant Keller"); Gary Smith,

Assistant Chief Immigration Judge, Executive Office of Immigration Review, in his individual and official capacity (hereinafter referred to as “Defendant Smith”); William Anthony Cassidy, Immigration Judge, Executive Office of Immigration Review, in his official capacity (hereinafter referred to as “Defendant Cassidy”); Cynthia Long, Court Administrator, in her individual and official capacity (hereinafter referred to as “Defendant Long”); Darren Eugene Summers, Regional District Supervisor, Federal Protective Services, in his individual and official capacity (hereinafter referred to as “Defendant Summers”); Inspector Doe, Federal Protective Services, in his individual and official capacity (hereinafter referred to as “Defendant Inspector Doe”) (hereinafter collectively referred to as the “Federal Defendants”); and Paragon Systems, Inc.’s Supervisor Doe (hereinafter referred to as “Paragon Supervisor Doe”); Paragon Systems, Inc.’s Guard Doe 1 (a/k/a Nathaniel Hayes) (hereinafter referred to as “Paragon Guard Doe 1/Hayes”); Paragon Systems, Inc.’s Guard Does 2-3 (hereinafter referred to as “Paragon Guard Doe 2” or “Paragon Guard Doe 3”) (the guards hereinafter collectively referred to as the “Paragon Guards”), and in amending the Complaint filed by Plaintiff, pro se, on April 18, 2012, respectfully shows the Court as follows:

NATURE OF THE ACTION

This civil action, seeking declaratory and equitable relief, damages, costs and attorney's fees, is brought under 28 U.S.C. §1331; 28 U.S.C. § 2201-2202; 28 U.S.C. § 2412; and 28 U.S.C. § 1367, to redress and prevent violations of Plaintiff's rights as guaranteed under the First and Fifth Amendments to the United States Constitution, to redress and prevent statutory violations by the Federal Defendants, and to aver state law tort claims against Paragon Guards and Paragon Supervisor Doe.

PARTIES

1.

Plaintiff, a resident and citizen of the State of Illinois, is currently a Professor of Political Science at Northwestern University in Evanston, Illinois. She is Director of the Deportation Research Clinic at the Roberta Buffett Center for International and Comparative Studies at Northwestern University. At all times relevant to this Amended Complaint, Plaintiff was a professor at the University of California, Santa Barbara and a Visiting Scholar at the Center for the Study of Law and Society at the University of California-Berkeley, School of Law.

2.

Plaintiff, as an academic and journalist, has for years been deeply involved in the research of national immigration policy and practices. Her scholarship includes research and publications on the misconduct of immigration officials, including attorneys hired to work as immigration judges within the Department of Justice's Executive Office of Immigration Review (hereinafter referred to as "EOIR"). In addition to scholarly publications, Plaintiff has reported extensively for media outlets on secrecy in deportation proceedings and illegal conduct by immigration officials. She has publicly expressed alarm at the wrongful deportation of United States citizens that her research documented, at the conduct of secret immigration "trials," and at the hearings of detained respondents *en masse*. Her articles have appeared in the *New York Times*, *The Nation*, and *Huffington Post*. She has also been quoted or appeared in interviews conducted by CNN, NPR, the *New York Times*, the *Christian Science Monitor*, the Associated Press and McClatchy wire services, as well as local daily newspapers and weeklies between 2009 and 2013.

3.

Plaintiff personally attends deportation/removal hearings for the purpose of collecting information for her articles, media appearances and academic work. Her

work leads her to the Immigration Court in Atlanta, Georgia, one of the nation's most active immigration courts. At all times relevant to this Amended Complaint, Plaintiff was conducting research in the State of Georgia for articles on immigration law enforcement to be published in books, national magazines, scholarly journals, and her blog.

4.

Defendant Holder is the Attorney General of the United States. At all relevant times to this Amended Complaint and at the present time, he oversees the Executive Office for Immigration Review ("EOIR").

5.

Defendant Osuna is the current Director of the EOIR.

6.

Defendant Mooney is the Assistant Director for the Office of Management Programs at the EOIR. At all relevant times to this Amended Complaint and at the present time, she is responsible for security, space and facilities. Plaintiff amends the prior service address for Defendant Mooney to aver that the proper suite for service of process is suite 2600, rather than 1850, 5107 Leesburg Pike, Falls Church, Virginia 20530.

