

United States District Court for the District of Columbia

333 Constitution Avenue, NW, Room 1225, Washington, DC 20001

Sai
Plaintiff pro se

v.

Civil Action No.: 1-14-cv-00403-ESH

Transportation Security Administration (TSA)
Defendants

Plaintiff's First Request for Admission and First Interrogatory to TSA

Request for admission

In accordance with FRCP Rule 36, Sai hereby requests that defendant TSA admit to the truth of the facts set forth in the the list of requested admissions below, within 30 days of receiving this request, with the response to be sent to Sai by email at dccc@s.ai (and not by physical mail).

If TSA can admit only a part (or a part as qualified) of a particular request for admission, it should specify so much as is true (or true as qualified) and deny only the remainder of said request. Further, if TSA cannot truthfully admit or deny a particular request for admission, TSA should state in detail the reasons why this is so.

Interrogatory and Request for Production of Documents

In accordance with FRCP Rule 33, if TSA does not admit each and every request contained in the list of requested admissions below, Sai hereby requests that, within 30 days of receiving this request, it answer, under oath, the following (single) interrogatory, with the response to be placed on the case record and served on Sai via CM/ECF:

1. In regard to each statement in the request for admission (or part thereof):
 - a. what are the true facts (if the statement is not completely admitted);
 - b. what is all documentary evidence that TSA (including its agents) is aware of that can or could substantiate or rebut said facts (including any evidence that has been destroyed or is held by any other party); and

- c. what is the name, title, phone, email, and address for service of process of each person who possesses that evidence, or who has knowledge of said facts?

In accordance with FRCP Rules 26 & 34, if documentary evidence is available and not already submitted to the record in this case, TSA is instructed to attach that evidence to the interrogatory, in standard electronic format, together with a sworn affidavit of the authenticity of all such attachments.

If TSA intends to file any document attached to this request for admission (e.g. as part of the administrative record), TSA is requested to file the attached version, as it has already been redacted to protect Sai's privacy.

For the sake of concision, TSA is requested to combine its responses to the above interrogatory and request for admission, and to combine into responses to multiple points in the RFA that have the same answer, so long as such combination does not reduce the information given.

Requested admissions

A. Legal status of this case and all matters in this request

1. No causes of action outside the scope of 5 U.S. Code Chapter 5 — such as violations of other TSA policies, 42 USC 1983 / *Bivens*, the Rehabilitation Act, the Americans with Disabilities Act, any similar action, any state or local law, or any complaint against an individual TSA agent in either their individual or official capacities — can be joined to this case.
2. Nothing in this case creates any collateral estoppel, *res judicata*, or other status that would in any way prejudice any action against TSA, its agents, or any other party under any cause of action not specifically pled in the complaint of this case.
3. In particular, the statements with respect to TSA and its agents' non-FOIA/PA/APA behavior do not imply that this case includes, or could include, any cause of action regarding the matters alleged in those complaints. Rather, all such statements are pertinent to this case only to the extent that they go to demonstrating the background for Sai's FOIA/PA requests, public interest, prior admission of guilt, and/or a pattern or practice by the TSA of violation of applicable law, especially in regard to its routine violation of statutory response deadlines.
4. The above interrogatory counts as only a single interrogatory under FRCP 33.
5. The above request for documents counts as only as single request under FRCP 26 & 34.

NOTE: If TSA does not completely admit the truth of each of the above points as to every request below, it is instructed not to respond to anything that would create any such prejudice or constitute more than one interrogatory or request for documents, except to specifically explain why it would do so, until such question is settled.

B. Authentic copies of documents

For each of the documents named below and attached (redacted) to this request, TSA is asked to admit that said document is authentic.

6. 2006-09-25 TSA Special Needs Memo.pdf
7. 2008-05-08 TSA Screening Management Standard Operating Procedures.pdf
8. 2009-09-04 Bierfeldt v Napolitano US Dist. Ct. DC No. 09-cv-01117 - Declaration of William Switzer III and attachments.pdf
9. 2013-01-26 - 2013-03-07 Grievance for TSA agent actions on January 21st.pdf
10. 2013-01-26 - 2014-01-06 Correspondence re TSA grievances.pdf
11. 2013-02-05 FOIA TSA13-0375 acknowledgement.pdf
12. 2013-02-12 - 2013-04-16 Massport public records request response.pdf
13. 2013-02-12 Massport public records request response - Attachment - Public Record response to Sai.pdf
14. 2013-02-14 Massport public records request response - Attachment - Complaint - 29 Jan 13.pdf
15. 2013-02-14 Massport public records request response - Attachment - Response to Massport Public Record response to Sai - 14 Feb 13.pdf
16. 2013-02-15 - 2013-02-28 Email correspondence re FOIA request 13-0375.pdf
17. 2013-02-19 Massport public records request response - Attachment - Public Records response to Sai's response.pdf
18. 2013-02-20 FOIA new number TSA13-0414.pdf
19. 2013-02-22 FOIA TSA13-0424 acknowledgment.pdf
20. 2013-03-15 - 2013-03-18 Email correspondence re SFO FOIA request.pdf
21. 2013-03-15 - 2013-03-18 FOIA / Privacy Act / evidence preservation letter & ADA grievance re. SFO TSA incident.pdf
22. 2013-03-15 Acknowledgment of Correspondence to TSA.pdf
23. 2013-03-15 ADA grievance & civil rights complaint for SFO seizure of medical liquids - Attachment - Sai's complaint against SFO TSA agents for violation of disabilities law.pdf
24. 2013-03-15 ADA grievance & civil rights complaint for SFO seizure of medical liquids.pdf

25. 2013-03-15 Email correspondence re SFO FOIA request - Attachment - SFO & TSA - FOIA, Privacy Act, & evidence preservation demand.pdf
26. 2013-03-15 FOIA / Privacy Act / evidence preservation letter & ADA grievance re. SFO TSA incident - Attachment - Sai's complaint against SFO TSA agents for violation of disabilities law.pdf
27. 2013-03-15 FOIA / Privacy Act / evidence preservation letter & ADA grievance re. SFO TSA incident - Attachment - SFO & TSA - FOIA, Privacy Act, & evidence preservation demand.pdf
28. 2013-03-16 - 2013-04-01 FOIA request for TSA policies & procedures.pdf
29. 2013-03-16 FOIA request for TSA policies & procedures - Attachment.pdf
30. 2013-03-19 - 2013-03-21 SFO response to Request for Documents.pdf
31. 2013-03-21 Grievance for TSA agent actions on January 21st - Attachment - Sai's complaint against Logan TSA agents for violation of civil liberties & disabilities law.pdf
32. 2013-03-25 tsa foia response - policies & procedures.pdf
33. 2013-03-25 tsa foia response - sfo incident.pdf
34. 2013-04-01 - 2013-04-04 SFO response to FOIA.pdf
35. 2013-04-08 TSA Statement to RightThisMinute.pdf
36. 2013-04-10 - 2013-04-12 SFO ADA Complaint.pdf
37. 2013-04-12 SFO ADA Complaint - Attachment - Video 1.pdf
38. 2013-04-12 SFO ADA Complaint - Attachment - Video 2.pdf
39. 2013-04-16 Massport public records request response - Attachment - April 16 response to Sai.pdf
40. 2013-05-01 Grievance for TSA agent actions on January 21st - Attachment - Formal Resolution Response .pdf
41. 2013-05-06 Pelosi letter to TSA.pdf
42. 2013-05-24 TSA letter to Pelosi.pdf
43. 2013-05-28 TSA letter to Pelosi.pdf
44. 2013-08-18 - 2013-08-28 Email correspondance re TSA13-0424 & TSA13-0414; question re appeal on TSA13-0494, TSA13-0488.pdf
45. 2013-08-20 FOIA Auto-Reply.pdf
46. 2013-11-15 TSA letter to Pelosi.pdf

