

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

JUAN ROMAGOZA ARCE,
JANE DOE, in her individual capacity and as
the personal representative for the ESTATE
OF BABY DOE,

Plaintiffs,

v.

JOSE GUILLERMO GARCIA, an individual,
CARLOS EUGENIO VIDES CASANOVA, an
individual, and DOES 1 through 50,
inclusive,

Defendants.

Case No.

FILED UNDER SEAL

**COMPLAINT FOR EXTRAJUDICIAL
KILLING; TORTURE; CRIMES
AGAINST HUMANITY; CRUEL,
INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT;
ARBITRARY DETENTION;
WRONGFUL DEATH; ASSAULT AND
BATTERY; FALSE ARREST AND
FALSE IMPRISONMENT;
INTENTIONAL INFLECTION OF
EMOTIONAL DISTRESS AND CIVIL
CONSPIRACY**

JURY TRIAL DEMAND

Plaintiffs Juan Romagoza Arce, and Jane Doe, in her individual capacity and as the personal representative of the Estate of Baby Doe (collectively "Plaintiffs"), complain and allege as follows:

PRELIMINARY STATEMENT

1. On December 12, 1980, Plaintiff Juan Romagoza Arce was abducted, detained, and brutally tortured in El Salvador by members of the Salvadoran National Guard. He was released three and a half weeks later, due to the intervention of relatives in the military who were connected to Defendant Vides Casanova. During Plaintiff Romagoza Arce's detention at the National Guard Headquarters in San Salvador, Defendant Vides Casanova was physically present on at least two occasions. On December 26, 1979, Plaintiff Jane Doe, eight months pregnant with Baby Doe, was abducted, detained, tortured and raped in El Salvador by members of the Salvadoran National Guard. Approximately two weeks later, on the verge of death, she was dumped by the side of the Pan American Highway.

2. This is an action for compensatory and punitive damages for torts in violation of international and domestic law. The plaintiffs in this action – refugees from El Salvador now living in the United States – institute this action against General Jose Guillermo Garcia, Defense Minister of El Salvador at the time of the events described herein, and General Carlos Eugenio Vides Casanova,

Director-General of the Salvadoran National Guard at the time of the events described herein, both now residing in Florida.

3. Generals Garcia and Vides Casanova acted in concert with other members of the Salvadoran military, in particular the Salvadoran National Guard, to plan, carry out and cover up the abduction and torture of the plaintiffs.

JURISDICTION AND VENUE

4. This court has jurisdiction to hear this case pursuant to 28 U.S.C. §1331 (federal question), §1332 (diversity), §1350 (alien tort claims) and §1367 (supplemental jurisdiction).

5. 28 U.S.C. § 1331 provides for original jurisdiction over “all civil actions arising under the Constitution, laws or treaties of the United States”; 28 U.S.C. § 1332 provides diversity jurisdiction “where the matter in controversy exceeds the sum or value of \$75,000... and is between – (1) citizens of different states; (2) citizens of a State and citizens or subjects of a foreign state; (3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and (4) a foreign state... For the purposes of this section... an alien admitted to the United States for permanent residence shall be deemed a citizen of the State in which such alien is domiciled.” 28 U.S.C. § 1350 provides federal jurisdiction for “any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.” This is a civil action. Plaintiff Juan Romagoza Arce is a naturalized citizen of the United States; Plaintiffs Jane Doe and the Estate of Baby Doe are aliens. The defendants in this action committed torts in violation of the following treaties of the United States:

- a. International Covenant on Civil and Political Rights, G.A. Res. 2220A (xxi), 21 U.N. Doc., GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966); and
- b. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, 39 U.N. Doc., GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984).

6. The defendants in this action also committed torts in violation of the law of nations, as codified in the following international charters, agreements and declarations:

- a. United Nations Charter, 59 Stat. 1031, 3 Bevens 1153 (1945);
- b. 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);

- c. Universal Declaration of Human Rights, G.A. Res. 217A(iii), U.N. Doc. A/810 (1948);
- d. Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287 [Fourth Geneva Convention];
- e. Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), opened for signature Dec. 12, 1977, 16 International Law Materials 1442 (1977);
- f. Common Article 3 of the Geneva Conventions (1949);
- g. 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);
- h. 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, 30 U.N. Doc., GAOR Supp. (No. 34) at 91 U.N. Doc. A/10034 (1976);
- i. Charter of the Organization of American States, 2 U.S.T. 23984, T.I.A.S. 2361, 119 U.N.T.S. 3, as amended, Protocol of Buenos Aires of 1967, 21 U.S.T. 607, T.I.A.S. No. 6847, 721 U.N.T.S. 324 (1970);
- j. American Convention on Human Rights (Pact of San Jose, Costa Rica), O.A.S.T.S. No. 36 at 1, O.A.S. Off. Rec. OEA/Ser. L/V/II, 23, doc. 21, rev. 2 (English 1978);
- k. American Declaration of Rights and Duties of Man, O.A.S. Res. xxx, OAS Off. Rec. OEA/Ser. L/V/II 23 doc. 21, rev. 6 (English 1979);
- l. Inter-American Convention to Prevent and Punish Torture , O.A.S.T.S. No. 67, O.A.S. Doc. OEA/Ser. P, AG/doc. 023/85 rev. 1, at 46-54 (English 1986), 25 International Legal Materials 519 (1986);
- m. The Rome Statute of the International Criminal Court, United Nations 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);
- 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. 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, Report of the Secretary General pursuant to Paragraph 2 of Security Council Resolution 808 (1993), U.N. Doc. S/25704 at 36 (1993), adopted by S.C. Res. 827, U.N. Doc. S/Res/827 (1993), reprinted in 32 I.L.M. 1159, 1170 (1993); and
- p. Statute for the International Tribunal of Rwanda, U.N. SCOR, 49th Sess., 3453rd mtg., at 1, U.N. Doc. S/Res/827 (1993), reprinted in I.L.M. 1159, 1170 (1993).

7. Plaintiffs' causes of action also arise under the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at Title 28 U.S.C. 1350 note); the laws of the State of

Florida, and the laws of the Republic of El Salvador.

8. Venue is proper in the United States Federal Court for the Southern District of Florida pursuant to 28 U.S.C. §§ 1391(b) and (d).

PARTIES

Plaintiffs

9. Plaintiff Juan Romagoza Arce, a native of El Salvador, is a naturalized citizen of the United States and a resident of the District of Columbia. Plaintiff Romagoza Arce spent two years in the seminary in El Salvador; he subsequently became a doctor and surgeon providing medical care to the poor, first in El Salvador and subsequently in Mexico and the United States.