7.

Defendant Keller is an Assistant Chief Immigration Judge at the EOIR. At all relevant times to this Amended Complaint and at the present time, she is responsible for managing investigations of misconduct complaints against immigration judges. Plaintiff amends the prior service address for Defendant Keller to aver that the proper suite for service of process is suite 2500, rather than 1850, 5107 Leesburg Pike, Falls Church, Virginia 20530.

8.

Defendant Smith was, at all times relevant to this Amended Complaint, an Assistant Chief Immigration Judge at EOIR, who oversaw the operations of the Atlanta Immigration Court and was responsible for investigating misconduct complaints against immigration judges in Georgia. Upon information and belief, Defendant Smith is no longer employed at EOIR.

9.

Defendant Cassidy is a resident and citizen of the State of Georgia, licensed to practice law in the State of Ohio and is employed by EOIR as an immigration judge. Immigration judges determine removability and adjudicate applications for relief from removal. At all relevant times to this Amended Complaint and at the present time, he conducts deportation/removal hearings for EOIR immigration

courts in Atlanta, Georgia and Lumpkin, Georgia. Defendant Cassidy is assigned a courtroom and maintains an office at the United States Immigration Court for Atlanta, located at 180 Spring Street, S.W., Atlanta, Georgia 30303 (hereinafter referred to as the “Atlanta Immigration Court”).

10.

Defendant Long is the EOIR Court Administrator assigned to the Atlanta Immigration Court. At all relevant times to this Amended Complaint and at the present time, she manages the daily activities of the Immigration Court under the supervision of the Assistant Chief Immigration Judge, and supervises staff interpreters, legal assistants, and clerical and technical employees.

11.

Defendant Summers, at all times relevant to this Amended Complaint and at the present time, is employed as Central District Commander by Federal Protective Services (hereinafter referred to as “FPS”), an agency of the Department of Homeland Security (hereinafter referred to as “DHS”). Among Defendant Summers’ responsibilities, he is charged with supervising FPS employees, who provide law enforcement services and security oversight at immigration courts. At all times relevant to this Amended Complaint, Defendant

Summers was responsible for supervising Defendant Inspector Doe in providing security at the Atlanta Immigration Court.

12.

FPS inspectors are responsible for responding to incidents and demonstrations, and overseeing contracts. At all times relevant to this Amended Complaint, Defendant Inspector Doe had oversight over Paragon Guards and Paragon Supervisor Doe at the Atlanta Immigration Court.

13.

Paragon Guard Doe 1, whose name, upon information and belief, is Nathaniel Hayes, at all times relevant to this Amended Complaint and at the present time, is a security guard licensed by the Georgia Board of Private Detective and Security Agencies--#SGE053828. He may be served at Paragon Systems, Inc., 14160 Newbrook Drive #210, Chantilly, Virginia 20151.

14.

At all times relevant to this Amended Complaint and at the present time, Paragon Guard 1/Hayes is employed as a "security guard" by Paragon Systems, Inc. (hereinafter referred to as "Paragon"), a corporation doing business in the Northern District of Georgia that is licensed as a security agency by the Georgia Board of Private Detectives and Security Agencies (license #PSC001821). At all

times relevant to this Amended Complaint and at the present time, Paragon is under contract with DHS to furnish professional security services, including armed guard services, for the Atlanta Immigration Court. At all times relevant to this Amended Complaint, Defendant Doe 1/Hayes was employed by Paragon to provide guard services at the Atlanta Immigration Court.

15.

Paragon Guard Doe 2 was, at all relevant times relevant to this Amended Complaint, an employee of Paragon, and was employed to provide guard services at the Atlanta Immigration Court.

16.

Paragon Guard Doe 3 was, at all relevant times relevant to this Amended Complaint, an employee of Paragon, and was employed to provide guard services at the Atlanta Immigration Court.

17.

Defendant Paragon Supervisor Doe was, at times relevant to this Amended Complaint, an employee of Paragon, and was employed to provide security services and supervise Paragon Guards at the Atlanta Immigration Court.

