



***AS AND FOR A FOURTH AFFIRMATIVE DEFENSE***

4. That, in the alternative to, or else in conjunction with, the foregoing Affirmative Defenses, the Second Amended Complaint is barred by the applicable statute of limitations;

***AS AND FOR A FIFTH AFFIRMATIVE DEFENSE***

5. That, in the alternative to, or else in conjunction with, the foregoing Affirmative Defenses, the Second Amended Complaint is barred, in whole or in part, in that, *inter alia*, none of the acts complained of in the Second Amended Complaint constituted violations of binding, customary international norms or laws, as such was or were recognized at the time of the alleged occurrence of the acts complained of in the Second Amended Complaint;

***AS AND FOR A SIXTH AFFIRMATIVE DEFENSE***

6. That, in the alternative to, or else in conjunction with, the foregoing Affirmative Defenses, the Second Amended Complaint is barred, in whole or in part, in that, *inter alia*, any and all acts complained of were authorized by applicable law;

***AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE***

7. That, in the alternative to, or else in conjunction with, the foregoing Affirmative Defenses, the Second Amended Complaint is barred, in whole or in part, in that, *inter alia*, the acts complained of constitute official duties or acts of state, which are not actionable in this Honorable Court;

***AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE***

8. That, in the alternative to, or else in conjunction with, the foregoing Affirmative Defenses, the Second Amended Complaint is barred, in whole or in part, in that none the acts complained of are cognizable under the Torture Victims Protection Act of 1991, Pub. L. 102-256, 106 Stat. 73 (1992), as all alleged actions are said to have occurred prior to the enactment of said Act;

***AS AND FOR A NINTH AFFIRMATIVE DEFENSE***

9. That, in the alternative to, or else in conjunction with, the foregoing Affirmative Defenses, the Second Amended Complaint is barred by the equitable doctrine of estoppel by conduct;

***AS AND FOR A TENTH AFFIRMATIVE DEFENSE***

10. That, in the alternative to, or else in conjunction with, the foregoing Affirmative Defenses, the Second Amended Complaint is barred by the equitable doctrine of estoppel by silence;

***AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE***

11. That, in the alternative to, or else in conjunction with, the foregoing Affirmative Defenses, the Second Amended Complaint is barred by the equitable doctrine of estoppel by *in pais*;

***AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE***

12. That, in the alternative to, or else in conjunction with, the foregoing Affirmative Defenses, the Second Amended Complaint is barred by the equitable doctrine of waiver;

***AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE***

13. That, in the alternative to, or else in conjunction with, the foregoing Affirmative Defenses, the Second Amended Complaint is barred by the unavailability of equitable tolling of the applicable statute of limitations, under the law governing the instant cause, and that, in any event, were equitable tolling be deemed to be potentially available, the Plaintiff has failed to plead sufficient facts to warrant equitable tolling;

***ANSWERING THE PUTATIVE CLAIMS FOR RELIEF SET FORTH IN  
THE SECOND AMENDED COMPLAINT***

14. That the contentions contained in Paragraph 1 as well as in Paragraph 2 of the Second Amended Complaint constitute purported legal characterizations of the instant action to which the Defendant need not plead; however, to the extent that said Paragraphs contain allegations or insinuations of wrongdoing by the Defendant, all such allegations or insinuations are denied *in toto*;

15. That the contentions contained in Paragraph 3 of the Second Amended Complaint constitute purported legal characterizations of the instant action to which the Defendant need not plead;

16. That, as for the allegations contained in Paragraph 4 of the Second Amended Complaint, Defendant denies that he resides in Alexandria, Virginia, but, whilst not conceding jurisdiction, Defendant does not dispute venue;

17. That, as for the allegations contained in Paragraph 5 of the Second Amended Complaint, Defendant admits that he is a native of Somalia and a permanent resident of the United States, but denies that he currently resides in Alexandria, Virginia;

18. That, as for the allegations contained in Paragraph 6 of the Second Amended Complaint, Defendant denies that “. . . [b]etween approximately 1984 to 1989, (he) served as Commander of the Fifth Brigade of the Somali National Army”, as, for much of said time-period, he was present in the United States, receiving military training; Defendant admits that “. . . [t]he Fifth Brigade was stationed in or near the northern city of Gebiley, Somalia;