10. Plaintiff Jane Doe is a native and citizen of El Salvador currently residing as a political asylee in the United States. Plaintiff Jane Doe is also the administrator of the Estate of Baby Doe. As a catechist working with the Catholic Church, Plaintiff Jane Doe ministered to impoverished communities in El Salvador; she files this complaint anonymously because of her fear of retaliation against relatives who remain behind in her homeland.

11. Baby Doe was a native and citizen of El Salvador, who died in February 1980 as a result of injuries inflicted upon his mother by subordinates of the defendants.

Defendants

12. On information and belief, Defendant General Jose Guillermo Garcia (“Defendant Garcia”) is a native and citizen of El Salvador and a resident of Florida. From about October 1979 to approximately April 1983, Defendant Garcia was the Minister of Defense and Public Security of the Republic of El Salvador. As Minister of Defense, Defendant Garcia was a member of the Salvadoran Military High Command and had overall command responsibility for the operations of the Salvadoran Armed Forces consisting of the “military forces” (Army, Navy and Air Force) and the “security forces” (National Guard, National Police and Treasury Police). During that time, the Salvadoran Armed Forces, under direction and control of Defendant Garcia, employed the weapons of forced disappearance, torture and murder to terrorize the Salvadoran population and to intimidate and eliminate perceived and/or actual opponents of the Salvadoran government. In or about 1983, Defendant Garcia retired from the Salvadoran military and stepped down from his position as Minister of Defense. He subsequently relocated to the United States. Defendant Garcia currently resides within the jurisdiction of the United States District Court for the Southern District of Florida.

13. On information and belief, General Carlos Eugenio Vides Casanova (“Defendant Vides

Casanova”) is a native and citizen of El Salvador and a resident of Florida. From approximately October 1979 through April 1983, Defendant Vides Casanova was the Director-General of the National Guard (“*la Guardia Nacional*”) for the Republic of El Salvador. As Director-General of the National Guard, Defendant Vides Casanova was a member of the Salvadoran Military High Command and had direct command responsibility for the operations of the Salvadoran National Guard. In or about 1983, Vides Casanova was promoted to El Salvador’s Minister of Defense upon the retirement of Defendant Garcia. On information and belief, Defendant Vides Casanova entered the United States on or about May 12, 1989, after committing the acts described herein. Vides Casanova currently resides within the jurisdiction of the United States District Court for the Middle District of Florida.

STATEMENT OF FACTS

14. On information and belief, except where otherwise indicated, plaintiffs allege as follows:

Plaintiff Juan Romagoza Arce

15. Plaintiff Juan Romagoza Arce is a Salvadoran doctor who attended the School of Medicine of the University of El Salvador (UES) from 1970-1980. He was also a seminarian for two years at the Seminario Menor Santiago de Maria in El Salvador and undertook theological training in Cuernavaca, Mexico and San Francisco, California.

16. As part of his medical training at the UES, Plaintiff Romagoza Arce spent time in the poor neighborhoods near the University of El Salvador, teaching the inhabitants about health care and the benefits of preventative medicine. He worked with others at the University and in the church to set up medical clinics for the poor in rural areas as well as in the capital, San Salvador. Plaintiff Romagoza Arce coordinated this work through student organizations at the University, and with members of the Catholic Church and Christian Base Communities.

17. In January 1980, Plaintiff Romagoza Arce was working at San Salvador’s Rosales Hospital when a patient came to the hospital seeking treatment for a gunshot wound; he had been shot by government forces during a demonstration in San Salvador. While Plaintiff Romagoza Arce and other medical staff were attempting to treat the patient, several heavily armed men entered the

operating room, dragged the patient outside, and shot him in the head. Plaintiff Romagoza Arce later learned that the victim had been a professor at the Jesuit-run Central American University.

18. Plaintiff Romagoza Arce subsequently began a surgery rotation as an intern at the Hospital of San Rafael, Santa Tecla. In approximately April, 1980, Plaintiff Romagoza Arce was working at this hospital when armed men in civilian clothes burst into the hospital and shot and killed a 16-year-old patient; the patient was still unconscious from anesthesia administered during an operation for gunshot wounds incurred during a demonstration. As the assailants left the building, Plaintiff Romagoza Arce looked out the window and observed patrol cars from the *Policia Nacional* (National Police) waiting outside the hospital.

19. In December of 1980, Plaintiff Romagoza Arce continued his work with the poor through medical projects coordinated by the student association at the University of El Salvador (AGEUS). As part of this work, on December 12, 1980 – the Celebration Day for the *Virgin de Guadalupe* – he provided medical care at a church near the bus stop in the village of Santa Anita, Chalatenango. While he was administering to patients, two vehicles arrived carrying soldiers from the local army garrison, the National Guard, and ORDEN (a paramilitary group). Perched on top of the trucks, the soldiers proceeded to open fire upon the clinic and the church. The soldiers discharged their weapons at the medical staff and the poor *campesinos* awaiting treatment, especially at the people who were in the area near the doorway of the clinic. Plaintiff Romagoza Arce and many of those with him were shot and gravely injured in the attack.

20. Plaintiff Romagoza Arce was shot in the right foot and a bullet grazed his head. After the gunshots ended, the soldiers who had led the attack loaded the bodies of the dead and wounded on to the trucks.

21. As the soldiers lifted the bodies of the victims on to the trucks, they saw that Plaintiff Romagoza Arce was alive. They began to beat and insult him, saying that they were going to give him the “coup de grace” to finish him off. A soldier armed with a G-3 pointed the gun straight at Plaintiff Romagoza Arce’s head and attempted to fire, but the safety was on his weapon. When the safety was removed and the soldier was about to press the trigger a second time, another soldier told him to wait. Since Plaintiff Romagoza Arce’s clothing was of a higher quality than that worn by the

campesinos, he was asked: "Are you a *comandante* (guerrilla commander)?" When Plaintiff Romagoza Arce told them that he was a doctor, they began to search Plaintiff Romagoza Arce and his belongings, discovered his identification card and medical and surgical instruments, and said that they were going to take him into custody to interrogate him as a "subversive leader."

22. Plaintiff Romagoza Arce was then driven to a helicopter. On the helicopter, his torture began. The soldiers threatened to kill him by pushing him out of the helicopter. At the last moment, they would pull him back in. He was taken to "*El Paraiso*" (Paradise), the local army garrison. He was stripped of his clothes, blindfolded, bound spread eagle to a table, interrogated and beaten. His wounds were crudely bandaged, but not cleaned.

