

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

Oscar Reyes, Gloria Reyes, Jane Doe I, Jane
Doe II, Zenaida Velásquez, Hector Ricardo
Velásquez

Plaintiffs,

v.

Juan Evangelista López Grijalba (Grijalba),

Defendant.

**COMPLAINT FOR TORTURE,
DISAPPEARANCE, AND
EXTRAJUDICIAL KILLING**

JURY TRIAL DEMANDED

_____ /

Plaintiffs Oscar Reyes, Gloria Reyes, Jane Doe I, Jane Doe II, Zenaida Velásquez, and Hector Ricardo Velásquez (collectively “plaintiffs”) allege as follows:

PRELIMINARY STATEMENT

1. This is an action for compensatory and punitive damages against Juan Evangelista López Grijalba (“defendant”) for his responsibility for the torture of plaintiffs Oscar Reyes and Gloria Reyes, for the disappearance and extrajudicial killing of John Doe, the brother of plaintiffs Jane Does I and II, and for the torture, disappearance, and extrajudicial killing of Angel Manfredo Velásquez Rodriguez, the brother of plaintiff Zenaida Velásquez and father of plaintiff Hector Ricardo Velásquez. Plaintiffs allege that defendant Grijalba planned, ordered, authorized, encouraged, or permitted subordinates in the Honduran military and paramilitary forces to commit acts of torture, disappearance and extrajudicial killing, and exercised command

responsibility over, conspired with, and aided and abetted such forces in their commission of, and in covering up, these abuses. Accordingly, plaintiffs assert that defendant is liable under domestic and international law for their injuries, pain, and suffering.

JURISDICTION AND VENUE

2. Plaintiffs allege that defendant is liable for acts of torture and extrajudicial killing as defined by customary international law and the Torture Victim Protection Act (“TVPA”), Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350, note). Plaintiffs further allege that defendant is liable for causing the disappearance of persons contrary to the prohibition under customary international law against enforced or involuntary disappearance. Accordingly, this Court has jurisdiction over this action based on 28 U.S.C. § 1350 (the Alien Tort Claims Act, or “ATCA”), and 28 U.S.C. § 1331.

3. Defendant is an alien, and on information and belief resides in Sweetwater, Florida. Therefore, venue is proper in the United States District Court for the Southern District of Florida pursuant to 28 U.S.C. § 1391(d) and (b).

PARTIES

Defendant

4. On information and belief, defendant Juan Evangelista López Grijalba is a citizen of Honduras, and currently resides in Sweetwater, Florida.

5. At all relevant times prior to 1982, defendant Grijalba served as the chief of the National Investigations Directorate (“DNI”) of the Honduran Public Security Forces, an arm of the Honduran Armed Forces, in Tegucigalpa, Honduras. In or about January 1982, defendant was appointed the chief of the Department of Intelligence (G-2) of the Armed Forces General Staff. In or about 1983, defendant was appointed as Chief of Intelligence for the Armed Forces Joint Staff (J-2).

6. At all relevant times, defendant Grijalba possessed and exercised command and control over Honduran military and security forces involved in the alleged abuses against plaintiffs. These forces included, in particular, a special unit known initially under various informal names, and eventually organized as “Battalion 3-16.” Battalion 3-16, including its precursors (collectively “Battalion 3-16”), was responsible for the disappearance and killing of at least 150 persons in Honduras in the early 1980s, and for the torture of numerous others detainees.

7. On information and belief, defendant has been physically present in the United States for less than ten years.

Plaintiffs

8. Plaintiff Oscar Reyes is a naturalized U.S. citizen and resident of the Commonwealth of Virginia. Oscar Reyes is the husband of plaintiff Gloria Reyes, and the two have been married at all times relevant to this complaint.

9. Plaintiff Gloria Reyes, the wife of Oscar Reyes, is a naturalized U.S. citizen and resident of the Commonwealth of Virginia.

