

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

**JANE DOE I, JANE DOE II AND  
JANE DOE III,**

Plaintiffs,

v.

**EMMANUEL CONSTANT,  
a.k.a. TOTO CONSTANT,**

Defendant.

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) Civil Action No. \_\_\_\_\_

)  
) **COMPLAINT FOR ATTEMPTED**  
) **EXTRAJUDICIAL KILLING;**  
) **TORTURE; CRUEL, INHUMAN OR**  
) **DEGRADING TREATMENT OR**  
) **PUNISHMENT; VIOLENCE AGAINST**  
) **WOMEN AND CRIMES AGAINST**  
) **HUMANITY**

) **JURY TRIAL DEMANDED**

Plaintiffs Jane Doe I, Jane Doe II and Jane Doe III (collectively “Plaintiffs”) complain and allege as follows:

**PRELIMINARY STATEMENT**

1. This is an action for compensatory and punitive damages for torts in violation of international and domestic law. Plaintiffs institute this action against Defendant Emmanuel “Toto” Constant (“Defendant Constant”) for his responsibility for the attempted extrajudicial killing, torture, and cruel, inhuman or degrading treatment of Jane Doe I and Jane Doe III; and for the torture and cruel, inhuman or degrading treatment of Jane Doe II. All Plaintiffs also bring claims of violence against women and crimes against humanity.

2. Plaintiffs allege that Defendant Constant exercised command responsibility over, conspired with, and/or aided and abetted subordinates in the paramilitary organization known as the *Front Révolutionnaire pour l’Avancement et le Progrès d’Haiti* (Revolutionary Front for the Advancement and Progress of Haiti or “FRAPH”), or persons or groups acting in coordination with FRAPH or under its control, who committed acts of attempted extrajudicial killing; torture;

cruel, inhuman or degrading treatment or punishment; violence against women and crimes against humanity; and/or who acted to cover up these abuses. Accordingly, Plaintiffs assert that Defendant Constant is liable under domestic and international law for their injuries, pain and suffering.

### **JURISDICTION AND VENUE**

3. Plaintiffs allege that Defendant Constant is liable for acts of attempted extrajudicial killing and torture as defined by customary international law and the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 note). Plaintiffs further allege that Defendant Constant is liable for attempted extrajudicial killing; torture; cruel, inhuman or degrading treatment or punishment; violence against women and crimes against humanity contrary to customary international law. Accordingly, this Court has jurisdiction over this action based on the Alien Tort Statute, 28 U.S.C. § 1350; the Torture Victim Protection Act, 28 U.S.C. § 1350 note; and 28 U.S.C. § 1331.

4. On information and belief, Defendant Constant is a citizen of Haiti. Therefore venue is proper in the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 1391(d).

### **PARTIES**

#### *Defendant*

5. On information and belief, Defendant Emmanuel “Toto” Constant is a citizen of Haiti and currently resides in or around Queens, New York.

6. From approximately October 1993 to December 1994, Defendant Constant was the head of the paramilitary organization FRAPH in Haiti. At all relevant times, as the commander of FRAPH, Defendant Constant possessed and exercised command and control over, conspired with,

and/or aided and abetted the members of the paramilitary organization. Defendant Constant left Haiti in December 1994. He entered the United States on December 24, 1994.

*Plaintiffs*

7. Jane Doe I is a citizen of Haiti who resides in the United States. She brings this action for the attempted extrajudicial killing; torture; cruel, inhuman or degrading treatment; gender-based violence and crimes against humanity she suffered at the hands of FRAPH, or persons or groups acting in coordination with FRAPH or under its control. Plaintiff Jane Doe I seeks to proceed under a pseudonym because she fears reprisals against her or her family members as a result of her participation in this lawsuit.

8. Plaintiff Jane Doe II is a citizen of Haiti who resides in the United States. She brings this action for the torture; cruel, inhuman or degrading treatment; gender-based violence and crimes against humanity she suffered at the hands of FRAPH, or persons or groups acting in coordination with FRAPH or under its control. Plaintiff Jane Doe II seeks to proceed under a pseudonym because she fears reprisals against her or her family members as a result of her participation in this lawsuit.