23. The next morning (on or about December 13, 1980), Plaintiff Romagoza Arce was taken (still blindfolded) by helicopter to another location. The helicopter set down in a soccer field; he could hear the ball being kicked and could see grass from beneath his blindfold.

24. Plaintiff Romagoza Arce was then taken inside a building; he later learned that he had been taken to the National Guard headquarters in San Salvador. Once inside, he was taken to see other prisoners who had been brutally tortured, and asked if he wanted to have the same thing happen to him. He saw a woman who had been badly tortured, including having had her breast cut off.

25. When Plaintiff Romagoza Arce failed to cooperate with his captors, he was put on a table, beaten and interrogated, and threatened with additional torture for failing to answer questions to their satisfaction. He was stuck with needles, producing intense pain, and threatened with death. His captors told him this would be the last day that he lived, and that they were going to cut him up into pieces little by little.

26. For approximately the next 22 days, Plaintiff Romagoza Arce was interrogated and tortured every day, sometimes three or four times per day. The torture seemed to occur more often during the night or on the weekends, when the Guardsmen were drunk. The Guardsmen asked Plaintiff Romagoza Arce questions about other doctors, nurses, priests and nuns who were working with the *campesinos*, insisting that they were communists. They also claimed that other members of Plaintiff Romagoza Arce's family were "helping the *campesinos*," that a cousin who was killed in 1975

was also a communist, and that his uncles in the army were smuggling weapons to the communists. Plaintiff Romagoza Arce told his captors about his two uncles in the Salvadoran military, hoping that this would save his life.

27. At the end of his first day of captivity at the National Guard Headquarters, Plaintiff Romagoza Arce was taken to another place within the same building, which he believed to be cells where prisoners were isolated from one another. Plaintiff Romagoza Arce was taken into a small room, chained to an iron rod and briefly left alone, naked and wounded. Shortly thereafter, he was interrogated again, by men with new voices, rougher and more violent than the others, but asking the same types of questions. He was subjected to electric shocks, involving an apparatus which was connected to his ears, under his tongue, to his testicles, in his anus, and applied to the edges of his wounds. The shocks were administered until he lost consciousness, and the pace and the intensity of the torture seemed calculated to prolong the agony. When Plaintiff Romagoza Arce lost consciousness, he would be awakened by kicks or cigarette burns. The torture continued on and off for several days, during which time he was hung from ropes made of sharp material which dug into his hands, raped anally three times by foreign objects, subjected to additional electric shocks, water torture, and asphyxiated by the application of a hood placed over his head which contained *cal* (lime).

28. For several of the days during which Plaintiff Romagoza Arce was imprisoned, he was strung up on pulleys by his hands, with his arms above his head. The ropes cut into his fingers, and he was told that he would never be a surgeon again. He was also shot in the left hand, the muscles and tendons severed, in a punitive gesture which he believed was aimed at his "leftist" politics.

29. Plaintiff Romagoza Arce was denied access to a toilet during the entire period of his detention. He was given little food to eat; by the end of his detention, he weighed less than 70 pounds.

30. During this detention, Defendant Vides Casanova was personally present in the National Guard Headquarters with Plaintiff Romagoza Arce on two occasions. The first occasion was in late December 1980 or early January 1981, approximately four or five days prior to his release, when a group of military officers – including Defendant Vides Casanova – visited his cell. These officials entered the room along with one of Plaintiff Romagoza Arce's uncles, Lieutenant Colonel Dr.

Salvador Mejia Arce, who was at that time the Assistant Director of the Military Hospital in San Salvador. The officials lectured Plaintiff Romagoza Arce, chastising him verbally and threatening him for working with poor people through University-run clinics, saying he had been "very lucky," and that "maybe next time your luck will run out."

31. The second occasion Defendant Vides Casanova was physically present during Plaintiff Romagoza Arce's detention was on the day of his release (on or about January 5, 1981).

32. After the first visit by Vides Casanova and the other officials, Plaintiff Romagoza Arce's wounds were "cleaned"; a man entered the room where Plaintiff Romagoza Arce was being held, sat on top of him, and picked maggots out of the wounds which were then thrown at him. Later that night, Plaintiff Romagoza Arce was taken into another room. That room had a coffin in it. He was put in the coffin, tied up and kept there for the remainder of his detention. He was told that his death was imminent and that he should choose how to die. His captors returned periodically, kicking him and putting out lighted cigarettes against his body.

33. On or about January 5, 1981, at approximately twelve noon, Plaintiff Romagoza Arce was told that he was going to be released into the custody of his uncles. He was told that he had to sign a paper to be released. After initially resisting, Plaintiff Romagoza Arce signed the paper without reading it.

34. Plaintiff Romagoza Arce was then released to Lieutenant Colonel Manuel Rafael Arce Blandon, an uncle who was an economist. Defendant Vides Casanova was present at the time of Plaintiff Romagoza Arce's release. Arce Blandon lifted his nephew in his arms, carried him to a car, and drove Plaintiff Romagoza Arce out the main gate of the San Salvador National Guard headquarters, where he had been held for approximately 23 days. Plaintiff Romagoza Arce was then taken to the home of his older brother, Manuel Enrique Romagoza Arce, in San Salvador. Other family members had gathered at the house to discuss what had happened and decided that Plaintiff Romagoza Arce should leave the country, to allow his wounds to heal and to ensure his personal safety and the safety of his family.

35. Plaintiff Romagoza Arce arrived in the U.S. on April 23, 1983, after having spent time in Guatemala and Mexico. In Mexico, he underwent two operations for his injuries; despite this medical

intervention, he lost his ability to perform surgery. Upon his arrival in the U.S., he lived briefly in Los Angeles and San Francisco, and then settled in Washington, DC, where he has worked for the past ten years as the director of the *Clinica del Pueblo* – a health clinic serving the Latino refugee community and other under-served populations.

36. Based upon the persecution described above, Plaintiff Romagoza Arce was granted political asylum in the U.S. on April 21, 1987. He subsequently applied to become a Legal Permanent Resident of the United States, and became a naturalized citizen in 1995.

Plaintiff Jane Doe and The Estate of Baby Doe

37. Plaintiff Jane Doe is a Salvadoran woman who worked for several years as a lay worker with Catholic parishes throughout El Salvador.

38. In 1976, Plaintiff Jane Doe began training as a catechist with a Catholic church in San Vicente province. As one of three catechists working with the parish, she helped the priest with mass, taught bible studies and kept track of upcoming baptisms and communions.