10. Plaintiff Jane Doe I is a citizen of Honduras, and a legal permanent resident of the United States. Jane Doe I brings this action in her individual capacity and on behalf of her brother, John Doe, for the disappearance and extrajudicial killing of John Doe in 1982 by members of Battalion 3-16 or persons acting in coordination with Battalion 3-16 or under its control. John Doe was a citizen and resident of Honduras at the time of his abduction, disappearance, and extrajudicial killing.

11. Plaintiff Jane Doe II is a naturalized U.S. citizen. She is a sister of John Doe, and brings this action in her individual capacity and on behalf of John Doe for his disappearance and

extrajudicial killing in 1982 by members of Battalion 3-16 or persons acting in coordination with Battalion 3-16 or under its control.

12. Plaintiff Zenaida Velásquez is a naturalized U.S. citizen and resident of the State of California. Ms. Velásquez brings this action in her individual capacity and on behalf of her brother, Manfredo Velásquez, for the torture, disappearance and extrajudicial killing of Manfredo Velásquez by members or persons under the control of the Honduran Armed Forces in 1981. These forces included Battalion 3-16 and a “death squad” operating in coordination with the Battalion or under its control. Manfredo Velásquez was a citizen and resident of Honduras, and a student at the National Autonomous University of Honduras at the time of his abduction, torture and extrajudicial execution.

13. Plaintiff Hector Ricardo (“Ricardo”) Velásquez is Manfredo Velásquez’ son, and a citizen and resident of Honduras. Ricardo Velásquez brings this action in his individual capacity and on behalf of his father for the torture, disappearance, and extrajudicial killing of his father by members or persons under the control of Honduran security forces in 1981. These forces included Battalion 3-16 and a “death squad” operating within Battalion 3-16 or under its control.

STATEMENT OF FACTS

Plaintiffs Oscar Reyes and Gloria Reyes

14. Plaintiff Oscar Reyes is a native of Honduras, and a journalist and communications professional. He holds a master’s degree in mass communications from the University of Minnesota. Oscar Reyes was the founder and director of the School of Journalism at the National University of Honduras, and served as a communications advisor to the Honduran Minister of Culture, Tourism, and Information. At the time of the events at issue, Oscar Reyes

was working as a professor of journalism, and as a partner and manager of a documentary and advertising business. He is now the director of a Spanish language newspaper in Washington, DC.

15. Plaintiff Gloria Reyes is a native of Nicaragua, and an interior designer and housewife. At the time of the events at issue, Gloria Reyes was raising two children and operated a mini-market on the ground floor of the Reyeses' house.

16. On or about the evening of July 8, 1982, members of Battalion 3-16 or persons acting in coordination with the Battalion or under its control, stormed the Reyeses' mini-market and residence in the residential neighborhood of Florencia Sur, in the Honduran capital, Tegucigalpa. The attackers subdued, bound, and gagged the Reyeses, their 12-year old daughter Gloria Suyapa Reyes, and their employee Roberto Carrasco. The Reyeses' maid, María Acosta Ramirez, was abducted in a basement room. The Reyeses' son, Oscar Reyes, Jr., was not at home at the time.

17. As they were being detained, the Reyeses heard gunfire and mortar shots just outside their home. Honduran forces were attacking a house next door, in which security forces alleged members of a Salvadoran leftist movement were living. The security forces used machine guns, mortars, and, later, helicopters and other weapons, in the attack against the neighboring house.

18. The Reyeses and Carrasco were taken outside and forced into a van parked at the back of the Reyeses' house. The Reyeses and Carrasco were driven away from the scene in the van. The Reyeses' daughter and maid were taken away in another vehicle in the custody of police forces, and released the following morning.

19. The Reyeses, still blindfolded, were driven to another location. At this location, Oscar and Gloria Reyes were separated from each other, and tortured over a period of several days.

20. At this facility, Oscar Reyes was tortured with electric shocks to various parts of his body, including his genitals. At one point, the handcuffs his captors had placed on him were attached to a pulley, and he was lifted into the air and beaten. Following this beating, he was placed in front of a tree and told he was going to be executed. The threatened execution was not carried out. Reyes also was kicked by guards shouting insults at him while he lay bound on the floor.