9. Jane Doe III is a citizen of Haiti who resides in the United States. She brings this action for the attempted extrajudicial killing; torture; cruel, inhuman or degrading treatment; gender-based violence and crimes against humanity she suffered at the hands of FRAPH, or persons or groups acting in coordination with FRAPH or under its control. Plaintiff Jane Doe III seeks to proceed under a pseudonym because she fears reprisals against her or her family members as a result of her participation in this lawsuit.

## STATEMENT OF FACTS

10. In December 1990, Jean-Bertrand Aristide, a former Haitian Catholic priest, won 67% of the popular vote in Haiti's first democratic presidential election following years of repressive dictatorships. Aristide took office on February 7, 1991, but was overthrown in September 1991 in a violent *coup d'état* led by elements of the army. From October 1991 to October 1994, an unconstitutional and brutal military regime governed Haiti.

11. The three-year military dictatorship was characterized by widespread state-sponsored human rights violations committed by the Haitian Armed Forces and FRAPH. The practices of the military and FRAPH included extrajudicial killings, forced disappearances, arbitrary arrest and detention, and rape and other torture and violence against women. Several thousand people were killed during the period of military rule. These abuses also caused thousands of Haitians to flee the country, often in crowded, unseaworthy boats. Many of these refugees sought safe haven in the United States.

12. From the beginning of the military dictatorship, the Haitian Armed Forces used civilian attachés or paramilitaries to support their campaign of intimidation and repression against the people of Haiti. In 1993, Defendant Constant and others provided the name *Front Révolutionnaire Armé pour le Progrés d'Haiti* (Armed Revolutionary Front for the Progress of Haiti) to the principal paramilitary organization active in Haiti. The other name more commonly used by the organization was *Front Révolutionnaire pour l'Avancement et le Progrés d'Haiti* (Revolutionary Front for the Advancement and Progress of Haiti). Under either title, the group was known as FRAPH, a pun for the French and Creole word "*frapper*," meaning "to hit" or "to beat".

13. Defendant Constant, whose father was an army commander under the former Haitian dictator Francois Duvalier, used Duvalier's notorious "Tonton Macoutes" paramilitary units as a model for the formation of FRAPH. Under Duvalier, the Tonton Macoutes were officially labeled the *Volontaires de la Sécurité Nationale* (National Security Volunteers or "VSN"). The VSN operated parallel to and in conjunction with the army while reporting directly to Duvalier. Defendant Constant recruited many former VSN members into the ranks of FRAPH. In 1993 and 1994, FRAPH worked in concert with the Haitian Armed Forces in their campaign of terror and repression against the civilian population of Haiti. FRAPH members received arms and training from the Haitian Armed Forces who were running the government, and FRAPH was used by the military to maintain control over the population. With the financial and logistical support of the Haitian Armed Forces and certain Haitian civilians, FRAPH killed, arbitrarily detained, raped and otherwise tortured or mistreated civilians in the poorest neighborhoods and regions of Haiti. They also looted and burned or destroyed homes in an effort to break the resistance of the population to military rule. Defendant Constant simultaneously sought to create a public facade for these violent activities by openly declaring he was leading a neo-Duvalierist movement under the banner of FRAPH.

14. Rape of women was utilized in Haiti as a technique to terrorize the civilian population after the *coup d'état* in 1991. Reports of rape at the hands of the Haitian Armed Forces and armed attachés were common in the months after the *coup*. However, Haiti saw a sharp increase in the incidents of rape toward the end of 1993 and the beginning of 1994 with the creation of FRAPH. FRAPH committed rapes across the country during this period, but especially targeted women in the capital city of Port au Prince. FRAPH used rape and sexual assault to punish and intimidate women for their actual or imputed political beliefs, or those of their husbands, or to terrorize them

during violent sweeps of pro-Aristide neighborhoods. The modus operandi of FRAPH was to team up with members of the Haitian Armed Forces to invade homes in the poorest neighborhoods of the city in the middle of the night. In a typical raid, the attackers, all heavily armed, ransacked the house looking for the men of the house (who were usually forcefully abducted) and evidence of pro-democracy activity such as photos of President Aristide. The armed men then gang raped the women of the house in front of all remaining family members. Victims included girls as young as 10 and women as old as 80. Often sons were forced at gunpoint to rape their own mothers.