JURISDICTION AND VENUE

18.

This Court has jurisdiction under 28 U.S.C. § 1331; 28 U.S.C. § 1343; 28 U.S.C. § 2201. This case arises under the Constitution and laws of the United States of America. Plaintiff brings this action for damages against Federal Defendants named in their individual capacities, under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). Supplemental jurisdiction over pendent state law claims is proper under 28 U.S.C. § 1367.

19.

This Court has personal jurisdiction because a substantial portion of the events or omissions giving rise to Plaintiff's claims occurred in this District and many of the Defendants reside in this District.

20.

Venue is proper in this District and this Division, pursuant to 28 U.S.C. § 1391.

OPERATIVE FACTS

(Preclusion from Observation of Deportation/Removal Hearings)

21.

Federal Defendants have allowed or perpetrated a pattern or practice of denying Plaintiff, and upon information and belief, other members of the public, the ability to observe deportation/removal hearings at the Atlanta Immigration Court, and specifically the courtroom of Defendant Cassidy, to preclude Plaintiff from reporting on misconduct in the immigration courts. Upon information and belief, those responsible for providing security at the Atlanta Immigration Court have been told by Immigration Court judges not to allow observers. Plaintiff was unable to observe deportation/removal hearings at the Immigration Court on June 22, 2009, January 12-15, 2010, and April 15, 2010, because upon information and belief, hearings were cancelled when it was determined that Plaintiff would likely be in attendance.

(Exclusion from Deportation/Removal Hearings-October 2009)

22.

On October 7, 2009, Plaintiff visited the Atlanta Immigration Court to observe three cases listed on Defendant Cassidy's 1:00 p.m. docket. Plaintiff was

accompanied by Mark Lyttle, a United States citizen whom Defendant Cassidy had wrongfully deported in 2008.

23.

At approximately 1:25 p.m. Defendant Cassidy arrived at his assigned courtroom at the Atlanta Immigration Court, denominated as “Courtroom #5,” to preside over a 1 p.m. docket that was posted in the EOIR lobby. The 1 p.m. docket had three cases listed.

24.

Also present in the courtroom were an attorney (hereinafter referred to as “Attorney A”), a woman and her infant who arrived with Attorney A (upon information and belief, the wife of a man detained at the Stewart Detention Center in Lumpkin, Georgia, appearing in order to agree to voluntary departure), and a court interpreter. No other respondents, family of respondents or attorneys were present.

25.

Upon taking the bench, Defendant Cassidy inquired the purpose of each individual’s presence in the courtroom. Plaintiff and Mark Lyttle informed Defendant Cassidy that they were observing court that day. Without explanation, Defendant Cassidy immediately exited the courtroom upon hearing Plaintiff’s

response. Plaintiff had no further contact with Defendant Cassidy on October 7, 2009.

26.

A few minutes later, Defendant Long opened the door to the courtroom from the hall and informed Plaintiff and Mark Lyttle that they had to leave. Plaintiff and Lyttle were informed that they could not stay because asylum hearings were scheduled.

27.

Plaintiff inquired of Defendant Long whether closed hearings had been requested. Defendant Long, Plaintiff, and Mark Lyttle left the courtroom and proceeded to the lobby of the EOIR, where they had further discussions with Defendant Long. Defendant Long provided several conflicting justifications for Plaintiff's and Mark Lyttle's exclusion.

28.

Based on Plaintiff's background and experience regarding the low percentage of deportation cases that involve asylum claims, Plaintiff questioned Defendant Long about the inconsistencies offered as reasons for her exclusion. Plaintiff expressed her disbelief that all three cases on Defendant Cassidy's docket that afternoon involved asylum claims.

29.

EOIR data tabulated by Syracuse University's Transactional Records Access Clearinghouse "TRAC"), shows that in the six-year period between 2005 and 2010, "Judge Cassidy is recorded as deciding 167 asylum claims on their merits." The EOIR Statistical Yearbook for Fiscal Year 2010 further shows that of the 6,980 hearings for the Stewart Detention Center in Lumpkin Georgia, 20 were requests for asylum and 0 respondents were granted relief. Table 8, K6, O3. The EOIR Statistical Yearbook for Fiscal Year 2010 shows that of the 325,326 hearings that were held nationally in 2010, EOIR classified just 2,095 (approximately 0.6%) as invoking claims of "Credible Fear" (1,165), "Reasonable Fear" (398), or "Asylum" (532). Table 3 C3.