39. In 1977, the Salvadoran military began to violently repress the rural population in San Vicente and other locations in El Salvador. Many people were "disappearing" as the military began to equate the growing movements for equal rights, pay and opportunities for the poor with communist tendencies. In large part, this push to improve the quality of life of the rural population was grounded in the teachings of the Church.

40. In 1977, Plaintiff Jane Doe received additional training as a catechist from the Pastoral Group of Tecoluca, which was directed by the Archbishop of San Salvador, Monsignor Romero. She learned how to teach literacy and health courses to the rural poor. She also learned how to organize communities and to communicate effectively with people. As Plaintiff Jane Doe's education and experience broadened, she was given more responsibility.

41. In 1977, students from the National University of El Salvador (UES) began coming to the plaintiff's village to assist in organizing the local people. The students were helping the rural population protest the use of the land for grazing cattle, since they preferred to use the land for growing rice and beans during a time of food shortage. Additionally, the land used for cattle grazing

could not later be used for growing other crops.

42. In March 1978, Plaintiff Jane Doe met and became romantically involved with a student organizer from the University. She subsequently had two children by him.

43. In late 1979, Plaintiff Jane Doe and her eldest daughter accompanied farmers and rural workers to demonstrations planned in San Salvador, to protest the acts of military violence that were being inflicted upon the rural population. The demonstrations were peaceful, and would begin in Liberty Park, San Salvador, moving to government offices such as the Ministry of Defense or the Ministry of the Economy. These demonstrations were violently broken up by the riot police, supported by the National Police and the National Guard; several people who participated in the demonstrations were taken away, never to be seen again.

44. On December 26, 1979, during the middle of the day, Plaintiff Jane Doe went to the market in San Vicente. At the time, she was eight months pregnant. As she was returning home, four men she recognized as National Guardsmen ("*Guardia Nacional*," known as "GNs") – dressed in uniform with helmets, fatigues, boots, and armed with G3 assault rifles – and a National Guard collaborator approached her. The collaborator grabbed her by the arms, saying "She is from the '*Bloque*'." (He was likely referring to the "*Bloque Popular Revolucionario*" or Revolutionary Popular Block, a non-violent political organization formed in 1978-79 to petition the government on a variety of issues. In 1980, as the repression increased and many people lost faith in non-violent change, the *Bloque* ceased to exist, and the FMLN – an armed opposition group – was formed.)

45. The National Guardsmen forcibly led Plaintiff Jane Doe from the market to the National Guard Post in San Vicente, located across the street.

46. Plaintiff Jane Doe was immediately taken to an interrogation room at the Post. She was interrogated in that room for approximately three days. She was repeatedly questioned by a man in civilian clothing who wore a coat and tie, and who was always accompanied by one uniformed Guardsman. The man in civilian clothes would ask the plaintiff if she had any ties to the guerrillas, and if she had collaborated with the guerrillas. When Plaintiff Jane Doe answered that she had no guerrilla ties, the Guardsman would either grind a pistol into her temple or hit her over the head with the butt end of the pistol.

47. The Guardsman also held Plaintiff Jane Doe's fingers down and pushed pins under her nails, telling her that cooperating with them would cost her nothing. She was repeatedly burned with cigarettes on her arms and back; liquid was poured on the burns to intensify the pain. The Guardsmen also repeatedly cut the surface of her fingertips, thighs and breasts with a razor blade, and hit her in the chest.

48. Plaintiff Jane Doe was also given electric shocks under her breasts. While she was being shocked, a powder-filled rubber mask was put over her head. She became asphyxiated while being shocked. She was asked, "you like this, don't you?" as she was being tortured. She was subjected to electric shock three times while in the interrogation room.

49. After about three days, Jane Doe was taken out of the interrogation room and pushed down a flight of stairs which led to rooms in the basement of the post. She was handcuffed, her feet bound with chains. She was then subjected to additional torture without being interrogated; this torture was so severe that she has difficulty remembering it in a strict chronological order.

50. On the wall of the basement, the words "Human Slaughterhouse" were written in what appeared to be blood. There were pieces of flesh and worms and rats on the floor of the room, which smelled horribly. Jane Doe was kept in this room for approximately twelve days.

51. Plaintiff Jane Doe was put into a room with only a metal bed frame. The Guardsmen threw her face first on to the bed frame. She was stripped naked, and two Guardsmen then raped her. During the course of the twelve days, she was raped repeatedly, deprived of food and sleep. On one occasion, the National Guardsmen pulled out her fingernails with a pair of pliers.

52. At night, the Guardsmen would force her to sit, neck-deep, in a basin of ice water for one to two hours. When she was taken out of the water, her body was completely numb. This water torture was performed every night between four and six in the morning. She knew the hour because she could hear the church bells ringing in the town.

53. One day, the Guardsmen brought a plate of good food and a beverage to Plaintiff Jane Doe's room. As she was handcuffed to the bed frame, the plate was set down in front of her, out of her reach. The Guardsmen began to taunt and provoke her, telling her to go ahead and eat.

54. On two occasions, the torture which Plaintiff Doe was forced to endure involved injuries

to her uterus caused when she was put under the metal bed frame and the Guardsmen stomped on the top of the frame. The guardsmen would balance the bed frame over her abdomen, weighting it down on both ends like a seesaw. On information and belief, due to this torture, her infant son was born with multiple bruises, broken bones and indentations on his face. He died two months after his birth of injuries sustained as a result of the torture to which Plaintiff Jane Doe was subjected.

55. At another point in the torture, the Guardsmen took Plaintiff Jane Doe to another room, put her in a chair and told her something like "you'll see some very colorful movies, which you'll like," and "you must only watch these movies." Instead of being shown a movie, she was forced to watch them torture a man. The man was hanging from a very flexible noose. A guardsman asked if she knew the man; she responded that she did not. The Guardsmen began to beat the man as if he were a punching bag. After the beating, he was whipped with plastic whips and kicked in the testicles. At the time, the Guardsmen were playing loud, strange music, to add to the torture and to camouflage the screams of the hanging man.

56. The Guardsmen then wrapped the hanging man's head with bandages, as if he were a mummy. The Guardsmen tied a bucket onto the man's penis, and began filling the bucket with stones. A guardsman kept saying to the man, "you like this." During the course of this torture experience, the Guardsmen kept forcing Plaintiff Jane Doe to watch.