15. In September 1994, the United States military arrived in Haiti to secure the return of the democratically-elected government headed by President Aristide. The high command of the military regime fled Haiti, escaping to nearby countries. On October 15, 1994, President Aristide was returned to power. In the ensuing months, President Aristide moved to disband the Haitian Armed Forces. In December 1994, the Haitian government issued a warrant for Defendant Constant's arrest. Defendant Constant fled Haiti to the Dominican Republic. He then traveled to the United States, and entered the United States on December 24, 1994.

16. During a brief episode of constitutional order created after Haiti's first peaceful transfer of power in 1996, the judiciary of Haiti pursued an investigation of human rights violations committed under the military regime. In November 2000, Defendant Constant, along with the high command of the Haitian Armed Forces, was convicted *in absentia* by a Haitian court in Gonaives, Haiti, for having command responsibility over the perpetrators of the infamous "Raboteau Massacre" in April 1994. In that incident, members of FRAPH, together with units of the Haitian Armed Forces, attacked the civilian population of the impoverished Raboteau neighborhood in Gonaives. At least 26 unarmed civilians were killed and more than fifty homes were destroyed. The attack was indicative of the repressive campaign orchestrated by FRAPH and

the Haitian Armed Forces against civilians. National and international observers, including the U.S. Department of State and the United Nations, found that the trial was fair to both the victims and the accused.

17. In January 2004, an armed uprising led by former members of FRAPH and the Haitian Armed Forces put an end to the period of constitutional government in Haiti.

*Plaintiff Jane Doe I*

18. At the time of the events at issue, Jane Doe I was a citizen of Haiti and lived alone with her children in the poor neighborhood in Haiti, where she had moved after the disappearance of her husband.

19. In 1992, Jane Doe I's husband was abducted, tortured and killed by members of the Haitian Armed Forces. After her husband's disappearance, members of the Haitian Armed Forces also arrested Jane Doe I, and, during five days of detention, severely and repeatedly beat her while she was blindfolded. After her release, Jane Doe I became very outspoken about the disappearance of her husband.

20. On or about April 29, 1994, approximately seven men, including members of FRAPH, forcibly entered Jane Doe I's home at two o'clock in the morning. The men all wore masks that covered their faces. Some of the men wore olive green uniforms, the color of uniform worn by the Haitian Armed Forces, with large black boots. They were all armed. The men first attacked Jane Doe I's eldest son, who was eight years old at the time. They repeatedly kicked him in the head. They tied his hands behind his back and left him on the ground bleeding from his nose and ears. One by one, each of the men then raped Jane Doe I. Her three children – her eight-year-old son, her six-year-old daughter, and her four-year-old son – were present during the attack and forced to watch the men gang rape Jane Doe I.

21. After the attack, Jane Doe I continued to demand information about the disappearance of her husband.

22. On or about June 6, 1994, a group of masked, heavily armed men, including members of FRAPH, again invaded Jane Doe I's house in the middle of the night. Just as during the prior raid, some of the men wore olive green uniforms and black boots. Once again, the men took turns raping Jane Doe I. Once again, her children were forced to watch. After the repeated sexual assaults, one of the men took a long sharp object and stabbed it into Jane Doe I's neck in an attempt to kill her. The object penetrated deeply, causing massive bleeding. The stabbing caused Jane Doe I to black out. The attackers left her for dead.

23. Eventually Jane Doe I regained consciousness and was able to gather her children and flee into hiding. Within three months of the attack, she fell violently ill. Risking her life, she went to Port au Prince in search of medical help. She learned that she was pregnant as a result of her attack. She later gave birth to a son, who is now ten years old.

24. Jane Doe I brings these claims against Defendant Constant for the abuses she suffered during the attacks on or about April 29, 1994, and June 6, 1994.

