

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

<b>ANA PATRICIA CHAVEZ, CECILIA</b>	)	
<b>SANTOS, JOSE FRANCISCO CALDERON,</b>	)	
<b>JANE DOE, AND JOHN DOE,</b>	)	
	)	<b>No. 03-2932 M1/P</b>
<b>Plaintiffs,</b>	)	
	)	<b>JURY TRIAL</b>
<b>v.</b>	)	
	)	
<b>NICOLAS CARRANZA,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

**PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT**

Pursuant to Fed. R. Civ. P. 56 and Local Rule 7.2(d), the Plaintiffs move for partial summary judgment on their claims under the Alien Tort Claims Act (“ATCA”), 28 U.S.C. § 1350, and the Torture Victim Protection Act (“TVPA”), 28 U.S.C. § 1350 note. There is overwhelming evidence in the record that the Plaintiffs were tortured or that their parents were the victims of extrajudicial killings, both of which constitute violations of the ATCA and TVPA. For that reason, the Court should enter judgment as a matter of law and hold that the Plaintiffs have suffered torture and extrajudicial killing pursuant to their claims under the ATCA and TVPA.

Furthermore, by granting summary judgment, the Court will narrow the complex body of facts and law that the jury will be required to consider at trial and thereby promote trial efficiency. The Plaintiffs allege that the Defendant bears command responsibility for the torture, extrajudicial killing, and crimes against humanity they have endured. The doctrine of command responsibility requires a two-tiered theory of liability: (1) that the Plaintiffs suffered certain predicate acts, such as torture, extrajudicial killing, and crimes against humanity; and (2) that the

defendant is liable as the commander of those who were the direct perpetrators of those acts. The second tier consists of three elements of proof, which will be the focus of the Plaintiffs' presentation at trial. By granting summary judgment on the predicate acts of torture and extrajudicial killing, the Court will significantly narrow the issues for trial and enable the jury to focus on the heart of the dispute.

Accordingly, the Plaintiffs move for summary judgment on the following portions of their claims:

(1) that Plaintiff Ana Patricia Chavez has suffered torture and extrajudicial killing pursuant to her claims under the ATCA and TVPA;

(2) that Plaintiff Cecilia Santos has suffered torture pursuant to her claim under the TVPA;

(3) that Plaintiff Francisco Calderon has suffered torture and extrajudicial killing pursuant to his claims under the TVPA;

(4) that Plaintiff Jane Doe (Erlinda Revelo, Viuda de Franco) has suffered extrajudicial killing pursuant to her claims under the ATCA and TVPA; and

(5) that Plaintiff John Doe (Daniel Alvarado) has suffered torture pursuant to his claims under the ATCA and TVPA.

In support of this motion, the Plaintiffs submit the accompanying memorandum of law, the exhibits attached thereto, and the Plaintiffs' Statement of Undisputed Material Facts. The Plaintiffs also request, pursuant to Local Rule 7.2(c), that the Court schedule a hearing to consider argument on the motion.

Dated: June 24, 2005

Respectfully submitted,

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David R. Esquivel (TN Bar No. 21459)  
BASS, BERRY & SIMS PLC  
315 Deaderick Street, Suite 2700  
Nashville, TN 37238-3001  
Tel: (615) 742-6200  
Fax: (615) 742-0405

Matthew J. Eisenbrandt (CA Bar No. 217335)  
CENTER FOR JUSTICE & ACCOUNTABILITY  
870 Market Street, Suite 684  
San Francisco, CA 94102  
Tel: (415) 544-0444  
Fax: (415) 544-0456

Carolyn Patty Blum (MA Bar No. 046880)  
CENTER FOR JUSTICE & ACCOUNTABILITY  
291 West 12th Street  
New York, NY 10014  
Tel: (212) 989-0012  
Fax: (415) 544-0456

*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has this day been served upon the following counsel for the Defendant by depositing a copy thereof in the United States Mail, postage prepaid, this 24th day of June, 2005.

Robert M. Fargarson, Esq.  
Fargarson & Brooke  
65 Union Avenue, 9th Floor  
Memphis, TN 38103

*Counsel for Defendant Nicolas Carranza*