

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

JOAN JARA, in her individual capacity,)	
and in her capacity as the personal)	
representative of the ESTATE OF)	
VÍCTOR JARA,)	
)	
AMANDA JARA TURNER, in her)	
individual capacity,)	
)	
and MANUELA BUNSTER, in her)	
individual capacity,)	
)	
Plaintiffs,)	
)	
v.)	
)	
PEDRO PABLO BARRIENTOS)	
NÚÑEZ,)	
)	
Defendant.)	
)	

Case No. 6:13-cv-01426-RBD-GJK

THIRD AMENDED COMPLAINT

Plaintiffs, Joan Jara, Amanda Jara Turner, Manuela Bunster, and Joan Jara on behalf of the Estate of Víctor Lidio Jara Martinez (collectively “**Plaintiffs**”), complain and allege as follows.

PRELIMINARY STATEMENT

1. This case arises out of the arbitrary detention, brutal torture, and extrajudicial killing of Víctor Lidio Jara Martinez (hereinafter “**Víctor Jara**”), a widely popular Chilean folk singer and democratic activist in his country, whose music and political beliefs the Chilean military dictatorship of General Augusto Pinochet Ugarte (hereinafter “**General Pinochet**”) viewed as a threat to its fledgling regime. The

defendant, Pedro Barrientos Núñez (hereinafter “**Defendant**” or “**Lieutenant Barrientos**”), now a US citizen, participated in the arbitrary detention and brutal torture of Víctor Jara before killing, conspiring to kill, and/or causing his subordinates and/or others to kill Víctor Jara on or about September 15, 1973. Defendant acted under color of state authority and his acts were, among other things, committed in violation of United States law and the law of nations.

INTRODUCTION

2. Following the September 11, 1973 military *coup* led by General Pinochet in Santiago, Chile, on or about September 15, 1973, theater professor, popular singer and political activist Víctor Jara was arbitrarily detained, tortured, and killed at Chile Stadium in Santiago, Chile (the “**Stadium**”). The Chilean Armed Forces, intelligence, and security forces (hereinafter the “**Chilean Army**”) arrested, tortured, and violently executed Víctor Jara as part of its mass roundup of intellectuals, political leaders, and perceived supporters of democratically elected President Salvador Allende Gossens (hereinafter “**President Allende**”).

3. Defendant and members of the Chilean Army under Defendant’s command and control arbitrarily detained, tortured, and killed Víctor Jara. Defendant directed, exercised command responsibility over, conspired with, or aided and abetted the Chilean Army or persons or groups acting in coordination with the Chilean Army or under their control to commit acts of arbitrary detention, torture, cruel, inhuman or degrading treatment or punishment, extrajudicial killing, and crimes against humanity, and to subsequently cover up these abuses.

4. Plaintiffs, the surviving family members of Víctor Jara and his estate, commence this action against Lieutenant Barrientos for his responsibility for the arbitrary detention, torture, cruel, inhuman or degrading treatment, and extrajudicial killing of Víctor Jara at the Stadium on or about September 15, 1973.

5. This is an action for compensatory and punitive damages for torts in violation of international and domestic law. Plaintiffs in this action, in their individual capacities and as the personal representatives of the Estate of Víctor Jara, institute this action against Lieutenant Barrientos and seek damages for arbitrary detention, torture, cruel, inhuman and degrading treatment or punishment, extrajudicial killing, and crimes against humanity.

JURISDICTION AND VENUE

6. This Court has jurisdiction over Plaintiffs' claims of torture and extrajudicial killing in accordance with 28 U.S.C. § 1331, because the action arises under the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 note).¹

¹ This Court granted Plaintiffs' Amended Motion for Leave to File Third Amended Complaint (Doc. 107) on September 10, 2015. Doc. 110. In the original Complaint (Doc. 1), as well as in the First Amended Complaint (Doc. 52) and Second Amended Complaint (Doc. 63), Plaintiffs brought claims under the Alien Tort Statute, 28 U.S.C. § 1350 ("ATS"), and under the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 note). Plaintiffs' ATS claims were dismissed with prejudice on April 14, 2015. Doc. 93. In accordance with the Court's September 10, 2015 Order (Doc. 110), Plaintiffs' Third Amended Complaint does not reassert Plaintiffs' ATS claims. Plaintiffs hereby preserve for appeal all ATS claims previously brought under Plaintiffs' original Complaint (Doc. 1), First Amended Complaint (Doc. 52), and Second Amended Complaint (Doc. 63). Plaintiffs make two additional edits to the Third Amended Complaint, not reflected in their Motion for Leave to File a Third Amended Complaint (Doc. 107), which is to change the date on which General Pinochet's regime passed Decree Law No. 2.191, known as the Amnesty Law, from September 1978 to April 1978, in paragraph 40, *infra*, and to correct a typographical error, which is to change the placement of the word "testified" to modify the entire sentence in paragraph 46, *infra*. Plaintiffs' counsel has conferred with Defendant's counsel, and Defendant has agreed to these modifications.