47. 2013-11-23 FOIA Auto-Reply.pdf
48. 2013-12-18 TSA letter to Pelosi.pdf
49. 2013-12-28 Automatic reply - FW D-RFI Re Grievance for TSA agent actions on January 21st.pdf
50. 2013-12-28 FOIA Auto-Reply.pdf
51. 2014-01-18 FOIA-PA request for all documents related to my FOIA-PA requests.pdf
52. 2014-02-02 - RIC, RIC PD & TSA - FOIA, Privacy Act, & evidence preservation demand.pdf
53. 2014-02-02 - RIC, RIC PD & TSA - FOIA, Privacy Act, & evidence preservation demand - attachment.pdf
54. 2014-02-12 FOIA 2014-TSPA-00188 - attachment - AFFIRMATION DECLARATION.pdf
55. 2014-02-12 FOIA 2014-TSPA-00188 - attachment - Sai (2) p 2.jpg
56. 2014-02-12 FOIA 2014-TSPA-00188 - attachment - Sai (2).pdf
57. 2014-02-12 FOIA 2014-TSPA-00188 - attachment - Sai.pdf
58. 2014-02-12 FOIA 2014-TSPA-00188.pdf
59. 2014-02-12 FOIA 2014-TSPA-00189 - attachment - AFFIRMATION DECLARATION.pdf
60. 2014-02-12 FOIA 2014-TSPA-00189 - attachment - Sai 2 (1).pdf
61. 2014-02-12 FOIA 2014-TSPA-00189 - attachment - Sai 2 (2).pdf
62. 2014-02-12 FOIA 2014-TSPA-00189.pdf
63. 2014-03-04 FOIA Auto-Reply.pdf

Admissions of specific facts

64. On 2013-01-21, Sai went through a TSA checkpoint at Boston Logan Airport (BOS).
65. While going through the TSA checkpoint, Sai was mute.
66. Sai's person was cleared by a physical pat-down, which revealed no suspicious items.
67. Sai's possessions were cleared by x-ray search, which revealed no suspicious items.
68. After the x-ray and pat-down, two TSA agents, Supervisory Transportation Security Officer ("STSO") Tricia Tonge-Riley (ID #s 110944 / 12311562) and STSO Kukula, singled out Sai for a search of Sai's backpack, jacket, and carry-on bag.
69. Tonge-Riley and Kukula's search was not focused on any particular bag or item therein, but instead was a search of all of Sai's belongings.
70. Tonge-Riley and Kukula's search included reading the content of Sai's personal notes, writings, books, bank statements, identification, ticket stubs, confidential job related documents, medication, etc.
71. Tonge-Riley and Kukula made verbal statements as to that content.
72. In particular, the Tonge-Riley and Kukula extracted from Sai's wallet a medical information card containing private information and read it out loud.
73. The medical information card clearly stated that Sai requires access to pen and paper as a means of communication when mute.
74. Tonge-Riley and Kukula repeatedly, physically prevented Sai from accessing pen and paper.
75. After Sai obtained pen and paper, Sai used it to write a protest of the illegality of the TSA agents' search.
76. Tonge-Riley and Kukula confiscated Sai's paper in direct response to having written a protest of the illegality of their actions.
77. Approximately one hour elapsed between when Sai entered the checkpoint and when Sai was finally released to continue to fly.
78. TSA's rules at the time required a higher scrutiny search of all bags be conducted *only* if there was a machine detection of explosive residue on some item.
79. There was no explosive residue on Sai's bags, items, or person.

80. TSA's rules at the time required search of items that looked suspicious on x-ray to be confined exclusively to the specific bag and item identified as suspicious.
81. Tonge-Riley and Kukula's search was not so confined.
82. TSA's rules at the time required searches to be "no more intensive or extensive than reasonably necessary to detect threat items".
83. Tonge-Riley and Kukula's search of Sai's documents, medication, etc., which had been cleared by x-ray, was not "necessary to detect weapons or explosives".
84. TSA's Standard Operating Procedures (SOP) at the time required supervisors (STSOs) to "Ensure that the screening of all individuals is conducted without regard to a person's ... disability".
85. TSA's website at the time stated that "If you need to communicate with the Security Officer, inform her/him of your disability and the way in which you can communicate. TSA Security Officers are trained to provide whatever assistance they can to persons with hearing disabilities."
86. Tonge-Riley and Kukula utterly failed to assist Sai with communication or to even make any reasonable attempt to accommodate Sai's disability.
87. Tonge-Riley and Kukula intentionally acted to *prevent* Sai's ability to communicate.
88. Tonge-Riley and Kukula summoned MA Police Officer Coleman (badge #356, airport ID #315287), in order to investigate their allegations that Sai had two passports (one under the name Sai, and a voided one under a previous legal name) as well as medications issued under both names, which they alleged to be a violation of law.
89. On 2013-01-26, based on the events that happened at BOS, Sai filed separate ADA and Rehabilitation Act grievances; FOIA and Privacy Act requests, and evidence preservation demands on TSA, Logan Airport, MA Port Authority Police, Massport, and the individual TSA agents involved.
90. On the same day, TSA External Compliance confirmed receipt thereof.
91. The 2013-01-26 FOIA and Privacy Act request included requests for expedited processing, journalistic & public interest fee waiver, and:
 - "all surveillance video from that day covering myself, TSA agents Tonge-Riley, TSA agent Kukula, and/or Officer Coleman
 - all reports related to the event, such as the TSA Incident Report that the TSA agents were required to file when contacting an officer
 - any police reports filed, whether informal or formal, by Coleman or others

- any and all notes, correspondence, communications, etc relating to the incident by any parties, witnesses, etc
 - the copies of my documents that were made at the scene
 - any and all history of complaints against the TSA agents Tonge-Riley and/or Kukula
 - any and all history of similar complaints against any TSA, Logan police, and/or Logan Airport agent
 - any and all records of my x-ray baggage screening, such as images directly recorded by the baggage x-ray screener, surveillance tapes capturing images of the screener's monitors, manual or automated notes on its clearance status, and any other communications or records of any form that would indicate its results, whether anything looked suspicious on x-ray (and if yes, what), etc.
 - any and all records related to me held by any relevant parties
 - all documents and communication related to responding to this request, whether internal or external"
92. On 2013-01-31, Massport M/WBE Compliance Administrator Bernadette Macon-Bell acknowledged receipt of the above grievances, requests, and demands.
93. Massport's website at the time stated that Macon-Bell was to respond to such complaints within 15 calendar days of receipt.
94. On 2013-02-05, the TSA FOIA office assigned case number TSA13-0375 to Sai's 2013-01-26 request.
95. On 2013-02-07, the TSA FOIA office "administratively closed" TSA13-0375, on the basis that Sai allegedly did not "submit a signed perjury statement and respond to the Not Reasonably Describe (NRD) letter".
96. On 2013-02-08, the 10 calendar day deadline elapsed to respond to Sai's 2013-01-26 (TSA13-0375) expedited processing request.
97. On 2013-02-10, the 15 day ADA / Rehabilitation Act response time deadline elapsed.
98. On the same day, Sai reminded Macon-Bell of her failure to respond.
99. On 2013-02-11, Macon-Bell contacted Sai stating that she had been out sick for 4 days.
100. On the same day, Sai responded asking for an amended response time.
101. Later on the same day, Macon-Bell responded that Massport "will take guidance from TSA headquarters" regarding the request for CCTV footage.
102. Later on the same day, Sai acknowledged this, and consented to an extension of deadline, to accommodate Macon-Bell's sickness, to February 18th.
103. On 2013-02-12, Michelle Kalowski, Massport's Transportation Security & Aviation legal counsel

