

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ELLEN MARIANI  
Plaintiff,**

v.

**Case No. 03-5273**

**UNITED STATES OF AMERICA, et al.  
Defendants.**

**DECLARATION OF STEPHANIE D. BONNEFOND**

STEPHANIE D. BONNEFOND hereby declares and says:

1. I am a paralegal in the General Counsel's Office of the National Security Agency (NSA). I have served in this position since January 1996. One of my duties as a Paralegal is to handle all of the administrative claims under the Federal Tort Claims Act for the Agency.

2. I have access to the claims database, which has the name of any individual who has filed an administrative claim under the Federal Tort Claims Act against NSA within the past ten years.

3. On 4 November 2003 I searched the database under the name of Ellen Mariani and found no records.



UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Ellen Mariani,	)	
	)	
Plaintiff,	)	
	)	Civil No. 03-5273
v.	)	
	)	
United States of America,	)	
	)	
et. al.	)	
	)	
Defendants.	)	
_____	)	

DECLARATION OF ROBERT D. CAUDLE

I, ROBERT D. CAUDLE, hereby declare and say:

1. I am an Associate General Counsel and the Chief of the Administrative Law Division ("ALD") within the Central Intelligence Agency's ("CIA" or "Agency") Office of General Counsel ("OGC"). I have served in this position since August 2002. Before assuming my current position, I was the Associate General Counsel, Directorate of Science and Technology since April 1999 and, prior to that, the Deputy Chief and then Chief of the Litigation Division of OGC since November 1995. I have worked in OGC since 1988. In my capacity as Chief, ALD, I am responsible for the work of the ALD, which includes providing legal support concerning tort claims against the Agency.



2. ALD is the division of OGC designated and responsible for processing all administrative tort claims filed, pursuant to the Federal Tort Claims Act ("FTCA") (except any related to motor vehicle accidents), against the United States based upon the act or omission of any CIA employee. Therefore, all non-motor vehicle administrative claims, under the FTCA, regarding the CIA are transmitted to ALD for consideration and disposition.

3. In the normal course of its business, a record of the receipt of any FTCA claim as well as the consideration and disposition of such claim (including any final response to or denial of the claim) is made and retained in ALD.

4. Through the exercise of my official duties, I have become familiar with the above-captioned lawsuit. I have reviewed the complaint and the allegations therein. I make the following statements based upon my personal knowledge, information made available to me in my official capacity, discussions with CIA personnel who are knowledgeable about the information described herein and conclusions I reached and determinations I made in accordance therewith.

5. As a result of plaintiff's allegations in the complaint, OGC caused a thorough and diligent search to be undertaken of appropriate CIA record systems for any information pertaining to any FTCA administrative claim made by the plaintiff related to the above-captioned lawsuit.

6. Specifically, a search was undertaken on OGC's record systems for any indication that plaintiff had filed a FTCA

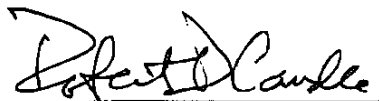
administrative claim against the CIA. The search was undertaken by qualified CIA employees who have access to all pertinent OGC records and who are qualified to search these record systems in the normal course of their duties.

7. This comprehensive search for all records indexed to plaintiff's name, the results of which were provided to me in my official capacity, located no identifiable records indicating that the plaintiff had submitted a claim under the FTCA pertaining to the allegations in his complaint.

8. If plaintiff had submitted such a claim to the CIA, a record indicating such fact would have been created and retained in the normal course of CIA business and in the normal course these searches would have located such record.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 21<sup>st</sup> day of November 2003.



Robert D. Caudle  
Chief, Administrative Law Division  
United States Central Intelligence  
Agency

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

ELLEN MARIANI, Individually and as )  
 Personal Representative of the Estate of )  
 LOUIS NEIL MARIANI, deceased, )  
 )  
 Plaintiff, )  
 v. )  
 THE UNITED STATES OF )  
 AMERICA, et al., )  
 )  
 Defendant )

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Case No. 03-5273

Date: November 19, 2003

**DECLARATION OF ROBERT H. SCHAPLER**

I, Robert H. Schapler, do hereby declare the following to be true and correct:

1. I am employed as the Assistant General Counsel (Litigation), Office of General Counsel, Defense Intelligence Agency, Department of Defense. I have held this position since May 2002.