57. Next, the Guardsmen handcuffed the man's hands behind his back and suspended him from the ceiling by his arms and legs. The Guardsmen then said they would do something nicer for the man, "with pilot and without." One of the Guardsmen then sat on top of the man and began to ride him, as you would a swing. It appeared that the man's shoulders were being dislocated by the weight. Whenever Jane Doe shouted out during the torture, she would be punched in the mouth. Next, the Guardsman got off the man and he and another man began swinging the man around, banging him off the walls.

58. After the "pilot" torture, the Guardsmen took the man down from his suspended position. The man was then turned over on his back. The Guardsmen cut the man's stomach, pushed Plaintiff Jane Doe's face into the wound, and began to rub her face in his entrails. One of the Guardsmen took out a canteen cup and filled it with blood, which Plaintiff Jane Doe was forced to

drink. The Guardsmen then told her that later that night, she would see another scene.

59. At some point, Plaintiff Jane Doe was taken to another room. In this room there was a boy who looked to be approximately 14 years old. He was dressed in the uniform of San Vicente High School, and he had his school books with him. The Guardsmen were very agitated, and called the boy a "monkey" (a Salvadoran slang term for young people denoting insignificance). A guardsman took out a tool and gouged out the boy's eye. Tissue from the eye socket landed on Plaintiff Jane Doe's chest. The boy outstretched his arms as if trying to embrace her. The Guardsmen slapped the boy back so that he fell down; all the while, blood was pouring out of his eye socket.

60. Plaintiff Jane Doe fainted from the sight. The Guardsmen began to hit her in the back of the head with the blunt end of their machetes. The Guardsmen also cut into her forearms with the point of the machetes. She lost consciousness.

61. Plaintiff Jane Doe's next memory involves being carried in the rain and being loaded onto a truck with other bodies. She heard the Guardsmen say that they thought she was dead. She then remembers being thrown off the truck onto a pile of bodies. She later learned that she was dumped in an area along the Pan American highway outside of San Vicente.

62. Plaintiff Jane Doe later awoke in a village. She didn't know where she was, or who the people of the village were. Jane Doe recovered in the village for eight days. At some point, she was able to provide her mother's address, and her mother came for her in the village.

63. Plaintiff Jane Doe was then taken to a church in San Salvador. From this location, she received medical treatment at a clinic near the church, and recuperated at the convent that was next to the church. After her baby was born, he was cared for by her mother; he died approximately two months later from injuries incurred in utero.

64. Plaintiff Jane Doe was very ill and remained bed-ridden at the convent for six months. She was given medicine for her psychological trauma, which she continued to take for the next five years. She stayed at the convent from February 1980 until August 1981.

65. In August 1981, Plaintiff Jane Doe had recovered sufficiently to once again begin working on behalf of the church, helping to relocate people displaced because of military operations.

She worked with a renewed commitment to helping the community, spurred by the horror of her own experiences. From 1980 through 1986, the convent of the church in San Salvador served as her primary residence, although her work frequently required that she travel throughout El Salvador.

66. In the middle of 1981, Plaintiff Jane Doe began to work in the province of Usulután, helping to relocate people who were fleeing from the zones of conflict between the military and the guerrillas. She was responsible for coordinating a community delegation which went to local officials, asking to relocate displaced persons to a coastal area, away from the zones of conflict. Her work specifically consisted of coordinating the movement of people and setting up sites to house the displaced people.

67. In September 1981, the Salvadoran military – under the direction of the then-Minister of Defense Jose Guillermo Garcia – began a military offensive entitled "Operation Hammer and Anvil." The Atlacatl Battalion carried out the operation by burning homes and crops in Usulután province. The children of the area were left behind as the parents fled, because it was thought that the soldiers wouldn't kill the children.

68. During this time, Plaintiff Jane Doe was in the area of San Augustin, Usulután, trying to help the villagers relocate. As the military came into the area of El Sitio, near San Augustin, she snuck up into the hills along with other townspeople. She watched the soldiers gather the children of the community together, and saw them forcing the children to chant "long live the armed forces" and "long live the Atlacatl Battalion." The soldiers then put the children into a pile, and shot them to death with machine guns.

69. The operation lasted eight days. After the military left the area, Plaintiff Jane Doe helped move the cadavers and identify those killed. She then took the names of the dead to the International Red Cross in San Salvador. She returned with the International Red Cross to the massacre site.

70. One month after witnessing the civilian massacre by the Atlacatl Battalion, Plaintiff Jane Doe suffered a mental breakdown and went into a vegetative state for three months. Completely immobile and unable to function, Plaintiff Jane Doe was treated by two doctors at a clinic next to a convent where she was receiving care. Later, these doctors were captured, disappeared and killed.

Plaintiff Jane Doe recuperated at the convent until 1982. She later resumed her work for the Church.

71. In January of 1990, in fear for her safety and suffering from on-going trauma related to her experiences, Plaintiff Jane Doe fled El Salvador for the United States.

72. Upon arrival in the U.S., Plaintiff Jane Doe led a very solitary existence. As a direct result of her torture, she sustained severe psychological injuries and had trouble functioning day-to-day, in part because those around her could not understand her suffering. She worked at a restaurant, busing tables. She suffered from depression and frequently cried at work, remembering her experiences.

73. Suffering from the loss of her infant son and the daughters she had left behind in El Salvador, Jane Doe returned to El Salvador in May of 1993, hoping that the Peace Accord in El Salvador meant that she could live safely in the country, reunited with her family. Once she returned, however, she found herself unable to live without fear of additional persecution related to her on-going work for social change.

74. Plaintiff Jane Doe subsequently returned to the U.S. in early 1997, to receive treatment for severe post-traumatic stress symptoms which she has experienced since her torture at the hands of the National Guard. Therapy related to her trauma is on-going, and will likely continue throughout her lifetime.

75. Plaintiff Jane Doe has been granted political asylum in the United States, and is petitioning for Legal Permanent Residency.

GENERAL ALLEGATIONS

76. Between 1980 and 1991, the people of El Salvador were engulfed in a civil war in which over 75,000 people are estimated to have been killed. The hostilities did not come to a formal conclusion until a Peace Agreement was negotiated under the auspices of the United Nations and signed on January 16, 1992. As part of the negotiated peace, the two warring factions, the Government of the Republic of El Salvador and the *Farabundo Marti National Liberation Front* ("FMLN") agreed to the establishment of a "Truth Commission," appointed by the Secretary-General of the United Nations, to investigate the serious acts of violence that occurred during the twelve years of civil war in El Salvador.