21. The room in which Oscar Reyes was kept at this facility was covered with blood, excrement, and urine. He was fed only once. He was often forced to listen to the screams of others being tortured.

22. Gloria Reyes also was tortured and subjected to other abuses and maltreatment at this facility, including electric shock applied to her breasts and genitals. On her arrival at the facility, she was placed in a room where several guards started screaming at her, and hitting her with the butts of their rifles, including in the face. These blows caused her to lose consciousness.

23. Later, she found herself naked and bound. Her torturers placed a metal instrument in her vagina and applied an electric shock through the instrument. These men also applied electroshocks to other parts of her body, including her breasts. The men threatened to rape her, and asked one of their group to take off his pants. Gloria Reyes then lost consciousness.

24. At one point, Gloria Reyes was forced to listen to a young man being tortured in an adjacent room. The torturers referred to the man by the nickname "Chele."

25. Gloria Reyes was kept in a room that, similar to the room in which her husband was detained, was covered in blood, urine, and vomit. On at least one occasion, while she was lying on the floor, she was kicked in the stomach by one of the men at the facility.

26. After a period of several days at the torture facility, the Reyeses and their employee, Roberto Carrasco, were taken from that facility and driven to the national headquarters of the DNI in Tegucigalpa. There, they were again separated, interrogated, and detained.

27. On or about July 16, 1982, after several nights in detention at this facility, the Reyeses were transported from the DNI to the chambers of Judge Wilfredo Madrid Paz of the First Criminal Court in Tegucigalpa. Judge Madrid ordered the Reyeses to be incarcerated pending investigation of accusations of “attempts against state security.” This was the first time since their abduction that the Reyeses had been formally advised of any accusations against them. The Reyeses were not provided counsel or any opportunity to obtain counsel at this hearing.

28. Gloria Reyes was transferred to a women’s jail in Tamara, near Tegucigalpa. Oscar Reyes was taken to the Central Prison in Tegucigalpa. The Reyeses were held in these facilities for more than five months.

29. While the above events were taking place, soldiers occupied the Reyeses’ home for approximately twenty-seven days after their abduction. The soldiers ransacked their home, destroying or stealing all items of value in the home.

30. The Reyeses were not released until December 22, 1982, soon after Oscar Reyes’ sister had advised the Chief of the Armed Forces, General Alvarez Martinez, that she intended to reveal photographs of the Reyeses’ ransacked home, and that Mr. Reyes intended to disclose in

an interview with a newspaper journalist the acts that he and his wife had endured. General Alvarez made clear that he would intercede in getting the Reyeses' released only if the Reyeses agreed to dismiss a defense attorney they had hired, to keep silent about what had happened to them, to forget about the possessions that had been stolen from them, and to leave the country.

31. On the evening of December 22, 1982, the Reyeses were released from prison under military surveillance to a house in Tegucigalpa, and taken the following morning to the airport in Tegucigalpa. Their passports were returned with "exit only" visas, and the Reyeses flew that day to the United States. The Reyeses have lived in the United States since that time. In or about February 1983, within two months of their release and entry into the United States, Oscar Reyes applied for political asylum for himself, his wife, and their children. They were granted political asylum in the United States in 1988. Oscar Reyes was naturalized as a U.S. citizen in 1994. Gloria Reyes and the Reyeses' two children became citizens in 1995.

32. In or about 1997, the Reyeses lodged a criminal complaint in the First Criminal Court of Tegucigalpa, Honduras, against Billy Fernando Joya Amendola, a member of Battalion 3-16, for his direct role in their abduction and torture. The court was unable or unwilling to pursue the charges, and refused to investigate.

Plaintiffs Jane Does I and II

33. In or about 1982, members of Battalion 3-16 or persons acting in coordination with the Battalion or under its control, abducted John Doe while he was walking back to his home in a neighborhood of Tegucigalpa.

34. John Doe was killed while under the custody and control of Battalion 3-16 or persons acting in coordination with the Battalion or under its control. He was never seen or heard from after his abduction in or about 1982.

