

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

Vincent Forras, on behalf of
himself and all other residents and
property owners of the city of New York,
County of , New York, similarly situated,

Plaintiff,

v.,

Feisal Abdul Rauf, and Cordoba House,

Defendants.

**NOTICE OF CROSS MOTION FOR
SANCTIONS OR OTHER
APPROPRIATE RELIEF AGAINST
DEFENDANTS AND THEIR COUNSEL**

Index No. 111970/2010

PLEASE TAKE NOTICE that upon the annexed Affirmation and Memorandum of Law by Raymond Negron, Esq., attorney for Defendant affirmed on the 5th day of January, 2011 and the Affirmation of Larry Klayman dated January 5, 2011 all of the other prior proceedings heretofore had herein, the Defendant will make application before this Court located at 400 Carleton Avenue, Central Islip, New York before the Hon. Horowitz, District Court Justice on the 21 day of January, 2011 at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard for:

1. An Order for Sanctions against the Defendants and/or defense counsel; and
2. For any other relief as this Court deems just and proper.

Dated: Mount Sinai, New York
January 5, 2011

By: _____

Raymond D. Negron, Esq.
Attorney for Plaintiffs



(Sponsor/Advisory for Pro Hoc Vice)
2000 Pennsylvania Avenue, N.W.
Suite 345
Washington, D.C. 20006
OF COUNSEL: FREEDOM WATCH, INC.
For:

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SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

Vincent Forras, on behalf of
himself and all other residents and
property owners of the city of New York,
County of , New York, similarly situated,

Plaintiff,

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Feisal Abdul Rauf, and Cordoba House,

Defendants.

**PLAINTIFF'S CROSS MOTION FOR
SANCTIONS OR OTHER
APPROPRIATE RELIEF AGAINST
DEFENDANTS AND THEIR COUNSEL**

Index No. 111970/2010

INTRODUCTION

Plaintiff, Vincent Forras (“Vincent”), on his behalf and on behalf of the other members of the proposed class, hereby files this Motion to have Defendants and their counsel held for sanctions and other appropriate relief, for the compelling reasons set forth below.

BACKGROUND

Plaintiff, Vincent Forras, has filed a complaint alleging nuisance, intentional and negligent infliction of emotional distress, and assault with regard to what has become known as the Ground Zero Mosque (“GZ Mosque”). The bases of this lawsuit has nothing to do with an attack on the Islamic faith; indeed both Plaintiff and his counsel engage in activities, personal and professional, which seek to aid peaceful Muslims. Vincent’s foundation, Gearupfoundation.org, engages in activities in this regard, and his counsel, Larry Klayman, not only claims as friends on Facebook and in daily life hundreds of Muslims but also has pursued anti-discrimination legal actions on their

behalf. Accordingly, this lawsuit is not an attack on the Islamic faith; rather it involves only one Imam, Faisal Rauf, and his GZ Mosque, which constitutes a nuisance to Vincent and the community and the class of plaintiffs. In addition, the GZ Mosque is cleverly calculated to mete out a psychological if not an actual attack on First Responders and others, to try to drive a wedge and ignite what is in effect a religious war between Christians, Jews and Muslims. The actions of Defendant Rauf and the GZ Mosque Defendants are no less provocative and abhorrent than the preacher in Florida who, near the commencement of this controversy, sought to burn Qurans.

Instead of burning Old Testament Bibles, for attempted cover, this Imam and his GZ Mosque have cynically hired what his counsel, Adam Leitman Bailey, announces to the world is his “Jewish” lawyer and then at the direction of Rauf attacks Plaintiff and his counsel publicly; denouncing them as “blind religious bigots” and “Nazis.” These attacks were broadcast to the Islamic world. Bailey and his clients provided their court pleadings to the New York Post, which published an article in both its internet and print editions on October 12, 2010 (see Exhibit 1 – email forwarding pleadings to counsel for Forras from New York Post Reporter who advised that she was sent the pleadings by Defendants. See also Affirmation of Larry Klayman). This was obviously intended to harm Plaintiff and his counsel not only with this court, but to incite violence against them as enemies of Islam with radical Muslims as coercion to force them to drop this suit. It is axiomatic that a Muslim clergy does not announce publicly to the Islamic world that his legal adversaries are haters of Islam without expecting Islamic radicals to take action to harm or even kill them. What Rauf and his GZ Mosque have done, using his “Jewish” lawyer as a shield, is to in effect put a de facto Fatwah out on Vincent and his counsel.

