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Lawyers to sue US over loss of notes

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LAWYERS are suing the American government for costs they will incur when they make a second trip to Guantanamo Bay to interview a Bahraini detainee they represent. They have to make the return journey after 20 pages of private notes taken during an interview with Essa Ali Abdulla Al Murbati were apparently lost in the mail.

The GDN reported yesterday how the notes were handed over to US officials for inspection and were supposed to be sent from Guantanamo Bay to a secure Department of Defence office in Washington DC.

However, they never surfaced - even though similar notes taken with the five other Bahraini detainees arrived as expected.

Lawyers were not permitted to take any copies from Guantanamo Bay because they had to be screened for classified information.

Now the US government is refusing to cover the costs of a return visit and, in court documents submitted to the US District Court in Columbia, is blaming the US Postal Service - even though none of the six packages was sent by registered post.

"If they were lost, they were lost by the Postal Service," says the US government response, adding that they "could arrive at any time" even though they were due over a month ago.

Lawyers acting on behalf of Al Murbati are demanding that the government picks up the full bill for a return trip - including transportation costs from New York, lodgings and meals for one attorney and an interpreter for three nights, as well as interpreter's fees for two days' travel and two days of interpretation.

However, the US government is only prepared to fly them from Florida to Guantanamo Bay and claims it is immune from financial action.

It also described the lawyers' request as "premature", "excessive" and "not warranted" - claiming the package could still have gone missing even if it was sent by registered mail.

However, lawyers from the Dorsey and Whitney law firm - which is acting on behalf of Al Murbati - are concerned because the loss of "classified" and "privileged" documents could affect their relationship with him.

Especially when they tell him that his interview notes were handed over to - and lost by - the same authorities holding him in custody.

They are also concerned because they could be in the possession of "virtually anyone".

"This violation of the sanctity of the attorney-client relationship is particularly galling - and all the more potentially damaging - considering the highly sensitive nature of the Guantanamo Bay representation," say court documents submitted by Al Murbati's lawyers.

One concern is that the notes could end up on the Internet.

"The government failed to follow its own procedures by sending, via regular mail, presumptively classified documents that were created during meetings with an individual whom the government has deemed an enemy combatant," add the lawyers.