2. As the Assistant General Counsel for Litigation, I am responsible for the defense of United States' interests in civil litigation and administrative actions filed against the Agency. I am also responsible for the supervision and monitoring of all administrative claims presented to the Agency arising under the Federal Tort Claims Act 28 U.S.C. §2675 (a) (2001). I am the custodian of the Agency's claims and tort litigation records.

3. Acting in the aforementioned capacity, I have caused a search to be made of the records maintained within the Office of General Counsel to determine whether the

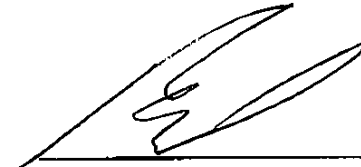


plaintiff, Ellen Mariani, filed an administrative claim against the Defense Intelligence Agency, in any capacity, prior to commencing this action as required by 28 U.S.C. §1346 (b), 2401 (b), and 2671-2680 (2001).

4. All reasonable searches have failed to reveal that the plaintiff has filed such an administrative claim and, to the best of my knowledge and belief the plaintiff, Ellen Mariani, has not filed an administrative claim with or against the Defense Intelligence Agency based on the subject matter of this action.

5. Further, all reasonable searches have failed to reveal that the plaintiff has served the Agency with a summons and complaint and, to the best of my knowledge and belief the plaintiff, Ellen Mariani, has not served the Agency with a summons and complaint based on the subject matter of this action.

I hereby declare under penalty of law that the foregoing is true to the best of my knowledge and belief. Executed this 20<sup>th</sup> day of November 2003.



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Robert H. Schapler  
Assistant General Counsel  
Defense Intelligence Agency

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ELLEN MARIANI, Individually, and as Personal	)	
Representative of the Estate of LOUIS NEIL	)	Civil Action Number: 03-5273
MARIANI, deceased,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
THE UNITED STATES OF AMERICA, et al.	)	
	)	
Defendants	)	

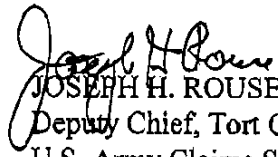
DECLARATION

I, Joseph H. Rouse, declare as follows:

1. The undersigned is presently and has been at all times since August 1, 1967, Chief and since August 1987, Deputy Chief of Tort Claims Division, U.S. Army Claims Service, Fort Meade, Maryland. In this capacity I receive all claims against the Army, in the amount in excess of \$50,000. This includes claims under the Federal Tort Claims Act, 28 U.S.C. 2671-2680, and other related tort claims statutes arising from the acts or omission of members or employees of the active Army, Army National Guard and Department of Defense.
2. A thorough search of all records and files available to this Service since 1988 has found that no administrative claim was filed by Ellen Mariani individually or as personal representative of the estate of Louis Neil Mariani under the above-mentioned statutes.



3. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

  
JOSEPH H. ROUSE  
Deputy Chief, Tort Claims Division  
U.S. Army Claims Service  
Office of The Judge Advocate General  
4411 Llewellyn Avenue  
Fort Meade, MD 20755-5360  
(301) 677-7009, ext. 212

Executed this the 20th day of November, 2003, at Fort Meade, Maryland.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

ELLEN MARIANI, Individually, )  
And as Personal Representative of the )  
Estate of LOUIS NEIL MARIANI, )  
deceased, )

Plaintiff, )

vs. ) Case No.

THE UNITED STATE OF AMERICA, )  
GEORGE W. BUSH, The President of )  
The United States, Officially and )  
Individually, )  
RICHARD CHENEY, Vice President of )  
The United States, Officially and )  
Individually, )  
JOHN ASHCROFT, Attorney General of )  
The United States, Officially and )  
Individually, )  
DONALD H. RUMSFELD, Secretary of )  
Defense, Officially and Individually, )  
UNITED STATES DEPARTMENT OF )  
DEFENSE (DOD), )  
CENTRAL INTELLIGENCE AGENCY, )  
NATIONAL SECURITY AGENCY, )  
DEFENSE INTELLIGENCE AGENCY, )  
COUNCIL ON FOREIGN RELATIONS )  
and named and unnamed officials, agents )  
representatives of THE UNITED STATES )  
OF AMERICA )

Defendants. )

DECLARATION

I, R. Eric Rissling, Colonel, USAF, declare as follows:

That I am currently assigned as Chief, Tort Claims and Litigation Division, Air Force Legal Services Agency, United States Air Force. As such, I have the responsibility



under the Air Force claims regulations for overseeing the administration of Air Force tort claims records and supervision of Air Force tort litigation activities worldwide.