77. On information and belief, and as described in the Truth Commission Report, by the time of the cessation of the hostilities, over 22,000 noncombatant civilians fell victim to the violence in El Salvador. Of these, ninety-five percent of the deaths were carried out or authorized by the Government of El Salvador, and, of those, approximately 13,000 were victims of the Salvadoran Armed Forces.

78. On information and belief, and as described in the Truth Commission Report, these serious acts of violence included extrajudicial killings, torture, kidnappings, death squad assassinations, and massacres of entire villages. In 1980 alone, over 2,500 acts of serious violence were committed against noncombatants.

The Tight Control Of The Salvadoran Military High Command

79. On information and belief, at all relevant times, the Salvadoran Military was a hierarchical organization. The Minister of Defense and the Vice-Minister of Defense stood at the pinnacle of the Salvadoran Military High Command. The military was divided into distinct forces: the Military Forces—the Infantry, the Navy, the Air Force and the Cavalry—and the Security Forces—the National Guard, the National Police and the Treasury Police. Each force was represented on the Salvadoran Military High Command by its respective Director-General. The ultimate decision-making power and final responsibility for any military operation rested with the Salvadoran Military High Command.

80. On information and belief, on or about October 18, 1979, Defendant Garcia was appointed Minister of Defense by the Revolutionary Governing Junta. Immediately thereafter, Defendant Garcia appointed Defendant Vides Casanova to the position of Director-General of the National Guard.

81. As members of the Salvadoran Military High Command, Defendants Garcia and Vides Casanova had a duty, under customary international law and under Salvadoran law, to ensure the respect and protection of noncombatants present in El Salvador during military operations, and to prevent any abuses by operational forces that might result in injury to noncombatants. In this regard, all members of the Salvadoran Military High Command had a duty to ensure that all persons under their command were trained in — and duly complied with — the laws of land warfare, including the

international proscription against the torture and murder of noncombatants.

82. On information and belief, from about January 1980 to July 1991, governmental and non-governmental institutions received thousands of complaints of serious acts of violence committed by the Salvadoran Armed Forces. Such serious acts of violence included extrajudicial killings, forced disappearances and torture of noncombatants. Over fifty percent of these serious acts of violence occurred during the years of 1980 and 1981. Notwithstanding the large number of complaints against the Salvadoran Armed Forces, the Salvadoran Military High Command failed to pursue investigations and prosecutions of the perpetrators of these serious acts of violence, thereby directly contributing to the atmosphere of tolerance and endorsement of these activities within the Salvadoran Military.

83. These gross human rights abuses were committed by the Salvadoran Armed Forces under the command of Defendant Garcia and, for those committed by the National Guard, under the command of Defendant Vides Casanova.

84. On information and belief, on or about January 22, 1980, the Salvadoran National Guard fired on a peaceful demonstration of 100,000 people in San Salvador, killing between 20 and 50 people and wounding more than 100.

85. On information and belief, the Salvadoran National Guard carried out detentions and killings on a wide scale in rural areas of El Salvador, including the regions of Chalatenango and Suchitoto. Between December 29, 1979, and January 16, 1980, alone, Salvadoran Security Forces killed at least 29 civilians in Chalatenango. In January 1980, Salvadoran Armed Forces killed at least 102 civilians in rural areas throughout El Salvador.

86. On information and belief, in or about May 1980, the Salvadoran Army abducted and murdered twelve noncombatant civilians in the Metapan district. Most of the victims were members of an agricultural cooperative considered to be "subversive" by the Salvadoran Armed Forces. The victims were shot in the back and left out in the open next to a blanket on which was written "killed as traitors."

87. On information and belief, on or about May 14, 1980, hundreds of *campesinos*, including unarmed civilians and children, were massacred by members of the Salvadoran Armed

Forces, including the National Guard, while trying to cross the River Sumpul into Honduras to flee Salvadoran military operations in Chalatenango. The Salvadoran Government previously had stated that the civilian men, women and children in the area were members of guerrilla units. The military commander of the area made no serious investigation of the attack. Furthermore, no members of the Salvadoran Military High Command took any steps to prevent the future occurrence of such acts of violence against civilians. On information and belief, in or about June 1980, Defendant Garcia denied the massacre had occurred.

88. On information and belief, in or about November 1979, at a meeting of the Revolutionary Governing Junta, civilian members of the junta demanded that the massacres of civilians by the Armed Forces be stopped and that social and political reforms be implemented. Defendant Vides Casanova, with the approval and agreement of Defendant Garcia, responded that, in 1932, the country had survived the killing of 30,000 peasants by the Armed Forces and that "Today, the Armed Forces are prepared to kill 200,000 to 300,000 if that's what it takes to stop a Communist takeover."

89. On information and belief, on or about March 14, 1980, Defendant Garcia, during a meeting with the United States Ambassador to El Salvador, acknowledged that many hundreds of soldiers under his command were engaged in "death squad" activities.

90. On information and belief, the Salvadoran Armed specifically targeted members of the Catholic Church. Between January 1, 1980 and December 4, 1980 alone, 21 priests and religious teachers were assassinated in El Salvador.

91. On information and belief, in or about March 1980, Archbishop Oscar Arnulfo Romero was assassinated by a death squad which included members of the Salvadoran Security Forces. Prior to his assassination, Archbishop Romero had vocally denounced the human rights abuses committed by the Salvadoran government. There was no credible investigation of his assassination.

92. On information and belief, in or about mid-November 1980, during a Cabinet meeting in the Presidential Palace in San Salvador, Defendant Garcia made a half-hour presentation in which he claimed that churchworkers were collaborating with the guerrillas and that something should be

done to stop them.

93. On information and belief, at approximately 11 p.m., on December 2, 1980, four American churchwomen (Sister Ita Ford, 40, Sister Maura Clarke, 51, Sister Dorothy Kazel, 36, and Jean Donovan, 32) were killed in El Salvador on orders of the National Guard. The bodies of the four American churchwomen, brutally murdered with National Guard-issue service rifles and with signs of torture, were left along the roadside where they had fallen. Defendants Garcia and Vides Casanova failed to initiate or direct any meaningful investigation, inquiry or inquest into the abduction, torture and murder of the American churchwomen. Instead, Defendants Garcia and Vides Casanova initiated, organized, orchestrated, directed and implemented a cover up of the Salvadoran National Guard's responsibility for the crimes under their command.

94. The acts described herein were inflicted under actual or apparent authority or color of law of the Government of El Salvador.

95. The brutal acts of abduction, detention and torture inflicted upon Plaintiffs Juan Romagoza Arce and Jane Doe, and the resulting death of Baby Doe, were part of a pattern and practice of systematic human rights violations committed in El Salvador from 1979 to 1983, for which Defendants Garcia and Vides Casanova bear personal responsibility as the Minister of Defense and the Director-General of the National Guard.