This is not an exaggeration in the world that we live in; ask Salmon Rushtie or others who have had actual or implied death threats put out against them by Islamic radicals who have also branded them enemies of Islam. Ironically, the conduct of Rauf and this GZ Mosque Defendants in playing this “race card” publicly with fellow radical Muslims, reinforces the facts set forth in the complaint; that the Imam and the other Defendants are not building the GZ Mosque for legitimate religious purposes. Instead, not only do the Mosque and Defendant Imam Rauf present a security threat to the neighborhood and Lower Manhattan, but more importantly they intend to use it as a staging ground for actual and/or psychological terrorism. Their true intentions have been “unmasked” with this ad hominem brutal attack on Plaintiff and his counsel, logically designed to not only harm them but to send a message to other putative members of the class not to join the suit or also risk being harmed.

In this regard, there is ample proof just by allowing the words of the Imam, spoken through his agent, Bailey – AND PUBLISHED TO THE ISLAMIC AND REST OF THE WORLD –to speak for themselves.

THE FACTS

Rauf’s “Memorandum of Law in Support of Motion to Dismiss” (Memo) begins with this ad hominem attack against Vincent and his counsel, which brand them enemies of Islam:

“Plaintiff’s attorney, an infamous publicity hound, has found in Plaintiff the perfect victim, a man who could have comfortably concluded his life as a national hero, as self-described ‘first responder’ to the greatest national tragedy since Pearl Harbor. Instead, thanks to

this wholly frivolous lawsuit, he trades in his well deserved laurels for fifteen minutes of fame as a nationally recognized bigot.” Id. At 4.

“His cause and his case have all the rationality of one who would seek to tear down New York City’s Chinatown as vengeance for Pearl Harbor on the theory that all Asians are alike.” Id at 5.

“Plaintiff’s view is simple. According to him, Islam equates with terrorism....” Id.

“Yet because of Plaintiff’s revulsion for one particular religion has so poisoned his mind, he claims the right to use the power of the court....” Id.

“He has elected to transform himself from America’s poster child hero to America’s Spokesman of Bigotry...” Id.

Then Defendant Rauf, through his counsel, poses this loaded question, which has nothing to do with the legal causes of action in this simple complaint, but rather represents only another way to incite hatred and violence against Plaintiff and his counsel by branding them enemies of Islam to the world. It is ironic and revealing that Defendant Rauf, who has recently tried to portray himself as reasonable and moderate but who prior to announcing his plans to build a mosque at Ground Zero was seen as radical, would countenance this attack on Vincent, a heroic First Responder who has a right to pursue his claims in a court of law, rather than through inciting violence.

Rauf then, through his attorney, states:

“Does a person who suffers a morbid aversion to a particular religion have a cause of action against the construction of a house of worship....?” Id. At 6.

The Memo does not stop here but continues to press on with its race based de facto Fatwah, which the Imam and his counsel then have published to the world through the New York Post and other entities.

“That the plaintiff in this suit finds Islam unacceptable to him personally is simply irrelevant to the protection which Islam is entitled under the First Amendment...” Id. at 8.

“... we find that Plaintiff has nothing to offer but his bigoted assumption that all Muslims approve terrorism...” Id at 25.

Then, as if this were not enough, Rauf’s lawyer, Bailey, in an an unprecedented totally irrelevant, legally unnecessary and inoperative Affirmation (talk about unethical “publicity hounds”), adds insult to injury. Using his “Jewish” heritage to attempt credibility for this radical Imam (ironically both Plaintiff and his counsel are also of Jewish origin), Bailey “sells his soul” to his compromised client and states, under oath no less:

“I am an American and profoundly proud to be a citizen of the greatest, most diversely embracing nation the planet earth has ever had in all of its recorded history.” Id. at 1.

“I am a Jew and profoundly proud to adhere to the nation that brought to Western Civilization the commands to love one’s neighbor as oneself and not to oppress the foreigner for we were once strangers in another land.” Id. at 2.

