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March 24, 2006

The Honorable Joan A. Lenard
United States District Court
Federal Courthouse Square
301 N. Miami Avenue, 7th Floor
Miami, Florida 33128

VIA HAND-DELIVERY

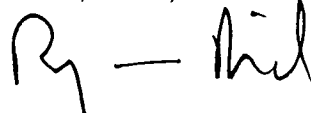
Re: Reyes v. Grijalba
Case Number 02-22046-CIV-LENARD/KLEIN

Dear Judge Lenard:

As you requested, enclosed please find Plaintiff's proposed Final Judgment and proposed Finding of Facts and Conclusions of Law. Also enclosed is a CD with these documents in Word Perfect and in Word for your convenience.

We appreciate your consideration of these papers.

Respectfully submitted,



BENJAMINE REID

BR/er
Enclosures
cc: Parties of Record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case No. 02-22046-CIV-LENARD/KLEIN

OSCAR REYES, GLORIA REYES, JANE DOE)
I, JANE DOE II, ZENaida VELÁSQUEZ,)
HECTOR RICARDO VELÁSQUEZ)
)
Plaintiffs,)
)
v.)
)
JUAN EVANGELISTA LÓPEZ GRIJALBA)
(GRIJALVA))
)
Defendant.)

PLAINTIFFS' NOTICE OF FILING

Plaintiffs, by and through their undersigned counsel, hereby give notice of filing the following documents:

1. Proposed Findings of Fact and Conclusions of Law
2. Proposed Judgment

DATED: March 24, 2006.

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(admitted *pro hac vice*)
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Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent via U.S. Mail on this 24 day of March, 2006, to Juan Evangelista López Grijalba at his last known address: Juan Evangelista López Grijalba, Alien No: A 94 265 485, Krome Service Processing Center, 18201 Southwest 12th Street, Miami, FL 33194. It is the undersigned counsel's understanding that Mr. López Grijalba, who is not represented by counsel in this matter, has been deported to Honduras. The undersigned does not know where in Honduras Mr. López Grijalba currently resides.

By: 
BENJAMINE REID

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 02-22046-CIV-LENARD/KLEIN

OSCAR REYES, GLORIA REYES, JANE)
DOE I, JANE DOE II, ZENaida)
VELÁSQUEZ, HECTOR RICARDO)
VELÁSQUEZ)
)
Plaintiffs,)
)
v.)
)
JUAN EVANGELISTA LÓPEZ GRIJALBA)
(GRIJALVA))
)
Defendant.)

[PROPOSED] FINDINGS OF FACT AND CONCLUSIONS OF LAW

This action is before the Court after a trial on damages, and the issues having been duly heard, it is hereby

ORDERED AND ADJUDGED that the following findings of facts and conclusions of law are herein made:

FINDINGS OF FACTS

I. BACKGROUND ON MILITARY ABUSES

In the early 1980s, hundreds of people were disappeared by the Armed Forces in Honduras. Suspected “subversives” were detained and tortured. Their detentions were not publicly announced. Most of the prisoners were killed. When their families and the media inquired about their whereabouts, the Armed Forces denied any knowledge about them. Complaint, ¶42.

A U.S. State Department cable in June 1981 acknowledged that “officially-sponsored/sanctioned assassinations of political . . . targets” were taking place in Honduras and

further noted that the “minions” of the commander in chief of the Armed Forces, General Alvarez Martinez, were behind the attacks. State Department cable, 6/17/81, “Reports of GOH Repression and Approach to Problem.” (Plaintiffs’ Exhibit 23). The Defendant, Colonel López Grijalba, worked closely with General Alvarez Martinez. Declaration of Plaintiff Zenaida Velasquez (Plaintiffs’ Exhibit 15), ¶9, Trial Testimony of Oscar Reyes.

The repression was largely implemented by the *Dirección Nacional de Investigaciones* (“DNI”) and death squads working with and operating out of Honduran military forces. The Honduran Anti-Communist Liberation Army (“ELACH”) was involved in the murders of at least nine people between 1980 and 1984. CIA cable, 11/26/86, “Honduran Leftists Executed . . .” (Plaintiffs’ Exhibit 24), ¶1. These murders were carried out at the order of the director of DNI. *Id.* Battalion 316 committed widespread torture and numerous disappearances and murders. Complaint, ¶¶6,42. DNI and Battalion 316 worked together, carried out joint operations and shared information and members. *Id.*, ¶¶44-45.

II. COLONEL LÓPEZ GRIJALBA’S MILITARY ROLE

In 1978, Colonel López Grijalba, was named director of DNI. In 1981, as director of DNI, López Grijalba held command and control over the operations of DNI in Tegucigalpa, the capital of Honduras. *Id.*, ¶5. He also oversaw the operations of ELACH and worked together with Battalion 316. Plaintiffs’ Exh. 24, ¶1; Complaint, ¶45. In 1982 López Grijalba became director of military intelligence (“G-2”) for the Armed Forces General Staff. *Id.*, ¶5. As G-2 director, López Grijalba oversaw the operations of all the security forces, including DNI and Battalion 316. *Id.*, ¶45. Both during its clandestine and “official” incarnations, Battalion 316 operated under the direct command of G-2. *Id.*, ¶44.