30.

In the course of their discussions with Defendant Long in the lobby of EOIR, Defendant Long told Plaintiff that she would check further into the cases on the docket that day and left the lobby. After a few minutes, she returned and informed Plaintiff and Mark Lytle that they could observe a case. Plaintiff and Mr. Lytle walked back to Defendant Cassidy's courtroom and encountered Attorney A in the hallway. Attorney A informed Plaintiff that the detained

respondent and his wife were saying goodbye to each other via televideo. Plaintiff, Mr. Lyttle, and Attorney A remained in the hallway to provide them privacy.

31.

After the respondent's wife exited, Plaintiff and Mr. Lyttle re-entered Defendant Cassidy's courtroom. A few minutes later, at approximately 1:50 p.m., Defendant Long entered to inform Plaintiff and Mr. Lyttle that no further hearings were scheduled and Plaintiff and Lyttle were again asked to leave.

32.

Plaintiff later filed a Freedom of Information Act ("FOIA") request under 5 U.S.C. § 552.

33.

Documents obtained by Plaintiff pursuant to the FOIA request include an October 7, 2009, email from EOIR Public Affairs officer Susan Eastwood sent and copied at 2:13 p.m. to various EOIR officials, which states in part:

... I spoke to Cynthia [Long] who advised that *Jackie [Stevens] was allowed to observe a removal hearing today in Atlanta, but was not allowed to observe an asylum hearing – at the request of the respondents.* I spoke to *Judge Cassidy* who advised that, *in Jackie's presence*, he *advised the respondents and their attorneys that a member of the media was present and asked if they wanted an open or closed hearing. Both respondents advised they wanted a closed hearing (sexual abuse case).* [Emphasis and parentheticals supplied.]

34.

Contrary to the narrative contained in the email from Susan Eastwood relating the conversation with Defendant Long, at no point did Defendant Cassidy conduct any immigration court business or communicate with respondents or their attorneys in Plaintiff's presence on October 7, 2009.

35.

In response to Plaintiff's FOIA request for Defendant Cassidy's October 7, 2009 1 p.m. docket, EOIR produced, on or about January 25, 2010, a docket listing only *one* hearing, with a cover letter signed by Crystal Souza, stating: "Please be advised the original Immigration Court calendar could not be located." (The docket posted on October 7, 2009, at the Atlanta Immigration Court had listed *three* cases for Defendant Cassidy at 1 p.m.)

36.

In response to Plaintiff's inquiries about the "missing" cases originally listed on the posted docket, Plaintiff received an unsigned statement via email from EOIR Public Affairs officer Elaine Komis that stated in pertinent part, "The third hearing for October 7, 2009, was re-calendared for another day at the request of the respondent's attorney prior to October 7. It appeared on the October 7 calendar due to administrative oversight."

37.

Plaintiff spoke with Attorney A regarding his case and was informed that it was not an asylum case but rather, a voluntary departure case.

38.

Plaintiff spoke with the secretary for another attorney (Attorney "B") listed on the docket posted in the EOIR lobby on October 7, 2009. Attorney B's secretary confirmed that on October 7, 2009, Attorney B had participated in a telephonic hearing before Defendant Cassidy and stated that she was "positive" that her client was not seeking asylum.

39.

Taken together, Attorney B's case, together with Attorney A's voluntary departure case, the re-calendared case, and the two "sexual abuse" cases referenced in an EOIR email as Judge Cassidy's, would total *five*, rather than either the *three* cases on the initially-posted docket or the *one* case on the docket produced pursuant to the FOIA request.

40.

At least two of the three cases clearly were not asylum cases, despite claims to the contrary by the Federal Defendants, as communicated to Plaintiff.

(Exclusion from Deportation/Removal Hearings-April 2010)

41.

On April 19, 2010, Plaintiff returned to the Atlanta Immigration Court, planning to observe deportation/removal hearings. In the morning, two Paragon security guards attempted to dissuade Plaintiff from observing hearings by telling her that she could not “go into that court” without permission from the judge or “from the people sitting in court.”

