

4. Given the various constraints on communication between lawyer and client at the moment, I estimate it would require numerous further visits and weeks, if not months, to obtain and submit signed declarations from each client. I consider the matter sufficiently urgent – particularly because of the side-effects of the drug Reglan – that I have elected to state each client’s position (and experience) in a single declaration from me.

5. Several issues have already slowed the filing of this motion.

6. First, the new search policy, which I am informed and believe involves an intrusive bodily search as many as four times for a prisoner to receive a visit or telephone call, intimidated several petitioners out of coming to calls or visits while this motion was being prepared:

- *Reprieve* were informed by the Defense Department that Shaker Aamer refused a call request on May 3 with my co-counsel Clive Stafford Smith. In a visit I had with him at Guantánamo on May 8, Mr. Aamer reported that he had not, in fact, refused the call, stating:

May 3, 2013 (Friday), 9:30am. I took his number. NCO 001812, an E-5. He lied and told the SJA that I refused to talk to you [my lawyer, on the phone]. I asked for the Watch Commander so I could confirm the private parts search and what they planned to do; as I understand them, the planned searches are unnecessarily invasive. I didn’t refuse, though, I just asked to talk about the proposed search. But they are just trying to provoke us into not going. Indeed, they said I refused to take my phonecall. This NCO is the same one who took my legal note book and told me the SJA took it. He also took some legal papers, and until today they have not brought it back.

Mr. Aamer subsequently refused a follow-up visit with me on May 10, when we were due to discuss this motion. I believe this was because of the search policy.

- Nabil Hadjarab refused a call request with Mr. Smith on May 10, 2013. I had seen Mr. Hadjarab at Guantánamo twice that week, but with the limited time available for visits

nowadays (each session lasts approximately two and a half hours, once in-processing is finished) we were not able to conclude a declaration from him. When I spoke to him on June 17, he confirmed that the searches were the reason he had not come out for the prior telephone call, but that he had decided to come out this time to convey news of his situation.

- We have tried to speak to three other clients in similar circumstances about their situation and the contemplated motion. All three of these clients had previously requested telephone calls with us, but none came out. I will not identify two of these in a public filing because the government (improperly) deems its notifications of force-feeding protected until waived by the client. My force-fed client Samir Mukbel, however, refused a call request with my co-counsel Mr. Smith on May 10, and again with me on June 17. Again, I am informed and believe this is because of the new searches.

7. A second reason communications with the base have slowed is that the limited flight schedule makes visits costlier and more logistically difficult, especially for *Reprieve*, the charitable organization by which I am employed. I have to come from London to visit the clients, and the current flight schedule – to Guantánamo Bay on Monday, thence on Friday – only permits three working days of visits for a week of work. This schedule also makes it impracticable just to ‘work in’ an Arabic-speaking client at the base, such as Samir Mukbel. I was not able to see him at the beginning of May, though I wanted to discuss this motion with him, because it would have cost my employer at well over US \$5,000 – five days of a security-cleared interpreter – even to see him for a half day. If I cannot afford to visit him and he cannot endure the humiliation of searches for phone calls, I simply cannot speak to my client.

8. A third source of difficulty has been various issues with legal mail: first, the seizure of clients' privileged legal materials by the military during the raid in April (including our prior letters to them)¹, and second, the refusal of camp authorities to process privileged mail left for the clients at the base. In previous years I was able to leave mail for processing at the base for review, sparing the weeks it took for the letters to go to and from Washington, DC. But in early May, when I tried to leave a series of letters for my hunger-striking clients about this motion, I was told by the Privilege Team that they would not process the letters on base, despite that a member of Privilege Team works at the base full-time. They insisted the letters would have to be sent by courier to Washington, where they would be reviewed and returned to Guantánamo on a later courier at the end of May. Thus clients I was not able to see in May will only have received correspondence about this motion at the end of May or early June.

9. I communicate the wishes and instructions of my clients by this declaration as it is the only means available to seek relief from the court.

The position of the clients and their decision to request that the force-feeding regime cease

10. The following averments derive from calls, letters, and visits between my office and each client that have taken place since the beginning of the hunger strike in approximately early February. Each Petitioner has offered his own reasons for wishing to join this motion, and – while I have not been able to review, edit, and have each client approve successive drafts of this statement – I believe this declaration accurately summarizes their instructions.

¹ There have been multiple reports of this, but just to give one example: in a call with Mr. Belbacha on May 30 I explained to him that we would like to discuss the motion with his family before filing but that the telephone number for them we had on file was not working. He said he could not give us the current number as it was among the papers that were seized: "They took all my papers, legal and otherwise, including telephone numbers."

Ahmed Belbacha

11. I last spoke to Mr. Belhacha on May 30, 2013. We spent some time going through his draft declaration but were unable to finish in the time available. He instructed that I should proceed with what he told me in my name.

12. He indicated the degrading searches persist. I paraphrase his statements below: “They are still searching us in the same way, yes. I was searched twice just now, to come talk to you – going back, I don’t know what will happen, but probably the same.” (At this point I sensed he was uncomfortable discussing this issue and moved on.)

13. He also instructed me to convey the following about his participation in this motion.

Instruction to counsel

14. “I am participating in this hunger strike of my own free choice and am fully aware of the negative consequences which a long-term strike could have on my health. I accept these risks because hunger striking is the sole peaceful means that I have to protest my indefinite detention.

15. “I realize the consequences of ending the force feeding regime. Understanding this, I ask the Court to stop the prison authorities from force feeding and forcibly medicating me.

Reasons for striking

16. “I have been held in Guantanamo without charge or trial since March 2002. In February 2007 I was cleared for release by the military’s Administrative Review Boards established under President Bush. I was cleared again in 2009 by a multi-agency taskforce set up by President Obama, which my lawyer tells me included representatives of the US

Department of Justice, State, Defense and the FBI, the CIA and the Department of Homeland Security.