III. HUMAN RIGHTS ABUSES IN THIS CASE

A. Torture and Disappearance of Manfredo Velásquez

In 1981, Manfredo Velásquez was a 35 year old married man with four children. (Plaintiffs' Exhibit 15), ¶18. He was studying economics but had been a primary school teacher. Besides working with the National Service for the Eradication of Malaria, he also assisted farmers who had lost their ability to farm. Though he went to school in a different city, he drove home weekly to be with his family. *Id.*, ¶19-21.

On September 12, 1981, a man came looking for Manfredo Velásquez at his house. His son, Plaintiff Hector Ricardo Velásquez, answered the door and let the man into the house. Manfredo Velásquez and the man then left for Tegucigalpa. This was the last time anyone from his family, including his son, would see Manfredo Velásquez. Declaration of Plaintiff Hector Ricardo Velasquez (Plaintiffs' Ex. 16), ¶10.

Later that same day, Manfredo Velásquez was abducted in downtown Tegucigalpa and taken to a notorious torture facility, where he was then tortured. Complaint at ¶37.

Leopoldo Aguilar was the last known person to speak to Manfredo Velásquez in DNI custody. Aguilar was detained in September 1981 and taken to DNI headquarters in Tegucigalpa, over which López Grijalba exercised command and control. Aguilar was then taken by at least one man he knew to be a DNI agent to a house some distance away. Aguilar was tortured at the house. One day, from a room next to the one in which Aguilar was being held, Manfredo Velásquez called to Aguilar. Although Aguilar could not see him, he heard him say in a painful voice, "Help me, fellow. My name is Manfredo Velásquez." Deposition of Leopoldo Aguilar (Plaintiffs' Exhibit 22), pp. 28-31.

Manfredo Velásquez was then handed over to executioners. Colonel López Grijalba ordered members of ELACH to murder Manfredo. When family members inquired about

Manfredo Velásquez's whereabouts, the Armed Forces denied knowing what happened and failed to properly investigate. Plaintiff Zenaida Velásquez met with Colonel López Grijalba who denied knowing anything about Manfredo Velásquez's disappearance. Plaintiffs' Exhibit 15, ¶9.

B. Raid on Florencia Sur: Torture of Oscar and Gloria Reyes, and Disappearance of Hans Madisson

In 1982, Plaintiff Oscar Reyes was working as a professor of journalism, and as a partner and manager of a documentary and advertising business. He was the founder and director of the School of Journalism at the National University of Honduras. He had also served as a communications advisor to the Honduran Minister of Culture, Tourism, and Information. Plaintiff Gloria Reyes was an interior designer and housewife. The family ran a small market out of their garage.

In 1982, Hans Madisson was 24 years old. He had recently moved to Tegucigalpa to live with his sister so he could attend the university and study engineering. He had previously lived in San Pedro Sula and worked for a company that installed telephones. Declaration of Plaintiff Martha Madisson (Jane Doe I) (Plaintiffs' Exhibit 17), ¶2-3.

On July 7, 1982, Julio Vásquez, an employee of the *Centro Cristiano de Desarrollo* ("CODE"), and a friend were stopped by men in military uniforms while driving away from the CODE offices in the Florencia Sur neighborhood of Tegucigalpa ("Florencia Sur"). They were forced to follow the men to the headquarters of the General Staff. Deposition of Julio Vásquez (Plaintiffs' Exhibit 21), pp 20-29. Inside the General Staff, an officer interrogated Vásquez about, among other things, Plaintiffs Oscar and Gloria Reyes, who lived across the street from CODE. During the interrogation the military officer spoke with López Grijalba. When the officer finished speaking to López Grijalba, he told Vásquez that he and his friend could not leave Tegucigalpa until further notice. *Id.*, pp. 36-42.

Hans Madisson lived in Florencia Sur at his sister Vicki's house. On July 8, 1982, Hans Madisson had called another sister, Vaike, and told her he was going that night to see his brother Gerardo to pick up a jacket. Gerardo Madisson was a member of the military and worked at the General Staff. Hans Madisson left Vicki's Florencia Sur home around 6:30 p.m. However, Hans Madisson never arrived at the General Staff or returned to his sister Vicki's house. Declaration of Vaike Madisson (Plaintiffs' Exhibit 20), ¶3.

At approximately 9:00 p.m., armed men wearing ski masks raided the Florencia Sur home of Oscar and Gloria Reyes. The armed men handcuffed and blindfolded the Reyeses, their daughter, their housekeeper and an employee. Both Oscar and Gloria Reyes witnessed their 12 year old daughter get kicked in the head by a masked gunman, breaking her glasses. This was one of the last images they saw before they were blindfolded. They were then forced to climb a wall in the back yard and get into a vehicle parked on the other side of the wall.