responded, stating that both the requested video footage and whether or not it existed constituted sensitive security information ("SSI"); that the TSA, not Massport, had custody of TSA Incident Reports requested; and that the TSA was the appropriate authority to contact regarding copies of Sai's documents made at the scene.

104. On 2013-02-14, Sai responded to Kalowski, supplying requested details; pointing out that Kalowski's claim that whether or not video existed was patently ridiculous, given prominently visible cameras and signage; pointing out that the TSA had previously released checkpoint CCTV video, so it could not possibly be SSI; and re-affirming the evidence preservation demand.

105. On 2013-02-15, TSA FOIA representative Paul Sotoudeh acknowledged that Sai's 2013-01-26 request (TSA13-0375) was in fact properly complete under the Privacy Act, and requesting clarification of certain details.

106. On the same day, Sai responded with the requested clarification, and made the following two FOIA & Privacy Act requests:

- a. "For instance, on June 27, 2012, around 4pm, at LGA, Deputy Assistant Federal Security Director (A) Paul Bostic (port ID #302113857) confiscated ginger ale that I had clearly declared as a medical liquid, in direct violation of TSA's clearly stated policy. Although I showed him a printout of the TSA Special Needs Memo (from 9/25/2006), he first denied its validity, and then outright refused to obey it — and that was after escalating all the way up to him in the first place, which means that probably a half dozen TSA agents, supervisors, TSM, etc did the same thing. I want all records related to that event, and furthermore, a clear statement about what corrective measures the TSA takes when TSA agents simply refuse to obey clearly established TSA policy."
- b. "On December 25, 2010, I was removed from a United Airlines flight out of ORD (eventually to Berlin; I don't remember what the stopover was), due in large part to my carrying with me a sealed 64oz jug of Odwalla Superfood — which I had declared as a medical liquid, and which was tested by xray plus puffer / ETD machine. I want all records related to that event, including any incident reports, police reports, or the like."

107. The above two requests are distinct and valid requests under both the FOIA and Privacy Act.

108. The above two requests were never responded to by TSA.

109. On 2013-02-19, Kalowski clarified that she represented Massport, not the TSA, and that despite Massport's continued refusal to confirm or deny the existence of the requested video, Massport would preserve it in accordance with my preservation demand.
110. On 2013-02-20, Sotoudeh stated that TSA would start the search on Sai's 2013-01-26 request.
111. On the same day, Sai responded requesting an ETA.
112. On 2013-02-20, TSA FOIA stated that Sai's 2013-01-26 request had previously been administratively closed for failure to comply with Privacy Act requirements, and was being reopened with case number TSA13-0414.
113. In the same communication, TSA FOIA, *knowingly and falsely* claimed that TSA had "not received the perjury statement and response to the NRD letter" for TSA13-0375.
114. On 2013-02-21, Sotoudeh and Sai exchanged emails discussing the breadth of the TSA's custody of records, the applicable legal standards, etc.
115. On the same day, Sai made a proper FOIA request to Sotoudeh for "any contract/agreement with other agencies regarding surveillance, or maintenance of surveillance footage, at Logan airport".
116. On 2013-02-22, Sotoudeh acknowledged and opened the new FOIA request.
117. From 2013-02-22 to 2013-02-25, Sotoudeh and Sai exchanged further emails regarding the legal standards for FOIA requests.
118. On 2013-02-22, TSA FOIA assigned case number TSA13-0424 to Sai's 2013-02-21 FOIA request.
119. On 2013-02-23, Sai reminded Macon-Bell of her failure to respond, and requested an updated response time.
120. On 2013-02-25 through 2013-02-28, Sotoudeh and Sai exchanged emails regarding TSA's policies and procedures documents.
121. Sotoudeh described with specificity the existence of TSA management directives, handbooks, internal policy documents, letters, bulletins, guidance, table of offenses & penalties, etc.
122. Sotoudeh stated that those documents were all located on the TSA server ishare.tsa.dhs.gov "for easy access in one place".
123. On 2013-02-27, the 20 working day deadline elapsed to respond to Sai's 2013-01-26 request (TSA13-0375).

124. On 2013-03-01, Sai went through a TSA checkpoint at San Francisco International Airport (SFO).
125. Sai brought two 50.7 ounce bottles of aloe juice to the SFO TSA checkpoint, and declared them as medical liquids.
126. SFO TSA agents, including Deputy Federal Security Director James Adams, Transportation Security Manager (TSM) David Smith (badge #174312), Assistant Manager (ATM) Ellison Champagne (#186390), STSO Michael Snead (#1260), STSO John Orille (#1430), and TSO Kristy (#2038), challenged Sai's ability to take juice in unlimited quantities as a medical liquid, and demanded that Sai disclose information about Sai's medical need for the juice.
127. SFO TSA agents screened Sai's juice using x-ray, liquid container screening, and/or explosive trace detection devices, all of which returned clear results.
128. SFO TSA agents physically prevented Sai from directly drinking the juice, though Sai was at the time experiencing physical tremors and specifically complained of an immediate medical need to access the juice.
129. SFO TSA agents refused to allow Sai to proceed past the checkpoint without confiscating the juice.
130. Approximately 50 minutes elapsed between when Sai entered the checkpoint and when Sai was permitted to leave (without the medical liquids).
131. TSA policy at the time, as described in its Special Needs Memo, specifically stated that both juice and water are medical liquids; that medical liquids can be carried in any amount, travelers are not required to furnish any documentation or justification for their claims of medical liquids (only to declare them as medical), and that TSA agents are required to screen such liquids and permit them to be taken through the checkpoint if they pass such screening.
132. On 2013-03-02, the 10 calendar day deadline elapsed to respond to Sai's 2013-01-26 expedited processing request (re-assigned as TSA13-0414).
133. On 2013-03-06, Sai reminded Macon-Bell of her failure to respond, violation of statutory deadlines, and constructive exhaustion of administrative remedies.
134. On 2013-03-14, Sai contacted Senator Nancy Pelosi's office as a constituent, requesting assistance with the above matters.