17. “I have informed my lawyers and the medical staff at Guantanamo that I will remain on hunger strike until the authorities stop desecrating the Quran and end our imprisonment. We should not be here.

18. “I am also striking to protest the restrictions that Congress has put in place that are preventing people to be transferred. I want restrictions removed and people to be set free and then I will stop my hunger strike.

19. “A doctor tried to convince me to break the hunger strike. I told her I would strike until either the guards stopped insulting our Qurans, or they took our Qurans from us so that they would be safe from the guards’ abuse. I also said that the President must fulfill his promise to end the nightmare that is Guantánamo Bay. The doctor replied that this was none of her business.

The experience of hunger-striking and force-feeding

20. “I have not decided to do this lightly. Each day of the strike is an ordeal. The process of being force fed hurts a great deal, particularly because I had a prior surgery in my nose so my nerves there are very sensitive. It is both painful and risky for me to be force fed.

21. “Medical staff also seem to make matters worse, either through inexperience or indifference. Sometimes they botch putting the tube in and tears stream down my cheek. They used to use my left nostril, but it stopped working, I suppose because it swelled. They can't even get the tube in that way anymore. I asked for a size 8 tube, and they refused, saying ‘*You don't like size 10? Eat!*’ So they use my right nostril instead. Because of the surgery in my nose, they also can't pass the tube straight down to the throat. I ask them to

work it around, and they ask, ‘around what?’ I say ‘more to the left’ and it gets around. Some of the nurses refuse to do this.

22. “When they force feed us in Camp 6 they shackle our feet with metal chains and shackle our arms and hands to stomach with metal chains. Then they put us in a force feeding chair and tie us with belts. Sometimes the nurses try to measure my blood pressure and temperature but they cannot because I am shackled. The medical staff is scared because they don’t know how to measure the vitals with all the shackling and cannot complain.

23. “I have tried to tell the medical staff that force-feeding me is a violation of their medical ethics, but they say that the order comes from the guards and they have no control.

24. “Some of the newer medical staff they sent down because the strike is so widespread are afraid during feedings, and it shows. I do not think I am intimidating as I weigh at most 120 pounds now; it seems to be because they have never been asked to do anything like this before. When one of the new nurses – she was perhaps 40 – started to feed me, I saw that her hands were shaking. I asked her whether it was her first time ever to force-feed someone. ‘*Yes, it is,*’ she responded.

25. “When the food comes in, I feel like throwing up. Some of the prisoners just can’t digest it and they vomit.

26. “I have thrown up myself sometimes because of the feeding. Especially at bedtime, I feel ill and start to throw up. I try to do it when they will not notice – because if they see me they will put me in the chair and feed me again. That is worse than throwing up. When they feed us, they shut off the water in the cell for one hour afterwards. If they see somebody throwing up within that hour, they repeat the feeding.

27. “In another incident, a male nurse passed the tube through my nose, and then started to pump the feeder. The food rushed into my stomach too quickly and I started to feel like I wanted to throw up. I asked him to reduce the speed. He not only refused, but tried to turn it up. It was already as high as it could go. I felt this was a terrible way for a supposed ‘health professional’ to behave. After he finished his work, he quickly pulled the tube from my nose and left the room.

Reglan

28. “I have never heard of Reglan. But I don’t believe they would tell me if they were going to use it on me, or that it had side effects.

29. “I have tried to ask what goes in the food. In the beginning, they put the medicine with the food and I asked the corpsman: ‘*Does the food include medicine?*’ He said: ‘*It’s been included all along.*’ He said it was Vitamin B and a stomach laxative. This apparently goes to all the brothers. They don’t tell me about drugs to stop people throwing up. Sometimes I saw them mix medicine with the food. They will not tell you anything.

30. “Because Reglan is one of the suggested drugs to ‘to enhance gastric motility’ in hunger strikers in the Guantánamo force-feeding Standard Operating Procedure, this made me concerned Reglan was being administered by force.”

Nabil Hadjarab

31. I began my discussion with Mr. Hadjarab about this motion at the beginning of May when I was at Guantánamo, but we were not able to complete a declaration in that time. During the visit Mr Hadjarab was extremely weak and had to put his head on the table to rest several times.

32. I have known Mr. Hadjarab since 2007. It is unprecedented in my experience for him to engage in a protest such as a hunger strike. He has throughout his detention typically been very compliant. He has actively avoided provoking the authorities, choosing instead to try to focus on maintaining his health through exercise, eating a healthy diet, and by learning as much as possible about fitness and healthy living. Over the past few years, whenever my office would visit Nabil he would request that we bring health items such as protein powder, energy bars, and fitness magazines. Previously, Nabil was very serious about trying to stay healthy despite his situation at Guantánamo. All that has changed now.

33. I spoke to him on June 17 by telephone, when he indicated that he wished to join the motion. In light of the communications difficulties he instructed me to file promptly in my name. I paraphrase his statements to me below.

Instruction to counsel

34. “I ask the Court to order the government to stop tube-feeding me, and to make sure the government cannot administer this medicine Reglan. I do not want to die, but I am prepared to. All I am asking is that I be given the choice whether to eat.

Reason for striking

35. “For years I never thought about being on hunger strike, but I am doing this because I want to know my destiny. I cannot abide not knowing anymore.

36. “The most important thing in my life is my health, my body. I used to take care of myself, tried to work out, eat right, that sort of thing. But my situation is so serious now I am willing to sacrifice my body and my health. What good are these things without freedom?