At the same time the armed men were entering the Reyes' house, Julio Vásquez was inside the CODE office. He heard shooting and the sound of military radios outside. Vásquez looked out the window and saw military personnel and a tank in the street. Using a megaphone, a man ordered Vásquez and his friend to come outside. When they went outside, several armed soldiers surrounded Vásquez and his friend. The man with the megaphone threw them against the tank and threatened them with a pistol. Vásquez saw many soldiers and vehicles, including plainclothes members of DNI. Plaintiffs' Exhibit 21, pp. 54-66.

Meanwhile, Oscar and Gloria Reyes were detained inside the vehicle behind their house. They heard the soldiers stop someone. Knowing their son would be returning from the movie theater around that time, Oscar and Gloria Reyes thought the soldiers were referring to their son. Outside the CODE office, Julio Vásquez saw the soldiers stop and throw a young man to the

ground. The soldiers hit the man and took him away. Oscar and Gloria Reyes then heard gunshots. Both thought their son had been shot.

While Julio Vásquez was outside, a jeep approached and stopped nearby. Vásquez saw Colonel López Grijalba in the passenger seat dressed in fatigues. López Grijalba got out of the jeep and spoke with a group of soldiers. López Grijalba was giving orders. At that point the soldiers blindfolded Vásquez and bound his hands with wire. *Id.*, pp. 97-99. They threw Vásquez and his friend into a van. There was another person in the van who did not move but smelled of blood. *Id.*, p. 103.

Oscar and Gloria Reyes were driven to a house outside of the city. While in the vehicle, one of the soldiers repeatedly groped Gloria Reyes. They were taken out of the car and separated. Left in a corner inside the house, passersby continuously kicked Oscar Reyes. Eventually, Oscar Reyes was taken to another room, where electrical shocks were repeatedly applied to various parts of his body, including his genitals. His captors screamed questions about guerrillas and subversives. Oscar Reyes denied any involvement with or having any knowledge about guerrillas or subversives.

Oscar Reyes was then taken into another room. With his arms handcuffed behind his back, soldiers hoisted him up in the air like a piñata. Each soldier struck Oscar Reyes with the butt of his rifle. While he was hoisted in the air, a man hit him with the butt of a rifle in the sternum. This caused intense pain and injuries to his arms and chest. Oscar Reyes fell in and out of consciousness, only to be awakened by blows to his body and questions about guerrillas and subversives.

After Oscar Reyes reiterated his denials, the soldiers threatened to execute him. He was taken outside and placed against tree. He heard a soldier scream “fire”. A few seconds passed,

and he realized he was still alive. The soldier giving the orders then declared, "We'll kill him tomorrow." The soldiers then threw Oscar Reyes into a room covered with excrement, urine and blood. He spent the next few days in this room, unaware of his fate and that of his family. Formal charges had yet to be levied.

In the same house, Gloria Reyes experienced a similar horror. Her captors tortured and insulted her. They took her shirt off and hit her with the butt of a rifle. They applied electric shocks to her breasts. She lost consciousness several times. When she awoke, they continued hitting and shocking her, including in the vagina. They said they were going to rape her. She passed out again.

During her time in the torture facility, she heard a man asking his captors not to hang him from the ceiling. She originally thought the man was her neighbor; she later determined it was her husband Oscar. Gloria Reyes was forced to witness the torture of a young man. The floor where she was located was also covered with excrement, urine and blood. A man walked in and hit her in the stomach, knocking the wind out of her. Blood and water were coming out of her vagina. At another point, she found herself in a room with another woman who had been tortured so badly that she was begging to be killed.

Julio Vásquez was also driven out of the city and taken into the basement of a house. Vásquez realized that soldiers were torturing a woman he believed to be Gloria Reyes. They referred to her as an old woman and threatened to rape her. Vásquez was also tortured with electrical shocks to his lips, nipples and genitals. His torturers asked him questions about Oscar and Gloria Reyes. Plaintiffs' Exhibit 21, pp. 107-114.

About three days after Hans Madisson disappeared, Gerardo Madisson was ordered to appear at the General Staff before a man who identified himself as a G-2 officer. The officer said

that the commander in chief, General Alvarez, and Colonel López Grijalba had ordered him to investigate the Hans Madisson case. The man interrogated Gerardo Madisson, implying that his brother Hans belonged to left wing organizations and used drugs. The next day the same man threatened Gerardo Madisson and told him to stop searching for his brother. Declaration of Gerardo Madisson (Plaintiffs' Exhibit 19), ¶5-6.

On Wednesday, July 14, 1982, two DNI detectives arrived at Vaike Madisson's office. The agents told her that they had gotten rid of Hans Madisson along the *Carretera del Norte* (Northern Highway). One of the DNI agents was a man named Florencio Caballero. Plaintiffs' Exhibit 20, ¶5.

