## UNITED STATES DISTRICT COURT DISTRICT OF COLUMBIA

CHRISTINE MILLS, RUNAKO BALONDEMU, GERALDINE DUNCAN, PRISCILLA IJEOMAH, LAWRENCE PERRY, WILLIAM ROWLAND, DAVID HUBBARD, CLIFTON KNIGHT, SHARON TAYLOR, and CHARLES MWALIMU,

Plaintiffs,

v.

1:04-CV-2205 (FJS/AK)

JAMES HADLEY BILLINGTON, Librarian, Library of Congress,

Defendants.

**APPEARANCES** 

**OF COUNSEL** 

ROSE LEGAL ADVOCATES 1726 M Street, NW Suite 203 Washington, D.C. 20036 DAVID L. ROSE, ESQ.
JOSHUA N. ROSE, ESQ.
EARLENE W. ROSENBERG, ESQ.

Attorneys for Plaintiffs

OFFICE OF THE UNITED

BEVERLY M. RUSSELL, AUSA JULIA DOUDS, AUSA

**STATES ATTORNEY** 555 4th Street, NW Washington, D.C. 20530 Attorneys for Defendant

SCULLIN, Senior Judge

## **ORDER**

Currently before the Court are Defendant's motion to dismiss or, in the alternative, for summary judgment, *see* Dkt. No. 172, and Defendant's motion to strike the declarations that Plaintiffs filed in support of their opposition to Defendant's motion to dismiss, *see* Dkt. No. 192.

The Court heard oral argument in support of, and in opposition to, these motions on

March 5, 2013. Consistent with the Court's discussion with counsel at the conclusion of oral argument, the following constitutes the Court's written resolution of these motions. Accordingly, the Court hereby

**ORDERS** that Defendant's motion to dismiss or, in the alternative, for summary judgment is **DENIED** insofar as that motion is based on failure to exhaust administrative remedies; and the Court further

**ORDERS** that Defendant's motion to dismiss or, in the alternative, for summary judgment is **DENIED** insofar as that motion is based on the doctrine of *res judicata*; and the Court further

**ORDERS** that Defendant's motion to dismiss or, in the alternative, for summary judgment is **DENIED** without prejudice and with leave to renew insofar as that motion is based on the doctrine of collateral estoppel. Defendant may renew its motion to dismiss and/or for summary judgment on this ground, if appropriate, in opposition to Plaintiff's motion for class certification; and the Court further

ORDERS that Defendant's motion to dismiss or, in the alternative, for summary judgment is DENIED without prejudice and with leave to renew insofar as that motion is based on failure to state a claim. Defendant may renew its motion to dismiss and/or for summary judgment on this ground, if appropriate, in opposition to Plaintiffs' motion for class certification; and the Court further

**ORDERS** that Defendant's motion for sanctions, which seeks relief in the form of the dismissal of Plaintiffs' class claims, *see* Dkt. No. 120, and Defendant's motion for leave to file a supplemental memorandum in support of that motion, *see* Dkt. No. 191, are **DENIED**; and the

Court further

**ORDERS** that the pending discovery disputes regarding class discovery, including but

not limited to Defendant's motion for a protective order, see Dkt. No. 207, Plaintiffs' motion for

clarification of Magistrate Judge Kay's May 28, 2010 Order, see Dkt. No. 211, and Defendant's

motion to strike the declarations that Plaintiffs filed in support of their opposition to Defendant's

motion to dismiss or, in the alternative, for summary judgment, see Dkt. No. 192, are referred to

Magistrate Judge Kay for resolution; and the Court further

**ORDERS** that, within **ten** days of the date on which Magistrate Judge Kay resolves the

outstanding class discovery issues, the parties shall complete said discovery; and the Court

further

**ORDERS** that, within **forty** days of the date on which Magistrate Judge Kay resolves the

outstanding class discovery issues, Plaintiffs shall file their motion for class certification; and the

Court further

**ORDERS** that Defendant shall file its opposition to Plaintiffs' motion for class

certification within fourteen days of the date on which Plaintiffs file their motion for class

certification; and the Court further

**ORDERS** that the parties shall not file any further papers either in support of or in

opposition to Plaintiffs' motion for class certification.

IT IS SO ORDERED.

Dated: March 12, 2013

Syracuse, New York

Senior United States District Court Judge

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