37. “I cannot continue here like this. I feel it’s pointless to take care of myself. I used to think that I would keep myself healthy for when I was released and that I’d continue doing it outside and enjoy myself out there with my family. But this day has never come and now it feels to me it never will. In the past I tried to have hope, but everything has a limit.

38. “Again, the issue is not that I wish to die. I wish to live, free, with my family in France. But I am *prepared* to die because I believe there is no end-point to my imprisonment.

39. “I am afraid I believe this despite Mr. Obama’s repeated and lofty promises, and despite that I have been cleared more than once since the Bush years. The Court may wish to believe what Mr. Obama says; no doubt the idea that someone else, sometime, somewhere will resolve my situation is an attractive one. In days gone by I wanted to believe the President, too. But the Court is not here, with me, in the space I have occupied for nearly a dozen years. I am not sure I think the Court could possibly imagine what it is like for us here, even if it tried.

40. “I am desperate for freedom. In our brief lives, freedom is all that matters. Things like privileges and food are secondary and meaningless.

41. “Force-feeding us is a way of burying what we have to say. In this place, isn’t the last thing I have left the ability to decide what to do with my own life? Will the military be allowed to take this from me too?

42. “I will consider eating when I see people leaving this place. Not before.”

The experience of hunger-striking and force-feeding

43. “I started my hunger strike on the 7th of February, shortly after my lawyer Clive left the base. I have lost a great deal of weight and am very sick. I was taken to the

hospital and hospitalized for 5 days. On March 22nd I was force fed for the first time. I think I was the third one to be force fed and I am still being fed by tubes.

44. “I’m lost. I’m suffering every day. In a way this isn’t new: I’ve been suffering for over 11 years. But the experience in the chair is something different.

45. “The chair itself reminds me of an execution chair. Your legs and arms are tied with belts. Your shoulders are tied with belts. There are I think at least 6 belts in all. If you refuse to let them put the tube in, they force your head back. The medical staff puts the tubes in, in the presence of the guards.

46. “It’s a very painful experience. Some are passing out from having the tubes inserted. With time, I have gotten used to it. Still, it is very risky because if the tube goes in the wrong way the liquid might get into your lungs. I know some who have developed infections in the nose. They now have to keep the tubes in the nose because they have these bad infections. The whole experience is highly unnatural and a lot of people have deteriorated to a shocking extent.

47. “I am still not eating. I am force fed twice a day. Sometimes I feel very sad, both before and after the feedings. It is crazy to me that they save your life by force feeding, but will not negotiate with you on your freedom.

48. “When I go to be force fed the medical staff tell me that hunger-striking is hazardous to my health. Do they think I don’t know this? It is their role to do something about our treatment, to help us. But they don’t. They just help us to damage ourselves.

49. “One of the doctors, I suppose to try to get me to eat, asked me what food I most missed. I said yes, there is indeed a dish I miss: a nice plate of *freedom* with some spices.

50. “I try to ask the doctors why they don’t work *with* human rights organizations. They agree that they should but keep going with the force-feeding anyway, saying that we are putting them in a difficult, embarrassing situation.”

Reglan

51. “I haven’t heard of a drug called Reglan from the military. They ask me sometimes if I want something to help my upset stomach but I always say no. Still, I believe they would potentially give it to me without asking me or letting me know about the side-effects. I am very concerned about this because, in the tiny likelihood I were to be released with any of my health still intact, what if I were to have some terrible neurological disorder?”

Shaker Aamer

52. Mr. Aamer has indicated to my co-counsel Mr. Smith (who leads on Mr. Aamer’s case) that he also wishes to join this motion.

53. Mr. Aamer is not currently being force-fed, but the reason for this is that he takes a small amount of nutrition in order to ward off force-feeding. Mr. Aamer has previously been on hunger strike, has previously been force-fed, and knows how painful it is. He also has a family history of renal failure, making the protest especially hazardous for him.

54. He has indicated that if force-feeding were not permitted, he would escalate his peaceful protest and refuse food.

55. In discussions with my co-counsel, Mr. Smith, Mr. Aamer related the following about his strike:

We are getting sicker and sicker every day and the only thing the medical people do is pick you up, put you in the clinic for half an hour to take vital signs, and send you back to your cell telling you to take honey or Ensure. Some brothers lost more than 35% of their IBW [‘ideal body weight’]. On February 15th, when I started the hunger strike, I was 208 lbs. Now I am maybe 150 lbs. A lot of people are really in trouble now, the strike has gone on so long. Some people are just skin and bones. It’s not like the hunger strikes in 2005 any more; now, we’ve been through so much that the damage to our minds and

bodies will be worse. I get very dizzy in the shower now. I am not what I used to be. I feel old inside.

All the authorities care about is their ability to control us. There are now 126 on hunger strike. I know of only 23 detainees who are eating, and those are mainly the old and the sick. To the military, we are each just what they call us: “packages”, like a sack of potatoes. There has been a massive effort to provoke the brothers. Now, when they FCE [forced cell extraction] me in Camp Five, they shackle my hands behind my back and then force my face into the toilet.

They FCE’d me five times in one day. The pretext was that I refused to close my bean hole which they use to push food into the cell. So they started to FCE me even if I asked for a cup of water. They come into my cell, slam me on the floor, shackle me, haul me out of the cell, put a bottle of water on my bed, pull me back in and cut the shackles off – with a few thwacks in between.

They FCE’d me soon after my last call with my lawyer. They didn’t say a word. They just came in, FCE’d me, then put me back in the cell and left.

I guess the water is the way they think they can get to me. I am very torn when it comes to giving up the bottled water for the yellow stuff that comes out of the tap, that we all know is not drinking water. My father died from kidney failure, and so did my oldest sister. I don’t want to come out of this place hooked up in a hospital for the rest of my life.