Several days after their torture, Oscar and Gloria Reyes were taken to DNI headquarters. Oscar Reyes was again interrogated and told to admit he was a subversive. Both were placed in cells without the benefit of formal charges or medical treatment. Their psychological torture continued. Gloria Reyes was forced to bathe naked in front of male prisoners. Soldiers threatened to put her in a men's cell so they could rape her.

Eventually, Oscar and Gloria Reyes were brought before a judge, who ordered them detained for sedition. This was the first time they were informed of any charges against them. A request for medical treatment yielded a cursory visit from a government doctor who said they were healthy. After months of negotiations and threats to speak to the press about their story, the military finally released Oscar and Gloria Reyes on December 22, 1982, over five months after the raid.

One of the conditions of the release was that Oscar and Gloria Reyes agree to quietly leave Honduras. After being sequestered the night of the December 22, they were then escorted to the airport on December 23, 1982 by military officials. Their passports were stamped "exit

only” and they left for the United States. In Houston, Oscar and Gloria Reyes joined their children, who had traveled a week earlier to stay with Oscar Reyes’s sister, and spent their first Christmas away from home. A few months later, they petitioned for asylum and settled in Virginia. Their asylum was finally granted in 1988.

With barely \$1,000 to their name, Oscar and Gloria Reyes and their children were forced to start all over. To date, they continue to experience physical and psychological problems stemming from their torture, detention and expulsion from Honduras.

Meanwhile, the Madisson family continued their search for Hans Madisson. A man found a bag with body parts in it as well as a dental prosthesis just like one Hans Madisson had worn for many years. The presence of the prosthesis confirmed that Hans Madisson was dead. Finally, on October 25, 1995, the body of Hans Madisson was exhumed from a spot along the *Carretera del Norte*. The body showed signs of decapitation; multiple fractures of the skull; fractures in the 2nd, 3rd and 4th vertebra; and trauma on both femurs. The cause of death was determined to be a bullet wound in the neck. Exhumation Report (Plaintiffs’ Exhibit 1). In 1999 the remains were finally delivered to the Madisson family. Plaintiffs’ Exhibit 17, ¶11.

CONCLUSIONS OF LAW

I. SUBJECT MATTER JURISDICTION

Plaintiffs bring this case under the Alien Tort Statute, 28 U.S.C. § 1350 (the “ATS”), and the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 note) (the “TVPA”). This Court has jurisdiction over this action under the ATS and 28 U.S.C. § 1331.

A. Default Proceeding

The entry of default deems Defendant López Grijalba to have admitted every well-plead allegation of the complaint. *Buchman v. Bowman*, 820 F.2d 359, 361 (11th Cir. 1987); *Petmed*

Express, Inc. v. Medpets.com, Inc., 336 F. Supp. 2d 1213, 1217 (S.D.Fla. 2004). In other words, the entry of default conclusively establishes a defendant's liability. *Id.* Here, the facts pleaded in the Complaint as well as the evidence in the record establish Defendant López Grijalba's liability for Plaintiffs' claims, namely:

1. The torture of Oscar and Gloria Reyes;
2. The disappearance of Hans Madisson (listed as John Doe in the complaint);
3. The extrajudicial killing of Hans Madisson;
4. The torture of Manfredo Velásquez;
5. The disappearance of Manfredo Velásquez; and
6. The extrajudicial killing of Manfredo Velásquez.

B. DAMAGES

1. Courts Have Awarded Substantial Damages For Human Rights Abuses

Courts have awarded significant compensatory and punitive damages for torture, extrajudicial killing, disappearance and other human rights abuses under the ATS and TVPA. *See, e.g., Romagoza Arce v. Garcia*, 434 F.3d 1254 (11th Cir. 2006) (total damages of \$54.6 million for 3 plaintiffs bringing torture claims); *Cabello v. Fernandez-Larios*, 402 F.3d 1148 (11th Cir. 2005) (\$3 million in compensatory damages and \$1 million in punitive damages for four plaintiffs and the decedent's estate for extrajudicial killing, torture, crimes against humanity and cruel, inhuman or degrading treatment); *Doe v. Saravia*, 348 F. Supp. 2d 1112, 1159 (E.D.Cal. 2004) (\$5 million in compensatory damages and \$5 million in punitive damages to one plaintiff for extrajudicial killing and crimes against humanity); *Mehinovic v. Vuckovic*, 198 F. Supp. 2d 1322, 1358- 60 (N.D.Ga. 2002) (\$10 million in compensatory damages and \$25

million in punitive damages per plaintiff for torture, cruel, inhuman or degrading treatment, arbitrary detention, war crimes and crimes against humanity); *Mushikiwabo v. Barayagwiza*, 1996 WL 164496, *3 (S.D.N.Y. 1996) (between \$10 million and \$35 million per plaintiff in total damages for genocide, torture and extrajudicial killing); *Xuncax v. Gramajo*, 886 F. Supp. 162, 197-99 (D.Mass. 1995) (between \$1 million and \$9 million in total damages for extrajudicial killing, torture, arbitrary detention, disappearance and cruel, inhuman or degrading treatment); *Paul v. Avril*, 901 F. Supp. 330, 336 (S.D.Fla. 1994) (between \$2.5 million and \$3.5 million in compensatory damages and \$4 million in punitive damages per plaintiff for torture and arbitrary detention).

