

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Jesús Cabrera Jaramillo, in his individual,
capacity, and in his capacity as the personal
representative of the estate of Alma Rosa
Jaramillo,

Jane Doe, in her individual capacity, and

John Doe, in his individual capacity, and in
his capacity as the personal representative of
the estate of Eduardo Estrada,

Plaintiffs,

v.

CARLOS MARIO JIMÉNEZ NARANJO,
also known as “Macaco,” “El Agricultor,”
“Lorenzo González Quinchía,” and “Javier
Montañez,”

Defendant.

Case No.: 1:10-cv-21951-EGT

AMENDED COMPLAINT FOR
EXTRAJUDICIAL KILLING;
TORTURE; CRUEL, INHUMAN OR
DEGRADING TREATMENT OR
PUNISHMENT; WAR CRIMES;
CRIMES AGAINST HUMANITY

**PLAINTIFFS’ AMENDED COMPLAINT FOR EXTRAJUDICIAL KILLING;
TORTURE; CRUEL, INHUMAN OR DEGRADING TREATMENT OR
PUNISHMENT; WAR CRIMES; AND CRIMES AGAINST HUMANITY; JURY
TRIAL DEMANDED**

Plaintiffs Jesús Cabrera Jaramillo, Jane Doe, and John Doe (collectively “Plaintiffs”),
complain and allege as follows:

INTRODUCTION

1. On June 28, 2001 and July 16, 2001, Eduardo Estrada Gutierrez (“Eduardo Estrada”) and Alma Rosa Jaramillo Lafourie (“Alma Rosa Jaramillo”) (collectively the “Decedents”) were brutally murdered in the Middle Magdalena River region of northwest Colombia (“Middle Magdalena”). They were murdered by paramilitaries belonging to the Bloque Central Bolívar (“BCB”), a division of the United Self-Defense Forces of Colombia (“AUC”), who acted under the direction and control of Defendant Carlos Mario Jiménez Naranjo (“Macaco” or “Defendant”).¹

¹ The Defendant’s aliases include “Macaco,” “El Agricultor,” “Lorenzo González Quinchía,”

2. The events described in this complaint occurred following the invasion of Middle Magdalena by the AUC in 1998 and 1999 when Macaco and his men unleashed a wave of violence to eliminate their opponents and establish control of the lucrative drug trade involving the cultivation of drugs destined for the United States in Middle Magdalena. Decedents were leaders and members of the Program for Peace and Development (“PDP”), a non-governmental organization whose economic development initiatives provided farmers with alternatives to coca cultivation and the drug trade. To maintain its stronghold of Middle Magdalena, the BCB threatened, kidnapped, tortured, and killed members of the PDP. Alma Rosa Jaramillo and Eduardo Estrada were among those targeted and killed by paramilitary forces under Macaco’s command.

3. Plaintiffs sought legal remedies against Macaco through Colombia’s Justice and Peace Process. On May 7, 2008, the United States extradited Macaco to face criminal charges for violations of United States law. Macaco is now amenable to suit only in the United States.

4. This is an action for compensatory and punitive damages for torts in violation of international and domestic law. The Plaintiffs in this action, in their personal capacities and as the personal representatives for the Estates of Eduardo Estrada and Alma Rosa Jaramillo, institute this action against Macaco and seek damages for extrajudicial killing; torture; cruel, inhuman, or degrading treatment or punishment; war crimes; and crimes against humanity.

JURISDICTION AND VENUE

5. This Court has jurisdiction over Plaintiffs’ claims pursuant to 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 § 2(a)) (“TVPA”). *See Cabello Barrueto v. Fernandez Larios*, 291 F. Supp. 2d 1360, 1365 (S.D. Fla. 2003) (“A court may exercise subject matter jurisdiction over a TVPA claim . . . as a federal question pursuant to 28 U.S.C. § 1331.”) (internal citations omitted).

6. This Court also has jurisdiction pursuant to the Alien Tort Statute, 28 U.S.C. § 1350 because Plaintiffs’ claim is by an alien for a tort committed in violation of the law of nations.²

and “Javier Montañez.”

² The Supreme Court’s decision in *Kiobel v. Royal Dutch Petroleum Co.*, 133 S. Ct. 1659 (2013) does not prevent the court’s exercise of jurisdiction over this case. Macaco’s wrongful conduct touches and concerns the territory of the United States with sufficient force to displace the presumption against extraterritorial application. *See supra* at 11.