They have hand picked medical personnel who are willing to participate in the abuse. One prisoner vomited while being force-fed. When that happens, they usually take the tube out, but he refused. The prisoner was left vomiting on himself while he was being force fed.

56. Mr. Aamer is a daily witness to these force-feeding practices.

Abu Wa’el (Jihad) Dhiab

57. I spoke to Mr. Dhiab by telephone on May 30, 2013. He instructed me that he wished to join the motion. Mr. Dhiab has been hunger-striking and had been force-fed, but explained to me on the call that because of severe pain in his back and ribs he was currently taking Ensure himself ‘so that the ERF team do not come and strap me into the chair’. He added that if the force-feeding were enjoined, he would resume the strike. I paraphrase his statements and instructions bellow.

The search

58. Mr. Dhiab said the intrusive searching persists. “Now I don’t really care about what they do. I am willing to take off all my clothes. All I care about is my freedom, my dignity, and my honor, and my release.

59. “Sometimes I have met them completely naked, because the way they are treating us now is beyond dignity.

60. “But yes, they searched me once on my way to speak to you – in the way that is now known all over the world.

61. “After what has happened in the past – all the torture and humiliation – I now hardly care. I would give them all my clothes if that is what it takes to make them pay attention.”

Instruction to counsel

62. Mr. Dhiab said: “I agree to join this motion. I want to participate and for the force-feeding and the forced medicating to be stopped. I want to protest the various kinds of torture they have used on me, and continue to use on me.”

63. He added: “This is my life. I should have the freedom to decide what I want to do with it. If I want to go on hunger strike, that is my business. They should never force feed us. I am on a peaceful protest. The US government pretends that they give freedom to people, but in this way they are taking away my freedom. The whole world knows that we are protesting peacefully and they pretend they want to take care of our health. It is *our* health, to do with as we see fit.

64. “In fact, what the US government is doing here makes me feel they have lost sight of their principles, of the high values that they claim to support. They are killing us

anyway by holding us here. They are torturing us every day, supposedly to preserve our health.”

65. I explained he needed to understand that were he to win his motion and the tubes were taken out, he would have two choices: to eat, or to die. “Of course I know the consequences of refusing the food. And I will not eat. Why do you think I am on hunger strike in the first place? If I die, it is not because I killed myself. The US government killed me. The people who tortured me, and kept me here for nearly twelve years with no charges, who torture us in the chair every day, and who abuse our families overseas, are to blame. If I die, it is they who are responsible. I am prepared to take this risk.”

Reasons for striking

66. “I am on hunger strike because I want a resolution to my case. Let me be frank, I have been here for so many years for no reason. I have been cleared for release under Obama’s administration. It is also claimed by lawyers and the government people here that there are third countries that are willing to take me and that the State Department are trying to find a host country for me to be resettled in.

67. “I want to see my wife and children after this captivity and take them to my chest. I want them to feel that their father is with them - that they are not orphans, that their father is alive. I want and demand my stolen freedom and the peace that I am looking for. I want to leave to get medical treatment, and meet my dear wife and sons.

68. “We have given up the very things which are important: food and drink. And we have done so to get answers to our questions: What is our guilt and what is our crime? Are we going to see justice done in this place or will our painful fate remain unknown? Is it

justice that awaits, or injustice with no reason but that our religion and beliefs differ? Where is the freedom to follow one's religion which settles the heart? Where is freedom of speech?

69. "I am demanding my freedom. This is my right. I have the right to protest peacefully without punishment."

Experience of force feeding

70. "What the authorities are doing is hurting me. They are abusing me under the pretext of assisting my health. My not eating is more merciful and easier than their treatment of me.

71. "Feeding takes place on a medical torture chair, and the way they fed me only hurts me more and added to my back pain.

72. "They put me in the chair in a savage way which did not occur in the days of Bush. They torture me in the name of feeding and fear for my health, even though I can't breathe or move. The riot team holds me from every limb even when I am being fed. As for the one who is holding my head, he chokes me further.

73. "Straps and shackles are put in place and only the chains on the hands are released. Then all the straps are tightened forcefully so that I cannot move or breathe. In addition to this, there are six riot force members: one holding the head and putting his fingers on the throat and neck from below the chin with severe pressure, the second and third hold the hands, the fourth and fifth hold the legs, and then the nurse inserts the tube. If you are in pain it is natural for your head to move, so they shout 'don't resist.'

74. "Sitting causes me severe back pain, as they know. Yet they feed me slowly so that I stay for as long as possible in the chair. This seems to be in order to pressure me. My weight has dropped and now fluctuates with the feeding and my illness.

75. “I suffer from general muscular pain, kidney pain, and severe burning in my bladder. My right leg is really weak and hurting me; my back is also hurting me a lot and as a result I am unable to sit.

76. On the call on May 30, 2013, he also explained that because of pain in his back and the terror of being ERFed to go to force-feeding he had started taking Ensure: “For several days now, I have severe pain in my back. I have problems with my neck and headaches. For several days I haven’t left the cell for feeding. I think this is still force-feeding, because if I don’t drink the Ensure they will bring the ERF team to get me out. So I have taken Ensure inside my cell and drink it.

77. “The reason I want to stop the ERF is because a while ago, they hurt a rib in my chest. After it healed, the ERF hurt the same place again. It happened over and over again and the injury gets worse. That is the reason I want to stop the ERFing to the feeding.

78. “I take Ensure every two or three days. Then the ERF force me to the chair of force-feeding. They ERF me twice outside the cell and they ERF me twice inside for feedings, and that hurt me very much.