7. On information and belief, Lieutenant Barrientos is a citizen of the United States and the Republic of Chile, and currently resides in Deltona, Florida. In addition, Lieutenant Barrientos has owned property in Florida, including a home (which he transferred to a family trust in September of 2013), operated businesses in Florida, and paid Florida taxes on those businesses.

8. The United States District Court for the Middle District of Florida is a proper venue for this action pursuant to 28 U.S.C. § 1391 (b)(1) and (c)(1).

PARTIES

Defendant

9. In September 1973, Lieutenant Barrientos was an officer in the Chilean Army, specifically a Lieutenant and Section Commander in the Tejas Verdes Regiment (hereinafter “**Tejas Verdes**”). Lieutenant Barrientos and soldiers under his command were stationed at the Stadium in Santiago, Chile, including during the period from September 12, 1973 to September 16, 1973. Soldiers, including from Tejas Verdes, were charged with overseeing the detention and torture of detainees in Chile Stadium.

10. In 1989, Lieutenant Barrientos moved permanently to the United States.

11. On December 26, 2012, Lieutenant Barrientos was indicted in Chile for the murder of Víctor Jara.

Plaintiffs

12. Víctor Jara was an artist, intellectual, and political activist who worked for the candidacy of President Allende, who became President of Chile through free and legal elections in 1970 and was later deposed by a military *coup*. Víctor Jara was a self-trained ethnomusicologist devoted to preserving the musical roots of the country’s

indigenous cultures and, at the time of the military *coup*, a theater director and professor at the State Technical University (the “**University**”). Víctor Jara was, and remains today, best known for his songwriting and singing. His own folk songs focused on themes of social and economic inequality and the plight of the indigenous poor. These songs of social justice resonated with a large spectrum of the Chilean population. As the country came to grips with its social problems, Víctor Jara became hugely popular, not only in Chile, but throughout Latin America. Indeed, his popularity continues to this day; for example, he was named by *Rolling Stone* magazine as one of the fifteen foremost protest artists.

13. Plaintiff Joan Jara is a citizen of the United Kingdom and Chile, currently residing in Santiago, Chile. She was married to Víctor Jara and lived in Santiago, Chile during the military *coup* and subsequent arbitrary detention, torture, and killing of Víctor Jara in 1973. Joan Jara has two daughters, Manuela Bunster (Víctor Jara’s step-daughter) and Amanda Jara Turner (Víctor Jara’s biological daughter). Víctor Jara, Joan Jara, and their daughters lived together as a family in Santiago, Chile for years prior to Víctor Jara’s death. Joan Jara brings this action for arbitrary detention, torture, cruel, inhuman or degrading treatment, extrajudicial killing, and crimes against humanity in her individual capacity and in her capacity as personal representative of her late husband Víctor Jara’s estate. Her standing to do so stems from Chilean law, according to which her standing is proper.

14. Plaintiff Amanda Jara Turner is a citizen and resident of the United Kingdom and Chile. She is the only natural daughter of Víctor Jara and Joan Jara. Amanda Jara Turner was eight years old and lived in Santiago, Chile with her parents at

the time her father was arrested, detained, and killed at the Stadium. She brings this action, in her individual capacity, for the extrajudicial killing of Víctor Jara. Her standing to do so stems from Chilean law, according to which her standing is proper.

15. Plaintiff Manuela Bunster is a citizen and resident of the United Kingdom and Chile. Manuela was thirteen years old and lived in Santiago, Chile with her parents at the time her stepfather was arrested, detained, and killed at the Stadium. Although she was his step daughter, her relationship with Víctor Jara was the same loving and affectionate relationship that one would expect from a father-daughter relationship. She treated him as her father and he treated her as his daughter. She brings this action, in her individual capacity, for the extrajudicial killing of Víctor Jara. Her standing to do so stems from Chilean law, according to which her standing is proper.