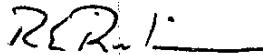
Accordingly, I have caused a search to be made of Air Force tort claims records for the purpose of determining whether an administrative tort claim has ever been presented to the Air Force by ELLEN MARIANI, individually, and as personal representative of the Estate of LOUIS NEIL MARIANI, deceased, alleging property damage and personal injury as a result of United Airlines Flight 175 crashing into the Southern Tower of the World Trade Center on or about September 11, 2001.

The search involved checking the Armed Forces Claims Information Management System (AFCIMS), which records all tort claims filed against the Air Force since October 1, 1994. No claim by ELLEN MARIANI, and/or the Estate of LOUIS NEIL MARIANI, was found in AFCIMS. In addition, the search included contacting the legal offices at Bolling Air Force Base (AFB), DC, McGuire AFB, NJ, and Dover AFB, DE, the Air Force installations with claims jurisdiction over the eastern area of Pennsylvania, where the above-captioned lawsuit was filed; Bolling AFB, DC, the nearest Air Force installation to the Pentagon; McGuire AFB, NJ, the nearest Air Force installation to New York, New York, where the incident giving rise to this lawsuit occurred; and Hanscom AFB, MA, the nearest AF installation to plaintiff's New Hampshire residence. Representatives of those legal offices confirmed they had not received a tort claim from ELLEN MARIANI, and/or the Estate of LOUIS NEIL MARIANI, arising out of the aforesaid incident.

As a result, I have determined that no tort claim has ever been submitted to the Air Force by ELLEN MARIANI, and/or the Estate of LOUIS NEIL MARIANI.

I have also caused a search to be made of Air Force tort litigation records to determine whether ELLEN MARIANI and/or the Estate of LOUIS NEIL MARIANI have served the Air Force with notice of the above-captioned lawsuit. The search involved checking office litigation records. This search uncovered no indication that a Complaint or Summons has been served on the Air Force regarding this lawsuit. As a result, I have determined that process has not been served in this lawsuit by ELLEN MARIANI and/or the Estate of LOUIS NEIL MARIANI.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.



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R. ERIC RISSLING, Colonel, USAF  
Chief, Tort Claims & Litigation Division  
Air Force Legal Services Agency  
1501 Wilson Blvd., Suite 835  
Arlington, VA 22209-2403

Executed this the 21<sup>st</sup> day of November, 2003, at Arlington, Virginia.

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Ellen Mariani, etc.	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION 03-5273
	)	
United States of America, et al	)	
	)	
	)	
Defendant.	)	

DECLARATION

DECLARANT, states as follows, to wit:

THAT, I am DANNY R. FIELDS, Major, USMC, presently serving as Acting, Deputy Assistant Judge Advocate General (Claims, Investigations, and Tort Litigation Division), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Avenue, SE, Suite 3000, Bldg 33, Code 15, Washington Navy Yard, DC 20374-5066:

THAT, in this position, I am responsible for the supervision and monitoring of the practices and procedures relative to all administrative claims presented to the Department of the Navy arising under the Federal Tort Claims Act (28 U.S.C. § 1346(b), 2401(b), and 2671-2680 (2001)), and the supervision and monitoring, on behalf of the Department of the Navy, of all litigation in Federal district courts generated by such claims.

THAT, I am the custodian of the Department of the Navy's Claims and Tort Litigation records.

THAT, acting in the aforementioned capacity, I have caused a search to be made of the records maintained within the Office of the Judge Advocate General of the Navy; Naval Legal Service Office Central, Pensacola, Florida; Naval Legal Service Office Mid-Atlantic, Norfolk, Virginia; and, Naval Legal Service Office Southwest, San Diego, California, to determine whether the plaintiff, Ellen Mariani, filed an administrative claim against the Department of the Navy, in any capacity, prior to commencing this action as required by 28 U.S.C. § 2675(a) (2001).




THAT, no action may be maintained against the United States under the Federal Tort Claims Act unless the plaintiff has first properly presented an administrative claim and that the claim has been finally denied.

THAT, all reasonable searches have failed to reveal that the plaintiff has filed such an administrative claim and to the best of my knowledge and belief the plaintiff, Ellen Mariani, has not filed an administrative claim with or against the Department of the Navy based on the subject matter of the action.

I declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
D. R. FIELDS  
Major, U.S. Marine Corps  
Acting

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Ellen Mariani,	)	
	)	
	)	
Plaintiff,	)	
	)	Civil No. 03-5273
v.	)	
	)	
United States of America,	)	
	)	
et. al.	)	
	)	
Defendants.	)	
_____	)	

DECLARATION OF JEFFREY W. YEATES

I, JEFFREY W. YEATES, hereby declare and say:

1. I am an attorney in the Litigation Division of the Office of General Counsel ("OGC") at the Central Intelligence Agency ("CIA"). I have served in the Litigation Division since May 2003. Before assuming my current position, I was an attorney on the Intelligence Community Management Staff under the Deputy Director of Central Intelligence for Community Management. I have served in OGC since 2001. In my current capacity in the Litigation Division, I work on a range of cases, both civil and criminal, involving the CIA as a defendant or a third party.



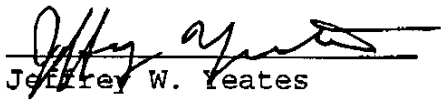
2. Upon notification by the United States Attorney for the Eastern District of Pennsylvania that the CIA was listed as a defendant in the civil action referenced above, the Deputy Chief of OGC's Litigation Division assigned the matter to me. In my work, I have become familiar with this civil action and, along with the assigned paralegal, retain all files related to it. I make the following statements based on my personal knowledge, information made available to me in my official capacity, discussions with CIA personnel who are knowledgeable about the information described herein and conclusions I reached and determinations I made in accordance therewith.

3. I have personally undertaken and directed a search of all files related to this case in the Litigation Division. I have also directed that a search be made of all files in the OGC Registry. Among other duties, the OGC Registry is the OGC repository for all outgoing and incoming mail to OGC or to OGC attorneys. Any mail or documents under the purview of OGC, even if initially sent elsewhere in CIA, will be re-routed through the OGC Registry. The Registry search was undertaken by qualified CIA employees with access to all pertinent OGC records and who are qualified to search these record systems in the normal course of their duties.

4. This comprehensive search for all records indexed to plaintiff's name, the results of which were provided to me in my official capacity, located no identifiable records indicating that the CIA has been served a summons in the above civil action. If a summons had been received, a record indicating such fact would have been created and retained in the normal course of CIA business and in the normal course these searches would have located such record. Moreover, the summons would have been forwarded to me for filing in the official litigation file. Consequently, to the best of my knowledge, CIA has not received a summons in Ellen Mariani v. United States of America, et. al.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 21 day of November 2003.

  
Jeffrey W. Yeates  
Attorney-Advisor  
Office of General Counsel  
Central Intelligence Agency

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ELLEN MARIANI, Individually,	)	
and as Personal Representative)	)	
of the Estate of LOUIS NEIL	)	
MARIANI, deceased,	)	
	)	
Plaintiff,	)	Civil No. 03-5273
	)	
v.	)	
	)	DECLARATION OF MILDRED L. CARROLL
THE UNITED STATES OF AMERICA,	)	
et al.,	)	
	)	
Defendant.	)	

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I, MILDRED L. CARROLL, state the following:

1. I am employed as a Legal Technician, Case Control Officer, with the Torts Branch, Civil Division, Department of Justice, Washington, D.C. As such, one of my responsibilities is to maintain the case tracking system which includes recordation of the date of service of summonses and complaints upon the Attorney General of the United States.

2. Summonses and complaints in civil actions, served upon the Attorney General of the United States, pursuant to Federal Rule of Civil Procedure 4(i), are received in the mail room of the Department of Justice and forwarded to the Mail Referral Unit where they are logged in, date stamped, and, as a matter of



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routine, forwarded to the Civil Division for inclusion in the Case Tracking System.

3. I have caused the appropriate case tracking system within the Civil Division of the Department of Justice to be searched, and I have found that there is no record of the summons and/or complaint in the above entitled action having been served upon the Attorney General of the United States.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 21<sup>st</sup> day of November, 2003.

Melba R. Carroll

United States District Court  
for the Eastern District of Pennsylvania

ELLEN MARIANI, etc.  
Plaintiff

vs.

Case Number 03-5273

THE UNITED STATES OF AMERICA, et al  
Defendant

Acceptance of Service by the United States Attorney

I Cynthia Rodriguez (print name) hereby accept service on behalf  
of the United States Attorney (only).

Cynthia Rodriguez  
For the United States Attorney (Signature)

Cynthia Rodriguez  
Print Name

9/23/03  
Date