79. “The do these things to us to pressure us to break the strike. They bring Ensure and tell me: ‘If you don’t take the Ensure, we’ll take you to the chair.’ They do this two times a day. By contrast, if I don’t take the Ensure, the ERF will come four times – two times out, and two times in. The corpsman comes to make the ‘request’ that I take Ensure.

80. “The ERF never stops. They have been doing that since the beginning of my hunger strike. When I got very sick and I could not take it anymore, I decided to stay in my cell on Ensure for a couple of days. The pain has been too severe. I am not afraid of them and I am not avoiding them. It would be an honor to die.

81. “I am not the only one who suffers from the ERF. The mistreatment now is more severe than during Bush. Many of people are being ERFed—some five times a day. The idea of this is to control us. Shaker Aamer from Britain is ERFed every time they give him water or food. They ERF him to and fro. Everybody is suffering from the abuse, control and humiliation.”

82. He reiterated that the only reason he was taking Ensure was to avoid being forced into the chair by the ERF or FCE team. If the force-feeding is enjoined, he will be able to resume his peaceful strike.

Reglan

83. I asked whether he had heard of Reglan, and he stated he had not. He did indicate he felt ill after feedings, however.

84. “I get sick in the stomach when they feed me. The force-feeding makes me feel ill but so far I did not throw up. However, I haven’t moved my bowel for 18 days. They know this. I cannot take laxatives because of my kidney and bladder problems. Still, I think there is no doubt that they would give me medicine without asking me.

85. “I am sure they could be giving Reglan without telling us. They grind up medicine and mix it with the food. We know that. We do not trust them. The doctor who treats us is not a real doctor. A doctor renders humanitarian services. The doctor who watches his patient suffer and do nothing is no doctor. He is more criminal than the military authorities.”

86. He concluded our call by stating: “The issue now is: why am I here? We have heard all of this before. The lawyers have been with us for four years and still the government does not want to release us. They are just giving us anaesthesia to wait – but there is no action.”

ANI Pharmaceuticals – manufacturer of Reglan

87. Because of my concern about the forcible administration of Reglan at Guantánamo Bay, I wrote twice in early June to the CEO of ANI Pharmaceuticals, Arthur Przybyl, expressing concerns about its use. Those letters are enclosed at Appendix A and B to this declaration.

88. While ANI have, as yet, failed to take any steps to control the use of their product at Guantánamo, they have criticized it. On June 20, 2013, *Relieve* received a reply by e-mail from Mr. Przybyl stating that ANI Pharmaceuticals was “deeply concerned” by its use in Guantánamo force-feeding, and added that “it is our hope that all of our products are used in a medically acceptable manner.” The e-mail is enclosed as Appendix C to this declaration.

Done in London, England, this 28th day of June, 2013.



Cori Crider

APPENDIX A



Mr Arthur S. Przybyl
President and Chief Executive Officer
ANI Pharmaceuticals, Inc.
210 Main Street West
Baudette, MN 56623
USA

By Post and Email: aprzybyl@anipharmaceuticals.com

4 June 2013

Dear Mr Przybyl

Urgent: Use of Reglan in force-feeding detainees at Guantánamo Bay

I am the Strategic Director of Reprieve, a legal action charity that helps those denied justice in the 'war on terror' – including 17 men currently detained at Guantánamo Bay. You will undoubtedly have seen press coverage of the widespread hunger strikes at the prison. Between 130 and 140 of the 166 remaining detainees are now striking to protest their indefinite detention and the military's harsh treatment of them. At least 38 are being force-fed, including several Reprieve clients.¹

I am writing to you because it appears that one of your company's products – Reglan² – is used during the force-feeding of hunger-strikers at Guantánamo. It is highly likely that prisoners are being medicated with Reglan without their informed consent. There is also a grave risk it is being administered for extended periods that may cause severe neurological side-effects.

My hope is that you will assist us in stopping this misuse of your drug.

Use of Reglan in force-feeding

You may have seen the Department of Defense's recently published "Standard Operating Procedure for Medical Management of Detainees on Hunger Strike", the rulebook for force-feeding at Guantánamo.³ A copy is enclosed for your convenience. The SOP instructs medical staff force-feeding Guantánamo prisoners to use "Reglan 10 mg PO/enteral feeding tube Q 3 hr X 3 doses" where a detainee is nauseated or bloated after a tube is inserted for force-feeding.

The force-feeding staff are also advised "to enhance gastric motility" in strikers by administering "Metoclopramide (Reglan) 10 mg via enteral feeding tube (place in feeding bag before nutritional supplement)". To be clear, 'intermittent feeding' is the US military euphemism for regular force-feeding of prisoners who have been checked out of hospital. This includes the majority of people being force-fed in Guantánamo. Critically, the SOP says nothing about side-effects or informed consent.

Your company is the only FDA-approved manufacturer of Reglan 10mg tablets, so we must conclude that your product is being used for these purposes at Guantánamo.⁴ And while I assume ANI had no advance knowledge of this unfortunate fact, this does mean your drug has been conscripted in a practice that the vast majority of medical opinion considers unethical.