*Plaintiff Jane Doe II*

25. At the time of the events at issue, Plaintiff Jane Doe II was a citizen of Haiti and was living with her husband and three minor children in Haiti.

26. At the time of the *coup d'état* in 1991, Plaintiff Jane Doe II was an active member of a grassroots Pro-Aristide organization, *Movement Jeunesse Concrete pour la Démocratie* (Concrete Youth Movement for Democracy or "MJCD"). Jane Doe II and her fellow members took to the streets after the *coup* in support of Aristide, pasting his picture up on walls in public places.

27. In 1991, members of the Haitian Armed Forces came to Jane Doe II's house and raped her in front of her husband and children. They then arrested both Jane Doe II and her husband. She was held in prison for six months. During the time she spent in detention, she was subjected to continued physical beatings and denied food. After her release from detention, Jane Doe II went into hiding.

28. In or about July 1994, Jane Doe II briefly came out of hiding to visit her brother and sister-in-law. Some time after she arrived at her brother's house, several men, including members of FRAPH, came to the door. Her brother immediately hid under a mattress in the house. The men forcibly entered the house. They all wore masks and carried arms. Immediately, they began gang raping Jane Doe II and her sister-in-law. Both women were raped by all the men.

29. During the attack, the masked men repeatedly kicked Jane Doe II's sister-in-law in the stomach. She died three years later from complications associated with the internal bleeding that she had suffered as a result of the beating. Jane Doe II was also kicked repeatedly in the abdomen. She experiences intense pain to this day, having never received medical care for her injuries.

30. Jane Doe II brings these claims against Defendant Constant for the abuses she suffered during the attack in or about July 1994.

*Plaintiff Jane Doe III*

31. At the time of the events at issue, Plaintiff Jane Doe II was a citizen of Haiti and was living with her husband and family in Haiti.

32. In or about October 1993, members of FRAPH came to the home of Jane Doe III in search of her husband, who had been a pro-Aristide activist. When the FRAPH members could not find her husband, they brutally attacked Jane Doe III and left her for dead. She continues to suffer from the physical and psychological injuries inflicted on her by the attackers.

## GENERAL ALLEGATIONS

33. The acts described herein were carried out under actual or apparent authority or color of law of the government of Haiti. The acts of attempted extrajudicial killing, torture, and cruel, inhuman or degrading treatment or punishment inflicted upon Plaintiffs were part of a pattern and practice of systematic or widespread human rights violations committed against the civilian population in Haiti from approximately October 1993 to October 1994, for which Defendant Constant, acting as the commander of FRAPH, bears responsibility.

34. At all relevant times between approximately October 1993 and October 1994, Defendant Constant, as the commander of FRAPH, possessed and exercised command and control over the paramilitary organization and its members. He also worked in close connection with and provided material assistance to persons or groups acting in coordination with FRAPH or under its control and encouraged, incited and permitted them to commit human rights abuses.

35. At all relevant times between approximately October 1993 and October 1994, Defendant Constant had the actual authority and practical ability to exert control over subordinates in FRAPH, including those that participated in the attempted extrajudicial killing; torture and cruel, inhuman or degrading treatment of Jane Doe I and Jane Doe III; and the torture and cruel, inhuman or degrading treatment or punishment of Jane Doe II. Defendant Constant's command over such forces included the authority and responsibility to give orders to and direct operations of the members of FRAPH. As the leader of FRAPH, he was effectively acting as a military commander. He was personally responsible for recruiting and approving membership in the ranks of FRAPH. Defendant Constant named himself "General Secretary" of FRAPH, and he directed 297 regional branches of FRAPH. Each FRAPH operative received a membership card, signed by Defendant Constant or one of his immediate subordinates, and an ID number. He also had the

ability to appoint, remove and discipline personnel among the FRAPH forces. At all relevant times, he had effective control over the individual perpetrators of the abuses alleged herein. Defendant Constant had the actual authority and practical ability to prevent the commission of these offenses and punish those responsible.