35. Plaintiffs Jane Does I and II were citizens of Honduras at the time of their brother's abduction in 1982. Plaintiff Jane Doe I came to the United States in or about 1998 and is now a lawful permanent resident. Plaintiff Jane Doe II came to the United States in or about 1975, and is now a United States citizen.

36. In or about 1983, a petition for Habeas Corpus was filed in the Honduran courts on behalf of John Doe and other victims of disappearances attributed to Battalion 3-16 or persons acting in coordination with the Battalion or under its control. In or about 1999, the Public Ministry of Honduras brought criminal charges against several members of the military for the disappearance of John Doe and others. All of these actions have been to no avail.

Plaintiffs Zenaida Velásquez and Ricardo Velásquez

37. On or about September 12, 1981, members of Battalion 3-16 or persons acting in coordination with the Battalion or under its control, abducted Manfredo Velásquez in downtown Tegucigalpa. The men shot and beat Manfredo Velásquez when he struggled in an attempt to gain his freedom as he was being transported to a detention center. He was taken to a detention facility where he was interrogated and tortured.

38. Manfredo Velásquez was killed while under the custody and control of Battalion 3-16 or persons acting in coordination with the Battalion or under its control. He has never been seen or heard from in public since his abduction in 1981.

39. Plaintiff Zenaida Velásquez was a citizen and resident of Honduras at the time of her brother's abduction in 1981. Ms. Velásquez came to the United States in 1988, and became a U.S. citizen in 1997.

40. Plaintiff Ricardo Velasquez was a citizen and resident of Honduras at the time of his father's abduction in 1981. He was approximately eight years old at the time. He is currently a university student in Honduras.

41. Zenaida Velásquez and other members of her family have attempted to pursue legal remedies in Honduras, including filing petitions for Habeas Corpus against the Public Security Forces on September 17, 1981, and in the Honduran courts on February 6, 1982, and July 4, 1983. Ms. Velásquez or other family members also have brought criminal complaints on November 9, 1982; and on April 5, 1984, including an appeal from the dismissal of the latter case. All of these actions have been to no avail.

GENERAL ALLEGATIONS

42. Beginning in or about the late 1970's, a special military intelligence unit within the Honduran security forces began carrying out a series of abductions, disappearances, and extrajudicial killings against suspected political "subversives." Victims of this unit typically were abducted without warrant or formal charges and tortured. Many of these persons were forcibly disappeared – abducted by military forces and never heard from again, followed by refusals by officials to acknowledge the abductions or disclose the victims' fates. During the late 1970's through 1984, more than 150 persons were disappeared or extrajudicially killed, and many more were abducted and tortured.

43. A Preliminary Report on Disappearances by the National Commissioner for the Protection of Human Rights in Honduras concluded that it is "beyond question" that Battalion 3-16 engaged in a "systematic program of disappearances and political murder" between 1981 and 1984. The Inter-American Court for Human Rights, in a case presented there by plaintiff Velásquez for the disappearance of her brother, similarly concluded that it was public knowledge

in Honduras that abductions of alleged subversives were carried out by military personnel or the police, or persons acting under their orders, and that disappearances “were carried out in a systematic manner.” The Court concluded, “Persons connected with the Armed Forces or under its direction carried out [Manfredo Velásquez’s] kidnapping.” Velásquez Rodríguez Case, Judgment of July 29, 1988, Inter-Am. Ct. H. R. (Ser. C) No. 4 (1988).

44. The unit with principal responsibility for carrying out these actions, initially known by various informal names, eventually was organized as “Battalion 3-16” in the early 1980’s. Battalion 3-16 and its precursors operated at all relevant times under the direction of the Honduran Armed Forces General Staff, in particular its intelligence division known as G-2, or under the control of or in coordination with the DNI and its operational forces.

