

Federal judge dismisses private lawsuit based on “state secrets” doctrine

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A federal judge in New York City has dismissed a private lawsuit at the request of Obama administration lawyers, who invoked the so-called “state secrets” doctrine. No basis other than “national security” was given for the ruling. Not even the identity of the federal agency demanding dismissal was revealed.

The dismissal is the first to cite the “state secrets” doctrine in a case in which neither the US government nor a government contractor is directly involved as either plaintiff or defendant. Carried out in complete secrecy, the ruling marks a new stage in the disintegration of American democracy, which is in every respect subordinated to the dictates of vast and unchecked intelligence agencies.

Victor Restis, the heir to Greek shipping companies that collectively employ over 6,000 sailors, filed suit almost two years against the organization United Against Nuclear Iran (UANI) for strong-arming him to stop doing business with Iran.

UANI was founded in 2008 by former CIA director James Woolsey, and its governing board includes former Democratic vice-presidential candidate Joseph Lieberman along with several former directors of intelligence agencies, including Britain’s MI-6, Germany’s BND and Israel’s Mossad. UANI has no known contracts with any government or governmental agency, and according to its web site exists solely as “a not-for-profit, non-partisan, advocacy group,” and depends on private donations.

According to allegations by Restis, UANI launched a “Shipping Campaign” targeting international cargo shippers to isolate Iran’s shipping and port sectors from international markets. UANI arranged for United States port authorities to deny docking privileges to shipping companies that do business with Iran, and conducted a “name and shame” campaign through the Internet and

social media to smear Restis for allegedly shipping Iranian oil in violation of international sanctions.

Restis accuses UANI of demanding that shipping companies sign sworn statements denying UANI’s charges and submit their business records to auditing by UANI agents, or else be blacklisted. “In this regard, UANI not only acts as judge, jury and executioner, but also as interrogator and police,” according to his federal court complaint.

After more than a year of intense litigation between Restis and UANI, Department of Justice lawyers intervened in the case, filing a motion to dismiss because “further litigation of the case would be highly likely to risk disclosure of properly privileged matters.”

On March 23, United States District Judge Edgardo Ramos, a recent Obama appointee, granted the secrecy motion and dismissed the case in an extraordinary 18-page ruling that gives no details whatsoever of any basis for secrecy.

In the ruling, one generality follows another: “The Government has made a formal assertion of the privilege by submitting a classified declaration by the head of the department,” but “disclosing even the identity of the agency involved creates an unwarranted risk of exposing the information it seeks to protect,” according to Ramos.

“The classified declaration describes in great detail the information subject to the state secrets privilege and explains how disclosure of that information could reasonably result in harm to national security,” Ramos added, without any explanation of what the information might be or how its disclosure would affect any legitimate governmental interest.

“Being cognizant of a district court’s obligation to grant ‘utmost deference’ to the executive’s determination of the likely import of

disclosure of the information on military or diplomatic security—in other words, the deck is stacked entirely in favor of the military-intelligence complex—Ramos ruled, “the Court is satisfied that there is a reasonable danger that disclosure of the facts underlying the Government’s assertion would in fact jeopardize national security.”

Shedding a few crocodile tears, Ramos wrote that he “recognizes that dismissal is a ‘harsh sanction’,” and “particularly so in this case because Plaintiffs not only do not get their day in court, but cannot be told why.”

A statement from Abbe Lowell, a lawyer for Restis, declares, “We are mystified that the US government has such a stake in this case that it would take such extraordinary steps to prevent full disclosure of the secret interest it has with UANI or others.”

“This decision is troubling,” said Dror Ladin, an American Civil Liberties Union lawyer who filed a friend of the court brief in opposition to the motion to dismiss. “It leaves the parties in the dark, and denies the public any understanding of why the government is denying someone his day in court,” he added.

Restis has been summarily denied access to a US courtroom—a fundamental democratic right guaranteed by the Seventh Amendment to the US Constitution—without even being told why, based entirely on the secret whisperings of unnamed intelligence operatives who have unrestricted access to compliant federal judges. If this can happen to a billionaire Greek shipping magnate, with ample access to legal resources, little remains of due process of law for anyone of lesser means.



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