2. Plaintiffs Are Entitled to Compensatory Damages.

Each of the Plaintiffs has suffered mental pain and suffering, mental anguish and shock and is therefore entitled to compensatory damages.

a. Oscar Reyes

Oscar Reyes experienced mental pain and suffering during the military raid of his home. He saw a soldier kick his daughter and break her glasses. After he was taken out of his house and held in a vehicle behind the house, he heard the military abductors stop a person, and then he heard gunshots. At the time, Oscar Reyes believed this person was his son, who had been out at the movies.

Oscar Reyes was also brutally tortured and endured tremendous physical pain and suffering. He was kicked and hit repeatedly. He was handcuffed with his hands behind his back and then hoisted in the air like a piñata. As a result he suffered intense pain in his arms and shoulders. To this day he experiences pain and has trouble raising his arms to do simple tasks like combing his hair or putting on a belt. He was hit with the butt of a rifle in the sternum. The torturers ran electrical shock through his body and, in particular, to his genitals.

Oscar Reyes also suffered mental pain and suffering during his torture. He was separated from his wife, Gloria, and did not know what was happening to her. He was subjected to a mock execution. He was taken outside and placed against tree. He heard a soldier scream “fire”. A few seconds passed and he realized he was still alive. One of the soldiers then said, “We’ll kill him tomorrow.”

He endured further pain and suffering by spending five more months in jail, then being forced into exile in the United States. Oscar Reyes did not return to Honduras for 17 years. Despite his education and vast professional experience, in the United States he had to find any job he could to make ends meet for his family.

Oscar Reyes’s damages are economic as well. While he was in prison, Honduran authorities ransacked his house. Photographs presented at trial show the extensive destruction to the Reyes’ home. In addition to the theft of numerous items, the Reyes family eventually had to sell the house because they could not return to Honduras.

b. Gloria Reyes

Like her husband, Gloria Reyes was brutally tortured, and she was sexually assaulted. In addition to the physical pain she endured during the torture, she experienced terrible mental pain and suffering from the moment military officials raided her home. She was forced to watch as one of the masked gunmen kicked her daughter and crushed her glasses. After she was taken out of her house, Gloria Reyes endured tremendous mental suffering from being separated from her daughter and not knowing what had happened to her. Like her husband, while they were being held in a van behind the house, she heard her military abductors stop a person and then she heard gunshots. At the time, Gloria Reyes believed this person was her son. Then, while being driven to the torture facility, one of her abductors groped her repeatedly.

During her torture, Gloria Reyes endured overwhelming physical pain. She was beaten repeatedly. She was hit with the butt of a rifle. Her torturers applied electrical shocks to her breasts and vagina. The torture was so severe that she lost consciousness several times. Blood and water flowed out of her vagina. Gloria Reyes suffered ongoing medical problems as a result of the torture. For two years after they arrived in the United States she could not get treatment at a hospital because the family had no health insurance. When she was finally able to see a doctor, she required surgery because her ovaries had been so badly damaged during her torture.

Gloria Reyes also suffered mental pain and suffering during her torture. Her overwhelming concern was with what was happening to her husband and her children. She did not know anything about them. She was subjected to verbal insults. Her torturers threatened to rape her. She was left in a room filled with excrement, urine and blood. During her time in the torture facility, she heard a man asking his captors not to hang him from the ceiling. She originally thought the man was her neighbor; she later determined it was her husband Oscar. Gloria Reyes was forced to witness the torture of a young man. She found herself in a room with another woman who had been tortured so badly that she was begging to be killed.

Like her husband, Gloria Reyes was imprisoned for five months after leaving the torture facility. During that time she was constantly worried about what was happening with her family. The time in the women's prison was exceedingly difficult for her. She has ongoing problems with depression and takes medication.

c. Martha Madisson (Jane Doe I)

Martha Madisson's brother, Hans Madisson (listed as John Doe in the Complaint), was abducted and savagely murdered, and as a result she has suffered intense mental anguish. At the time of his disappearance, Hans Madisson had only recently moved to Tegucigalpa. Declaration of Plaintiff Martha Madisson (Jane Doe I) In Support of Plaintiffs' Trial On Damages (Plaintiffs'

Exhibit 17), ¶4. He was a peaceful person. *Id.* Martha Madisson suffered from the fact that her brother was killed in spite of this. *Id.*

The night of July 8, 1982, Martha Madisson found out that there had been a large military raid in the neighborhood where Hans Madisson lived. *Id.*, ¶5. She and her family worried that her brother Hans had been caught in the raid. *Id.* She was terrified at the thought of what had happened to him. *Id.* She endured the anguish of looking for her brother after his disappearance and watching her mother search in vain. *Id.*, ¶6. Her suffering continued when Hans Madisson's body was found. A man discovered a bag with body parts in it as well as a dental prosthesis just like one Hans Madisson had worn for many years. *Id.*, ¶7. The confirmation that her brother was dead was horrifying to Martha Madisson and caused her great sadness. *Id.*, ¶8.