19. That, as for the allegations contained in Paragraph 7 of the Second Amended Complaint, while Defendant admits that he “. . . departed Somalia and eventually entered Canada in December of 1990”, he did not, as suggested, travel directly to Canada from Somalia; rather, Defendant traveled from Mississippi, where he had been receiving training from the United States Air Force, to Canada, upon the reported collapse of the then Government of Somalia;

20. That, as for the allegations contained in Paragraph 8 of the Second Amended Complaint, Defendant admits that he was arrested in Canada by the Royal Canadian Mounted Police upon the airing of certain accusations against him on the “Fifth Estate” television show aired in Canada, by the Canadian Broadcasting Corporation, but denies any complicity in any human rights abuses,

whatsoever, let alone those that were contained in such program, and was handed over to officers of the United States Immigration and Naturalization Service, at Niagara Falls; however, the averred characterization of Defendant's removal from Canada constitutes a legal conclusion to which Defendant need not plead; Defendant admits that he voluntarily departed from the United States, in or about July of 1994, after deportation proceedings in the United States were initiated against him, and that he returned to the United States on or about 8 December 1996, as alleged;

21. That, as for the allegations contained in Paragraph 9 of the Second Amended Complaint, Defendant is bereft of information to validate that "Plaintiff is a native, citizen and resident of Somalia", and, accordingly, denies same; as for the remaining discrete allegations lain in said Paragraph 9, Defendant denies same *in toto*; in particular, Defendant denies having "attempted extrajudicial killing and torture" of Plaintiff, and, likewise, denies the perpetration of any such actions by any of Defendant's subordinates;

22. That the allegations contained in Paragraph 10 of the Second Amended Complaint are denied;

23. That the multifarious allegations contained in Paragraph 11 of the Second Amended Complaint represent incomplete and incorrect characterizations of the history of Somalia, and, accordingly, are denied;

24. That the multifarious allegations contained in Paragraphs 12, 13 & 14 of the Second Amended Complaint represent incomplete and incorrect characterizations of the history of Somalia, and, accordingly, are denied, with Defendant demanding strict proof thereof;

25. That, as for the allegations contained in Paragraph 15 of the Second Amended Complaint, while Defendant admits that he was, for a time, Commander of the Fifth Brigade of the Somali National Army, he denies, *in toto*, all of the remaining allegations contained in the said Paragraph 15 of the Second Amended Complaint;

26. That Defendant is bereft of sufficient information to admit or deny the allegations contained in Paragraph 16 of the Second Amended Complaint, and, accordingly, denies such allegations whilst demanding strict proof thereof;

27. That the multifarious allegations contained in Paragraphs 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 & 27 of the Second Amended Complaint are denied *in toto*;

28. That the allegations contained in Paragraph 28 of the Second Amended Complaint are denied *in toto*;

29. That the allegations contained in Paragraph 29 of the Second Amended Complaint are denied *in toto*;

30. That the allegations contained in Paragraph 30 of the Second Amended Complaint are denied *in toto*;

31. That the allegations contained in Paragraph 31 of the Second Amended Complaint are denied *in toto*;

32. That the allegations contained in Paragraph 32 of the Second Amended Complaint represent legal conclusions to which Defendant need not plead;

33. That the allegations contained in Paragraph 33 of the Second Amended Complaint are denied *in toto*;

34. That the allegations contained in Paragraph 34 of the Second Amended Complaint are denied *in toto*;

35. That the allegations contained in Paragraph 35 of the Second Amended Complaint represent legal conclusions to which Defendant need not plead;

36. That the factual allegations suffused in Paragraph 36 of the Second Amended Complaint are all denied; as for the contentions also interlarded in the said Paragraph contending that the applicable Statute of Limitations should be tolled, such contentions represent legal conclusions to

which Defendant need not plead;

37. That the putative historical narrative of multifarious allegations contained in Paragraph 37 of the Second Amended Complaint is inaccurate and misleading; accordingly, Defendant denies same and demands strict proof thereof;