Macaco also committed torts in violation of the law of nations, as expressed and adopted by the United States in the following international agreements and declarations:

- (a) International Covenant on Civil and Political Rights, *adopted* Dec. 19, 1966, S. Exec. Doc. E 95-2 (1978), 999 U.N.T.S. 171 (entered into force Mar. 23, 2976) (ratified by the United States, June 8, 1992);
- (b) Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 75 U.N.T.S. 31 (“Geneva Convention I”) (entered into force Oct. 21, 1950);
- (c) Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 75 U.N.T.S. 85 (“Geneva Convention II”) (entered into force Oct. 21, 1950);
- (d) Convention Relative to the Treatment of Prisoners of War, 75 U.N.T.S. 135 (“Geneva Convention III”) (entered into force Oct. 21, 1950);
- (e) Geneva Convention relative to the Protection of Civilian Persons in Time of War, 75 U.N.T.S. 287 (“Geneva Convention IV”) (entered into force Oct. 21, 1950);
- (f) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, S. Treaty Doc. No. 100-20 (1988) *reprinted in* 23 I.L.M. 1027 (1984) (entered into force June 26, 1987);
- (g) Universal Declaration on Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at 71 (1948);
- (h) The Charter of the International Military Tribunal, Nuremberg, of 8 August 1945, confirmed by G.A. Res. 3, U.N. Doc. A/50 (1946) and G.A. Res. 95, U.N. Doc. A/236 (1946);
- (i) The Rome Statute of the International Criminal Court, United States Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, U.N. Doc. A/CONF.183/9 (1998), *reprinted in* 37 I.L.M. 999 (1998);
- (j) Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, U.N. Doc. S/25704 at 36, annex (1993) and S/25704/Add.1 (1993), adopted by Security Council on 25 May 1993, U.N. Doc. S/RES/827 (1993);
- (k) Statute of the International Tribunal for Rwanda, adopted by S.C. Res. 955, U.N. SCOR, 49th Sess., 3453d mtg. at 3, U.N. Doc. S/RES/955 (1994), 33 I.L.M. 1598, 1600 (1994);

- (l) Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1125 U.N.T.S. 609 (entered into force Dec. 7, 1978);
- (m) The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, adopted Nov. 26, 1968, 754 U.N.T.S. 73 (entered into force Nov. 11, 1970);
- (n) Principles of International Co-Operation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes Against Humanity, G.A. Res. 3074, U.N. GAOR 28th Sess., Supp. No. 30A at 78, U.N. Doc. A/9039/Add.1 (1973);
- (o) Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 3452 (XXX), U.N. GAOR, 30th Sess., Supp. No. 34, at 91, U.N. Doc. A/10034 (1975);
- (p) American Convention on Human Rights, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, *entered into force* July 18, 1978, *reprinted in* Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992);
- (q) American Declaration of the Rights and Duties of Man, O.A.S. Res. XXX, adopted by the Ninth International Conference of American States (1948), *reprinted in* Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 17 (1992).

7. This Court has supplemental jurisdiction with respect to claims that are based upon the laws of Colombia, or any other applicable jurisdiction, pursuant to 28 U.S.C. § 1367 because they form part of the same case or controversy as Plaintiffs' claims under the ATS and TVPA.

8. Macaco was indicted on criminal charges in the United States District Court for the Southern District of Florida and the United States District Court for the District of Columbia.

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

PARTIES

Defendant

10. Upon information and belief, Defendant was born on February 26, 1966 and is a citizen of Colombia who was extradited to the United States on May 7, 2008. Upon information and belief, Macaco is currently serving a 33-year prison sentence in U.S. prison in Miami, Florida after pleading guilty in 2011 to trafficking cocaine from Colombia to the United States.

11. Upon information and belief, from at least 1998 until 2005, the Defendant was a leader in the AUC paramilitary organization and commanded as many as seven-thousand armed combatants across a wide range of Colombian territory. In 1998 and 1999, Defendant Macaco led paramilitary sub-units of the AUC to invade and occupy Middle Magdalena. These forces were unified under the title of the “Bloque Central Bolívar” in approximately 2000. Macaco acted as the high commander of the BCB from its inception until it disbanded in 2005, including at the time of the Decedents’ torture and extrajudicial killing. In that capacity, Macaco commanded those responsible for protecting the cultivation of coca in Middle Magdalena and for trafficking that coca to the United States. He also directed widespread and systematic attacks on the civilian population of Middle Magdalena. This included attacks on the leaders of the PDP.

12. At all relevant times, as a leader of the AUC and high commander of the BCB, Macaco possessed and exercised command and control over his paramilitary forces in the BCB in Middle Magdalena.

Plaintiffs

13. Decedent Alma Rosa Jaramillo was a lawyer and sub-regional coordinator for the PDP in Middle Magdalena. Alma Rosa Jaramillo was killed by members of the BCB on or about June 28, 2001. Throughout her life, she was a resident and citizen of Colombia.

14. The beneficiaries of the Estate of Alma Rosa Jaramillo include Jesús Cabrera Jaramillo. Jesús Cabrera Jaramillo is a Colombian citizen and currently resides in the Republic of Colombia. He is Alma Rosa Jaramillo’s oldest son and personal representative of her estate. Jesús Cabrera Jaramillo brings this action in his individual capacity and in his capacity as the personal representative of the estate of Alma Rosa Jaramillo for the torture, cruel, inhuman or degrading treatment or punishment and extrajudicial killing of his mother, for war crimes and for crimes against humanity committed by the BCB, or persons or groups acting in concert with the BCB or under its control.