36. At all relevant times between approximately October 1993 and October 1994, FRAPH operated as an extension of the Haitian Armed Forces. Defendant Constant had actual or apparent authority for his command over his subordinates within FRAPH from *Le Bureau d'Information et Coordination* (Office of Information and Coordination or "BIC"), the political police that reported directly to the Commander-in-Chief of the Haitian Armed Forces, Raoul Cedras. FRAPH members received arms from the Haitian police and weapons training from the Haitian military. FRAPH members often committed crimes in the presence of the military and the police. FRAPH's central command in Port au Prince was on the *Champs de Mars*, the same public square on which the National Palace and the headquarters of the Haitian Armed Forces were located.

37. As the commander of FRAPH, and because of his close association with the Haitian Armed Forces, Defendant Constant had actual command and control over the members of FRAPH. As a commander, he had a duty under customary international law, multilateral treaties and Haitian law to ensure the protection of civilians, to prevent violations of international and Haitian law by members of FRAPH, and to ensure that all persons under his command were trained in, and complied with, international and Haitian law, including the prohibitions against extrajudicial killing; torture; cruel, inhuman or degrading treatment or punishment; and crimes against humanity. Furthermore, Defendant Constant was under a duty to investigate, prevent and punish violations of international and Haitian law committed by members of FRAPH under his command.

38. The acts of attempted extrajudicial killing, torture, and cruel, inhuman or degrading treatment or punishment inflicted upon Plaintiffs were part of a pattern and practice of systematic or widespread human rights violations against the civilian population of Haiti. The abuses committed by the paramilitary forces of FRAPH, in conjunction with the Haitian Armed Forces, against Haitian civilians were widely reported in the national and international media. Foreign diplomatic officials, human rights organizations and others who openly voiced their concerns to Haitian authorities and the Haitian media about these abuses. At all relevant times, Defendant Constant knew or reasonably should have known of the pattern and practice of gross human rights abuses perpetrated against the civilian population by subordinates under his command, including the abuses committed against Plaintiffs.

39. Defendant Constant failed or refused to take all necessary measures to investigate and prevent these abuses, or to punish personnel under his command for committing such abuses.

40. Defendant Constant, as commander of FRAPH exercised command responsibility over, conspired with, and/or aided and abetted subordinates in FRAPH or persons or groups acting in coordination with FRAPH or under their control to commit acts of attempted extrajudicial killing; torture; cruel, inhuman or degrading treatment or punishment; violence against women and crimes against humanity and to cover up these abuses. These actions and omissions were outside the scope of his lawful authority and were not authorized by Haitian or international law.

41. All acts or omissions alleged by Plaintiffs were carried out by Defendant Constant and/or members of FRAPH, or persons or groups acting in coordination with FRAPH or under its control, in conjunction with members of the Haitian Armed Forces. Between approximately October 1993 and October 1994, Defendant Constant conspired and acted in concert with one or more members of the Haitian Armed Forces or subordinates in FRAPH, or persons or groups

acting in coordination with FRAPH or under its control, pursuant to a common plan, design, and scheme to use physical violence and intimidation, including murder and rape, against civilians in Haiti, especially those perceived to be opponents of military rule. Defendant Constant knowingly joined and participated in carrying out the common plan, design and scheme. In addition to being personally liable for his own actions, Defendant Constant is jointly and severally liable for the actions of the other co-conspirators, all of which were actions undertaken in furtherance of a common plan, design and scheme to use physical violence and intimidation, including murder and rape, to eliminate or intimidate civilians in Haiti, especially those perceived to be opponents of military rule.

42. Between approximately October 1993 and October 1994, Defendant Constant substantially assisted members of the Haitian Armed Forces or subordinates in FRAPH or persons or groups acting in coordination with FRAPH or under their control who personally committed or caused extrajudicial killings, torture and cruel, inhuman or degrading treatment or punishment. He knew, or should have known, that his actions would assist in these abuses at the time he provided the assistance. Defendant Constant is jointly and severally liable for the actions of those he aided and abetted.

#### *Absence of Remedies in Haiti*

43. Due to continued political violence and the lack of a functioning judiciary system in Haiti, adequate and available remedies for Plaintiffs do not exist in Haiti.