42.

On that date, Defendant Cassidy’s docket included cases of individuals who were detained at the Stewart Detention Center, a facility managed by the Corrections Corporation of America, Inc. (“CCA”), located in Lumpkin, Georgia, approximately 145 miles south of Atlanta. The proceeding was to be conducted via video teleconference (“VTC”).

43.

Documents obtained by Plaintiff pursuant to FOIA include an email sent on April 19, 2010, at 10:21 a.m. by EOIR Public Affairs officer Susan Eastwood to EOIR employees Lauren Adler Reid, Elaine Komis, Kathryn Mattingly, and Crystal Riley, with the subject heading “Jackie Stevens is at the Atlanta

Immigration Court” stating “[s]he’s currently observing Judge Cassidy’s televideo hearings (he’s doing Stewart docket via VTC today). He called to let us know.”

44.

The produced FOIA documents further show that at 10:22 a.m., Reid forwarded this message to Defendant Mooney and Scott Cohen, also of EOIR.

45.

After the commencement of the morning proceedings, the televideo equipment stopped functioning. Defendant Cassidy was, at the time, aware of Plaintiff’s presence in Courtroom #5. Rather than rebooting the connection, as is routinely done, Defendant Cassidy announced that he would not hear any more cases. Upon objection and request by several attorneys representing detained respondents, Defendant Cassidy re-established the video connection.

46.

Shortly after 3 p.m. on the afternoon of April 19, and after the courtroom cleared all of the attorneys, Defendant Cassidy left the dais and approached Plaintiff, who was seated in the first row of the vestibule. Based on information and belief and Plaintiff’s past observation of the Stewart Detention Center’s courtrooms and video setup, a respondent would not be able to view, via video,

court observers, such as Plaintiff, nor Defendant Cassidy's approach to Plaintiff in the vestibule area.

47.

Defendant Cassidy stood over Plaintiff as she remained seated and told Plaintiff that he was asking her to leave. Plaintiff requested a legal reason for the request and reminded Defendant Cassidy of 8 C.F.R. §1003.27, which provides that all hearings shall be open to the public, with certain exceptions. Defendant Cassidy repeated his request that Plaintiff leave.

48.

After receiving from Defendant Cassidy no reason for requesting that she leave, Plaintiff asked him if the respondent had requested a closed hearing. Defendant Cassidy told Plaintiff: "No--the respondent is pro se." At no time did Defendant Cassidy indicate to Plaintiff that he had asked the respondent if the respondent desired a closed hearing; nor did Defendant Cassidy state to Plaintiff that the case was an asylum case.

49.

Defendant Cassidy then told Plaintiff that he could "order" guards to remove her, which threat induced a reasonable apprehension in Plaintiff that force would be used by guards, at Defendant Cassidy's command, if Plaintiff did not submit,

and which resulted in Plaintiff's reasonable fear of personal difficulty or personal injury. Again, Plaintiff asked if Defendant Cassidy could provide a legal reason for closing the hearing. Defendant Cassidy said, "No." Defendant Cassidy then told Plaintiff to remain in the courtroom, and that he would return with a copy of the relevant regulation (which Plaintiff never received from Defendant Cassidy).

50.

This exchange between Plaintiff and Defendant Cassidy lasted approximately 90 seconds, and occurred in normal conversational tones. At no point did Plaintiff refuse Defendant Cassidy's request to leave or behave in any manner lacking proper etiquette under the circumstances.

51.

Defendant Cassidy exited through the rear of Courtroom #5. Concerned about Defendant Cassidy's threat to "order" guards to forcibly remove Plaintiff, and concerned that he was leaving the courtroom to effect his threat, Plaintiff told Defendant Cassidy's assistant, still seated on the dais, that Plaintiff would be waiting in the immigration court lobby, located several corridors away from Courtroom #5, and that she would remain there in the unlikely event that a respondent had overheard the verbal exchange with Defendant Cassidy and requested her presence as an observer.

52.

From approximately 3:00 p.m. until approximately 3:15 p.m. on April 19, 2010, Plaintiff remained in an EOIR waiting area, first informing an EOIR court staff member about Defendant Cassidy's unlawful actions and then documenting the incident in Plaintiff's notebook.