15. Decedent Eduardo Estrada was a founding member of the PDP and a coordinator for the PDP working group in Middle Magdalena. He was killed by members of the BCB on or about July 16, 2001. Throughout Eduardo Estrada’s life, he was a resident and citizen of Colombia.

16. The beneficiaries of the Estate of Eduardo Estrada include Jane Doe and John Doe. Jane Doe is a Colombian citizen and currently resides in the Republic of Colombia. Jane Doe

brings this action in her individual capacity, for the extrajudicial killing of her relative on July 16, 2001, for her own torture and cruel, inhuman or degrading treatment or punishment for being forced to witness Eduardo Estrada's murder, for war crimes and for crimes against humanity committed by the BCB, or persons or groups acting in concert with the BCB or under its control. Plaintiff Jane Doe seeks to proceed under a pseudonym because she fears reprisals against herself or her family members as a result of her participation in this lawsuit.

17. John Doe is a Colombian citizen and currently resides in the Republic of Colombia. He is Eduardo Estrada's relative and personal representative of his estate. John Doe brings this action in his individual capacity, and in his capacity as personal representative of the estate of Eduardo Estrada, for the extrajudicial killing of John Doe's relative on July 16, 2001, for war crimes and for crimes against humanity committed by the BCB, or persons or groups acting in concert with the BCB or under its control. Plaintiff John Doe seeks to proceed under a pseudonym because he fears reprisals against himself or his family members as a result of his participation in this lawsuit.

STATEMENT OF FACTS

18. Except with respect to Plaintiffs' background and the circumstances of plaintiff Jane Doe's allegations which are alleged on the Plaintiffs' personal knowledge, on information and belief Plaintiffs allege as follows:

General Facts

19. Colombia has been in a state of internal armed conflict for more than 40 years. The internal armed conflict had been fought between guerilla groups, on one side, and the Colombian government on the other. To fight this internal armed conflict against the guerrilla groups located in areas of the country where the Colombian government had only limited or no state presence, the Colombian government introduced and used paramilitary groups.

20. In 1997, the majority of Colombia's paramilitary groups consolidated into the AUC. By 2003 and through the support of the Colombian army, the AUC grew to 13,500 members operating on 49 fronts, in 26 of Colombia's 32 departments and 382 of its 1,098 municipalities. Many of these municipalities were located in Middle Magdalena.

21. From approximately 1997 to 2007, the AUC was responsible for widespread and systematic attacks on civilian populations across Colombia, including Middle Magdalena. This included torture, forced disappearances, extrajudicial killings, and massacres. It included a

strategy of selective assassinations and kidnappings against human rights defenders, justice workers, labor and social leaders, journalists and political candidates for election.

22. The AUC's influence reached beyond the Colombian government and military and extended to local government officials. Specifically, the AUC controlled individuals involved in the selection of mayors, judges, directors of public hospitals, and other municipal officials in all areas they occupied. The AUC infiltrated local governments because the AUC's role was to infiltrate and fight guerrillas in areas of the country where the Colombian government had only limited or no state presence. The AUC funded its violent territorial and political expansion through the production, sale, and trafficking of narcotics.

23. The Colombian government knew of, and at times directly participated in, well-publicized and documented human rights abuses, and continued to organize, regulate, arm, conspire and collaborate with the AUC. The Colombian government provided transportation, munitions, and communications to the AUC. Powerful political officials, including top officials in Colombian President Álvaro Uribe Vélez's government, are associated with the AUC. Other politicians had strong links with and received funding from the AUC.

24. The AUC's violent acts and the use of the profits it obtained from drug trafficking to fund its paramilitary activities eventually prompted the United States government to classify the AUC as a "terrorist organization" on September 10, 2001; a "Specially Designated Global Terrorist Organization" in October 2001; and a "Significant Foreign Narcotics Trafficker" and a "Foreign Narcotics Kingpin" in 2003.

25. Plaintiffs and Decedents were civilians and played no active part in the hostilities.

A. Systematic and Widespread Attacks on the Civilian Population in the Middle Magdalena

26. Middle Magdalena is, and was at all times described herein, a resource-rich and fertile region with large cattle ranches, palm plantations, oil and gas wells, and goldmines. It is a very large producer of coca, the primary ingredient for cocaine.

27. In 1998, Macaco led a division of the AUC to invade the strategic region of Middle Magdalena and push out any existing guerilla forces. The Colombian government not only did nothing to prevent but authorized Middle Magdalena's invasion. The AUC units in the region consolidated to establish the BCB, which by the year 2000 became the occupying force and de-facto government of all of Middle Magdalena, with the Defendant sitting as its high commander.

28. BCB paramilitary soldiers and political operatives secured control of local farms and municipalities, controlled the selection of mayors, judges and directors of public hospitals, as well as other municipal officials through corruption and, where they deemed necessary, through the widespread and systematic torture, kidnapping, and extrajudicial killing of vulnerable civilians. The BCB also developed a political wing with members occupying positions in local government.