44. The current climate of violence makes seeking a remedy for Plaintiffs' human rights claims in Haiti impossible. In January 2004, former members of FRAPH and Haiti's demobilized army began an uprising in the northern and central regions of the country. On February 29, 2004, President Aristide left Haiti under an apparent threat of a violent attack. Although an interim

government was installed in Haiti, it has been unable to maintain security in the country. This lack of control has been documented by the United Nations and the Organization of American States. Armed groups remain at large, and in many regions they have taken over police stations. The police force itself has carried out summary executions and disappearances against the civilian population. At least 1000 people have been killed in Haiti since February 2004 as a result of the political violence. Furthermore, the use of rape as a tool of repression and intimidation has re-emerged in Haiti.

45. The current judiciary system has demonstrated an inability and unwillingness to objectively adjudicate cases involving notorious human rights abusers. In September 2004, Louis Jodel Chamblain, the second in command of FRAPH under Defendant Constant, was allegedly tried for the assassination of human rights advocate Antoine Izméry on September 11, 1993. The sham trial was conducted in the middle of the night. False witnesses testified, and other witnesses were not invited or were too afraid to testify. Chamblain was acquitted within hours. Outraged human rights groups such as Amnesty International called it an “insult to justice.” Those members of the judiciary who have demonstrated a dedication to prosecuting human rights abuses are under attack. In recent months, the judge who presided over the Raboteau Massacre trial in November 2000 was attacked and beaten by armed members of the former military. Egregious actions by the Ministry of Justice in Haiti, including the arbitrary detention of at least 700 political prisoners, many of whom have been in jail for months without appearing before a judge and without formal charges, indicate the absence of a will to operate an effective and functioning judicial system in Haiti.

46. Plaintiffs would be in grave danger if they had to return to Haiti to file a case or provide testimony. Furthermore, witnesses would risk physical harm or death for testifying in Haiti, if bringing a case there were even a possibility.

47. Although Defendant Constant was convicted *in absentia* by a Haitian court for his role in the Raboteau Massacre, as long as he remains in the United States, the Haitian courts cannot subject him to imprisonment. Moreover, the conviction was handed down during a period of stability in Haiti, long before January 2004 when former members of FRAPH began an uprising and chased President Aristide from power. The current Haitian government has taken no action to request Defendant Constant's extradition from the United States.

48. Plaintiffs therefore have no adequate or available remedies in Haiti.

#### **FIRST CLAIM FOR RELIEF**

*(Attempted Extrajudicial Killing – Plaintiffs Jane Doe I and Jane Doe III)*

49. Plaintiffs Jane Doe I and Jane Doe III re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 48 as if fully set forth herein.

50. The attempted extrajudicial killings of Plaintiffs Jane Doe I and Jane Doe III constitute attempts to commit 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). Additionally, the attempted extrajudicial killings of Plaintiffs Jane Doe I and Jane Doe III constitute “tort[s] ... committed in violation of the law of nations or a treaty of the United States” under the Alien Tort Statute, 28 U.S.C. § 1350, in that they were in violation of customary international law prohibiting extrajudicial killings as reflected, expressed, defined, and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

51. The attempted extrajudicial killings of Jane Doe I and Jane Doe III were not authorized by a judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

52. Defendant Constant exercised command responsibility over, conspired with, and/or aided and abetted subordinates in FRAPH, or persons or groups acting in coordination with FRAPH or under its control, in their attempts to extrajudicially kill Jane Doe I and Jane Doe III. Furthermore, Defendant Constant knew or should have known that extrajudicial killings were being committed by his subordinates, and he failed to prevent the killings or to punish those responsible.

53. Defendant Constant's acts or omissions described herein and the acts committed by his subordinates against Plaintiffs Jane Doe I and Jane Doe III were committed under actual or apparent authority, or color of law, of the government of Haiti.

54. Defendant Constant's acts or omissions described herein and the acts committed by his subordinates caused the attempted extrajudicial killings of Jane Doe I and Jane Doe III, and caused them to suffer severe physical and mental pain and suffering.