“I will not let the right to the free exercise of religion be confined by narrowness of vision; and I will not let the right to erect a house of prayer to be torn down by blind bigotry.” Id. at 3.

“When in the days following an analogous atrocity in 1941 our people marshaled their will and marched off, nobody was an American of this type. We were all united under a single banner pledged to eradicate the very kind of religious intolerance we see in Plaintiff, represented in those years by the Third Reich and those aligned with it.” Id. at 3.

After reading all of this, one has to ask how a man of the cloth could have sanctioned his attorney to write and have published worldwide this bigoted attack,

branding Plaintiff and his counsel enemies of Islam, and obviously designed to foment hatred and violence against Plaintiff and his counsel, if his intentions were peaceful.

In tort law there is a basic concept: *res ipsa loquitur*, or the fact speaks for itself. Plaintiff has pled causes of action sounding in tort. Notwithstanding Rauf's statements effectively admitting nefarious purposes for the GZ Mosque, and his documented ties to terrorist interests and sympathizers, as also alleged in the complaint, his attack on Plaintiff and his counsel speak for themselves. The actions of this Imam and his GZ Mosque are not consistent with the many good Muslims who want to live in peace with others at Ground Zero. Defendants' attacks on Plaintiff and his counsel, by "cleverly" using a "Jewish" surrogate who he retained to harm them with the Muslim world, is in effect an act of terrorism in and of itself, no better than the preacher in Florida who wanted to incite violence between Muslims and Christians by burning the Quran.

Ironically, since the complaint was filed, Plaintiff now has further compelling and operative facts to add to his tort claims. Not only is this Imam and his GZ Mosque a nuisance, but their *de facto* Fatwah—branding and endangering Vincent and his family and legal counsel as enemies of Islam -- outrageously inflict yet more emotional distress on him and constitute an assault – all causes of action pled in the complaint.

If for other reason than this attack, Rauf unmasked who he really is and has proved the point of the case. As set forth below, the law requires the harshest of sanctions for this illegal conduct. To threaten a party and his counsel with obvious violence, which is in effect has occurred, here is not only criminal in nature and an obstruction of justice, but it also deserves the harshest civil sanctions, including but not limited to entering

judgment against Defendants for their nefarious and dangerous acts, plus an award of attorneys fees and costs. Further, Defendants and their counsel should be enjoined from further acts designed to incite violence and harm Plaintiff, his family and his counsel. Mere monetary relief will not suffice if Vincent, his family and his counsel are killed as a result of Defendants' actions.

III. LEGAL DISCUSSION

Clearly, the statements published by this Imam Rauf and the GZ Mosque Defendants, through counsel who himself knew better, were intended to threaten if not harm parties and witnesses to this case – as they were widely distributed to the Muslim world through the internet and otherwise. As a result, these acts are in fact criminal in nature and clearly constitute obstruction of justice and witness tampering. Section 215.10 of the New York Penal Code, states as follows:

“A person is guilty of tampering with a witness when, knowing that a person is or is about to be called as a witness in an action or proceeding, (a) he wrongfully induces or attempts to induce such person to absent himself from, or otherwise to avoid or seek to avoid appearing or testifying at, such action or proceeding, or (b) he knowingly makes any false statement or practices any fraud or deceit with intent to affect the testimony of such person.”

Tampering with a witness in the fourth degree is a class A misdemeanor. Defendants' publishing false accusations against Plaintiff and inciting Muslim extremists' wrath against plaintiff inevitably will cause other plaintiffs and witnesses not to step forward for fear of being harmed or killed by a radical Muslim extremist who

heeds Rauf and his lawyer's call. Clearly, Defendants' false statements were intended to cause such results.

These actions also are vexatious, frivolous, and scurrilous, clearly intended to prejudice this court and harm Plaintiff and his counsel's bodies and reputations. They are thus subject to the strongest of civil sanctions, which must necessarily include striking the representations from the public record and an award of attorneys' fees. The court has inherent power to impose sanctions for unethical, frivolous or vexatious litigation practices, including advancing meritless claims. [*See*, 22 NYCRR part 130; CPLR 8303-a; Patane v Griffin, 164 AD2d 192 (1990); Rosenman Colin Freund Lewis & Cohen v Edelman, 165 AD2d 533 (1991); Gabrelian v Gabrelian, 108 AD2d 445, appeal dismissed 66 NY2d 741).] More importantly, Defendants' representations – published to the world – are so outrageous, placing Plaintiff and his counsel in jeopardy of their lives, as to warrant that a judgment be entered summarily against the Defendants and Defendants be sanctioned for their frivolous and dangerous actions, which amount to criminal obstruction of justice as they are threats if not violent acts against parties, their counsel and witnesses.