29. Macaco had dominion over Middle Magdalena's resources, including its people, and over the BCB. The BCB tortured and murdered more than 10,000 civilians in Middle Magdalena during Macaco's reign.

B. PDP's Efforts to Promote Sustainable Development in Middle Magdalena

30. The PDP is a non-governmental organization seeking to promote democracy, civil rights, and human rights since its founding in 1995. Headquartered in Middle Magdalena, the PDP was founded by the Jesuits to provide opportunities for local indigenous people, and has continuously supported programs creating sustainable and locally based economies as an alternative to coca cultivation. One of its programs included teaching farmers how to plant palm, fruit, and cacao trees as an alternative to coca.

31. The PDP provides alternatives for the peasants obliged by the paramilitaries and other groups to work the coca fields, threatening the BCB's main source of wealth and its political and economic base. The PDP thus became a target of the BCB for this reason, with the BCB murdering 27 PDP leaders between 1997 and 2009.

C. The Extrajudicial Killing of Eduardo Estrada and the Torture of Jane Doe

32. At all times relevant herein and until his death on July 16, 2001, Eduardo Estrada lived with his common law wife and their young daughter in Middle Magdalena. He was a founding member of the PDP and the coordinator for the PDP working group of San Pablo. He was also responsible for an initiative to start a community radio station in San Pablo and, with the help of a local university, set up the Political School for peasant farmers. He also owned a restaurant which was well-known as a meeting-place for locals after the Political School meetings.

33. Eduardo Estrada was believed to be a potential candidate to run against the BCB candidate for mayor who eventually won the election on or about October 28, 2000.

34. On the night of July 16, 2001, Eduardo Estrada and Jane Doe were returning from a party close to their home when one of Macaco's subordinates approached them from behind and fired three bullets into the back of Eduardo Estrada's head.

35. Jane Doe briefly lost consciousness after witnessing his shooting. When she returned to consciousness, she witnessed Macaco's subordinate standing over her with a gun, Eduardo Estrada at her side bleeding to death, and then the shooter escaping on foot.

36. Eduardo Estrada was shot approximately 300 meters from the local police station, yet the local police did not assist him. Government soldiers also passed and offered no help.

37. Eduardo Estrada died from the gunshot wounds to his head later that evening.

D. The Torture and Extrajudicial Killing of Alma Rosa Jaramillo

38. From approximately 1998 and until her death, Alma Rosa Jaramillo lived with her companion and youngest son in Middle Magdalena where she practiced criminal law and was a sub-regional coordinator for the PDP. Alma Rosa Jaramillo litigated several high-profile human rights cases in Middle Magdalena, including land-rights cases on behalf of communities displaced by BCB paramilitary forces as well as a corruption case against the chief administrator of the Morales Hospital. She openly opposed the BCB paramilitary forces and had a number of direct confrontations with the BCB and its leaders.

39. In 2000, Alma Rosa Jaramillo was working on the campaign of a mayoral candidate who ran in opposition to a BCB candidate who eventually won the election on or about October 28, 2000. In the months after the election, Alma Rosa Jaramillo discovered that a BCB sympathizer city councilman in Middle Magdalena named Manuel Payares had told Macaco's subordinates that she was a guerrilla collaborator. Alma Rosa Jaramillo confronted Macaco's subordinates to explain that the accusations were false and, in early 2001, she even filed a slander suit against Payares.

40. In or about March 2001, a BCB soldier under the Defendant's direct command threatened Alma Rosa Jaramillo and her companion at their home. Alma Rosa Jaramillo was ordered to leave town under threat of death.

41. On or about June 28, 2001, Macaco's soldiers stopped a public service vehicle that Alma Rosa Jaramillo was riding, and Macaco's soldiers forcibly removed her from the vehicle. She never returned. The soldiers took a list of the passengers' names, threatening them to stay silent about the abduction.

42. On or about July 1, 2001, Alma Rosa Jaramillo's torso was recovered from a river in the El Dique region. Her head, arms and legs have never been found. Her torso displayed signs of torture, including mutilation by electric or power saw, with several deep incisions across her front and back. Alma Rosa Jaramillo was alive while she was being mutilated; she bled to death.

GENERAL ALLEGATIONS

43. At all relevant times described herein, the acts were inflicted by the paramilitary soldiers under the Defendant's command, deliberately and intentionally, in furtherance of the Defendant's orders, under color of law, and with the Colombian government's acquiescence and participation.

44. The Defendant and his subordinates acted in concert with and on behalf of the Colombian government. The Colombian government introduced and used the AUC and BCB to fight its internal armed conflict against the guerrilla groups located in areas of the country where the Colombian government had only limited or no state presence, including Middle Magdalena. The Colombian government permitted the AUC and BCB to act as the de facto government in Middle Magdalena. The Colombian government failed to investigate or prosecute Macaco for the torture and extrajudicial killings of Alma Rosa Jaramillo and Eduardo Estrada.