135. On 2013-03-15, based on the events at SFO, Sai filed formal ADA and Rehabilitation Act grievances; CPRA, FOIA and Privacy Act requests, and evidence preservation demands separately with TSA External Compliance and CRL offices, Sotoudeh, DoJ ADA office, San Francisco International Airport, Covenant Aviation Security, and individual TSA agents involved; as well as pointing out Massport and TSA's failure to respond to Sai's 2013-01-26 grievances and requests.
136. On the same day, the TSA Office of Disability Policy and Outreach (ODPO) acknowledged receipt.
137. The 2013-03-15 FOIA and Privacy Act request included requests for expedited processing, journalistic & public interest fee waiver, and:
- "all surveillance video from 1 March 2013 between 9:30pm and midnight which covers myself, any of the named TSA/Covenant agents, or Boarding Area C security area
 - any and all reports related to the event, such as TSA Incident Reports or the like
 - any and all notes, correspondence, communications, etc relating to the incident by any parties, witnesses, etc
 - any and all history of complaints against the TSA/Covenant agents named
 - any and all history of similar complaints against any TSA, Covenant, or San Francisco Airport agent
 - any and all records of my x-ray baggage screening, such as images directly recorded by the baggage x-ray screener, surveillance tapes capturing images of the screener's monitors, manual or automated notes on its clearance status, and any other communications or records of any form that would indicate its results, whether anything looked suspicious on x-ray (and if yes, what), etc.
 - any and all records related to me held by any Relevant Parties
 - any and all documents and communication related to responding to this request, whether internal or external"
138. The 2013-03-15 request was assigned case number TSA13-0488, though this was not disclosed to Sai until TSA's 2013-03-25 response.
139. On 2013-03-16, Sai sent Sotoudeh a FOIA request for all of TSA's policy and procedures documents, in extremely specific detail, including requests for expedited processing, journalistic and public interest fee waivers, electronic format, etc., as well as pointing out that all of the responsive documents should be located on ishare.tsa.dhs.gov, as per the earlier conversation with Sotoudeh.
140. The 2013-03-16 request was assigned case number TSA13-0494, though this was not disclosed to Sai until TSA's 2013-03-25 response.

141. On 2013-03-18, SFO Assistant Chief Counsel Field Transportation Security Stephanie Jackson acknowledged receipt of Sai's complaint and FOIA request, and forwarded it to Covenant and TSA's SFO Federal Security Director.
142. On the same day, Sai responded, noting that TSA's Deputy Federal Security Director James Adams was personally involved and a defendant in the complaint.
143. On the same day, Sotoudeh stated by email to Sai that "Fee determinations are made at the beginning of the [FOIA/PA] process".
144. On 2013-03-19, San Francisco Deputy City Attorney / Airport Division Stacey Lucas responded to Sai's 2013-03-15 request, stating that she was submitting the video footage to the TSA for SSI clearance.
145. Continued emails with Lucas and Sotoudeh clarified that the TSA has an office specifically for reviewing possible SSI, and in particular CCTV video of TSA checkpoints.
146. On 2013-03-20, the 20 working day deadline elapsed to respond to Sai's 2013-01-26 request, re-assigned as TSA13-0414.
147. On 2013-03-21, the 20 working day deadline elapsed to respond to Sai's 2013-02-21 request (TSA13-0424).
148. On 2013-03-21, Sai again reminded Macon-Bell, well as TSA External Compliance, ODPO, & CRL of their failure to respond.
149. On 2013-03-21, Lucas and Sotoudeh confirmed that SFO (like BOS) explicitly defers to the TSA on whether the video.
150. Lucas and Sotoudeh further confirmed that SFO's Airport Security Program/Plan (one of the items requested in the 2013-03-16 FOIA request) was in the possession of TSA.
151. On 2013-03-25, the 10 calendar day deadline elapsed to respond to Sai's 2013-03-15 (TSA13-0488) expedited processing request.
152. On 2013-03-25, TSA FOIA Operations Manager Aeron J. Piñeiro mailed Sai a letter stating that 2013-03-16 FOIA request TSA13-0494 was "too broad in scope or did not specifically identify the records", but specifically noting that the letter was not a denial of the request, and not stating any final determination or venue for appeal.
153. On 2013-03-25, Piñeiro also mailed Sai a letter stating the same of the 2013-03-15 request

- (TSA13-0488) in part, and stating that the TSA would begin processing other parts.
154. On 2013-03-26, the 10 calendar day deadline elapsed to respond to Sai's 2013-03-16 (TSA13-0494) expedited processing request.
155. On 2013-03-30, Sai published to YouTube self-taken video of the SFO incident.¹
156. On 2013-04-01, Sai emailed Sotoudeh in response to the TSA's 2013-03-25 letters, specifically contesting their claim that the requests were not reasonably described, and pointing out ambiguity in the SFO FOIA response.
157. On 2013-04-01, Lucas stated that the TSA had approved release of the SFO video requested in Sai's 2013-03-15 FOIA request.
158. On 2013-04-01, Sai was interviewed on the nationally syndicated TV show RT America News about the SFO incident, together with broadcast of video thereof.²
159. On 2013-04-03, Sai received and published to YouTube SFO's CCTV video.
160. On 2013-04-04, Sai was interviewed³ on the nationally syndicated TV show RightThisMinute about the SFO incident, together with broadcast of video thereof.
161. On 2013-04-05, the TSA ODPO finally acknowledged Sai's complaints, stating:
- "We received your e-mail on 3-21-2013 regarding the complaint you filed on 1-26-2013. We apologize that you did not receive an additional acknowledgment at that time. Please be assured that we are giving your complaint the serious consideration that it deserves. We appreciate your patience in awaiting our response."
162. On 2013-04-08, in a written statement to RightThisMinute (accompanying a second nationally broadcast interview⁴), TSA Public Affairs Manager Nico Melendez said:
- "TSA's policy allows medically necessary liquids through the security checkpoint once they have been screened. We regret that TSA did not follow its procedures recently at San Francisco International Airport when a passenger was not permitted to travel with liquids he declared as medically necessary. The passenger has reached out to TSA and we will respond directly to his concerns."
163. On 2013-04-10, Lucas stated that the ADA / Rehabilitation Act grievance was the responsibility

¹ <http://youtu.be/watch?v=0m12mLXgO1A&list=SPfjmJ80EzesT6mLEYek0tHj5ctUIr1XZ>

² <https://www.youtube.com/watch?v=NjNh8dZ5Y0g>

³ <http://www.rightthisminute.com/video/tsa-accused-violating-disabled-travelers-rights>

⁴ <http://www.rightthisminute.com/video/update-tsa-accused-violating-disabled-travelers-rights>

of the TSA, not SFO.

164. Continued emails regarding Sai's 2013-03-15 FOIA request resulted in Lucas disclosing email between Liam O'Byrne (SFO Aviation Security Supervisor), Paolo Cardenas (TSA/SFO Program Assistant), Nancy Coliz (Covenant Aviation Security), Larry Perkins, and Aura Adel.

165. On 2013-04-11, the TSA ODPO wrote Sai, stating:

"If we determine that your complaints fall within the jurisdiction of Section 504 of the Rehabilitation Act, under 6 C.F.R. §15.3(b) TSA has two options for resolving the allegations we agree to pursue:

Informal Resolution

An informal resolution is voluntary on both the part of the passenger and TSA personnel at the involved location. If you choose to resolve your complaint informally, DMD will not determine whether TSA violated Section 504. Rather, DMD will work with the TSA personnel at the involved location and you to agree upon an action that will resolve your complaint. An example could include retraining the TSA personnel involved in your complaint. TSA acts as a neutral party to facilitate a resolution between you and TSA personnel. The informal resolution will be reduced to writing and is enforceable once agreed upon. TSA has 180 days from the receipt of your complaint to reach an informal resolution. If an informal resolution agreement cannot be reached between TSA and you, then your complaint will be resolved formally.