STATEMENT OF FACTS

16. Except with respect to Plaintiffs' background, on information and belief, Plaintiffs allege as follows:

General Pinochet's Military Coup

17. On the morning of September 11, 1973, the Chilean Army, led by General Pinochet, staged a *coup d'état* that toppled the democratically elected government of President Allende. By late morning, General Pinochet ordered a full assault on the capital. Soon after the Chilean Army stormed the presidential palace, President Allende was discovered dead, resulting from a self-inflicted gunshot.

18. Following the *coup*, four military commanders seized control and installed a military dictatorship that appointed General Pinochet as Commander-in-Chief and President, overthrowing Chile's democratically elected government.

19. In the first hours after the *coup*, members of the Chilean Army systematically searched and arrested individuals perceived to be supporters of or sympathizers with the Allende government, including former cabinet officers, former government appointees, former elected officials, and supporters and members of the Popular Unity Party, the Christian Democratic Party, the Chilean Communist Party, the *Movimiento de Izquierda Revolucionaria* (“**MIR**”), and other political parties that had supported President Allende.

20. The Chilean Army then initiated a systematic crackdown on all opposition and dissent throughout the country. General Pinochet’s new regime identified certain elements of the Chilean population as ideological enemies who were “subversive.” The regime targeted individuals, particularly intellectuals, who fit this profile, including artists, university professors, physicians, and students. The findings of an official truth commission inquiry established in May 1990, called Comisión Nacional de Verdad y Reconciliación (National Truth and Reconciliation Commission), found that at least 2,296 individuals “disappeared” or were killed by state agents in Chile from September 1973 to March 1990 (the date of the collapse of the military dictatorship). An additional 1,000 still remain unaccounted for. Later, the National Truth and Reconciliation Commission found 899 additional cases of individuals “disappeared” or killed by state agents, in the same period. Thousands more were arbitrarily detained, tortured, and subsequently released. According to an additional Commission report, the Chilean army arbitrarily arrested and unlawfully interrogated over 50,000 civilians and tortured approximately 27,255 people during this period.

Systematic and Widespread Attacks on the Civilian Population During the Coup

21. On September 11, 1973, Chilean Army troops from the Arica Regiment of the Chilean Army from La Serena attacked the University. The troops prohibited civilians from entering or leaving the University premises. During the afternoon of September 12, 1973, military personnel entered the University and illegally detained hundreds of professors, students, and administrators.

22. Víctor Jara was among those arbitrarily detained on the campus and, thereafter, was transferred to the Stadium, where he was ultimately tortured and killed.

Arbitrary Detention of Víctor Jara

23. The Stadium served as one of the first mass detention centers of General Pinochet's military regime. In the days following the *coup*, the Chilean Army detained approximately 5,000 civilians at the Stadium. When Víctor Jara and the other detainees were marched into the Stadium, the Chilean Army soldiers systematically recorded each detainee's name.

24. During this detention, members of the Chilean Army made threats and taunts, including telling detainees that they would "kill all the communists," referring to anyone they anticipated would oppose the military junta. Many of these civilians were tortured and subjected to cruel, inhuman, or degrading treatment based merely on the suspicion of left-leaning political activism and therefore of being subversive to General Pinochet's regime.

25. On or about September 12, 1973, General Sergio Arellano Stark deployed elements of the Chilean Army to the Stadium. The units sent to the Stadium included Regimiento "Tejas Verdes" from San Antonio, Regimiento Blindados N°2 from

Santiago, Regimiento “Esmeralda” from Antofagasta, and Regimiento “Maipo” from Valparaiso. Lieutenant Colonel Manriquez Bravo had overall command of the Stadium.

26. Lieutenant Barrientos and soldiers under his command in the Second Combat Company of the Tejas Verdes were among the troops deployed to the mass detention site at the Stadium on or about September 12, 1973. There, he and his subordinates and co-conspirators arbitrarily detained civilians, including Víctor Jara.