45. From at least 1999 to approximately 2005, Macaco acted as a high commander of the AUC and the commanding officer of the BCB in Middle Magdalena. He possessed and exercised all aspects of command and control over the AUC, over the BCB and all of the BCB's members, including setting the BCB's policy and managing its day-to-day affairs, such as the appointment, discipline and termination of BCB paramilitaries. Macaco had both the authority and practical ability to exert control over his AUC and BCB subordinates in Middle Magdalena. He had effective control over the direct perpetrators of these abuses.

46. At all relevant times described herein, Macaco knew or reasonably should have known of the pattern and practice of gross human rights abuses perpetrated against the civilian population of Colombia by paramilitary soldiers subordinates under his command, including the abuses committed against Plaintiffs and the Decedents. The individuals who perpetrated these abuses operated under Macaco's direct command and direction. The former head of the BCB's military wing, Julian Bolivar, and the former head of its political wing, Ernesto Paez, have testified acknowledging Macaco's knowledge of and responsibility as the BCB leader for these

murders. The abuses were committed as part of the Macaco's overall strategy to gain and maintain control over Middle Magdalena.

47. As the commander of the AUC and BCB, and because of the AUC and BCB's close association with the Colombian government and status as the de facto government of Middle Magdalena, Macaco had a duty under customary international law, multilateral treaties and Colombian law to ensure the protection of civilians, to prevent violations of international and Colombian law by members of the AUC and BCB under his command, and to ensure that all persons under his command were trained in and complied with international and Colombian law, including the prohibitions against extrajudicial killing; torture; cruel, inhuman or degrading treatment or punishment; war crimes; and crimes against humanity.

48. Macaco was under a duty to investigate, prevent and punish violations of international and Colombian law committed by members of the AUC under his command, including members of the BCB. Macaco failed or refused to take all necessary measures to investigate and prevent these abuses described herein, or to punish personnel under his command for committing such abuses.

49. Macaco conspired with officers and soldiers in the AUC and BCB who planned and carried out the extrajudicial killings; torture; cruel, inhuman or degrading treatment or punishment; war crimes; and crimes against humanity. Macaco conspired and acted in concert with one or more members of the AUC and BCB pursuant to a common plan, design, and scheme to use physical violence and intimidation, including torture and murder, against civilians in Colombia, especially those perceived to be opponents of the AUC and BCB's government of the Middle Magdalena. Macaco knowingly joined and participated in carrying out this common plan, design and scheme.

50. In addition to being personally liable for his own actions, Macaco is jointly and severally liable for the actions of his co-conspirators, all of which were actions undertaken in the pursuit of a common plan, design and scheme to use physical violence and intimidation, including torture, cruel, inhuman, or degrading treatment or punishment and extrajudicial killing against civilians in Colombia, especially those perceived to be opponents of the AUC and BCB's government in the Middle Magdalena.

51. Macaco substantially assisted members of the AUC and BCB, or persons or groups acting in coordination with the AUC and BCB or under its control, who personally committed

extrajudicial killings, torture, and cruel, inhuman or degrading treatment or punishment. Macaco knew that his actions would assist the abuses described herein at the time he provided the assistance. Macaco is jointly and severally liable for the actions of those he aided and abetted.

THE *KIOBEL* PRESUMPTION IS DISPLACED

52. As set forth below, Plaintiffs' claims under the Alien Tort Statute ("ATS"), 28 U.S.C. § 1350 touch and concern the territory of the United States with sufficient force to displace the presumption against extraterritoriality, as articulated in *Kiobel v. Royal Dutch Petroleum Co.*, 133 S. Ct. 1659 (2013).

53. Plaintiffs' ATS claims arise from the same facts and circumstances as their claims under the TVPA and under the laws of Colombia.

54. The wrongful conduct alleged in paragraphs 1 through 51 was committed as part of Macaco's and the AUC's scheme to unlawfully traffic drugs into the United States.

55. The United States has declared a special interest in crimes committed by the AUC, designating it as a "terrorist organization" and "Specifically Designated Terrorist Organization." These designations reflect the United States' determination that the AUC's activities, including the conduct alleged herein, touch and concern the United States by "threaten[ing] the . . . national security of the United States." 8 U.S.C. § 1189(a)(1)(c).

56. The United States sought Macaco's extradition from Colombia to face criminal charges for trafficking drugs from Colombia into the United States. On May 7, 2008, Macaco was extradited to the United States for this conduct as a member of the high command of the AUC. He pled guilty to trafficking cocaine from Colombia into the United States in 2011 and was sentenced to 33 years in U.S. prison. He is currently serving that sentence in U.S. custody.