New York Court Rules §130-1.1 states in pertinent part that:

“(a) The court, in its discretion, may award to any party or attorney in any civil action or proceeding before the court, except where prohibited by law, costs in the form of reimbursement for actual expenses reasonably incurred and reasonable attorney's fees, resulting from frivolous conduct as defined in this Part. In addition to or in lieu of awarding costs, the court, in its discretion may impose financial sanctions upon any party or attorney in a civil action or proceeding who engages in frivolous conduct as defined in this Part”

New York Court Rules § 130-1.1 Section (3), defines frivolous acts to include asserting material factual statements that are false. That is exactly what Defendants and their attorney have done in this case—published false and scurrilous dangerous accusations against Plaintiff and his attorney. In addition, Defendants’ actions were intended to scare the coming forward of additional plaintiffs, thus causing delay and obstruction in Plaintiff’s case. Courts have routinely awarded costs and fees sanctions with regard to dilatory and obstructionist tactics. [Intercontinental Credit Corp. Div. of Pan American Trade Development Corp. v. Roth, 574 N.Y.S.2d 528, (1991); Minister, Elders and Deacons of Reformed Protestant Dutch Church of City of New York v. 198 Broadway, Inc., 559 N.Y.S.2d 866 (1990).]

Furthermore, the New York Rules of Professional Conduct require that counsel treat other litigants and their counsel with respect. Rule 3.3 (f) of the New York Rules of Professional Conduct, in pertinent part, state as follows:

“In appearing as a lawyer before a tribunal, a lawyer shall not ... engage in undignified or discourteous conduct ... [or] engage in conduct intended to disrupt the tribunal.”

Rule 3.4 (a)(6) of New York Rules of Professional Conduct states that a lawyer shall not “knowingly engage in other illegal conduct or conduct contrary to these rules.” Rule 3.4 (d)(1) states that a lawyer shall not “state or allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence.” [See also, 8 Determinations of NY St Commn on Judicial Conduct, at 192 [1982-1983]; 1988 Ann Report of NY St Commn on Judicial Conduct, at 28; . . .in

Federal District Court, an attorney who, among other things, disparagingly called a Judge's law clerk "young lady" was found to have "engaged in abusive and discourteous" conduct and publicly censured [Matter of Werner, NYLJ, Jan. 28, 1991, at 6, col 3 [EDNY 1991].]

Additionally, offensive and abusive language by attorneys in the guise of zealous advocacy is plainly improper, unprofessional, and unacceptable [*see*, Annotation, Attorney's Verbal Abuse of Another Attorney as Basis for Disciplinary Action, 87 ALR3d 351 (1978).] An attorney who demonstrates a lack of civility, good manners and common courtesy taints the image of the legal profession and, consequently, the legal system, which was created and designed to resolve differences and disputes in a civil manner [Matter of McAlevy, 354 A2d 289, 291 (1976).] and an attorney's conduct that projects offensive and invidious discriminatory distinctions is especially offensive. [Matter of Vincenti, 114 NJ 275, 283, (1989).]; People v Fagan, 483 NYS2d 489 (1984) noting that "while the correct resolution of civil disputes is indeed an important goal of our legal system, it may fairly be said that society's primary interest in the resolution of civil disputes is that they be settled in a peaceful, orderly, and impartial manner).]

In Corsini v. U-Haul Intern. Inc., 630 N.Y.S.2d 45, 46 (1995) the court imposed sanctions where pro se plaintiff, an attorney, had harassed opposing counsel "even before a pretrial deposition, by following defense counsel about the hallways of the courthouse and into a courtroom, while he was on trial in an unrelated case," and had called opposing counsel "a nasty, mean-spirited and ugly little man". Here, given Defendants' and

Defendants' counsel's behavior at the outset of this case, the court should certainly sanction Defendants and their counsel for their bad faith and dangerous behavior.