45. As the chief of the DNI, and later of intelligence for the Armed Forces General and Joint Staffs, defendant Grijalba had the legal authority and practical ability to exert control over subordinates, which included personnel of the DNI and Battalion 3-16 that participated in the abductions and torture of plaintiffs Oscar and Gloria Reyes and the disappearances and extrajudicial killings of Manfredo Velásquez and John Doe. Grijalba’s command over such forces included the authority and responsibility to give orders to, set policy for, and manage the affairs of intelligence forces under his control, and to appoint, remove, and discipline personnel of such forces.

46. At all relevant times, defendant Grijalba had a duty, under customary international law, multilateral treaties, and Honduran law, to ensure the protection of civilians and to prevent violations of international law by the military and security forces under his command, including the international law prohibitions against torture, disappearance, and extrajudicial killing. Further, defendant was under a duty to investigate, prevent and punish

violations of international law committed by members of the military and security forces under his command.

47. The practice of arbitrary detention, torture, disappearance, and extrajudicial killing by units of the Honduran armed forces, particularly by Battalion 3-16 and its precursors, was both widespread and systematic during the early 1980's. At all relevant times, defendant Grijalba knew or should have known of a pattern and practice of gross human rights abuses being committed by or attributed to his subordinates, including the abuses suffered by plaintiffs and their decedents.

48. Defendant Grijalba failed or refused to take all necessary measures to investigate and prevent such abuses committed by or attributed to his subordinates, or to punish personnel under his command for committing such abuses.

49. Defendant Grijalba planned, ordered, authorized, encouraged, or permitted subordinates to commit acts of torture, disappearance and extrajudicial killing, and exercised command responsibility over, conspired with, and aided and abetted such forces in their commission of, and in covering up, these abuses. These actions and omissions were outside the scope of his lawful authority, and were not authorized by Honduran law.

50. Plaintiffs have attempted to pursue legal remedies in Honduras. However, the courts have been unable or unwilling to consider evidence, to pursue any credible investigation, or to pursue charges, or have dismissed charges without substantial justification. Today, despite the widespread attribution of responsibility to Battalion 3-16, the DNI and the Honduran Armed Forces for abductions, disappearances, and torture in the early 1980's, charges have been filed against military officials in only a few cases, and none of these cases have even proceeded to trial. Witnesses in some proceedings, including plaintiff Velásquez' case, have been killed or

intimidated, and the perpetrators never identified. Despite plaintiffs' attempts to pursue domestic remedies, there are no adequate and available remedies for plaintiffs to exhaust in Honduras.

COUNT 1

(Torture – Oscar and Gloria Reyes)

51. Plaintiffs Oscar and Gloria Reyes re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 49, as if fully set forth herein.

52. The acts described herein caused plaintiffs the Reyeses to suffer severe physical and mental pain and suffering.

53. The acts described herein were inflicted deliberately and intentionally for purposes that include, among others, obtaining information or a confession, punishing the victim, intimidating the victim or a third person, or discrimination against persons for their presumed political beliefs.

54. Defendant Grijalba planned, ordered, authorized, encouraged, or incited forces under his command to commit acts of torture, and had command or superior responsibility over, controlled, or aided and abetted such forces in their commission of, and in covering up, such abuses.

55. Defendant Grijalba's acts and omissions described above, and the acts committed by his subordinate military and security forces against plaintiffs, were committed under actual or apparent authority, or color of law, of the nation of Honduras.

56. The acts described herein constitute torture as defined in the Torture Victim Protection Act ("TVPA"), Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 note).

57. Defendant Grijalba's acts and omissions described above, and the acts committed by his subordinate military and security forces against plaintiffs, caused plaintiffs to be tortured.

58. As a result of the torture described above, plaintiffs have suffered damages and are entitled to compensation in amounts to be determined at trial.

59. 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.

COUNT 2
(Disappearance – Jane Doe I)

60. Plaintiff Jane Doe I re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 49 as if fully set forth herein.

61. John Doe was abducted and detained by military forces under defendant's command and control, and his abduction and detention were followed by refusals by defendant and other officials and subordinates to disclose John Doe's fate or whereabouts, or to acknowledge his abduction and detention.

62. Defendant Grijalba planned, ordered, authorized, encouraged, or permitted subordinate forces to commit acts of enforced or involuntary disappearance, and exercised command responsibility over, conspired with, and aided and abetted such forces in their commission of, and in covering up, such abuses.