Formal Resolution

If your complaint cannot be resolved informally, TSA will resolve your complaint formally. TSA will conduct an inquiry to determine whether a violation of Section 504 occurred. Based on the results of the inquiry, DMD will issue a formal letter that includes findings of fact and conclusions of law. If a violation of Section 504 has been found, TSA determines the appropriate remedy. If no Section 504 violation is found, TSA does not determine any remedies. TSA has 180 days from the receipt of your complaint to provide a formal resolution. TSA's findings, conclusions, and remedies may be appealed to the United States Department of Homeland Security's Officer of Civil Rights and Civil Liberties.

You can facilitate the process if you advise us of whether you are interested in pursuing an informal resolution to your complaints."

166. On the same day, Sai responded demanding specific minimum settlement outcomes, stating openness to informal or formal resolution if they could achieve those outcomes, and stating openness to reaching a negotiated settlement.

167. On 2013-04-12, the 20 working day deadline elapsed to respond to Sai's 2013-03-15 request (TSA13-0488).

168. On 2013-04-12, the 20 working day deadline elapsed to respond to Sai's 2013-03-16 request

(TSA13-0494).

169. On 2013-04-16, Kalowski wrote Sai, stating that Massport's position not to confirm or deny the existence of CCTV footage was done regardless of clear signage stating that CCTV was in operation, and that Massport had forwarded Sai's request for CCTV footage to the TSA for SSI review.
170. TSA received, controlled, and possessed Massport's CCTV video as part of its official duties, within the meaning of the FOIA and Privacy Act.
171. On 2013-05-01, Sai filed claims for damages from both the SFO and BOS incidents with the TSA Claims Office and ODPO.
172. On 2013-05-01, TSA ODPO wrote Sai, stating:
- "Thank you for your April 11, 2013, email regarding the complaints you filed with the Transportation Security Administration (TSA) on January 26 and March 15, 2013. Although your email includes information related to both of your complaints, TSA is treating these complaints as separate matters, because the incidents took place on different dates and at different airports and contain separate allegations.
- You indicate in your April 11, 2013, email that you may be willing to resolve your complaints through the informal resolution process, and you provide a list of actions that TSA could take in order to resolve your complaint. However, the informal resolution process is voluntary for both you and TSA. At this time, TSA declines to resolve your complaint informally and has initiated the formal resolution process for each complaint, in accordance with Department of Homeland Security (DHS) Regulations implementing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended."
173. On the same day, Sai responded requesting clarification, case numbers, and response time estimate, as well as reiterating a request for amicable settlement.
174. On 2013-05-02, Brett Barber, TSA Office of Chief Counsel Paralegal, responded to both 2013-05-01 damage claims, stating that they were insufficient for failing to state a specific amount of money damages.
175. On 2013-08-05, Sai wrote the TSA asking for an update.
176. On 2013-08-08, the TSA ODPO wrote: "Our response to your complaint is not yet complete. We appreciate your patience."
177. On the same day, Sai asked for an ETA, pointing out that the TSA had already exceeded the statutory limit for responding to both complaints.

178. On 2013-08-16, the TSA ODPO wrote:

"A response to your complaint regarding your screening in Boston has been drafted and is currently under review. We cannot predict when the review process will be complete. A response to your complaint regarding your screening in San Francisco is being developed. We appreciate your patience."

179. On the same day, Sai responded requesting an actual ETA.

180. On 2013-08-18, Sai wrote to Sotoudeh, requesting an update on FOIA requests TSA13-0424, TSA13-0414, TSA13-0414, and TSA13-0488; complaining of the lack of response to Sai's response to the TSA's rebuttal and clarification of the TSA's letters of response and the lack of any substantive response; etc.

181. On 2013-08-20, the TSA FOIA office sent Sai an auto-reply acknowledging receipt of email.

182. On 2013-08-21, TSA FOIA officer Gerri Lewis and Sotoudeh responded, stating that TSA case number 2013-TSFO-01179 "is being process[ed]"; and that case numbers 2013-TSFO-01096 and 2013-TSFO-01088 "are still waiting on documents".

183. On the same day, Sai requested clarification of these new case numbers.

184. Lewis and Sotoudeh were unable to provide a correspondence between them and the previous case numbers (TSA13-0414, TSA13-0424, and TSA13-0488).

185. On 2013-09-17, Sai again asked for an update, asking "Has the Boston response been reviewed yet, or the San Francisco response been written?"

186. On 2013-09-18, the TSA ODPO responded, saying that "Both written responses are currently under review."

187. On 2013-10-28, the TSA's 180 day response deadline (under 6 CFR 15.70(g)(1)) elapsed, without any substantive response.

188. On 2013-11-04, Sai again requested an update, and again reminded TSA that they were in excess of their statutory response deadlines.

189. TSA did not respond.

190. On 2013-11-15, TSA Assistant Administrator for Legislative Affairs Sarah Dietch wrote to Senator Pelosi:

"As indicated in our previous letter, several offices within the [TSA] are reviewing both of these complex matters. TSA is still determining the findings for each separate situation. We will provide you with the results of the findings after review is complete. We apologize for the delay.

Please be assured we will provide you with a status update within 30 days.

We appreciate that your constituent took the time to share his concerns with you."

191. On 2013-11-23, Sai wrote to the TSA ODPO, CRL, External Compliance, and FOIA offices, demanding release of the already-written responses.
192. The same email simultaneously filed a California Public Records Act (CPRA), FOIA, and Privacy Act request for all documents related to both incidents; a list of all documents that the TSA failed to preserve and/or that they are aware of but do not possess; a demand for original format and response by e-mail or other electronic file transfer, and journalistic and public interest fee waiver exemption.
193. On 2013-11-23, the TSA FOIA office sent Sai an auto-reply acknowledging receipt of email.
194. On 2013-11-27, TSA agent Aeron J. Piñeiro, Operations Manager, Freedom of Information Act Branch, Office of Civil Rights & Liberties, Ombudsman and Traveler Engagement responded, stating:

"I am in the process of identifying the status of each of your open requests for information and will follow up with you ASAP. Please understand we have a backlog of over 550 cases and we are making every attempt to address all of our open requests as efficiently as possible. Feel free to contact me anytime with questions and/or concerns."
195. Piñeiro failed to give Sai a case number for the 2013-11-23 request.
196. On the same day, Sai responded reminding Piñeiro that a backlog does not constitute "exceptional circumstances"; that Sai had waited 11 months for a response; and that Sai would be enforcing the 20 working day response time requirement.
197. On 2013-12-03, the 10 calendar day deadline elapsed to respond to Sai's 2013-11-23 expedited processing request.
198. On 2013-12-10, Sai reminded Piñeiro that the request demanded a response by e-mail, with digital documents.
199. On 2013-12-11, Piñeiro responded: "Thank you, Sir, for the reminder. I have been out of the office for the past week or so, so I apologize for my delay in getting back to you. I will be in touch."
200. On 2013-12-18, Deitch wrote to Senator Pelosi:

"As we indicated in our previous letter, several offices within the [TSA] are reviewing both of these complex complaints. TSA is still determining the findings for each separate situation. We

will provide you with the results of the findings after the review is complete. We apologize for the delay.

