

FILED

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

03 MAY 23 PM 4:13

UNITED STATES OF AMERICA

CASE NO: 8:03-Cr-77-T-30TBM

vs.

SAMI AL-ARIAN  
\_\_\_\_\_ /

**DEFENDANT SAMI AL-ARIAN'S COUNSEL'S IN CAMERA EX PARTE MOTION  
FOR MONTHLY INTERIM PAYMENT OF COMPENSATION AND EXPENSES AND  
FOR WAIVER OF MAXIMUM AMOUNTS AND MEMORANDUM OF LAW**

Counsel for the Defendant, SAMI AL-ARIAN, appointed to represent the Defendant pursuant to the Criminal Justice Act under 18 U.S.C. § 3006A, hereby requests this Honorable Court to authorize the undersigned counsel to apply for interim payments from month to month during the course of counsel's representation of the Defendant, to waive the statutory maximum amount for attorney compensation on the grounds of extended and complex representation, and to direct the Clerk of the Court to accept and process such claims for interim payments, and as grounds therefore would state:

1. On March 10, 2003 the undersigned counsel, both private practitioners, were appointed pursuant to 18 U.S.C. § 3006A(b) to represent the Defendant in this cause;
2. The Defendant and his three (3) Co-Defendants, currently subjected to the jurisdiction of this court, are charged with several of the fifty (50) counts of the Indictment filed in this cause;
3. The charges against the Defendant contained in eleven of the counts include conspiracy to commit a pattern of racketeering activity in violation of 18 U.S.C. § 1962(c) and (d), conspiracy to murder or injure persons at places outside the United States, conspiracy to provide material support to a designated terrorist organization, conspiracy to make and receive contributions to specially designated terrorists, and travel in interstate and foreign commerce to

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commit crimes of violence and to promote an unlawful activity;

4. The overt acts for Count One alone are described in 256 paragraphs over 71 pages which cover events over a span of fourteen (14) years from December 1988 to December 2002 in several states and foreign countries;

5. The Defendant and his undersigned counsel have been advised that discovery in this matter is extremely extensive, including some 8,000 hours of taped telephone conversations over a period of several years resulting from 152 F.I.S.A. warrants along with thousands of documents and exhibits that are listed and described in five (5) indices that alone total 366 pages;

6. The Defendant and his undersigned counsel have been advised that the discovery process will require twelve (12) months or more to complete and that the trial of this cause could take six (6) months to one (1) year;

7. As this case is clearly extensive and complex, the court has advised the undersigned counsel (and other appointed private counsel for the Co-Defendants) that this case will require a substantial sacrifice of time and income from all appointed private counsel by affecting the appointed counsels' ability to practice law and their availability to represent current clients and accept new clients;

8. Because appointed counsel in this case will be required to apply most or all of their professional time and efforts to this case for extended periods of time during both the discovery process and trial, their involvement in this case will greatly diminish the ability of appointed private counsel to earn sustainable income from any other sources;

9. If appointed counsel in this cause are required to wait until the disposition of this case to apply for compensation and advanced costs, the effect on their incomes, assets, livelihoods, and practices would vary from profound to devastating;

10. The court has advised the appointed counsel in this case that the court would consider permitting monthly interim claims for compensation and expenses;

11. The undersigned counsel would propose that all counsel in this case appointed pursuant to 18 U.S.C. § 3006 A(b) be permitted to submit to the Clerk of the Court a Form CJA

20 claim as frequently as once every calendar month for all compensation and expenses not previously claimed, utilizing copies of the original Form CJA 20 provided upon appointment;

12. In less than three months of representation, the undersigned counsel has already accrued compensation and expenses which exceed the maximum amounts permitted under 18 U.S.C. § 3006A(d)(2), and given the extensive and complex nature of this case it is a certainty that all appointed counsel will exceed the statutory maximum several times over before this case is concluded;

13. Rather than require appointed counsel to submit repeated motions for waiver of the statutory maximum with each claim made, the undersigned counsel requests the court to certify at this time that the amount of excess payment is necessary to provide fair compensation pursuant to 18 U.S.C. § 3006A(d)(3).

**WHEREFORE**, the Defendant's undersigned counsel requests this court to order that the undersigned counsel may make, and the Clerk of the Court shall accept and process, claims for compensation and expenses pursuant to 18 U.S.C. § 3006A(d) as frequently as once every calendar month for all compensation and expenses not previously claimed, utilizing copies of the original Form CJA 20 provided upon appointment, and further requests this Honorable Court to certify, pursuant to 18 U.S.C. § 3006A(9)(3) that the amount of excess payment is necessary to provide fair compensation to appointed counsel.

### **MEMORANDUM OF LAW**

The Criminal Justice Act, under which the private counsel in this case were appointed, does not prevent the District Courts from accepting repeated claims for interim compensation and expenses during the course of representation. 18 U.S.C. § 3006A(d)(5). The District Courts therefore have discretion to direct the payment of such claims on an interim schedule. In addition, the District Courts have discretion to waive the statutory maximum amounts set out in 18 U.S.C. § 3006A(d)(2) by certifying that the amount in excess of payment is necessary to provide fair compensation to appointed counsel. 18 U.S.C. § 3006A(d)(3). There is no requirement that such

certification be made repeatedly in a single case. Therefore, the proposed arrangement for interim payments for amounts in excess of the statutory maximum is within this court's discretion to permit and direct.

Date: 5-20-03

Respectfully Submitted,



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