Thus, as Defendants' counsel Bailey has furthered this attack on Plaintiff and his counsel this matter should also be referred to the New York Bar for appropriate investigation and remedies, in addition to him being sanctioned by this court along with his clients.

IV. CONCLUSION

There is no excuse to have published these scurrilous, outrageous and dangerous statements in the public domain. These acts, which are wholly irrelevant to this suit, other than to try to intimidate and harm Plaintiff and his counsel, and well as scare away other members of the proposed class, cannot and should not go unpunished by this court, which must not be used as an attempted shield by Defendant Rauf and his lawyer to harm the litigants. As a result, this court must impose the harshest of sanctions to preserve its integrity, including entry of judgment, striking the subject statements from the pleadings, and an award of attorneys fees in an amount of \$5,000, to be imposed jointly and severally against Defendants and their counsel, as well as a referral of this matter to the New York Bar for appropriate disciplinary action.

Respectfully submitted,

By: 

Raymond D. Negron, Esq.
Attorney for Plaintiffs
(Sponsor/Advisory for Pro Hoc Vice)
2000 Pennsylvania Avenue, N.W.



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Washington, D.C. 20006
OF COUNSEL: FREEDOM WATCH, INC.

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CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2011, I served the attached document entitled "CROSS-MOTION" on Adam Leitman Bailey, Esq., via United States Mail at the following address: 120 Broadway 17th Floor New York, New York 10271. I also certify that the foregoing document was also served on Adam Leitman Bailey, Esq. on the same day, via email at the following email address: alb@alblawfirm.com.


By: Raymond Negron, Esq.



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COUNTY OF NEW YORK

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himself and all other residents and
property owners of the city of New York,
County of , New York, similarly situated,

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Feisal Abdul Rauf, and Cordoba House,

Defendants.

**AFFIRMATION OF LARRY
KLAYMAN IN SUPPORT OF CROSS-
MOTION FOR SANCTIONS**

Index No. 111970/2010

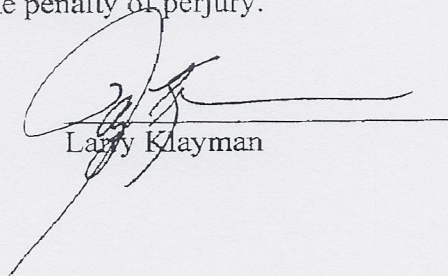
I Larry Klayman, being 18 years of age, declare and state as follows:

1. I am the attorney (to be admitted to NY pro hac vice) for Vincent Forras the Plaintiff in this action and I have personal knowledge of the statements made herein.
2. I hereby submit this Affirmation in support of Plaintiff's Opposition to Motion to Dismiss.
3. Attached hereto is a true and correct copy of a News Article from the New York Post published on October 12, 2010 and written by Ms. Annie Karni, a New York Post reporter.
4. Also attached hereto is an Email from Ms. Annie Karni, the NY Post reporter, sent to me whereby Ms. Karni forwarded to me by email, Defendants' pleadings in this action.
5. I saw the NY Post article Ms. Karni had written wherein she referenced Defendants' pleadings which called Plaintiff and I various derogatory names, such as blind religious bigots and Nazis, in effect branding us enemies of Islam.

6. After seeing that article, I contacted Ms. Karni to see where she had obtained Defendants' pleadings, as Plaintiff and I had not yet seen the filings.

7. Ms. Karni then emailed me the pleadings, which she said were sent to her by Defendants, and this was the first time Plaintiff and I saw the Motions and pleadings Defendants had published to the world.

Submitted and sworn to under the penalty of perjury.



Larry Klayman

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


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Thx Annie

Sent from my Verizon Wireless BlackBerry

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NEW YORK POST
Last Updated: Mon., Jan. 3, 2011, 05:41pm

I thought the old program was great,
but the new program is amazing.

Jennifer Hudson

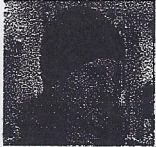
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Yankees general manager Brian Cashman said neither Andy Pettitte...

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Anti-mosque lawsuit slammed as bigotry

By ANNIE KARNI

Last Updated: 5:59 AM, October 12, 2010

Posted: 4:38 AM, October 11, 2010

Comments: 5

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The developers behind the proposed mosque and cultural center near Ground Zero are blasting a \$350 million lawsuit filed by a 9/11 first responder as "blind bigotry."