¹ http://www.miamiherald.com/static/media/projects/gitmo_chart/

² http://www.anipharmaceuticals.com/products_view.php?i=69;

http://www.anipharmaceuticals.com/aboutus_newsmedia_view.php?i=6

³ <http://www.aljazeera.com/humanrights/2013/05/201358152317954140.html> (page 16)

⁴ <http://www.accessdata.fda.gov/scripts/cder/drugsatfda/index.cfm?fuseaction=Search DrugDetails>

Reprieve, PO Box 72054	T +44 (0)20 7553 8140	info@reprieve.org.uk
London UK, EC3P 3BZ	F +44 (0)20 7553 8189	www.reprieve.org.uk

Chair: Ken Macdonald QC

Patrons: Alan Bennett, Julie Christie, Martha Lane Fox, Gordon Roddick,
Richard Rogers, Ruth Rogers, Jon Snow, Marina Warner and Vivienne Westwood

Professional condemnation of force-feeding and prisoner descriptions of the practice

The medical profession overwhelmingly condemns force-feeding hunger strikers as unjustifiable, unethical and counter-productive. The World Medical Association states unequivocally that force-feeding “contrary to an informed and voluntary refusal” is “unjustifiable”, “never ethically acceptable” and that even if intended to benefit a person, is “a form of inhuman and degrading treatment”.⁵

The American Medical Association has also repeatedly opposed force-feeding and urged the US government to abandon the technique. On April 25 the position was reinforced by Dr. Jeremy Lazarus, president of the AMA, [in a letter to Defense Secretary Chuck Hagel](#).⁶

One understands this professional outcry when one hears the harrowing stories of prisoners put through the Guantánamo force-feeding regime. During force-feeding, my clients are strapped in chairs and their heads held immobile for as long as two hours.⁷ One of my clients, Nabil Hadjarab, said the chair “reminds me of an execution chair. Your legs and arms are tied with belts. Your shoulders are tied with belts. If you refuse to let them put the tube in, they force your head back.”

A tube is then passed through the nose and into the stomach. My client Samir Moqbel described this in a New York Times piece: “I will never forget the first time they passed the feeding tube up my nose. I can’t describe how painful it is to be force-fed this way. As it was thrust in, it made me feel like throwing up. I wanted to vomit, but I couldn’t. There was agony in my chest, throat and stomach. I had never experienced such pain before. I would not wish this cruel punishment upon anyone.”⁸

I am confident ANI Pharmaceuticals, as a responsible brand, does not want to be associated with this brutal practice. This is all the more worrying when one realizes that the Guantánamo authorities are likely exposing hunger-strikers to an unacceptable risk of Reglan’s side-effects.

Possible side-effects of Reglan

As you will be well aware, prolonged use of Reglan can cause tardive dyskinesia, a neurological muscular disorder.⁹ Symptoms of tardive dyskinesia can develop and persist long after medication has been discontinued. ANI’s guidance on use of the drug is clear: Reglan is not meant to be taken for longer than 12 weeks because of this risk.¹⁰ For the same reasons Reglan was included in the FDA’s REMS (‘Risk Evaluation and Mitigation Strategies’) program for drugs.¹¹

The hunger strike at Guantánamo began in early February 2013. Force-feeding of prisoners had begun by at least March 4¹² – three months ago – and therefore has been going on for over the 12 weeks’ maximum recommended use of Reglan. Remember, the military SOP says nothing about informing prisoners of this risk. At this moment, Reglan may be causing prisoners an acute risk of tardive dyskinesia without their even knowing they are taking it.

⁵ <http://www.wma.net/en/30publications/10policies/h31/index.html>

⁶ <http://www.ama-assn.org/ama/pub/category/16086.html>; <https://www.documentcloud.org/documents/694196-hunger-strikers-letter-04-25-13.html>

⁷ <http://www.globalresearch.ca/quantanamo-hunger-strike-force-feedings-continue/5333705>

⁸ http://www.nytimes.com/2013/04/15/opinion/hunger-striking-at-quantanamo-bay.html?_r=0

⁹ <http://www.tardivedyskinesia.com/>

¹⁰ http://www.anipharmaceuticals.com/dynamic/file_guide_69.pdf

¹¹ <http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm111350.htm>

¹² <http://www.miamiherald.com/2013/03/04/3266793/lawyers-claim-quantanamo-prison.html>

Reprieve, PO Box 72054
London UK, EC3P 3BZ

T +44 (0)20 7553 8140
F +44 (0)20 7553 8189

info@reprieve.org.uk
www.reprieve.org.uk

Chair: Ken Macdonald QC

Patrons: Alan Bennett, Julie Christie, Martha Lane Fox, Gordon Roddick,
Richard Rogers, Ruth Rogers, Jon Snow, Marina Warner and Vivienne Westwood



I am also concerned that the listed side effects of Reglan include depression, thoughts about suicide and suicide.¹³ Given that most prisoners at Guantánamo have been held without charge for over 11 years, and have been driven to hunger strike because they see no hope of release, the potential risks of depressive medications are serious. Several of our clients have recently reported suicidal thoughts or suicide attempts among hunger-striking prisoners.

Again, I am confident you would never wish to hear your product had led to long-term damage in detainees who were deprived of their right to refuse treatment.

Action required:

I am sure you will agree that the use of Reglan in the force-feeding of Guantánamo detainees is incompatible with your company's aims. It places one of your products, intended to promote health, at the centre of a notorious and ongoing human rights violation, and will cause irreparable damage to your corporate reputation. The use of Reglan at Guantánamo also risks long-term medical mental and physical damage to patients who have been given no chance to assess the risks associated with the drug. The forcible administration of Reglan places you in potential breach of your duty as a manufacturer to warn of these adverse side effects, since any warning pamphlet is obviously made otiose in these circumstances.

There are a number of actions your company could take to ensure that Reglan is not used in force-feeding at Guantánamo. As a pharmaceutical company producing specialty drugs, you will be familiar with the different models used to control the distribution of products carrying particular risks. Indeed, a number of your distributors (including Cardinal, McKesson and AmerisourceBergen) offer restricted solutions which you could use to prevent abuse of your products. You should urgently develop a system for controlling the distribution of this product, so that you extricate your company from this brutal practice.

You will undoubtedly be aware of the UN Guiding Principles on Business and Human Rights, which call upon all businesses to avoid infringing the human rights of others, and to address adverse human rights impacts with which they are involved.