27. Upon information and belief, officers of these units collaborated to establish a system of imprisonment, torture, and execution of suspected leftists at the Stadium. Officers who participated in the establishment of this scheme included, *inter alia*, Defendant who was a Section Commander in the Second Combat Company, Tejas Verdes; Lieutenant Jorge Smith Gumucio, Section Commander in the Third Combat Company, Tejas Verdes; Captain Luis Germán Montero Valenzuela, Commander of the Second Combat Company, Tejas Verdes; Captain Víctor Federico Lizarraga Arias, Commander of the Third Combat Company, Tejas Verdes; Major Alfredo Alejandro Rodríguez Faine, Battalion Commander, Tejas Verdes; Lieutenants Raúl Anibal Jofré Gonzalez and Edwin Armando Dimter Bianchi of Regimiento Blindados N°2; Lieutenant Ernesto Luis Bethke Wulf, of Regimiento “Maipo”; and Lieutenant Nelson Edgardo Haase Mazzei, Tejas Verdes.

28. The officers took steps to operationalize the scheme to arbitrarily detain, torture, and kill suspected subversives at the Stadium. Lieutenant Edwin Armando Roger Dimter Bianchi placed himself at the entrance to the Stadium, recorded the identities of the entering civilian detainees, and decided which detainees to interrogate. Defendant

was in command of the mass detention of detainees at the stadium. Defendant also took command of and exercised direct control over soldiers in the Stadium.

Torture and Extrajudicial Killing of Víctor Jara

29. Víctor Jara was one of the hundreds of students, professors, and administrators arbitrarily detained at the University and then transferred to the Stadium on September 12, 1973.

30. In the course of transporting and processing the civilian prisoners, Captain Fernando Polanco Gallardo, a commanding officer in military intelligence, recognized Víctor Jara as the well-known folk singer whose popular songs addressed social inequality and who had supported President Allende's government. Captain Polanco then separated Víctor Jara from the group and beat Víctor Jara severely. He then transferred Víctor Jara, together with some of the other civilians, to the Stadium.

31. During his three days of detention in that part of the Stadium, Víctor Jara composed a poem about his experience, which one of his fellow detainees who survived the ordeal later delivered to his wife, Joan Jara. He wrote: "How hard it is to sing when I must sing of horror. Horror which I am living, horror which I am dying."

32. On or about September 15, 1973, after three days of arbitrary detention, during which Víctor Jara was restrained and beaten, he was again separated from the other detainees and taken to an underground locker room of the Stadium, which the Chilean Army used to violently interrogate and torture civilians.

33. Throughout his detention in the locker room of the Stadium, Víctor Jara was in the physical custody of Lieutenant Barrientos, soldiers under his command, or other members of the Chilean Army who acted in furtherance of the Chilean Army's

common plan, design, and scheme to commit human rights abuses against civilians at the Stadium.

34. While detained in the locker room of the Stadium, soldiers under Lieutenant Barrientos's command interrogated, brutally beat, and otherwise tortured Víctor Jara to punish him for his political beliefs and support for President Allende.

35. Following this cruel treatment and torture, Lieutenant Barrientos killed, caused others to kill, and/or conspired to kill Víctor Jara by shooting him in the head and then shooting his body, at least, forty more times.

36. After the execution, Lieutenant Barrientos's subordinates and/or co-conspirators ignobly and unceremoniously discarded Víctor Jara's body outside the Stadium, along with the bodies of other civilian prisoners who had been killed by the Chilean Army.

37. On September 18, 1973, a Civil Registry employee, Hector Herrera, witnessed trucks full of bodies being brought into the morgue. Upon recognizing Víctor Jara's body, the civil servant went to Plaintiff Joan Jara's house and told her in person that her husband had been killed. Upon hearing the news, Plaintiff Joan Jara accompanied the civil servant to the morgue and identified the tortured body of her husband and observed the gunshot wounds he had sustained. After burying Víctor Jara in secret, Plaintiff Joan Jara and her daughters, Plaintiffs Amanda Jara Turner and Manuela Bunster, fled for their safety to the United Kingdom, where Joan Jara was already a citizen.

Decades of Fruitless Legal Actions in Chile

38. On September 8, 1978, Joan Jara filed an application to open a criminal investigation into the killing of Víctor Jara. Subsequently, the Chilean criminal Court of First Instance initiated a criminal investigation (the “1978 Investigation”).

39. The 1978 Investigation remained pending until August 31, 1982, when the responsible court found that there was insufficient proof developed during the 1978 investigation to charge any individual as a principal or accessory to the crime. As a result, the 1978 Investigation was temporarily closed. The entire period of this investigation was during the pendency of the Pinochet regime, which came to power through the *coup* and had every incentive to ensure that the scope of the investigation was limited and, whenever possible, would not result in prosecutions.