38. That, with regard to the multifarious allegations ingravidated in Paragraph 38 of the Second Amended Complaint, Defendant is bereft of sufficient information to admit or deny the contention that “[t]hroughout the time period alleged in the complaint, and up to the present, the Plaintiff either lived in Somalia or had immediate family still residing there”, and, accordingly, denies such allegations; Defendant also denies the veritable potpourri of the remaining allegations contained in the said Paragraph;

39. That the allegations contained in Paragraph 39 of the Second Amended Complaint are denied *in toto*;

40. That the putative historical narrative of multifarious allegations contained in Paragraph 40 of the Second Amended Complaint is inaccurate, incomplete and misleading; accordingly, Defendant denies same and demands strict proof thereof;

41. That the putative historical narrative of multifarious allegations contained in Paragraph 41 of the Second Amended Complaint is demonstrably false; accordingly, Defendant denies same and demands strict proof thereof;

42. That the putative historical narrative of multifarious allegations contained in Paragraph 42 of the Second Amended Complaint is inaccurate, incomplete and misleading; accordingly, Defendant denies same and demands strict proof thereof;

43. That, as for the multifarious allegations incorporated by reference into Paragraph 43 of the Second Amended Complaint, Defendant hereby Answers by, correspondingly, incorporating by

reference, as if set out in full each and every aspect of the instant Answer, as plead hereinbefore  
*qua* Paragraphs 14 through 42, *seriatim*;

44. The allegations contained in Paragraph 44 of the Second Amended Complaint are denied;

45. The allegations contained in Paragraph 45 of the Second Amended Complaint are denied;

46. The allegations contained in Paragraph 46 of the Second Amended Complaint are denied;

47. The allegations contained in Paragraph 47 of the Second Amended Complaint are denied;

48. The allegations contained in Paragraph 48 of the Second Amended Complaint are denied;

49. The allegations contained in Paragraph 49 of the Second Amended Complaint are denied;

50. That, as for the multifarious allegations incorporated by reference into Paragraph 50 of the Second Amended Complaint, Defendant hereby Answers by, correspondingly, incorporating by reference, as if set out in full each and every aspect of the instant Answer, as plead hereinbefore  
*qua* Paragraphs 14 through 49, *seriatim*;

51. The allegations contained in Paragraph 51 of the Second Amended Complaint are denied;

52. The allegations contained in Paragraph 52 of the Second Amended Complaint are denied;

53. The allegations contained in Paragraph 53 of the Second Amended Complaint are denied;

54. The allegations contained in Paragraph 54 of the Second Amended Complaint are denied;

55. The allegations contained in Paragraph 55 of the Second Amended Complaint are denied;

56. The allegations contained in Paragraph 56 of the Second Amended Complaint are denied;

57. The allegations contained in Paragraph 57 of the Second Amended Complaint are denied;

58. The allegations contained in Paragraph 58 of the Second Amended Complaint are denied; &



***ANSWERING THE PRAYER FOR RELIEF CONTAINED IN  
THE SECOND AMENDED COMPLAINT***

59. That Defendant denies that Plaintiff is entitled to any relief whatsoever.

***CONCLUSION***

WHEREFORE, having fully answered the Second Amended Complaint, Defendant Yusuf Abdi Ali hereby and herewith demands that the Second Amended Complaint be dismissed with prejudice, and that he be awarded all costs expended herein, inclusive of attorney's fees, as well as such other and further relief as may be just and appropriate under the existent circumstances.

Dated: 27th of June, 2018, at Alexandria, Virginia.

Respectfully submitted,

/s/ Joseph Peter Drennan

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ATTORNEY AND COUNSELLOR  
FOR DEFENDANT, YUSUF ABDI ALI

***CERTIFICATE OF SERVICE***

I, Joseph Peter Drennan, undersigned, hereby and herewith certify that, on this 27th day of the month of June, 2018, I caused to be served true copies of the foregoing pleading via this Honorable Court's CM/ECF electronic filing system upon the attorneys of record for the Plaintiff in the instant case, *viz.*:

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Respectfully submitted,

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