I would be happy to discuss the steps that you could take to control the distribution of Reglan and to prevent your product from being used in further force-feeding at Guantánamo Bay. Reprieve has been working with pharmaceutical manufacturers for many years in relation to the supply of drugs for use in lethal injection, and we have a great deal of expertise.

I must emphasise, however that this is extremely urgent. I am available to discuss at any time, and would appreciate a response at your earliest convenience, and in any event within seven days (i.e. by 11 June 2013).

Yours sincerely,

Cori Crider
Enclosures (1)

¹³ http://www.accessdata.fda.gov/drugsatfda_docs/label/2011/017854s058lbl.pdf;
<http://www.fda.gov/downloads/Drugs/DrugSafety/UCM235574.pdf>

Reprieve, PO Box 72054	T +44 (0)20 7553 8140	info@reprieve.org.uk
London UK, EC3P 3BZ	F +44 (0)20 7553 8189	www.reprieve.org.uk

Chair: Ken Macdonald QC

Patrons: Alan Bennett, Julie Christie, Martha Lane Fox, Gordon Roddick,
Richard Rogers, Ruth Rogers, Jon Snow, Marina Warner and Vivienne Westwood

APPENDIX B



Mr Arthur S. Przybyl
President and Chief Executive Officer
ANI Pharmaceuticals, Inc.
210 Main Street West
Baudette, MN 56623
USA

By Email only: aprzybyl@anipharmaceuticals.com

12 June 2013

Dear Mr Przybyl

Urgent: Use of Reglan in force-feeding detainees at Guantánamo Bay

I refer to my letter of 4 June 2013, in which I explained that it appears one of your company's products – Reglan – is being forcibly administered to hunger strikers at Guantánamo Bay over a prolonged period without their informed consent. This obviously violates the human rights of these detainees as well as risking long term neurological damage. I requested a response by 11 June 2013, but have not received a reply or acknowledgment from you.

Given the urgency of this situation, not least that some of the detainees have been hunger striking for over 12 weeks (longer than the recommended period for administering Reglan), I yesterday submitted an adverse incident report to the FDA. A copy of that report is attached. You will see that we have highlighted, in relation to three of our clients who are currently being force-fed, the acute risk of side effects due to the prolonged use of Reglan. We have asked the FDA to investigate the use of your company's product urgently and to take all possible measures to prevent further use of Reglan in force-feeding at Guantánamo.

I very much hope that you will reconsider our concerns and our clients' predicament, and assist us in ending this misuse of your drug. I remain at your disposal to discuss how your company could prevent your product from being used in further force-feeding at Guantánamo. Given the time that has elapsed since I first drew this issue to your attention, I ask that you contact me as soon as possible and in any event within five working days, i.e. by close of business on **19 June 2013**.

Yours sincerely,

Cori Crider
Enclosures (1)

Reprieve, PO Box 72054 T +44 (0)20 7553 8140 info@reprieve.org.uk
London UK, EC3P 3BZ F +44 (0)20 7553 8189 www.reprieve.org.uk

Chair: Ken Macdonald QC
Patrons: Alan Bennett, Julie Christie, Martha Lane Fox, Gordon Roddick,
Richard Rogers, Ruth Rogers, Jon Snow, Marina Warner and Vivienne Westwood

FAX

Reprieve, PO Box 72054 T +44 (0)20 7553 8140 info@reprieve.org.uk
London UK, EC3P 3BZ F +44 (0)20 7553 8189 www.reprieve.org.uk

To:	MedWatch Food and Drug Administration 5600 Fishers Lane Rockville, MD 20857 USA	From:	Cori Crider Strategic Director Reprieve
Fax:	+1-800-332-0178	Pages (including fax cover sheet):	34
Phone:		Date:	11 June 2013
Re:	Urgent: Consumer Voluntary Report – Adverse Incidents associated with use of Reglan in force-feeding at Guantánamo Bay	Copy :	



MedWatch
Food and Drug Administration
5600 Fishers Lane
Rockville, MD 20857
USA

11 June 2013

By Fax: +1-800-332-0178

Dear Sirs

Urgent: Consumer Voluntary Report – Adverse Incidents associated with use of Reglan in force-feeding at Guantánamo Bay

Please treat this as an adverse incident report on behalf of three Reprieve clients who are currently incarcerated and on hunger-strike at Guantánamo Bay, and who are being subjected to force-feeding. We are making the report because of our serious concern that the clients have been given Reglan without their knowledge or consent, potentially for periods of time that risk serious side effects.

The Department of Defense's recently published "Standard Operating Procedure for Medical Management of Detainees on Hunger Strike", makes clear that Reglan is used in the force-feeding process.¹ A copy of the SOP is enclosed for your convenience. It instructs medical staff who are force-feeding Guantánamo prisoners to use "Reglan 10 mg PO/enteral feeding tube Q 3 hr X 3 doses" where a detainee is nauseated or bloated after a tube is inserted for force-feeding.

The force-feeding staff are also advised "to enhance gastric motility" in strikers by administering "Metoclopramide (Reglan) 10 mg via enteral feeding tube (place in feeding bag before nutritional supplement)". To be clear, 'intermittent feeding' is the US military euphemism for regular force-feeding of prisoners who have been checked out of hospital. This includes the majority of people being forced in Guantánamo, including the clients submitting this complaint. Critically, the SOP says nothing about side-effects or informed consent – we believe consent is not sought before Reglan is administered.