96. At all relevant times, Defendant Garcia and Vides Casanova knew or reasonably should have known of the pattern and practice of gross human rights abuses perpetrated by the Salvadoran Armed Forces under their respective commands. Nevertheless, Defendants Garcia and Vides Casanova recklessly failed and willfully refused to take any action to prevent or punish such gross abuses, thus materially contributing to a climate of impunity within the Salvadoran Armed Forces, including the Salvadoran National Guard.

97. Defendants Garcia and Vides Casanova, as high military commanders of El Salvador, had at their disposal military intelligence and other sources of information by virtue of which they knew or reasonably should have known of each and every incident of gross human rights abuses committed, and to be committed, by the Salvadoran Armed Forces under their respective commands. Nevertheless, Defendants Garcia and Vides Casanova took no action to prevent or punish such

gross abuses.

98. Defendants Garcia and Vides Casanova are liable for the abduction; detention; rape; torture; cruel, inhuman or degrading treatment; crimes against humanity; and wrongful death in the present case because the Salvadoran National Guardsmen who committed the atrocities were the subordinates, representatives and agents of Defendants Garcia and Vides Casanova. In particular, the Salvadoran National Guardsmen acted under Defendant Vides Casanova's direct or implicit instructions, authority and control and within the scope of authority granted to him and overseen by Defendant Garcia and the government of El Salvador.

99. In addition, Defendant Vides Casanova was personally present during Plaintiff Juan Romagoza Arce's detention and torture, and failed to take action to prevent it or to take action against his subordinates who were involved in his shooting, detention or torture. He also failed to expose the existence of the detention facilities where he visited Plaintiff Romagoza Arce, thereby allowing future detention and torture in the facility over which he had direct control.

100. The brutal acts committed against the plaintiffs were conducted under General Vides Casanova's direct or implicit instructions, authority and control and within the scope of authority granted to him and overseen by Defendant Garcia and the Government of El Salvador. Defendants Vides Casanova and Garcia, instead of acting to punish or prevent such abuses, ordered, instigated, permitted, encouraged, authorized, and ratified the commission of gross human rights violations by the troops under their respective commands.

Absence Of Remedies In El Salvador

101. In March 1993, Salvadoran President Cristiani proposed, and the Salvadoran legislature adopted, a broad and unconditional amnesty for any individual implicated in "political offenses." The amnesty law foreclosed both civil and criminal liability for all individuals who had participated in any way in the commission of political crimes, common crimes related to political crimes, and common crimes committed by at least twenty persons before January 1, 1992. This law, as currently interpreted, precludes liability under Salvadoran law for those officials responsible for the plaintiffs' detention and torture, and for the death of Baby Doe. *See Decreto No. 486, La Asamblea Legislativa de la Republica de El Salvador.* Consequently, there are no adequate remedies available

to the plaintiffs in El Salvador.

102. There also are several serious impairments to proceeding against the defendants civilly in El Salvador. First, the defendants and the surviving plaintiffs now all reside in the United States. Second, the government of El Salvador has not proceeded, nor has it shown any intent of proceeding, against defendants for their involvement in human rights crimes committed when they served as Minister of Defense and Director of the National Guard. Third, the plaintiffs continue to be concerned for their safety and the safety of their loved ones who remain in El Salvador, and for those reasons would be unable to safely pursue this case in that country.

FIRST CLAIM FOR RELIEF

(Extrajudicial Killing)

103. The Estate of Baby Doe and Jane Doe, in her individual capacity and as personal representative for the Estate of Baby Doe, reallege and incorporate by reference the allegations set forth in paragraphs 1 through 102 as if fully set forth herein.

104. Defendants Jose Guillermo Garcia and Carlos Eugenio Vides Casanova were responsible for the extrajudicial killing of the decedent, Baby Doe. The acts leading to Baby Doe's death were not authorized by any court judgment and were unlawful under the laws of the Republic of El Salvador that existed at that time. The decedent and his mother were never charged with, convicted of, or sentenced for any crime.

105. This act of extrajudicial killing violated Article 6 of the International Covenant on Civil and Political Rights, a treaty of the United States. It also violated customary international law, as codified in relevant provisions of the international agreements and declarations listed in paragraph 6 herein. Consequently, the extrajudicial killing of Baby Doe is actionable under 28 U.S.C. §1350.

106. The extrajudicial killing of Baby Doe also violated the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 note).

107. Prior to his death, Baby Doe suffered severe physical abuse and agony. The extrajudicial killing of Baby Doe caused Plaintiff Jane Doe to suffer severe mental anguish. As a result of this extrajudicial killing, the Estate of Baby Doe and Plaintiff Jane Doe have been damaged in an amount to be proven at trial.

108. Defendants' acts 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)

109. Plaintiffs Juan Romagoza Arce and Jane Doe, in her individual capacity and as personal representative for the Estate of Baby Doe, reallege and incorporate by reference the allegations set forth in paragraphs 1 through 102 as if fully set forth herein.

110. The defendants and their co-conspirators specifically intended to inflict severe pain and suffering on the plaintiffs.

111. From some time on or about December 12, 1980 until on or about January 5, 1981, Plaintiff Juan Romagoza Arce was in the custody and/or physical control of the defendants or their co-conspirators.

112. From some time on or about December 26, 1979 until mid-January 1980, Plaintiffs Jane Doe and the unborn Baby Doe were in the custody and/or physical control of the defendants, their subordinates, or their co-conspirators.

113. The harms to Plaintiff Juan Romagoza Arce described herein were inflicted deliberately and intentionally for one or more of the following purposes: to punish the victim for an act the victim or a third person committed or was suspected of having committed; to intimidate or coerce the victim or a third person; and/or to discriminate against the plaintiff Juan Romagoza Arce due to his efforts to provide medical care to impoverished populations through university and church-supported clinics.

114. The harms to the Plaintiffs Jane Doe and Baby Doe described herein were inflicted deliberately and intentionally for one or more of the following purposes: to punish the victims for an act the victim or a third person committed or was suspected of having committed; to intimidate or coerce the victim or a third person; and/or to discriminate against Plaintiff Jane Doe for her educational and community organizing activities on behalf of the Catholic Church and her stated opposition to acts of military violence occurring in the Republic of El Salvador at that time.

