

Arar Deal

'We had a responsibility to not fail'

Until the PM's official apology rolled out of the fax machine, Arar's legal team couldn't be sure of success in quest for justice

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OTTAWA—Talks to discuss a possible settlement with Maher Arar began soon after the software engineer launched his lawsuit against the Canadian government in March 2004.

A dual Canadian-Syrian citizen who survived American deportation to Syria and torture, Arar was seeking redress for damages and injuries to himself, his family, and to their reputation.

Those talks didn't end until last Friday, Jan. 19, when the

\$11.5 million package, including legal fees, was settled.

The federal cabinet signed off on the deal the following Wednesday, Jan. 24.

But for Arar and his family, it wasn't truly over until the written apology from Prime Minister Stephen Harper rolled out of the fax machine in his lawyer's Toronto office Thursday evening at 5:30.

"The negotiations with the government were very intensive," Arar told reporters yesterday. "There were moments when I lost hope."

Arar's lawyer Julian Falconer, an experienced litigator, said he and a team of five lawyers and staff had worked since the O'Connor report was issued in September. It cleared Arar and blamed Canadian officials for

playing a part, although not deliberately, in his deportation.

"There's nothing standard about this case. This case was exhausting," Falconer told the Star yesterday.

It was around-the-clock for about five months after the issuance of the O'Connor report up until, frankly, today. Things

were constantly in the balance," Falconer praised the efforts of his team, and the government's legal team, who he said were personally committed to a fair settlement.

In March 2004, the then-Liberal government had called a public inquiry into the disturbing tale Arar had told — a tale that suggested Canadian officials might have played some role in his nightmare.

Judge Lynn Huscary ordered the parties to put off talks until the O'Connor inquiry reported.

More than two years later, when O'Connor dropped his bombshell report in September 2006, the settlement talks quickly resumed. At one point,

mediation talks scheduled for January were moved up to mid-December.

Former Ontario Superior Court Judge George Adams, who wrote the book on *Mediating Justice: Legal Dispute Negotiations*, was named a mediator in the case, and played a "crucial" role in securing a deal, said Falconer. So did the government's lawyer, associate deputy justice minister Will McDowell.

"What we knew and we know today is we simply could not fail," said Falconer. "We had a responsibility to not fail."

But Falconer was not convinced the federal Conservatives felt the same way. "I was confident these people

were personally committed not to fail. But it was my view that this government, like any government you negotiate with, is only going to hear you when you turn up the volume. It was unclear whether this process was going to yield a successful result. And it was exciting" for the Arar family, he said.

"Until Stephen Harper and his colleagues give it their blessing there is no way to know."

Harper did not personally telephone Arar Thursday night to convey the formal apology, given all the legacies of the case. But Arar did call McDowell last night to personally thank him for his team's work in helping him get on with his life.