We appreciate that your constituent took the time to share his concerns with you."

201. On 2013-12-23, the TSA's 20 working day deadline elapsed to respond to Sai's 2013-11-23 request.

202. On 2013-12-28, Sai again reminded Piñeiro, as well as the TSA ODPO, FOIA, External Compliance, and CRL offices that they had failed to obey a statutory deadline, and stated intent to file suit in DC Circuit Court. Sai has received no further response from the TSA.

203. On 2013-12-28, the TSA FOIA office sent Sai an auto-reply acknowledging receipt of email.

204. On 2014-01-06, Piñeiro emailed Sai, stating:

"Today is my first day back after the holidays. I will provide estimated dates of completion for all three of your open FOIA requests by midday tomorrow, January 7. I sincerely apologize for the delay in processing your requests. Please understand we are working diligently to process the approximately 600 open FOIA requests we have pending in this office."

205. As of the date of filing this request, Piñeiro has not provided estimated dates of completion for any of Sai's FOIA/PA requests.

206. On 2014-01-18, Sai filed formal a FOIA and Privacy Act request to TSA for:

"... all documents and communications whatsoever (including email) that regard or mention me or any of my FOIA / PA requests to the TSA (including this request itself), that are held or controlled by the TSA as well as any other agency contacted in those documents or communications ... [including] but [] not limited to absolutely everything described in 5 USC 552a(c)(1)."

207. The 2014-01-18 request were assigned control number 2014-TSPA-00188.

208. On 2014-02-02, Sai filed formal a FOIA and Privacy Act request to TSA for:

- "all recordings (including CCTV, radio, etc) at RIC on 24 January 2014 which covers myself, my companion, or any of the TSA or RIC PD agents with whom we interacted,
- all documents, such as TSA Incident Reports, police reports, RIC PD or TSA radio traffic recording, notes, correspondence, communications, etc., relating to the above events,
- the identities of all TSA officers involved, and their contacts for service of process (in both personal and official capacities),
- the identities of all RIC PD officers involved, and their contacts for service of process (in both personal and official capacities),
- all records of complaints against the two named TSA agents and the two unknown RIC PD officers,

- all documents relating to complaints against, or action taken by, any RIC TSA or RIC PD agent related to disability, medical liquids, or checkpoint recording,
- all records related to me or my companion held by any Relevant Parties, and
- all documents and communication related to responding to this request."

209. On 2014-02-12, TSA FOIA representative Geraldine Lewis responded to both the 2014-01-18 and 2014-02-02 requests by claiming that they were not complete under the Privacy Act.

210. TSA refused to process the 2014-01-18 and 2014-02-02 requests.

Admissions of general facts

As of the date of filing this request, with regard to *all* of the above matters (except the releases made by SFO), Sai has not received:

211. *any* substantive response;

212. *any* responsive records;

213. *any* notice from TSA of any unusual or exceptional circumstances;

214. *any* final determination;

215. *any* determination as to expedited processing;

216. *any* determination as to public interest or other fee waivers;

217. *any* determination or documents of Massport's or RIC's CCTV video;

218. TSA's control number for the 2013-02-15 and 2013-11-23 requests; nor

219. correspondences between the TSA's previous and current FOIA control numbers.

Admissions of inference and of law

General issues

220. The US District Court for the District of Columbia has⁵ jurisdiction and venue to hear every claim raised in this case.

221. Every claim for relief stated in the complaint raises a distinct claim and alleges each of the elements of said claim.

Freedom of travel, privacy, and the scope of TSA's permission to conduct lawful searches

222. Every person has a fundamental right to privacy, protected by the Constitution and by international treaties to which the United States is a signatory.

223. A person's right to privacy pertains especially to items with any privacy sensitive content such as medications, medical information, business records, books, personal notes, most items commonly carried in a wallet, etc.

224. Every person has a fundamental right to travel freely, protected by the Constitution and by international treaties to which the United States is a signatory.

225. US citizens have a statutory right specifically to travel by air. 49 USC 40103(a)(2)

226. The rights to travel freely and to privacy may not be abridged absent a compelling governmental interest, using methods that are narrowly tailored to that interest and minimize the intrusion on these rights.

227. Any law, regulation, or governmental activity that impinges on individuals' rights to travel freely or to privacy is subject to strict scrutiny review.

228. TSA agents are agents of the Federal government.

229. TSA agents, with the exclusive exception of Federal Air Marshals (who do not operate TSA checkpoints), have no police powers or authority whatsoever.

230. It is unlawful for TSA agents to take *any* action in screening passengers or their items unless it is "no more extensive nor intensive than necessary, in the light of current technology, to detect the presence of weapons or explosives, that it is confined in good faith to that purpose, and that

⁵ Please note that this statement does not say "exclusive" jurisdiction or venue.

- potential passengers may avoid the search by electing not to fly". *US v. Davis*, 482 F. 2d 893, 913 (9th Cir. 1973), *US v. Aukai*, 497 F. 3d 955 (9th Cir. 2007)
231. It is unlawful for TSA agents to make *any* search that is motivated by law enforcement purposes. *US v. Fofana*, 620 F. Supp. 2d 857, 863-864 (S.D. Ohio 2009)
232. It is not *necessary* to a search for weapons or explosives to read any of a passenger's items, as current technology used by TSA (including x-ray, explosive trace detection, and liquid container screening) is capable of detecting threat items non-invasively.
233. In particular, TSA's current technology is capable of detecting weapons or explosives contained within books, wallets, notebooks, pill bottles, and similar items without any need for direct visual inspection.
234. A search for false identity documents constitutes an exclusively "law enforcement" motivated search, because the documents themselves are not "weapons or explosives", though possessing them may sometimes be an element of a criminal offense.
235. A TSA search for false identity documents, disregarding⁶ a Travel Document Checker's matching of documents to boarding passes, is illegal under *Davis*, *Aukai* and *Fofana*.
236. It is illegal under *Davis*, *Aukai* and *Fofana* for TSA agents to conduct any further search of an item of which x-ray inspection was made and revealed no suspicious items.
237. It is in no way illegal under US law to carry a previously issued, voided passport.
238. It is in no way illegal under US law to carry prescription medication in one's former name.
239. Even if it were illegal to do either of the above two things, doing so would not constitute possession of "weapons or explosives".
240. It is unlawful for TSA agents to require travelers to answer *any* question as a condition of travel.
241. The only TSA agents authorized to ask questions that in any way alter a traveler's screening are those made by a Travel Document Checker to determine whether a travel possesses valid travel documents — and even then, TSA's only lawful action in the event of even complete non-compliance by a traveler (such as refusal to show ID) is to conduct a more thorough search, still within the bounds of the *Davis* standard, than would otherwise have been made.
242. It is unlawful for TSA agents to detain a traveler any longer than the absolute minimum amount of

⁶ Please note that this item does not state that a TDC's check of identity documents is lawful or mandatory, only that it is ignored for the purpose of this question.

time necessary to conduct a search narrowly tailored to find weapons and explosives.