Martha Madisson and her family were so frightened by the military's brutal murder of Hans Madisson that they could not exhume his body or give him a burial. *Id.*, ¶9. She endured continuing fear as a result of his death and could not denounce the military for killing him. *Id.* Additionally, Martha Madisson was subjected to emotional suffering by people who played tricks on her and falsely told her they had information about her brother. *Id.*, ¶10.

The government finally exhumed Hans Madisson's body in 1995. *Id.*, ¶11. Martha Madisson endured mental anguish as a result of this process, and her suffering only increased when the report of the forensic doctors showed that Hans Madisson had been decapitated and gruesomely mutilated. *Id.* Her pain at having to bury her brother after 17 years was indescribable. *Id.*

d. Karen Burgos (Jane Doe II)

Karen Burgos similarly suffered mental anguish as a result of the disappearance and murder of her brother, Hans Madisson. Like her sister, Martha Madisson, Karen Burgos suffered mental anguish wondering where her brother was. *Id.* She was terrified at the thought of what

had happened to him. Declaration of Plaintiff Karen Burgos (Jane Doe II) In Support of Plaintiffs' Trial On Damages (Plaintiffs' Exhibit 18), ¶5. She suffered mentally and emotionally from the murder. In her own words, "things were never entirely good again." *Id.*, ¶7. Karen Burgos experienced mental suffering watching the decline of her mother's health and spirits after the disappearance. *Id.* The exhumation and burial of Hans Madisson's body inflicted mental pain and suffering on her. *Id.*, ¶8.

e. Zenaida Velásquez

Zenaida Velásquez's brother, Manfredo Velásquez, was abducted, tortured and killed, and as a result she has suffered extreme mental anguish. His body has never been located, which contributes to her ongoing pain and suffering. Declaration of Plaintiff Zenaida Velásquez In Support of Plaintiffs' Trial On Damages (Plaintiffs' Exhibit 15), ¶¶2,26.

Zenaida Velásquez suffered shock and fear when she found out that her brother had been taken by the DNI, which was notorious for human rights abuses. *Id.*, ¶3. She worried that he would be killed. *Id.* She endured anguish as part of her intensive search for her brother. She was unable to enter jails and was consistently rebuffed by Honduran officials, including Defendant López Grijalba. *Id.*, ¶¶4-6,9. Zenaida Velásquez was subjected to numerous threats. *Id.*, ¶8. Her mental pain and suffering was exacerbated by the fact that her attempts to seek redress through the courts were fruitless and she was unable to hold anyone responsible for her brother's disappearance. *Id.*, 10-12.

As part of her efforts to find her brother, Zenaida Velásquez founded an organization for relatives of disappeared persons. *Id.*, ¶13. As a direct result, she suffered economically. She was summarily fired from her job where she had been employed for seven-and-a-half years. *Id.*

Zenaida Velásquez endured significant mental pain and suffering when she was arrested by Honduran authorities. She was scared that they would disappear her in the same way they

had done to her brother. *Id.*, ¶15. She was forced to sign a blank piece of paper and was humiliated by the chief of the DNI. *Id.*, ¶16. Even after her release, she was constantly followed and threatened. *Id.* Her phones were tapped. *Id.* As a result, she was forced to bear the pain of leaving her country and her family and moving to the United States to ask for asylum. *Id.*

Her family suffered terribly. *Id.*, ¶22. Zenaida Velásquez's mother could not recover from the fact that her son was dead. *Id.* Her nephew became an alcoholic. *Id.*, ¶18.

The Honduran government has never told Zenaida Velásquez or her family where Manfredo Velásquez's body is or what happened to him. *Id.*, ¶26.

f. Hector Ricardo Velásquez

When Manfredo Velásquez disappeared, his son, Hector Ricardo Velásquez, was left without a father. Declaration of Plaintiff Hector Ricardo Velásquez In Support of Plaintiffs' Trial On Damages (Plaintiffs' Exhibit 16), ¶8. His younger sisters barely had the opportunity to know their father at all. *Id.*, ¶4. Ricardo Velásquez lost the companionship of a caring father who played with him as a child and took him fishing. *Id.*, ¶7.

Ricardo Velásquez's pain and suffering has endured a lifetime. As a child his family lost the emotional balance that Manfredo Velásquez provided. *Id.*, ¶8. Ricardo Velásquez grew up with a mother who had a very difficult time after her husband's disappearance. *Id.* He was not allowed to go out and play with friends. *Id.* His mother had to endure both the economic and emotional burdens of the entire family. *Id.*

As a child, Ricardo Velásquez suffered continuing mental anguish thinking that his father would be released by the military and would return home, which never happened. *Id.* As a result, he became an alcoholic. *Id.*, ¶9. His alcoholism controlled his life for many years. It became so bad that he began begging on the streets. *Id.* The alcoholism was fueled by the mental anguish of thinking that he had been responsible for his father's disappearance. *Id.*, ¶10. On

September 12, 1981, Ricardo Velásquez opened the door to a man who said he was coming to pick up his father. *Id.* When Manfredo Velásquez left with the man, it was the last time his son ever saw him. *Id.* Due to his alcoholism, Ricardo Velásquez has had great difficulty even making it through school. *Id.* He is currently attending his fourth different university. *Id.*, ¶6.