**(Attempted "Banning" and Forcible Removal from
the Atlanta Immigration Court-April 2010)**

53.

Between approximately 3:15 to 3:20 p.m. on April 19, 2010, Paragon Guards crowded the small space in the EOIR waiting area between the entrance and where Plaintiff was seated. Paragon Guard Doe 1/Hayes stood over Plaintiff and said, "It's time to leave." After Plaintiff asserted her right to observe deportation/removal hearings and asked for the reason for ordering her removal and the name of the person ordering the guard's actions, which questions went unanswered, Paragon Guards told Plaintiff to leave the building. Paragon Guard 1/Hayes removed his handcuffs from his belt, which induced a reasonable apprehension in Plaintiff that force would be used if Plaintiff did not submit, resulting in Plaintiff's reasonable fear of personal difficulty or personal injury. As Plaintiff got up and walked towards the exit, she was followed closely by the

three Paragon Guards, which Plaintiff further reasonably perceived as a show of authority directed at her, restricting her freedom of movement.

54.

Between the EOIR lobby and the building foyer, Plaintiff asked Paragon Guard 1 for his name, and he responded, "Officer Out the Front Door." As Plaintiff was attempting to read Paragon Guard 1's (a/k/a Nathaniel Hayes) name tag, he pushed her left shoulder and side with his hands. At this time, Paragon Guard 2 had his hands on the right side of Plaintiff's torso. In Plaintiff's presence, Guard 1/Hayes told another guard, "Judge Cassidy wants her out of here! He wants her out of the building!"

55.

Plaintiff subsequently learned, through email correspondence obtained by Plaintiff under FOIA, that officials at the EOIR headquarters in Virginia, including, based on information and belief, Federal Defendants who were ultimately be charged with investigating Plaintiff's administrative complaints of misconduct, had expressed dismay and derision concerning Plaintiff's persistence in attempting to observe immigration hearings, and that a meeting or meetings were convened to discuss "banning" Plaintiff from hearings. Paragon Guard Doe 1/Hayes is heard

stating, in a conversation on the date of Plaintiff's removal on April 19, 2010, as recorded in a transcript also obtained under FOIA, "they're trying to ban her from the building." The transcript also reveals Paragon Guard 1/Hayes acknowledging that Paragon Guards knew of no allegation of unlawful conduct by Plaintiff before removing her from the building.

(Obstruction of Administrative Complaint and Investigative Process)

56.

The Office of the Chief Immigration Judge has established a procedure that allows any person to file a complaint about the conduct of an immigration judge. Information on how to file a complaint is posted on line at the U.S. Department of Justice's web site under "Immigration Law Judge Ethics and Professionalism."

57.

The website states that "[t]he Office of the Chief Immigration Judge (OCIJ) regularly monitors immigration judge (IJ) performance and conduct through EOIR's performance management program, and through its daily supervision of the courts."

58.

On or about April 27, 2010, Plaintiff submitted a complaint concerning her exclusion and removal on April 19, 2010, as well as Defendant Cassidy's practices in regard to immigration proceedings, to Defendant Keller, Assistant Chief Immigration Judge at EOIR headquarters in Virginia.

59.

Defendant Smith, then Assistant Chief Immigration Judge at EOIR headquarters in Virginia, was assigned to investigate the complaint lodged by Plaintiff against Defendant Cassidy.

60.

In June 2010, Plaintiff received a letter from Defendant Smith, denying that Defendant Cassidy had ordered a security officer to have Plaintiff removed from the building.

61.

In the letter, Defendant Smith also stated that "[Defendant Cassidy] needed to inquire of a pro se respondent whether the respondent wished to have the hearing closed to the public. After talking with the respondent, [Defendant Cassidy] deemed it appropriate under 8 Code of Federal

Regulations, Section 1003.27, to exclude the public from that hearing.”

[Parenthetical added.]

62.

Defendant Smith’s response is inconsistent with the statement of Paragon Guard Doe 1’s (a/k/a Hayes’) statement that, “Judge Cassidy wants her out of here! He wants her out of the building!” as well as the account documented by the recorded statements of Paragon Guard Doe 1/Hayes, indicating that “the judge” and “one of the young ladies that works in the court hearings” had ordered the removal.