Medical items

243. The amount or kind of liquids, medicines, or other nutrition a person may have medical need of varies from person to person depending on their medical needs, and constitutes a medical determination as well as a determination of that person's disabled status.
244. Water and juice are medical liquids.
245. There is no TSA screener who is currently licensed to practice medicine.
246. It is unlawful for someone not licensed to practice medicine to attempt or purport to make a medical or disability determination, or for any government agent to treat a person in any negative way based on their medical or disability status.
247. A traveler's disability status is *per se* private information, and stating that one has medical items necessarily discloses some part of that information.
248. It is unlawful for TSA agents to require that any person disclose medical information.
249. TSA possesses technology capable of determining whether any food or liquid is a weapon or explosive without knowing whether or not it has medical purpose.
250. It is unlawful, under *Davis*, *Aukai*, and *Fufana*, for TSA agents to attempt to assess a traveler's need for medical liquids, the legitimacy of a traveler's medical condition(s), or the amount or kind of liquids a traveler may need, irrespective of the destination or duration of travel.
251. In its settlement of *Bierfeldt v Napolitano*, TSA agreed that it is unlawful for TSA agents (other than the travel document checker) to intentionally read any documents in a traveler's possession, or to otherwise conduct a screening not tailored exclusively to the detection of weapons or explosives.
252. It is unlawful for a TSA agent to re-screen an item through more intrusive means (such as manual visual search) that has already been cleared by less intrusive means (such as x-ray or explosive trace detection).
253. TSA does not comply with the Health Insurance Portability and Accountability Act (HIPAA)'s requirements in storing or communicating medical information about travelers.
254. It is unlawful for TSA agents to require travelers to answer *any* question as a condition of travel

with *any* quantity of medical liquids.

255. It is unlawful for TSA to require travelers to disclose even the *mere fact* that the traveler is disabled, especially with regard to hidden disabilities, as a condition of travel or screening.
256. It is unlawful for TSA to make any determination as to the "reasonability" of how much liquids a passenger chooses to bring with them, especially as regarding medical necessity.
257. It is unlawful, and a violation of TSA's own regulations, for TSA to refuse to screen liquids declared as medical, or to refuse to permit a passenger to travel with liquids that have been cleared by technological screening.
258. It is unlawful for TSA to refuse to permit a passenger to travel with liquids that have been cleared through technological screening such as x-ray and explosive trace detection.
259. It is unlawful for any government agent to take any action against a person based on the person's assertion of a Constitutional, statutory, or regulatory right, or based on the person's insistence that the agent obey current law or regulation.

Video of TSA checkpoints

260. TSA is the sole entity responsible for, and the sole entity permitted by law, to review whether TSA checkpoint surveillance video is SSI.
261. Airports which record TSA checkpoint surveillance video regularly provide that video to TSA, both upon TSA's request and in order to request TSA's guidance as to what extent a particular video contains SSI that must be redacted from public release.
262. Virtually every TSA checkpoint has signs — designed, posted and maintained by TSA — that the checkpoint is under video surveillance.
263. Maintaining live and/or recorded CCTV surveillance of TSA checkpoints is done in very large part for TSA's benefit, and constitutes part of TSA's agreement with airports.
264. Airports are required to, and in fact do, conform to TSA's requirements regarding surveillance video, including such things as how video should be monitored, what format video should be kept in, what things should be included or excluded from the surveillance coverage, what video may be released in response to a public records request, etc.
265. To the extent that an airport records TSA checkpoint surveillance video, that airport is acting as an

agent (in the sense of a legal principal/agent relationship) of the TSA and/or as a *per se* agency under the FOIA/PA.

266. TSA has air transportation security agreements ("ASP"s) with Massport and the Capital Region Airport Commission (CRAC / RIC).
267. TSA's ASPs address CCTV coverage of TSA checkpoints.
268. Any entity that maintains primary CCTV video of a TSA checkpoint is an agent of the TSA with respect to such video, and is subject to the FOIA and PA for disclosure of such video.
269. An entity which possesses, processes, maintains, or creates documents on behalf of a federal agency, or which is in a principal/agent type relationship with the agency, must obey the Federal Freedom of Information Act and Privacy Act and any disclosures required to be made by the agency under those statutes — regardless of whether the agent themselves would independently, or in unrelated activity, count as a covered entity.
270. It is in no way illegal to record, by audio or video, any activity at a TSA checkpoint.
271. TSA checkpoints are a public place, at which there is no expectation of privacy for any person.
272. Government agents (whether local or federal), in the commission of their official duties, have no right to or expectation of privacy as to anything they do in a public place.
273. TSA checkpoint surveillance video, whether taken by a traveler or by CCTV, in no way infringes upon any person's privacy, and no such privacy based claim may be raised to exempt or redact such video from any Federal or state freedom of information law.
274. No government entity may demand, as a requirement of release of video under an open government law, any redaction of government agents filmed therein in the commission of their official duties.

Response deadlines under the ADA and Rehabilitation Act

275. ADA & Rehabilitation Act grievances require a "prompt investigation" per [49 CFR 21.11\(c\)](#).
276. The standard deadline for actual response to an ADA or Rehabilitation Act complaint is 20-30 days (e.g. [29 CFR § 1614.105\(d\)](#), [24 CFR 8.56\(e\)\(1\)\(i\)](#)).
277. Any response given more than 30 days after receipt of such a complaint is in violation of the statutory and regulatory response requirements of the ADA or Rehabilitation Act.

FOIA & Privacy Act

278. TSA has a positive duty to preemptively disclose, and may not exempt under the FOIA or Privacy Act, any of its regulations, policies, procedures, instructions to staff, "working law", interpretations of law, guidelines, standard operating manuals, or other similar documents that in any way affect a member of the public.
279. The documents requested in Sai's 2013-03-16 request (TSA13-0494) were all documents which TSA had a positive duty to preemptively disclose.
280. TSA has not disclosed any of the documents requested in Sai's 2013-03-16 request.
281. A Privacy Act request that states the requester's name, place of birth, and date of birth, and is signed in accordance with [28 USC § 1746](#), is properly identified.
282. The sheer size or burdensomeness of a FOIA request, in and of itself, does not entitle an agency to deny that request on the ground that it does not 'reasonably describe' records within the meaning of [5 U.S.C. § 552\(a\)\(3\)\(A\)](#).
283. General agency workload does not constitute "exceptional circumstances" justifying any delay in response.
284. The number of records asked for in a request does not constitute "exceptional circumstances".
285. A plaintiff is entitled to \$1,000 minimum statutory damages for each Privacy Act request under 552(g)(1)(C) or (D) in which an intentional or willful failure to obey the Privacy Act is shown.
286. A plaintiff is entitled to discovery when a reasonable suspicion of intentional, willful, negligent, capricious, or arbitrary failure to obey the FOIA or PA is shown.
287. A plaintiff is entitled to discovery when a reasonable suspicion of a pattern or practice of failure to obey the FOIA or PA is shown.
- 288.

Legality of specific TSA actions

TSA agents' actions at BOS

289. Prior to Tonge-Riley and Kukula's search, Sai's belongings had been screened by x-ray without any weapon, explosive, or suspicion thereof detected, and Sai's person had been screened by physical pat-down also without any detection of any weapon, explosive, or suspicion thereof.