Vincent Forras, a former volunteer firefighter from Westchester, has sued Imam Feisal Abdul Rauf and Park51 — the complex that includes the mosque — charging that they're fronts for "interests tied to terrorism."

Forras says he deserves to be compensated for the "psychological terrorism" and emotional distress he suffered when he learned of the mosque plans.

He calls the development a "monument to the jihadists' victory over American ideals of freedom and democracy, [and] a desecration of the terrible sacrifice made by those innocents attacked."

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He also is seeking class-action status for the suit.

In a countersuit, Rauf and Park51 seek to dismiss the filing as a publicity stunt motivated by "blind bigotry."

They are also seeking \$50,000 in damages and lawyers' fees.

The attorney representing the developers, Adam Leitman Bailey, is seeking to have Forras' lawsuit dismissed based on the constitutional right to freedom of religion.

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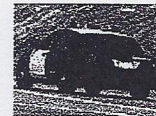
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How low can you go????

The first responders are 'bigots'?!!!! 80% of Americans said the place is wrong for the mosque, and how about the 'bigots' from the Arab world (a survey by Elaph, the most respected electronic daily in the Arab world) - 58% saw it as a

Report

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project of folly.

The Cordoba House (a symbol of conquest) a few minutes from Ground Zero is an assault on America even more than 9/11. At that horrible day in 2001 we all were attacked as Americans by Islamic terrorists. Now this cold-blooded provocation is going to hit the same place again. Can you imagine this project to be discussed in 2002? What has change since then, haven't we promised not to forget? A few individuals managed to get this building, which was hit by debris from 9/11 plane, with the agenda to promote Islam and insult people who died here, their families, and the rest of us as well, including the real (not false) moderate Muslims, who are Americans first. 422,00 New Yorkers were suffering from post-traumatic-stress disorder in 2001 (9/11 in numbers). Now the whole country is disturbed and outraged by this disgrace.

I believe our love for freedom will make us strong to withstand the attacks on it. Freedom is not free anymore. It's time to realize it and fight for it.
NO MOSQUE AT GROUND ZERO!

FactCheck

10/11/2010 3:24 PM

Report:

Mosque developers call someone exercising their rights a bigot? Lawsuits frequently are part of the process in seeking approval for major developments, including expansion of churches. I don't recall any church calling the opposition bigots.

At minimum, building a mosque in the shadow of Ground Zero is extremely insensitive, something most religions avoid. Some commentators claim that the 9/11 terrorists were extremists, not representative of Islam.

But there has been very little outcry from the supposed moderate Muslims. This makes it easy to understand those who question building a mosque at a location that was bathed in human remains and debris from the World Trade Center attacks.

By the way, what do you call slaughtering 3000 innocent men, women, and children in the name of religion?

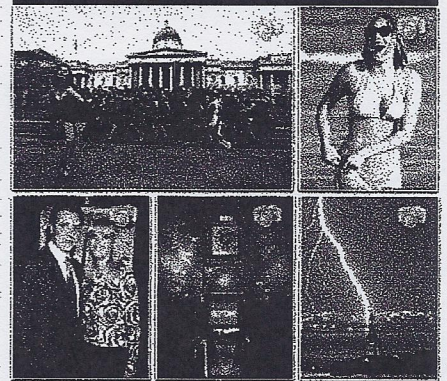
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INDEX NO. 111970/2010

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

=====

VINCENT FORRAS, ON BEHALF OF
HIMSELF AND ALL OTHER RESIDENTS AND PROPERTY
OWNERS OF THE CITY OF NEW YORK, COUNTY OF NEW
YORK, SIMILARLY SITUATED,

PLAINTIFFS,

V.

FEISAL ABDUL RAUF, AND
CORDOBA HOUSE, ET. AL,

DEFENDANTS.

=====

CROSS-MOTION

=====

RAYMOND NEGRON, ESQ.

FOR:

LARRY KLAYMAN

ATTORNEY FOR PLAINTIFFS

(PRO HAC VICE APPLICATION PENDING)

GENERAL COUNSEL, FREEDOM WATCH, INC.

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