63.

Based on information and belief, Defendant Smith and Defendant Keller failed to provide responsive documents necessary for EOIR’s Freedom of Information Act officer to respond to FOIA requests made to that office by Plaintiff in June and August 2010.

64.

Plaintiff’s complaints were referred to the Department of Justice’s Office of the Inspector General on or about April 2011, but no subsequent investigation was conducted.

65.

On information and belief Defendant Summers, Defendant FPS Inspector Doe, and Defendant Paragon Supervisor Doe, failed to inform or train Paragon Guards concerning public access to immigration courts and chains-of-authority; failed to investigate and failed to properly report their investigation; or misrepresented facts concerning Plaintiff's removal on April 19, 2010.

COUNT ONE
(Constitutional Violation-First Amendment)

66.

Plaintiff re-alleges and incorporates all of the allegations set forth in Paragraphs 1 through 65 above, as if fully set forth verbatim in this Count One.

67.

Defendants Holder, Cassidy, Keller, Smith, Mooney, Long, Summers and Inspector Doe caused, participated in, condoned, or covered up Plaintiff's wrongful exclusion from deportation/removal hearings and forcible removal from the Atlanta Immigration Court, thus abridging Plaintiff's rights as a journalist and academic researcher to know that her government acts fairly, lawfully, and accurately in deportation/removal proceedings.

COUNT TWO
(Constitutional Violation-Fifth Amendment, Equal Protection)

68.

Plaintiff re-alleges and incorporates all of the allegations set forth in Paragraphs 1 through 67 above, as if fully set forth verbatim in this Count Two.

69.

Defendants Holder, Cassidy, Keller, Smith, Mooney, Long, Summers and Inspector Doe caused, participated in, condoned, or covered up Plaintiff's wrongful exclusion from deportation/removal hearings and forcible removal from the Atlanta Immigration Court, based on articulated pretextual reasons, in an effort to prevent Plaintiff from observing and reporting on proceedings in Defendant Cassidy's courtroom, and in retaliation for her past research and publications critical of practices and adjudications at the Atlanta Immigration Court, thus causing Plaintiff to be intentionally treated differently from others similarly situated without a rational basis for the difference in treatment.

COUNT THREE
(Constitutional Violation-Fifth Amendment, Due Process)

70.

Plaintiff re-alleges and incorporates all of the allegations set forth in Paragraphs 1 through 69 above, as if fully set forth verbatim in this Count Three.

71.

Defendants Holder, Cassidy, Keller, Smith, Mooney, Long, Summers and Inspector Doe participated in, condoned, or covered up Plaintiff's wrongful exclusion from deportation/removal hearings and her forcible removal from the Atlanta Immigration Court, and subsequently failed to properly investigate, properly document their investigation, and obstructed the investigation of Plaintiff's administrative complaints, thus depriving Plaintiff of an available remedy by which to seek redress for her grievances, in violation of Plaintiff's due process rights.

COUNT FOUR
(Constitutional Violation-Fifth Amendment, Due Process)

72.

Plaintiff re-alleges and incorporates all of the allegations set forth in Paragraphs 1 through 71 above, as if fully set forth verbatim in this Count Four.

73.

Defendants Holder, Cassidy, Keller, Smith, Mooney, Long, Summers and Inspector Doe caused, participated in, condoned, or covered up Plaintiff's wrongful exclusion from deportation/removal hearings and forcible removal from the Atlanta Immigration Court, when the proceedings from which Plaintiff was

excluded did not qualify for closure, thus violating the United States Constitution and 8 C.F.R. § 1003.27, which provides that “all hearings, other than exclusion hearings, shall be open to the public,” with certain exceptions that were never alleged at the time and not applicable to those proceedings.

COUNT FIVE
(Civil Conspiracy under Federal Common Law)

74.

Plaintiff re-alleges and incorporates all of the allegations set forth in Paragraphs 1 through 73 above, as if fully set forth verbatim in this Count Five.

75.