63. Defendant's acts and omissions described above, and the acts committed by his subordinate military and security forces against decedent John Doe, were committed under actual or apparent authority, or color of law, of the government of Honduras.

64. The disappearance of John Doe constitutes a "tort ... committed in violation of the law of nations or a treaty of the United States" under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that it constitutes a violation of customary international law prohibiting enforced or involuntary disappearances as reflected, expressed, defined and codified in multilateral treaties

and other international instruments, international and domestic judicial decisions, and other authorities.

65. Defendant's acts and omissions described above caused the disappearance of John Doe, and caused plaintiff Jane Doe I and her brother John Doe to suffer severe mental anguish.

66. As a result of the disappearance of John Doe, plaintiff Jane Doe I has suffered damages in an amount to be proven at trial.

67. 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.

COUNT 3
(Extrajudicial Killing – Jane Does I and II)

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

69. The extrajudicial killing of decedent John Doe was not authorized by any court judgment, and was unlawful under the laws of Honduras that existed at that time. John Doe was never charged with, convicted of, or sentenced for any crime.

70. The extrajudicial killing of John Doe was carried out by or at the instigation, under the control or authority, or with the consent or acquiescence of a public official.

71. Defendant Grijalba planned, ordered, authorized, encouraged, or permitted subordinate forces to commit acts of extrajudicial killing, and exercised command responsibility over, conspired with, and aided and abetted such forces in their commission of, and in covering up, such abuses.

72. Defendant's acts and omissions described above, and the acts committed by his subordinate military forces against decedent John Doe, were committed under actual or apparent authority, or color of law, of the government of Honduras.

73. The murder of John Doe constitutes an 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 extrajudicial killing of John Doe constitutes a "tort ... committed in violation of the law of nations or a treaty of the United States" under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that it constitutes a violation of customary international law prohibiting extrajudicial killing as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

74. Defendant's acts and omissions described above caused the extrajudicial killing of John Doe, and caused plaintiffs Jane Does I and II to suffer severe mental anguish.

75. As a result of the extrajudicial killing of John Doe, plaintiffs Jane Does I and II have suffered damages in an amount to be proven at trial.

76. 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.

COUNT 4
(Torture – Zenaida and Ricardo Velásquez)

77. Plaintiffs Zenaida and Ricardo Velásquez re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 49, as if fully set forth herein.

78. The acts described herein caused decedent Manfredo Velásquez to suffer severe physical and mental pain and suffering.

79. The acts described herein were inflicted deliberately and intentionally for purposes that include, among others, obtaining information or a confession, punishing the victim, intimidating the victim or a third person, or discrimination against persons for their presumed political beliefs.

80. Defendant Grijalba planned, ordered, authorized, encouraged, or incited forces under his command to commit acts of torture, and had command or superior responsibility over, controlled, or aided and abetted such forces in their commission of, and in covering up, such abuses.

81. Defendant Grijalba's acts and omissions described above, and the acts committed by his subordinate military and security forces against Manfredo Velásquez, were committed under actual or apparent authority, or color of law, of the nation of Honduras.

82. The acts described herein constitute torture as defined in the Torture Victim Protection Act ("TVPA"), Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 note). Additionally, the torture of Manfredo Velásquez constitutes a "tort ... committed in violation of the law of nations or a treaty of the United States" under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that it constitutes a 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.

83. Defendant Grijalba's acts and omissions described above, and the acts committed by his subordinate military and security forces against plaintiffs, caused decedent Manfredo Velásquez to be tortured.

84. As a result of the torture described above, Manfredo Velásquez and plaintiffs Zenaida and Ricardo Velásquez have suffered damages and are entitled to compensation in amounts 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.

COUNT 5
(Disappearance – Ricardo Velásquez)

86. Plaintiff Ricardo Velásquez re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 49 as if fully set forth herein.

87. Manfredo Velásquez was abducted and detained by military forces under defendant's command and control, and his abduction and detention were followed by refusals by defendant and other officials and subordinates to disclose Manfredo Velásquez' fate or whereabouts, or to acknowledge his abduction and detention.