40. Any hope for a meaningful investigation was also frustrated by the government’s decision to grant amnesty. In April 1978, General Pinochet’s regime passed Decree Law No. 2.191, known as the Amnesty Law (the “Amnesty Law”). The law’s sweeping grant of amnesty extended “to all persons who, as principals or accessories, have committed criminal offences during the state of siege between September 11, 1973 and March 10, 1978, unless they are currently on trial or have already been convicted.”

41. General Pinochet’s regime was in power from 1973 to 1990, when it was voted out by popular plebiscite. Pursuant to an arrest warrant issued by Spanish authorities, in October 1998, General Pinochet was arrested in London for human rights violations.

42. All the way to 1998, that is, until the date of the Pinochet arrest, civilian and military courts in Chile strictly and consistently applied the Amnesty Law. As a consequence, during that twenty-year period, no other criminal investigation into the death of Víctor Jara was conducted.

43. Although the Amnesty law was never repealed, following General Pinochet's arrest, the Chilean Supreme Court started limiting the application of the Amnesty Law and some of the investigations and prosecutions for human rights violations were allowed to go forward.

44. Following this trend, on August 16, 1999, based on this changing application of the Amnesty Law, Plaintiffs filed a complaint before the Chile Court of Appeals against General Pinochet and others for the aggravated homicide of Víctor Jara. On that same date, the Santiago Appeals Court initiated a new investigation (the "1999 Investigation").

45. While these investigations went forward, they were also frustrated by an unwillingness on the part of those with knowledge to come forward. On September 17, 2001, the court consolidated the 1978 and 1999 Investigations (the "Consolidated Investigation of 2001"). The Consolidated Investigation was temporarily closed again in 2008.

46. On June 3, 2008, the Santiago Court of Appeals reopened the Consolidated Investigation of 2001 following another request by Plaintiffs. In 2009, a critical piece of evidence came from the testimony of José Adolfo Paredes Márquez, a conscript in the Chilean military, who testified that he was present at the torture of Víctor Jara and that he witnessed Defendant shoot Víctor Jara. Plaintiffs were informed of this

testimony shortly thereafter in 2009. However, at the time of Paredes's testimony, Defendant's whereabouts were unknown.

47. In May 2012, Chilevision, one of the three major television stations in Chile, aired an investigative report revealing that Defendant was residing in Florida. After learning that Defendant resided in Florida, Plaintiffs promptly initiated the present action.

48. On December 26, 2012, the Santiago Court of Appeals charged Defendant as a direct perpetrator in the killing of Víctor Jara. As a matter of Chilean law, Plaintiffs' civil claims for damages cannot be assessed until the criminal proceeding is complete. Moreover, because Chilean law does not permit criminal prosecutions *in absentia*, any criminal action cannot proceed. Accordingly, there is no other domestic remedy in Chile that Plaintiffs may pursue at this time against Defendant.

49. For the past 40 years, Plaintiffs have been diligent and persistent in their efforts to identify the individual(s) responsible for killing Víctor Jara. During that time, they have pursued and exhausted every domestic legal process available. In addition Plaintiffs have engaged in extrajudicial advocacy for accountability through the Víctor Jara Foundation and the Justice for Víctor campaign.

50. The conditions in Chile over the past four decades recounted above constitute extraordinary circumstances that justifiably prevented Plaintiffs from bringing this action and accordingly toll any applicable statute of limitations. These conditions also demonstrate that for the Plaintiffs there are no adequate and available remedies in Chile by which Plaintiffs can obtain redress against Defendant and that Plaintiffs have exhausted whatever remedies are available to them in Chile without result. There is

accordingly no legal impediment created by either statutes of limitation or exhaustion of remedies that prevent this action from proceeding.

GENERAL ALLEGATIONS

51. The acts described herein were inflicted under color of law and under color of official authority of the Republic of Chile, or in conspiracy or on behalf of those acting under color of official authority of the State of Chile, and were inflicted deliberately and intentionally.

52. At all relevant times described herein, including on September 15, 1973, Lieutenant Barrientos was stationed at the Stadium as a commanding officer.

53. At all relevant times, Lieutenant Barrientos was an officer with command authority over the mass detention of civilians at the Stadium. As a commanding officer, Lieutenant Barrientos had the legal authority and practical ability to exert control over his subordinates and others, including those who participated in the arbitrary detention, torture, cruel, inhuman or degrading treatment, and extrajudicial killing of Víctor Jara, as well as the crimes against humanity that took place at the Stadium. In addition to engaging in human rights abuses directly against Víctor Jara, Lieutenant Barrientos directed others to commit human rights abuses and/or knowingly permitted the soldiers under his command and others under his control to commit human rights abuses against Víctor Jara.