55. As a result of these attempted extrajudicial killings, Jane Doe I and Jane Doe III are entitled to damages in an amount to be determined at trial.

56. Defendant Constant's acts or 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**  
*(Torture – All Plaintiffs)*

57. Plaintiffs Jane Doe I, Jane Doe II and Jane Doe III re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 48 as if fully set forth herein.

58. The acts described herein constitute torture 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). Additionally, they constitute “tort[s] ... committed in violation of the law of nations or a treaty of the United States” under the Alien Tort Statute, 28 U.S.C. § 1350, in that they were in violation of customary international law prohibiting torture as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

59. The acts described herein were inflicted deliberately and intentionally for purposes that include, among others, punishing, intimidating or coercing Jane Doe I, Jane Doe II and Jane Doe III, or discriminating against them for their presumed political beliefs or those of a family member.

60. The torture of Jane Doe I, Jane Doe II and Jane Doe III did not arise from and was not inherent in or incidental to lawful sanctions.

61. At the time these acts occurred, Jane Doe I, Jane Doe II and Jane Doe III were in the custody or physical control of their attackers.

62. Defendant Constant exercised command responsibility over, conspired with, and/or aided and abetted subordinates in FRAPH or persons or groups acting in coordination with FRAPH or under its control to torture Jane Doe I, Jane Doe II and Jane Doe III. Furthermore, Defendant Constant knew or should have known that torture was being committed by his subordinates and failed to prevent the torture or punish those responsible.

63. Defendant Constant's acts or omissions described herein, and the acts committed by his subordinates against Jane Doe I, Jane Doe II and Jane Doe III, were committed under actual or apparent authority, or color of law, of the government of Haiti.

64. Defendant Constant's acts or omissions described herein, and the acts committed by his subordinates, caused the torture of Jane Doe I, Jane Doe II and Jane Doe III, and caused them to suffer severe physical and mental pain and suffering, including prolonged mental harm resulting from the threat of imminent death to themselves and the threat that other family members would imminently be subjected to death or severe physical pain or suffering.

65. As a result of the torture of Jane Doe I, Jane Doe II and Jane Doe III, they have suffered damages in an amount to be determined at trial.

66. Defendant Constant's acts or 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.

### **THIRD CLAIM FOR RELIEF**

*(Cruel, Inhuman or Degrading Treatment or Punishment – All Plaintiffs)*

67. Plaintiffs Jane Doe I, Jane Doe II and Jane Doe III re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 48 as if fully set forth herein.

68. The acts described herein constitute "tort[s] ...committed in violation of the laws of nations or a treaty of the United States" under the Alien Tort Statute, 28 U.S.C. § 1350, in that they were in violation of customary international law prohibiting cruel, inhuman or degrading treatment or punishment as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

69. The acts of cruel, inhuman or degrading treatment or punishment described herein had the intent and effect of grossly humiliating and debasing Jane Doe I, Jane Doe II and Jane Doe III

and inciting fear and anguish. As an intended result of these acts, Jane Doe I, Jane Doe II and Jane Doe III were placed in great fear of their lives and the lives of their family members and suffered psychological abuse and agony.

70. The cruel, inhuman or degrading treatment or punishment of Jane Doe I, Jane Doe II and Jane Doe III did not arise from and was not inherent in or incidental to lawful sanctions.

71. Defendant Constant exercised command responsibility over, conspired with, and/or aided and abetted subordinates in FRAPH, or persons or groups acting in coordination with FRAPH or under its control, to inflict cruel, inhuman or degrading treatment or punishment on Jane Doe I, Jane Doe II and Jane Doe III. Furthermore, Defendant Constant knew or should have known that cruel, inhuman or degrading treatment or punishment was being committed by his subordinates and failed to prevent the cruel, inhuman or degrading treatment or punishment, or punish those responsible.

72. Defendant Constant's acts or omissions described herein, and the acts committed by his subordinates against Jane Doe I, Jane Doe II and Jane Doe III, were committed under actual or apparent authority, or color of law, of the government of Haiti.