The greatest anguish Ricardo Velásquez has endured is not knowing what happened to his father. *Id.*, ¶11. His suffering continues to this day.

3. Plaintiffs Are Entitled to Punitive Damages.

Courts have awarded punitive damages on the basis of the following factors:

- (i) Brutality of the act;
- (ii) Egregiousness of the defendant's conduct;
- (iii) Unavailability of a criminal remedy;
- (iv) International condemnation of the act;
- (v) Deterrence of others from committing similar acts;
- (vi) Provision of redress to the plaintiffs, the country and the world.

Saravia, 348 F. Supp. 2d at 1159. Based on each of these factors, each of the Plaintiffs is entitled to substantial punitive damages.

a. Brutality of the act

(i) Oscar and Gloria Reyes

Oscar and Gloria Reyes were both viciously tortured by the Honduran military, as described above. The physical and mental abuse they suffered was exceedingly brutal.

(ii) Martha Madisson and Karen Burgos

Hans Madisson's body parts were found in a bag. Plaintiffs' Exh. 17, ¶7. His body had been thrown out along the side of a highway. Declaration of Vaike Madisson in Support of Plaintiffs' Motion for Summary Judgment (Plaintiffs' Exh. 20), ¶5. The exhumation report

indicated that he suffered multiple skull fractures and broken bones in his legs and had been decapitated. Plaintiffs' Exh. 1. It is difficult to imagine more brutal treatment of a human being.

(iii) Zenaida and Ricardo Velásquez

Manfredo Velásquez's body has never been found so it is impossible to know precisely how brutally he was treated. However, he was abducted by ELACH and DNI, units notorious for human rights abuses. Plaintiffs' Exh. 15, ¶3. When Leopoldo Aguilar spoke to Manfredo Velásquez in a jail where Aguilar himself had been tortured, Velásquez asked him in a pained voice for help. Deposition of Leopoldo Aguilar (Plaintiffs' Exh. 22) at 31. There is little doubt that Manfredo Velásquez was treated in a brutal manner.

b. Egregiousness of the defendant's conduct

(i) Oscar and Gloria Reyes

Defendant López Grijalba knew about the raid on Florencia Sur before it happened. The day prior to the raid, he conferred with an officer who interrogated Julio Vásquez about, among other things, Oscar and Gloria Reyes. Deposition of Julio Vásquez (Plaintiffs' Exh. 21) at 34-42. The next night, during the raid in which Oscar and Gloria Reyes were abducted and subsequently tortured, López Grijalba arrived in the Florencia Sur neighborhood, spoke with the soldiers and gave orders. Plaintiffs' Exh. 21 at 92-98. His conduct was egregious simply by the fact that, as a commander, he had a duty to prevent abuses about which he had knowledge, and he completely neglected his duty in this case. However, the evidence shows that his actions were even more egregious because he actually played a substantial role in the raid that resulted in the torture of Oscar and Gloria Reyes.

(ii) Martha Madisson and Karen Burgos

Hans Madisson disappeared during the raid on Florencia Sur and was subsequently found murdered and mutilated. Defendant López Grijalba's conduct was equally egregious in the case of Madisson's death.

(iii) Zenaida and Ricardo Velásquez

Defendant López Grijalba's conduct toward Manfredo Velásquez was decidedly egregious. López Grijalba ordered the abduction and murder of Velásquez. As a 1985 CIA cable describes:

Between 1980, when the Honduran Anti-Communist Liberation Army (ELACH) was founded, and 1984, when ELACH kidnappings and executions were ended, at least nine Honduran leftists were kidnapped and subsequently executed by ELACH *at the order of the Director of the National Directorate of Investigations (DNI)*. When ELACH conducted a kidnapping and killing, its action was coordinated with DNI, and occasionally personnel from ELACH and the DNI worked jointly in such operations...Individuals kidnapped and killed between 1980 and 1984 by ELACH were...Angel Manfredo Velasquez...

Plaintiffs' Exh. 24, ¶1 (emphasis added).