54. The arbitrary detention, torture, cruel, inhuman or degrading treatment, and extrajudicial killing inflicted upon Víctor Jara and other detainees at the Stadium were part of a widespread and systematic attack of the civilian population by the Chilean Army in the days following the military *coup* from September 11, 1973 through

September 15, 1973. Lieutenant Barrientos knew or should have known about these widespread and systematic attacks against the civilian population if for no other reason than because he was present for and participated in the attacks carried out against civilians at the Stadium.

55. As an officer in the military and as a Section Commander in the Tejas Verdes Regiment, Lieutenant Barrientos was under a duty to investigate, prevent, and punish violations of international and Chilean law committed by soldiers under his actual and effective command. Lieutenant Barrientos's command of his section in the Tejas Verdes Regiment included the authority and responsibility to give orders to and manage the affairs of soldiers under his control, and to appoint, remove, and discipline soldiers in his section. As an officer in the military, Lieutenant Barrientos also had the ability to give orders and discipline other soldiers in the Stadium. In addition to his direct responsibility and command responsibility, Lieutenant Barrientos failed or refused to take all reasonable and necessary measures to prevent arbitrary detentions, torture, cruel, inhuman or degrading treatment, extrajudicial killings, and crimes against humanity, or to investigate or punish his subordinates for committing such abuses.

56. Between September 12, 1973 and September 15, 1973, Lieutenant Barrientos ordered his subordinates to torture Víctor Jara.

57. After his subordinates carried out his orders, Lieutenant Barrientos killed or conspired with or directed others to kill Víctor Jara. Lieutenant Barrientos's supervision of and participation in these abuses indicates that he knew or should have known about the human rights abuses described herein, including the torture and extrajudicial killing of Víctor Jara,

58. Lieutenant Barrientos also conspired with his subordinates and officers in the Chilean Army who planned or carried out human rights abuses against civilians at the Stadium. Lieutenant Barrientos conspired and acted in concert with one or more members of the Chilean Army pursuant to a common plan, design, and scheme to carry out the attacks against civilians at the Stadium, as a result of which Víctor Jara was subjected to the violations described herein. Lieutenant Barrientos knowingly joined and participated in carrying out the common plan, design, and scheme. In addition to being personally liable for his own actions, Lieutenant Barrientos is jointly and severally liable for the actions of his co-conspirators, all of which were actions undertaken in furtherance of a common plan, design, and scheme to commit human rights abuses against civilians at the Stadium.

59. Lieutenant Barrientos also engaged in a joint criminal enterprise with his subordinates and officers in the Chilean Army who planned or carried out the attacks against civilians at the Stadium. The common purpose of the criminal enterprise was to establish an organized system of violent repression against perceived political opponents of the new regime. The arbitrary detention, torture, cruel, inhuman or degrading treatment, and extrajudicial killing committed against Víctor Jara and other civilians at the Stadium were part of this organized system of violent repression by the Chilean Army against the civilian population in Chile. As a result of his command position, the widespread nature and scale of the violations, and the duration of the operation that lasted throughout his position at the Stadium, Lieutenant Barrientos had knowledge of and was an active participant in this system of violent repression against the civilian population at

the Stadium. It was the intent of Lieutenant Barrientos to further this system of repression.

60. The arbitrary detention, torture, cruel, inhuman or degrading treatment, extrajudicial killing, and crimes against humanity committed against Víctor Jara and other civilians at the Stadium were foreseeable consequences of a common, shared intention to violently repress perceived political opponents of the regime on the part of Lieutenant Barrientos, his subordinates and officers in the Chilean Army who planned or carried out the human rights abuses against the civilian population of Chile, including those detained at the Stadium.

61. Lieutenant Barrientos directed, exercised command responsibility over, conspired with, or aided and abetted subordinates in the Chilean Army or persons or groups acting in coordination with the Chilean Army or under their control to commit acts of arbitrary detention, torture, cruel, inhuman or degrading treatment, extrajudicial killing, and crimes against humanity. This conduct was in violation of international human rights laws.