57. At the time of his extradition, Macaco was participating in Colombia's Justice and Peace process, in which former paramilitary fighters were required to provide information about the structure of their former organization, their rank and role, and to confess their crimes. Victims, like Plaintiffs, were permitted to attend Justice and Peace hearings and submit questions to be posed to the perpetrators. At the time of Macaco's extradition, Plaintiffs were pursuing legal remedies in accordance with this process. After his extradition, Macaco's participation in the Justice and Peace Process ended.

58. Macaco's extradition to the United States effectively foreclosed Plaintiffs' legal options against him in Colombia. Currently in U.S. custody and serving a 33-year prison sentence, Macaco is amenable to suit only in the United States.

59. It is the express policy of the United States not to provide safe harbor for individual perpetrators of human rights abuses, such as Macaco, when they are found present in the United States. *See* Br. of the United States in *Kiobel* at 5; *see also* United States Statement of Interest in *Ahmed v. Magan*, No. 2:11-cv-00342 (Dkt. 45) at ¶ 9 (Persons in the United States "ordinarily should be subject to the jurisdiction of our courts.").

60. The claims in this Complaint also touch and concern the territory of the United States because the underlying conduct was part of a scheme to unlawfully traffic drugs into the United States, a crime for which the United States extradited Macaco and indicted him on criminal charges in the United States District Court for the Southern District of Florida and the United States District Court for the District of Columbia, and for which he remains in U.S. custody.

61. Holding individual perpetrators accountable under the ATS "is consistent with the foreign relations interests of the United States, including the promotion of respect for human rights." *See* Br. of the United States in *Kiobel* at 19.

CLAIMS BY THE ESTATE OF ALMA ROSA JARAMILLO &

JESÚS CABRERA JARAMILLO

FIRST CLAIM FOR RELIEF

(Extrajudicial Killing)

62. Plaintiff Jesús Cabrera Jaramillo, in his individual capacity and as a personal representative for the Estate of Alma Rosa Jaramillo, re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 61 as if fully set forth herein.

63. The extrajudicial killing of Alma Rosa Jaramillo was not authorized by any court judgment and was unlawful under the laws of Colombia that existed at that time. The decedent, Alma Rosa Jaramillo, was never charged with, convicted of, or sentenced for any crime.

64. The harms to Alma Rosa Jaramillo described herein were inflicted by and at the instigation of a public official or other person acting in an official capacity.

65. The murder of Alma Rosa Jaramillo constitutes an extrajudicial killing in violation of the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 note). Additionally, the extrajudicial killing of Alma Rosa Jaramillo constitutes a

violation of the law of nations, as codified in relevant provisions of the international agreements and declarations listed in paragraph 6 herein. Consequently, the extrajudicial killing of Alma Rosa Jaramillo is actionable under the Alien Tort Statute, 28 U.S.C. § 1350.

66. The extrajudicial killing of Alma Rosa Jaramillo is further actionable under the laws of Colombia, including Ley 599 de 2000.

67. Prior to her execution, Alma Rosa Jaramillo was placed in imminent fear for her life; she suffered severe physical abuse and agony prior to her extrajudicial killing. The extrajudicial killing of Alma Rosa Jaramillo inflicted severe mental pain and suffering on plaintiff Jesús Cabrera Jaramillo. As a result of this extrajudicial killing, the Estate of Alma Rosa Jaramillo and Jesús Cabrera Jaramillo have suffered damages in an amount to be determined at trial.

68. 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

(Torture)

69. Plaintiff Jesús Cabrera Jaramillo, in his individual capacity and as a personal representative for the Estate of Alma Rosa Jaramillo, re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 61 as if fully set forth herein.

70. The Defendant and his co-conspirators specifically intended to inflict severe pain and suffering on Alma Rosa Jaramillo.

71. From some time on June 28, 2001 until the time of her death, Alma Rosa Jaramillo was in the custody and/or physical control of the Defendant and his co-conspirators.

72. The acts described herein were inflicted deliberately and intentionally for one or more of the following purposes: to punish Alma Rosa Jaramillo; to discriminate against Alma Rosa Jaramillo for her presumed political beliefs; and/or to intimidate or coerce Alma Rosa Jaramillo and third parties, including members of the PDP and individuals perceived to be opponents of the AUC/BCB's government of Middle Magdalena.

73. The harms to Alma Rosa Jaramillo described herein were inflicted by and at the instigation of a public official or other person acting in an official capacity.

74. The acts committed against Alma Rosa Jaramillo described herein constitute torture in violation of the Torture Victim Protection Act, Pub. L. No. 102- 256, 106 Stat. 73 (1992)

(codified at 28 U.S.C. § 1350 note). Additionally, the torture of Alma Rosa Jaramillo constitutes a violation of the law of nations, as codified in relevant provisions of the international agreements and declarations listed in paragraph 6 herein. Consequently, the torture of Alma Rosa Jaramillo is actionable under the Alien Tort Statute, 28 U.S.C. § 1350.