88. Defendant Grijalba planned, ordered, authorized, encouraged, or permitted subordinate forces to commit acts of enforced or involuntary disappearance, and exercised command responsibility over, conspired with, and aided and abetted such forces in their commission of, and in covering up, such abuses.

89. Defendant's acts and omissions described above, and the acts committed by his subordinate military and security forces against decedent Manfredo Velásquez, were committed under actual or apparent authority, or color of law, of the government of Honduras.

90. The disappearance of Manfredo Velásquez constitutes a "tort ... committed in violation of the law of nations or a treaty of the United States" under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that it constitutes a violation of customary international law prohibiting

enforced or involuntary disappearances as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

91. Defendant's acts and omissions described above caused the disappearance of Manfredo Velásquez, and caused plaintiff Ricardo Velásquez and his father Manfredo Velásquez to suffer severe mental anguish.

92. As a result of the disappearance of Manfredo Velásquez, plaintiff Ricardo Velásquez has suffered damages in an amount to be proven at trial.

93. 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.

COUNT 6

(Extrajudicial Killing -- Zenaida Velásquez and Ricardo Velásquez)

94. Plaintiffs Zenaida Velásquez and Ricardo Velásquez re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 49 as if fully set forth herein.

95. The extrajudicial killing of decedent Manfredo Velásquez was not authorized by any court judgment, and was unlawful under the laws of Honduras that existed at that time. The decedent Manfredo Velásquez was never charged with, convicted of, or sentenced for any crime.

96. The extrajudicial killing of decedent Manfredo Velásquez was carried out by or at the instigation, under the control or authority, or with the consent or acquiescence of a public official.

97. Defendant Grijalba planned, ordered, authorized, encouraged, or permitted subordinate forces to commit acts of extrajudicial killing, and exercised command responsibility

over, conspired with, and aided and abetted such forces in their commission of, and in covering up, such abuses.

98. Defendant's acts and omissions described above, and the acts committed by his subordinate military forces against decedent Manfredo Velásquez, were committed under actual or apparent authority, or color of law, of the government of Honduras.

99. The murder of Manfredo Velásquez constitutes an 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 extrajudicial killing of Manfredo Velásquez constitutes a "tort ... committed in violation of the law of nations or a treaty of the United States" under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that it constitutes a violation of customary international law prohibiting extrajudicial killing as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

100. Defendant's acts and omissions described above caused the extrajudicial killing of Manfredo Velásquez, and caused plaintiffs Zenaida and Ricardo Velásquez to suffer severe mental anguish.

101. As a result of the extrajudicial killing of Manfredo Velásquez, plaintiffs Zenaida and Ricardo Velásquez have suffered damages in an amount to be proven at trial.

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

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for judgment against the 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: July 12, 2002

Robert G. Kerrigan (134044)
KERRIGAN, ESTESS, RANKIN & MCLEOD
400 East Government Street
Pensacola, FL 32589
Tel: (850) 444-4444
Fax: (850) 444-4494
bob@kerrigan.com

Joshua N. Sondheimer
Matthew J. Eisenbrandt
THE CENTER FOR JUSTICE &
ACCOUNTABILITY
870 Market Street, Suite 684
San Francisco, CA 94102
Tel: (415) 544-0444
Fax: (415) 544-0456
jsond@cja.org

Paul Hoffman
SCHONBRUN DESIMONE SEPLOW HARRIS &
HOFFMAN LLP
723 Ocean Front Walk
Venice, CA 90291
Tel: (310) 396-0731
Fax: (310) 396-7040
hoffpaul@ix.netcom.com

Ralph G. Steinhardt
THE GEORGE WASHINGTON UNIVERSITY
LAW SCHOOL
Burns 421
2000 H Street, N.W.
Washington, D.C. 20052
Tel: (202) 994-5739
Fax: (202) 994-9446
E-mail: rstein@main.nlc.gwu.edu