73. Defendant Constant's acts or omissions described herein, and the acts committed by his subordinates, caused the cruel, inhuman or degrading treatment or punishment of Jane Doe I, Jane Doe II and Jane Doe III, and caused them to suffer severe mental pain and suffering.

74. As a result of the cruel, inhuman or degrading treatment or punishment of Jane Doe I, Jane Doe II and Jane Doe III, they have suffered damages in an amount to be determined at trial.

75. Defendant Constant's acts or 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.

**FOURTH CLAIM FOR RELIEF**  
*(Violence Against Women – All Plaintiffs)*

76. Plaintiffs Jane Doe I, Jane Doe II and Jane Doe III re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 48 as if fully set forth herein.

77. The acts described herein constitute “tort[s] ...committed in violation of the laws of nations or a treaty of the United States” under the Alien Tort Statute, 28 U.S.C. § 1350, in that they were in violation of customary international law prohibiting violence against women as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

78. Defendant Constant exercised command responsibility over, conspired with, and/or aided and abetted subordinates in FRAPH, or persons or groups acting in coordination with FRAPH or under its control, to inflict physical and psychological violence, including sexual violence, against Jane Doe I, Jane Doe II and Jane Doe III because of their gender, thus violating their rights to be free from torture and their rights to equality, liberty and security of person, equal protection under the law, and the right to be free from all forms of discrimination. Furthermore, Defendant Constant knew or should have known that violence against women was being committed by his subordinates and failed to prevent the violence or punish those responsible.

79. As a result of the gender-based violence inflicted on Jane Doe I, Jane Doe II and Jane Doe III, they have suffered damages in an amount to be determined at trial.

80. Defendant Constant’s acts or 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.

**FIFTH CLAIM FOR RELIEF**  
*(Crimes Against Humanity – All Plaintiffs)*

81. Plaintiffs Jane Doe I, Jane Doe II and Jane Doe III re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 48 as if fully set forth herein.

82. The attempted extrajudicial killings, rapes and other torture, and cruel, inhuman or degrading treatment or punishment described herein were committed as part of a widespread or systematic attack against a civilian population. The acts constitute “tort[s] ...committed in violation of the laws of nations or a treaty of the United States” under the Alien Tort Statute, 28 U.S.C. § 1350, in that they were in violation of customary international law prohibiting crimes against humanity as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

83. Defendant Constant exercised command responsibility over, conspired with, and/or aided and abetted subordinates in FRAPH, or persons or groups acting in coordination with FRAPH or under its control, to commit the attempted extrajudicial killings, rapes and other torture and cruel, inhuman or degrading treatment or punishment inflicted on Jane Doe I, Jane Doe II and Jane Doe III. Furthermore, Defendant Constant knew or should have known that extrajudicial killings, rape and other torture and cruel, inhuman or degrading treatment or punishment were being committed by his subordinates and that they were being committed as part of a widespread or systematic attack against a civilian population, and he failed to prevent these abuses or punish those responsible.

84. Defendant Constant’s acts or omissions described herein, and the acts committed by his subordinates against Jane Doe I, Jane Doe II and Jane Doe III, were committed under actual or apparent authority, or color of law, of the government of Haiti.

85. Defendant Constant's acts or omissions described herein, and the acts committed by his subordinates, caused the attempted extrajudicial killings, rapes and other torture and cruel, inhuman and degrading treatment or punishment inflicted on Jane Doe I, Jane Doe II and Jane Doe III, and caused them to suffer severe physical and mental pain and suffering.

86. As a result of the crimes against humanity inflicted on Jane Doe I, Jane Doe II and Jane Doe III, they have suffered damages in an amount to be determined at trial.

87. Defendant Constant's acts or 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**

WHEREFORE, Plaintiffs pray for judgment against Defendant Constant, in excess of \$75,000, as follows:

- (a) For compensatory damages according to proof;
- (b) For punitive and exemplary damages according to proof;
- (c) For reasonable attorneys' fees and costs of suit, according to proof; and
- (d) For such other and further relief as the court may deem just and proper.

A jury trial is demanded on all issues.

DATED: December 21, 2004

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