290. Tonge-Riley and Kukula's allegations that Sai's passports and medications violated unspecified laws were obviously false, and their taking any action against Sai based on such allegations was in violation of clearly established law.

291. Tonge-Riley and Kukula's search of Sai's belongings were motivated by law enforcement purposes, in violation of clearly established law.

292. Tonge-Riley and Kukula's search of Sai's belongings was not *necessary* to detect weapons or explosives, as they had already been cleared by x-ray.

TSA agents' actions at SFO

293. SFO TSA forced Sai to disclose a hidden disability by announcing that the liquids carried were medical.

294. SFO TSA violated TSA policy by initially refusing to screen Sai's declared medical liquids.

295. SFO TSA violated TSA policy by refusing to allow Sai to travel with medical liquids that had been screened and cleared.

296. SFO TSA violated TSA policy by refusing to accommodate Sai's disability despite clear notification and physiological signs of immediate medical need.

TSA's actions regarding Sai's ADA and Rehabilitation Act grievances

297. TSA received Sai's complaints when they were sent.

298. TSA's initial response to Sai's complaints were unlawfully late.

299. TSA only began responding to Sai's grievance, months late, as a direct consequence being embarrassed on national TV.

300. TSA quickly provided a written statement on national TV explicitly admitting fault in the SFO

incident.

301. Despite this, TSA has refused to respond to Sai's complaints and FOIA / PA requests, *a full year* after having admitted fault on national TV.
302. TSA's failure to respond to Sai's complaints, well over 6 months past its initiation of formal resolution, is unlawful.
303. TSA's failure to provide Sai with its response to Sai's complaints, which it has at this point already written (albeit unlawfully late), is unlawful under the Rehabilitation Act, the Freedom of Information Act, *and* the Privacy Act.
304. TSA's failure to respond to Sai's Rehabilitation Act grievance, despite clear knowledge and public admission of fault, is illustrative of an entire pattern and practice of willful, intentional, arbitrary, and capricious non-compliance with statutory response deadlines.

TSA and its airport agents' actions regarding CCTV video

305. Massport representative Macon-Bell's statement that Massport "will take guidance from TSA headquarters" creates a clear and necessary inference that Massport was acting at the direction of and as an agent of the TSA with respect to withholding the requested video based on the TSA's authority to review and withhold SSI.
306. The same is true of SFO's statements with regard to TSA's screening of SFO's CCTV video.
307. TSA is responsible for Massport's withholding of the requested CCTV video as SSI.
308. SFO, Massport, and Kalowski had no authority to make a determination as to whether CCTV video of a TSA checkpoint contains SSI, as such determinations are reserved to the Department of Transportation.
309. TSA's contradictory responses to the release of SFO and BOS video violate estoppel, especially as Macon-Bell specifically stated that BOS took direction from the TSA on its release. The TSA cannot lawfully claim that such video is SSI in one case and not in another. Nevertheless, the TSA and Massport refused to release the BOS CCTV video.
310. Sai is entitled to the requested CCTV video.

TSA's actions regarding Sai's FOIA / Privacy Act requests

311. Each of Sai's Privacy Act requests was properly identified and signed in accordance with 28 USC § 1746.
312. TSA's allegations that Sai's Privacy Act requests were incomplete or improperly signed were obviously false.
313. Each action by TSA against Sai's interests based on such allegations, such as "administrative closure" or delay, constituted an intentional and willful violation of the Privacy Act and an arbitrary and capricious action exceeding TSA's discretion.
314. TSA admitted that its "administrative closure" of Sai's 2013-01-26 request (TSA13-0375) was unlawful.
315. Each of Sai's FOIA/PA requests concerned documents that were of significant "public interest".
316. Each of Sai's FOIA/PA requests qualified for public interest fee waiver.
317. Each of Sai's FOIA/PA requests qualified for expedited processing.
318. TSA's responses to Sai by paper violated FOIA/PA statutory requirements that responses be provided in the form requested, i.e. electronic format.
319. Sai's 2013-03-16 (TSA13-0494) reasonably and specifically described the records it sought.
320. TSA failed to specify which portions of the 2013-03-16 request were purportedly "not reasonably described", and was obligated to fulfill the remainder.
321. TSA has violated *every* statutory deadline with respect to *each* of Sai's complaints, FOIA requests, and Privacy Act requests.
322. TSA failed to respond to Sai's replies to all of TSA's responses, thereby failing to fulfill their statutory duty to work with Sai to clarify, segregate, and fulfill Sai's requests.
323. A FOIA or PA response that does not both (a) approve or deny a request, and (b) give reference to ability to appeal does not constitute a "determination".
324. TSA's response to Sai's 2013-03-15 (TSA13-0488) request completely ignored three of the eight items enumerated in the request.
325. TSA's failures and delays has risked the destruction of the records sought.
326. TSA's failures and delays in the above matters were known to multiple high level personnel within multiple offices of TSA.
327. TSA has stalled Congresswoman Nancy Pelosi with respect to her inquiries on my behalf about the

above matters for nearly a full year.

328. TSA promised to fulfill a portion of Sai's 2013-03-15 request (TSA13-0488), but has not done so for over a year.

329. This failure constitutes a violation of both the FOIA and PA.

330. Sai's 2014-01-18 and 2014-02-02 requests were properly completed under the Privacy Act.

331. TSA refused to process Sai's 2014-01-18 and 2014-02-02 requests, based on a false, knowing, willful, capricious, and arbitrary claim that they were "not complete" under the Privacy Act, despite having previously admitted that the 2013-01-26 (which was signed in an essentially identical manner) was improperly closed on exactly the same basis.

332. All of the TSA's failures and delays listed above were knowing, willful, capricious, and arbitrary.

333. TSA's failures and delays give rise to probable cause to believe that they are part of an entire pattern and practice of refusal to obey statutory response deadlines.

334. There is strong probability that TSA's illegal conduct will recur in the future.

335. The violations of Privacy Act provisions alleged above fall under 5 USC 552(g)(1)(C).

336. The violations of Privacy Act provisions alleged above fall under 5 USC 552(g)(1)(D).

337. The amount of suspicion present in this case far exceeds the threshold for establishing a reason to believe a pattern or practice of intentional, willful, negligent, and/or arbitrary failure to obey the FOIA and/or PA, and entitles Sai to all means of discovery to determine the full extent of TSA's failures.

338. Sai is entitled to \$1,000 in minimum statutory damages for *each* of Sai's Privacy Act requests — totalling \$7,000.

339. An award to the non-governmental plaintiff of attorney's fees, litigation costs, or other costs of action in a FOIA or PA case includes any costs for legal consultation or expert witnesses.

340. Sai is entitled to attorney's fees, litigation costs, and all other costs of action in this case.

341. TSA has acted in bad faith in *all* of the above matters.

342. TSA has burden of proof to sustain its actions in *all* of the above matters.

343. The complaints alleged in this case are subject to review *de novo*.

344. TSA's actions raise questions as to whether TSA personnel acted arbitrarily or capriciously with respect to their withholding of responsive documents.

345. TSA personnel did in fact act arbitrarily and capriciously with respect to their withholding of responsive documents.
346. Sai has exhausted administrative remedies in *all* of the above matters and is entitled to pursue them in court without any requirement for administrative appeal, mediation, conference, etc.

Sincerely,
Sai, *plaintiff pro se*
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