Even if López Grijalba had not directly ordered Velásquez's murder, he would have still acted in an egregious manner because he failed in his duties as a commander to protect civilians. Velásquez was held in a DNI facility. Plaintiffs' Exh. 22 at 17-32. Nonetheless, López Grijalba never took any steps, as required of him as a commander, to free Velásquez, to prevent him from being tortured or to punish those under his command. In fact, López Grijalba flatly told Zenaida Velásquez that he did not know anything about Manfredo Velásquez's disappearance. Plaintiffs' Exh. 15, ¶9.

c. Unavailability of a criminal remedy

Plaintiffs in this case attempted to pursue criminal remedies in Honduras and all were rebuffed by the courts. Oscar and Gloria Reyes were unsuccessful in their efforts to try one of

the leaders in the raid of their home. Hans' Madisson's family similarly filed a case that was rejected. Plaintiffs' Exh. 17, ¶12. Zenaida Velásquez initiated numerous cases without result. Plaintiffs' Exh. 15, ¶¶6,10-12.

d. International condemnation of the act

The acts in this case have been globally condemned. *See Sosa v. Alvarez-Machain*, 542 U.S. 692, 732 (2004) (quoting *Filartiga v. Peña-Irala*, 630 F.2d 876, 890 (2d Cir. 1980)) (torture); *Aldana v. Fresh Del Monte Produce, N.A., Inc.*, 416 F.3d 1242, 1251-52 (11th Cir. 2005) (torture); *Kadic v. Karadzic*, 70 F.3d 232, 243 (2d Cir. 1995) (torture and summary execution); *In re Estate of Ferdinand Marcos, Human Rights Litigation*, 25 F.3d 1467, 1475 (9th Cir. 1994) (torture and summary execution); *Saravia*, 348 F. Supp. 2d at 1153 (extrajudicial killing); *Xuncax*, 886 F. Supp. at 185 (torture, summary execution and disappearance); *Forti v. Suarez-Mason*, 694 F. Supp. 707, 711 (N.D. Cal. 1988) (disappearance).

e. Deterrence of others from committing similar acts

The atrocities that Plaintiffs suffered are unspeakable. A substantial punitive damages award is appropriate to send a message that these abuses will not be tolerated and to deter other commanders from acting in the same manner as Defendant López Grijalba.

f. Provision of redress to the plaintiffs, the country and the world

No amount of money can adequately compensate Plaintiffs or hundreds of other Hondurans who were disappeared, murdered or tortured. However, a significant punitive damages award can provide some redress to these Plaintiffs and others in Honduras who suffered similar treatment.

DONE and ORDERED in Chambers this ____ day of _____, 2006, at

Miami Dade County, Florida.

UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case No. 02-22046-CIV-LENARD/KLEIN

OSCAR REYES, GLORIA REYES, JANE DOE)
I, JANE DOE II, ZENAIDA VELÁSQUEZ,)
HECTOR RICARDO VELÁSQUEZ)
)
Plaintiffs,)
)
v.)
)
JUAN EVANGELISTA LÓPEZ GRIJALBA)
(GRIJALVA))
)
Defendant.)

[PROPOSED] JUDGMENT

The default of Defendant Juan Evangelista Lopez Grijalba was entered in this case on February 16, 2006.

A trial on damages was held on March 16, 2006, to receive evidence in support of Plaintiffs' application for judgment, after which Findings of Fact and Conclusions of Law were entered.

Upon proof duly received and for all the reasons stated in the Findings of Fact and Conclusions of Law filed March 24, 2006,

It is ORDERED, ADJUDGED and DECREED that Final Judgment be and the same is hereby entered against Defendant Juan Evangelista Lopez Grijalba as follows:

1. In favor of Plaintiff Oscar Reyes in the amounts as follows:

\$ _____ for Compensatory Damages plus interest from the date of the entry of this Judgment,

\$ _____ for Punitive Damages plus interest from the date of the entry of this Judgment.

2. In favor of Plaintiff Gloria Reyes in the amounts as follows:

\$ _____ for Compensatory Damages plus interest from the date of the entry of this Judgment,

\$ _____ for Punitive Damages plus interest from the date of the entry of this Judgment.

3. In favor of Plaintiff Martha Madisson (a/k/a Jane Doe I) in the amounts as follows:

\$ _____ for Compensatory Damages plus interest from the date of the entry of this Judgment,

\$ _____ for Punitive Damages plus interest from the date of the entry of this Judgment.

4. In favor of Plaintiff Karen Burgos (a/k/a Jane Doe II) in the amounts as follows:

\$ _____ for Compensatory Damages plus interest from the date of the entry of this Judgment,

\$ _____ for Punitive Damages plus interest from the date of the entry of this Judgment.

5. In favor of Plaintiff Zenaida Velasquez in the amounts as follows:

\$ _____ for Compensatory Damages plus interest from the date of the entry of this Judgment,

\$ _____ for Punitive Damages plus interest from the date of the entry of this Judgment.

6. In favor of Plaintiff Hector Ricardo Velasquez in the amounts as follows:

\$_____ for Compensatory Damages plus interest from the date of the entry of this Judgment,

\$_____ for Punitive Damages plus interest from the date of the entry of this Judgment.

This Court retains jurisdiction for further proceedings, pursuant to Fed.R.Civ.P. 54(d).

FOR WHICH LET EXECUTION ISSUE.

DONE and ORDERED in Chambers this ____ day of _____, 2006, at Miami Dade County, Florida.

UNITED STATES DISTRICT JUDGE

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