75. The torture of Alma Rosa Jaramillo is further actionable under the laws of Colombia, including Ley 599 de 2000.

76. The acts described herein placed Alma Rosa Jaramillo in imminent fear for her life and caused her to suffer severe physical and mental pain and suffering. As a result of this torture, the Estate of Alma Rosa Jaramillo has suffered damages in an amount to be determined at trial.

77. 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.

THIRD CLAIM FOR RELIEF

(Cruel, Inhuman or Degrading Treatment or Punishment)

78. Plaintiff Jesús Cabrera Jaramillo, in his individual capacity and as a personal representative for the Estate of Alma Rosa Jaramillo, re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 61 as if fully set forth herein.

79. The acts described herein – including, but not limited to, the act of dismembering Alma Rosa Jaramillo while she was still alive – constituted cruel, inhuman or degrading treatment or punishment of Alma Rosa Jaramillo.

80. The acts described herein – including, but not limited to, the act of forcibly disappearing Alma Rosa Jaramillo and concealing the location of her corpse from her family members – constituted cruel, inhuman or degrading treatment or punishment of the family of Alma Rosa Jaramillo.

81. The harms to Alma Rosa Jaramillo described herein were inflicted by and at the instigation of a public official or other person acting in an official capacity.

82. The cruel, inhuman, or degrading treatment or punishment of Alma Rosa Jaramillo constitutes a violation of the law of nations, as codified in relevant provisions of the international agreements and declarations listed in paragraph 6 herein. Consequently, the cruel, inhuman or

degrading treatment or punishment of Alma Rosa Jaramillo is actionable under the Alien Tort Statute, 28 U.S.C. § 1350.

83. The cruel, inhuman or degrading treatment or punishment of Alma Rosa Jaramillo is further actionable under the laws of Colombia, including Ley 599 de 2000.

84. The acts described herein caused Alma Rosa Jaramillo severe mental and physical pain and suffering. The acts also caused Jesús Cabrera Jaramillo severe mental pain and suffering. As a result of this cruel, inhuman or degrading treatment or punishment described above, the Estate of Alma Rosa Jaramillo and Jesús Cabrera Jaramillo have suffered damages in an amount to be determined at trial.

85. 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.

CLAIMS BY THE ESTATE OF EDUARDO ESTRADA, JOHN DOE & JANE DOE

FOURTH CLAIM FOR RELIEF

(Extrajudicial Killing)

86. Plaintiff John Doe, in his personal capacity and in his capacity as a personal representative for the Estate of Eduardo Estrada, and plaintiff Jane Doe, in her personal capacity, re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 61 as if fully set forth herein.

87. The extrajudicial killing of Eduardo Estrada was not authorized by any court judgment and was unlawful under the laws of Colombia that existed at that time. The decedent, Eduardo Estrada, was never charged with, convicted of, or sentenced for any crime.

88. The harms to Eduardo Estrada described herein were inflicted by and at the instigation of a public official or other person acting in an official capacity.

89. The murder of Eduardo Estrada constitutes an extrajudicial killing in violation of the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 note). Additionally, the extrajudicial killing of Eduardo Estrada constitutes a violation of the law of nations, as codified in relevant provisions of the international agreements and declarations listed in paragraph 7 herein. Consequently, the extrajudicial killing of Eduardo Estrada is actionable under the Alien Tort Statute, 28 U.S.C. § 1350.

90. The extrajudicial killing of Eduardo Estrada is further actionable under the laws of Colombia, including Ley 599 de 2000.

91. Prior to his execution, Eduardo Estrada was placed in imminent fear for his life. The extrajudicial killing of Eduardo Estrada also inflicted severe mental pain and suffering on plaintiffs John Doe and Jane Doe. As a result of this extrajudicial killing, the Estate of Eduardo Estrada, John Doe and Jane Doe have suffered damages in an amount to be determined at trial.

92. 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.

CLAIMS BY JANE DOE

FIFTH CLAIM FOR RELIEF

(Torture)

93. Plaintiff Jane Doe re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 61 as if fully set forth herein.

94. Macaco's subordinates specifically intended to inflict severe pain and suffering on Jane Doe.

95. The acts described herein were inflicted deliberately and intentionally for one or more of the following purposes: to punish, intimidate or coerce Jane Doe; to discriminate against Jane Doe for her presumed political beliefs or those of her relative; and/or to intimidate or coerce third parties, including members of the PDP and individuals perceived to be opponents of the AUC/BCB's government of Middle Magdalena.

96. The harms to Jane Doe described herein were inflicted by and at the instigation of a public official or other person acting in an official capacity.

97. The acts against Jane Doe described herein constitute torture in violation of the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 note). Additionally, the torture of Jane Doe constitutes a violation of the law of nations, as codified in relevant provisions of the international agreements and declarations listed in paragraph 6 herein. Consequently, the torture of Jane Doe is actionable under the Alien Tort Statute, 28 U.S.C. § 1350.