62. As a direct and proximate result of Lieutenant Barrientos wrongfully killing Víctor Jara, Plaintiffs have and will continue to suffer from loss of spousal and parental companionship and loss of Víctor Jara's support and services.

63. As a direct and proximate result of Lieutenant Barrientos's torture of Víctor Jara, he would have been able to collect damages from Lieutenant Barrientos for battery and other torts.

64. As a direct and proximate result of Lieutenant Barrientos's unlawful and outrageous conduct, and intentional or reckless infliction of emotional distress, Plaintiffs have suffered, and will continue to suffer, severe mental anguish and emotional distress.

65. Lieutenant Barrientos's acts and omissions, or those of his subordinates or agents, as described herein, were deliberate, intentional, wanton, malicious, oppressive, and done with a willful and conscious disregard for Plaintiffs' rights and those of their husband and father. Consequently, Plaintiffs are entitled to punitive damages.

66. All conditions precedent to the maintenance of this action have been met, have occurred or have been waived.

FIRST CLAIM FOR RELIEF

*By Plaintiff Joan Jara as representative of Víctor Jara's Estate
Torture*

67. Plaintiff Joan Jara in her capacity as representative of the Estate of Víctor Jara re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 66 as if fully set forth herein.

68. On September 12, 1973, Víctor Jara was taken into the custody of the Chilean Army and brutally beaten by its members. He was then taken to an underground locker room where soldiers under the command of Lieutenant Barrientos and/or his co-conspirators beat Víctor Jara, causing him severe physical and emotional pain and suffering.

69. The acts described herein were inflicted deliberately and intentionally for purposes that include, among others, punishing Víctor Jara for acts that he or third persons were suspected of having committed, intimidating or coercing Víctor Jara, or discriminating against Víctor Jara on the basis of his alleged political beliefs.

70. The torture of Víctor Jara did not arise from and was not inherent in or incidental to lawful sanctions.

71. At the time these acts occurred, Víctor Jara was in the custody or physical control of Lieutenant Barrientos or members of the Chilean Army under his direct command and control.

72. As a result of this torture, the Estate of Víctor Jara has suffered damages in an amount to be determined at trial.

73. These acts intentionally inflicted severe pain or suffering on Víctor Jara, and constitute torture as defined by the Torture Victim Protection Act of 1991, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 note).

74. In addition, Defendant's acts and omissions were deliberate, willful, intentional, wanton, malicious, and oppressive and should be punished by an award of punitive damages in an amount to be determined at trial.

SECOND CLAIM FOR RELIEF

*By all Plaintiffs in their individual capacities and Víctor Jara's Estate
Extrajudicial Killing*

75. Plaintiffs in their individual capacities, and Joan Jara, in her capacity as representative of the Estate of Víctor Jara, re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 66 as if fully set forth herein.

76. Víctor Jara was taken to an underground locker room in the Stadium on September 15, 1973. After he arrived, Lieutenant Barrientos shot or caused others to shoot Víctor Jara in the head with a 9mm pistol, before he and/or co-conspirators repeatedly shot Víctor Jara's corpse.

77. Lieutenant Barrientos's conduct constitutes extrajudicial killing as defined by the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 Note).

78. The killing of Víctor Jara was not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees, which are recognized as indispensable by civilized peoples. Víctor Jara was never charged with, convicted of, or sentenced for any crime.

79. Prior to his execution, Víctor Jara was placed in imminent fear for his life; he suffered severe physical abuse and agony prior to his extrajudicial killing. The extrajudicial killing of Víctor Jara inflicted severe mental pain and suffering on Plaintiffs Joan Jara, Amanda Jara Turner, and Manuela Bunster.

80. As a result of this extrajudicial killing, Plaintiffs have suffered damages in an amount to be determined at trial.

81. In addition, Defendant's acts and omissions were deliberate, willful, intentional, wanton, malicious, and oppressive, and should be punished by an award of punitive damages in an amount to be determined at trial.

PRAYER FOR RELIEF

To the extent permitted by law, Plaintiffs seek the following relief against Lieutenant Barrientos:

- (a) Compensatory damages;
- (b) Punitive damages;
- (c) Reasonable attorneys' fees, costs and expenses; and,
- (d) Such other and further relief as the court may deem just and proper.

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Certificate of Service

I certify that on September 21, 2015, I electronically filed a copy of the foregoing with the Clerk of the Court by using the CM/ECF system. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participants: None.

/s/ Richard S. Dellinger

Richard S. Dellinger