A. The problem - likely side effects of prolonged use of Reglan

The listed side effects of Reglan include tardive dyskinesia, depression, thoughts about suicide and suicide.²

Symptoms of tardive dyskinesia can develop and persist long after medication has been discontinued. The guidance issued by ANI Pharmaceuticals, the only FDA-approved manufacturer of branded Reglan tablets, is clear: Reglan is not meant to be taken for longer than 12 weeks because of this risk.³ For the same reasons Reglan was included in your agency's REMS ('Risk Evaluation and Mitigation Strategies') program for drugs.⁴ While the military refuse to disclose the precise timing and nature of their medication practices, it is plain that the use of Reglan in force-feeding risks severe neurological damage.

¹ <http://www.aljazeera.com/humanrights/2013/05/201358152317954140.html> (page 16)

² http://www.accessdata.fda.gov/drugsatfda_docs/label/2011/017854s058lbl.pdf;

<http://www.fda.gov/downloads/Drugs/DrugSafety/UCM235574.pdf>

³ http://www.anipharmaceuticals.com/dynamic/file_guide_69.pdf

⁴ <http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm111350.htm>

Reprieve, PO Box 72054	T +44 (0)20 7553 8140	info@reprieve.org.uk
London UK, EC3P 3BZ	F +44 (0)20 7553 8189	www.reprieve.org.uk

Chair: Ken Macdonald QC

Patrons: Alan Bennett, Julie Christie, Martha Lane Fox, Gordon Roddick,
Richard Rogers, Ruth Rogers, Jon Snow, Marina Warner and Vivienne Westwood



Further, the Medication Guide for Reglan makes clear that additional side effects include “depression, thoughts about depression and suicide”.⁵ Given that most prisoners at Guantánamo have been held without charge for over 11 years, and have been driven to hunger strike because they see no hope of release, the potential risks of depressive medications are serious. Several of our clients have recently reported suicidal ideations or suicide attempts among hunger-striking prisoners.

B. About the product

As noted above, the SOP sets out that “Reglan 10 mg” is used in the force-feeding process. Given that ANI Pharmaceuticals, Inc. is the only FDA-approved manufacturer of branded Reglan 10mg tablets, we believe that this company’s product is being used at Guantánamo.

The force-feeding of hunger strikers at Guantánamo had begun by at least 4 March 2013. The concern, therefore, is that certain detainees have been receiving Reglan tablets twice daily for a period of more than three months. Given that Reglan is not advised to be taken for longer than 12 weeks, the risk of side effects is particularly acute.

C. About the person(s) on behalf of whom the problem is reported

You will appreciate that our clients’ detention means that daily communication is impossible. The facts listed below are therefore the most recent and accurate available to us.

1. Samir Nasy Hajan Mukbel

Date of birth: 1 December 1977

Nationality: Yemeni

Date Reprieve became aware of force-feeding (and thus possible administration of Reglan): 5 April 2013

2. Nabil Hadjarab

Date of birth: 21 July 1979

Place of birth: Algeria

Date force-feeding (and thus possible administration of Reglan) commenced: 5 April 2013 (date Reprieve was informed by DoJ)

Known medical conditions: Mr Hadjarab is currently very weak due to the ongoing hunger strike. On 26 April 2013, he weighed just 56 kilos.

3. Ahmed Belbacha

Date of birth: 13 November 1969

Nationality: Algerian

Date force-feeding (and thus possible administration of Reglan) commenced: 5 April 2013 (date Reprieve was informed by DoJ)

Known medical conditions: Prior nose surgery which makes feeding painful.

D. About the person(s) filling out this form

I am Strategic Director of Reprieve, a legal action charity based in London. I am also legal counsel to the men on whose behalf this complaint is made.

⁵ http://www.accessdata.fda.gov/drugsatfda_docs/label/2011/017854s058lbl.pdf

Reprieve, PO Box 72054	T +44 (0)20 7553 8140	info@reprieve.org.uk
London UK, EC3P 3BZ	F +44 (0)20 7553 8189	www.reprieve.org.uk

Chair: Ken Macdonald QC

Patrons: Alan Bennett, Julie Christie, Martha Lane Fox, Gordon Roddick,
Richard Rogers, Ruth Rogers, Jon Snow, Marina Warner and Vivienne Westwood



I have notified ANI Pharmaceuticals Inc. (by letter dated 4 June 2013) of the possibility that the company's product is being misused in this way. To date, I have not received a response.

I would ask that your agency investigate this report as a matter of urgency, and take all possible measures to prevent further use of Reglan in force-feeding at Guantánamo.

Yours faithfully,

Cori Crider
cori@reprieve.org.uk

Reprieve, PO Box 72054 T +44 (0)20 7553 8140 info@reprieve.org.uk
London UK, EC3P 3BZ F +44 (0)20 7553 8189 www.reprieve.org.uk

Chair: Ken Macdonald QC
Patrons: Alan Bennett, Julie Christie, Martha Lane Fox, Gordon Roddick,
Richard Rogers, Ruth Rogers, Jon Snow, Marina Warner and Vivienne Westwood

Reprieve is a charitable company limited by guarantee registered in England and Wales. Registered Charity No.1114900,
Registered Company No.5777831. Registered Office 2-6 Cannon Street London EC4M 6YH.

APPENDIX C

Cori Crider

From: Clemency Wells
Sent: 28 June 2013 18:18
To: Cori Crider
Subject: FW: Catherine Gilfedder

From: Arthur Przybyl [<mailto:arthur.przybyl@gmail.com>]
Sent: 20 June 2013 00:41
To: info
Subject: Catherine Gilfedder

Dear Ms. Gilfedder,

We are in receipt of your letters dated June 4 and June 12, 2013. We are deeply concerned as you are by the complexity of the issues raised in them. Obviously it is our hope that all of our products are used in a medically acceptable manner. We believe that the serious public debate regarding Guantanamo Bay will lead to an appropriate resolution to the situation.

Sincerely,

Arthur S. Przybyl
President and CEO
ANI Pharmaceuticals

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>