Defendants Holder, Cassidy, Keller, Smith, Mooney, Long, Summers and Inspector Doe caused, participated in, condoned, or covered up Plaintiff's wrongful exclusion from deportation hearings and forcible removal from the Atlanta Immigration Court, and Defendants Cassidy, Keller, Smith, Mooney, Long, Summers and Inspector Doe thereafter engaged in a conspiracy to deprive Plaintiff of her constitutional rights, violate federal law and thwart Plaintiff's administrative remedies.

COUNT SIX
(State Law Claims against Paragon Guards and Paragon Supervisor)

76.

Plaintiff re-alleges and incorporates all of the allegations set forth in Paragraphs 1 through 75 above, as if fully set forth verbatim in this Count Six.

77.

Paragon Guards committed the torts of assault, battery and false imprisonment by forcibly removing Plaintiff from the Atlanta Immigration Court. Paragon Guards' words, acts, and gestures induced a reasonable apprehension in Plaintiff that force would be used if Plaintiff did not submit, resulting in Plaintiff's reasonable fear of personal difficulty or personal injury.

78.

Paragon Supervisor Doe negligently supervised Paragon Guards under his supervision by failing to inform or train Paragon Guards concerning public access to immigration courts and chains-of-authority; failing to investigate and failing to properly report their investigation; or misrepresenting facts concerning Plaintiff's removal on April 19, 2010.

**COUNT SEVEN
(Declaratory Judgment)**

79.

Plaintiff re-alleges and incorporates all of the allegations set forth in Paragraphs 1 through 78 above, as if fully set forth verbatim in this Count Seven.

80.

This Court should declare that Plaintiff, the public and the press have the right, under the United State Constitution and federal law, to attend, observe, take notes on and report on deportation/removal hearings, to the extent authorized by the Constitution and federal law.

**COUNT EIGHT
(Permanent Injunction)**

81.

Plaintiff re-alleges and incorporates all of the allegations set forth in Paragraphs 1 through 80 above, as if fully set forth verbatim in this Count Eight.

82.

Federal Defendants, as well as Paragon Guards, should be permanently enjoined from unlawfully excluding Plaintiff from Defendant Cassidy's courtroom, and permanently enjoined from excluding, removing or causing the exclusion or removal of Plaintiff from any federal facility within this Court's jurisdiction, where

deportation/removal hearings are conducted, as to which Plaintiff has a lawful right of access.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully demands the following relief:

a) That this Court grant declaratory relief, adjudging and declaring that Plaintiff, the public and the press have the legal right to attend, observe, take notes on and report on deportation/removal hearings, except those as to which the United States Constitution and federal law authorize exclusion of members of the public;

b) That this Court grant and fashion permanent injunctive relief to enjoin Federal Defendants and Paragon Guards from unlawfully excluding Plaintiff from Defendant Cassidy's courtroom; from excluding, detaining, removing or causing the exclusion, detention or removal of Plaintiff from any federal facility within this Court's jurisdiction where deportation/removal hearings are conducted, as to which Plaintiff has the lawful right of access;

c) That this Court require that, where a deportation/removal hearing is partially or completely closed to the public, the immigration judge make specific findings on the record documenting the reasons for closure in order that a reviewing court can determine whether closure was lawful and whether less restrictive alternatives existed;

d) That Plaintiff recover from and have judgment against Federal Defendants, sued in their individual capacities, and against Paragon Guards, in such sums as sufficient to fully compensate Plaintiff for all of her damages, losses and injuries sustained as a result of the above-described incidents, and punitive damages in an amount to be determined by the enlightened conscience of the jury;

e) That the Court exercise its supplemental jurisdiction under 28 U.S.C. § 1367 over the pendant state claims and that Plaintiff recover from and have judgment against Paragon Guards in such sums as sufficient to fully compensate Plaintiff for all of her damages, losses and injuries sustained as a result of the above-described incident, and punitive damages in an amount to be determined by the enlightened conscience of the jury;

f) For an award of reasonable attorney's fees and costs against Federal Defendants, under 42 U.S.C. § 2412;

g) For trial by jury of all issues triable by a jury; and

h) For such other and further relief as this Court may deem just and proper.

This _____ day of _____, 2013.

Respectfully submitted,

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This ____ day of _____, 2013.

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