98. The torture of Jane Doe is further actionable under the laws of Colombia, including Ley 599 de 2000.

99. The acts described herein placed Jane Doe in imminent fear for her life and caused her to suffer severe physical and mental pain and suffering. As a result of this torture, plaintiff Jane Doe has suffered damages in an amount to be determined at trial.

100. 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.

SIXTH CLAIM FOR RELIEF

(Cruel, Inhuman or Degrading Treatment or Punishment)

101. Plaintiff Jane Doe re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 61 as if fully set forth herein.

102. The acts described herein – including, but not limited to, the killing of Eduardo Estrada in front of Jane Doe – constituted cruel, inhuman, or degrading treatment or punishment of Jane Doe.

103. The harms to Jane Doe described herein were inflicted by and at the instigation of a public official or other person acting in an official capacity.

104. The cruel, inhuman, or degrading treatment or punishment of Jane Doe constitutes a violation of the law of nations, as codified in relevant provisions of the international agreements and declarations listed in paragraph 6 herein. Consequently, the cruel, inhuman or degrading treatment or punishment of Jane Doe is actionable under the Alien Tort Statute, 28 U.S.C. § 1350.

105. The cruel, inhuman or degrading treatment or punishment of Jane Doe is further actionable under the laws of Colombia, including Ley 599 de 2000.

106. The acts described herein caused Jane Doe severe mental and physical pain and suffering. As a result of this cruel, inhuman or degrading treatment or punishment, plaintiff John Doe has suffered damages in an amount to be determined at trial.

107. 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.

CLAIMS BY ALL PLAINTIFFS
SEVENTH CLAIM FOR RELIEF
(War Crimes)

108. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 107 as if fully set forth herein.

109. The acts of extrajudicial killing, torture, and cruel, inhuman, or degrading treatment or punishment alleged herein constitute war crimes. These acts were committed in the course of an armed conflict not of an international character between the Colombian government and armed paramilitaries, on one side, and guerilla groups on the other.

110. The war crimes alleged herein are actionable because they constitute a violation of the law of nations, as codified in relevant provisions of the international agreements and declarations listed in paragraph 6 herein. Consequently, the war crimes alleged herein are actionable under the Alien Tort Statute, 28 U.S.C. § 1350.

111. The war crimes alleged herein are further actionable under the laws of Colombia, including Ley 599 de 2000.

112. As a result of Defendant's acts and omissions, Plaintiffs and Decedents have suffered damages in an amount to be determined at trial.

113. Macaco'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.

EIGHTH CLAIM FOR RELIEF
(Crimes Against Humanity)

114. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 107 as if fully set forth herein.

115. The acts of extrajudicial killings, torture, and cruel, inhuman or degrading treatment or punishment alleged herein constitute crimes against humanity. These acts were committed in a systematic manner and on a large scale; they were instigated and/or directed by the AUC and BCB against a civilian population with the support of the Colombian government.

116. The crimes against humanity alleged herein are actionable under 28 U.S.C. § 1350 because they were carried out in violation of the law of nations, as codified in relevant provisions

of the international agreements and declarations listed in paragraph 6 herein, including, but not limited to:

- (a) The Charter of the International Military Tribunal, Nuremberg, of 8 August 1945, confirmed by G.A. Res. 3, U.N. Doc. A/50 (1946) and G.A. Res. 95, U.N. Doc. A/236 (1946);
- (b) The Rome Statute of the International Criminal Court, United States Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, U.N. Doc. A/CONF.183/9 (1998), *reprinted in* 37 I.L.M. 999 (1998);
- (c) Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, U.N. Doc. S/25704 at 36, annex (1993) and S/25704/Add.1 (1993), adopted by Security Council on 25 May 1993, U.N. Doc. S/RES/827 (1993);
- (d) Statute of the International Tribunal for Rwanda, adopted by S.C. Res. 955, U.N. SCOR, 49th Sess., 3453d mtg. at 3, U.N. Doc. S/RES/955 (1994), 33 I.L.M. 1598, 1600 (1994);
- (e) The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, adopted Nov. 26, 1968, 754 U.N.T.S. 73 (entered into force Nov. 11, 1970);
- (f) Principles of International Co-Operation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes Against Humanity, G.A. Res. 3074, U.N. GAOR 28th Sess., Supp. No. 30A at 78, U.N. Doc. A/9039/Add.1 (1973).

117. The crimes against humanity alleged herein are further actionable under the laws of Colombia, including Ley 599 de 2000.

118. As a result of Defendant's acts and omissions, Plaintiffs and Decedents have suffered damages in an amount to be determined at trial.

119. Macaco'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 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: September 30, 2013

By: /s/ Julie C. Ferguson

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Plaintiffs' Amended Complaint For Extrajudicial Killing; Torture; Cruel, Inhuman or Degrading Treatment or Punishment; War Crimes; and Crimes Against Humanity; Jury Trial Demanded was served by CM/ECF on September 30, 2013, on counsel or parties of record on the service list.

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/s/ Julie C. Ferguson
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