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

116. The pain or suffering described herein did not arise from and was not incidental to lawful sanctions.

117. The acts described herein constitute torture in violation of Article 7 of the International Covenant on Civil and Political Rights and in violation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These acts also violated customary international law, as codified in relevant provisions of the international charters, agreements and declarations listed in paragraph 6 herein.

118. The torture of plaintiffs also violated the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 note).

119. The acts described herein placed plaintiffs in imminent fear for their lives and caused them to suffer severe physical and mental pain and suffering. As a result of the torture described above, each named plaintiff is entitled to compensation in an amount to be determined at trial.

120. Defendants' acts 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

(Crimes Against Humanity)

121. Plaintiffs Juan Romagoza Arce and Jane Doe, in her individual capacity and as the personal representative for the Estate of Baby Doe, reallege and incorporate by reference the allegations set forth in paragraphs 1 through 102 as if fully set forth herein.

122. The acts of extrajudicial killing, torture, and other inhumane acts 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 government of the Republic of El Salvador against a civilian population.

123. The crimes against humanity alleged herein are actionable under 28 U.S.C. §§ 1331, 1332 and 1350 because they were carried out in violation of customary international law, as codified in relevant provisions of the international agreements and declarations listed in paragraph 6 herein, including, but not limited to:

- a. Article 7 of the Rome Statute of the International Criminal Court, United Nations, Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, U.N. Doc. A/CONF. 183/9 (1998), reprinted on 37

I.L.M. 999 (1998).

- b. 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).
- c. 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).
- d. Principles of International Co-Operation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes Against Humanity, G.A. Res. A/9039/Add.I (1973).
- e. 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, Report of the Secretary General pursuant to Paragraph 2 of Security Council Resolution 808 (1993), U.N. Doc. S/25704 at 36 (1993), adopted by S.C. Res. 827, U.N. Doc. S/Res./827 (1993), reprinted in 32 I.L.M. 1159, 1170 (1993).
- f. Statute for the International Tribunal for Rwanda, U.N. SCOR, 49th Sess., 3453rd mtg. at 1, U.N. Doc. S/Res./955 (1994).

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

FOURTH CLAIM FOR RELIEF

(Cruel, Inhuman or Degrading Treatment or Punishment)

125. Plaintiffs Juan Romagoza Arce and Jane Doe, in her individual capacity and as a personal representative of the Estate of Baby Doe, reallege and incorporate by reference the allegations set forth in paragraphs 1 through 102 as if fully set forth herein.

126. The acts described herein – including, but not limited to, conducting mock executions and subjecting Plaintiff Juan Romagoza Arce to electric shocks and beatings – constituted cruel, inhuman or degrading treatment or punishment.

127. The acts described herein – including, but not limited to, subjecting Plaintiff Jane Doe to severe beatings, repeated rapes and electric shocks – constituted cruel, inhuman or degrading treatment or punishment.

128. The acts described herein – including, but not limited to, the acts of torture, rape and asphyxiation of Plaintiff Baby Doe's mother while he was in utero – constituted cruel, inhuman or degrading treatment or punishment of Baby Doe.

129. The acts described herein – including, but not limited to, the acts referred to in paragraphs 127 and 128 – constituted cruel, inhuman or degrading treatment or punishment of the family of Baby Doe.

130. The acts of cruel, inhuman or degrading treatment or punishment described herein were carried out in violation of Article 7 of the International Covenant on Civil and Political Rights and Article 16 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These acts also violated customary international law, as codified in relevant provisions of the international agreements and declarations listed in paragraph 6 herein. Consequently, these acts of cruel, inhuman or degrading treatment or punishment are actionable under 28 U.S.C. §§ 1331, 1332 and 1350.

131. The acts described herein caused plaintiffs severe mental and physical pain and suffering. As a result of the cruel, inhuman or degrading treatment or punishment described above, each named plaintiff is entitled to compensation in an amount to be determined at trial.

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

FIFTH CLAIM FOR RELIEF

(Arbitrary Detention)

133. Plaintiffs Juan Romagoza Arce and Jane Doe reallege and incorporate by reference the allegations set forth in paragraphs 1 through 102 as if fully set forth herein.

134. Defendants' involvement in the arbitrary detention of plaintiffs was illegal and unjust. Defendants and those acting with them or under their command and control detained the plaintiffs without warrant, probable cause, articulable suspicion or notice of charges and failed to accord them due process in fair trials.

135. Defendants' acts constitute arbitrary detention in violation of customary international law, the common law of the United States, the statutes and common law of Florida, the laws of the Republic of El Salvador and the international treaties, agreements, conventions and resolutions described in paragraph 6 herein.

136. As a result of the defendants' acts, plaintiffs were placed in great fear for their lives, deprived of their freedom, separated from their families and experienced severe physical and psychological abuse and agony. In addition, the plaintiffs suffered great mental anguish as a result of defendants' acts. As a result of their arbitrary detention, Plaintiffs Juan Romagoza Arce and Jane Doe have been damaged in an amount to be determined at trial.

137. Defendants' acts 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

(Wrongful Death)

138. Plaintiff Jane Doe, as the personal representative for the Estate of Baby Doe, realleges and incorporates by reference the allegations set forth in paragraphs 1 through 102 as if fully set forth herein.

139. The killing of Baby Doe was a wrongful act. The decedent would have been entitled to recover damages for battery and other torts if death had not ensued.

140. The killing of Baby Doe constituted wrongful death, actionable under the statutes and common law of the State of Florida and the laws of the Republic of El Salvador.

141. The decedent was the child of Plaintiff Jane Doe, who was eight months pregnant with Baby Doe when she was tortured by the subordinates of the defendants. Injuries inflicted upon the eight month old fetus as a result of his mother's torture caused his failing health and, ultimately, his death at two months of age. Decedent is survived by his mother, Plaintiff Jane Doe, who is still alive and was 24 years old at the time of Baby Doe's death.

142. As a further proximate result of the defendants' wrongful killing of Baby Doe, decedent's mother, Plaintiff Jane Doe, has suffered loss of the decedent's companionship since February 1980. She will continue to suffer the loss of companionship that she could have reasonably expected to receive from decedent during his lifetime. Plaintiff Jane Doe has also endured mental pain and suffering from the date of the decedent's death, and can reasonably expect to continue to endure such pain and suffering for the balance of her lifetime. Therefore, Plaintiff Jane Doe as personal representative for the Estate of Baby Doe, is entitled to additional compensation in an amount to be

proven at trial.

143. Defendants' acts 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.

SEVENTH CLAIM FOR RELIEF

(Assault and Battery/Violent Injury or Attempt to Commit Injury)

144. Plaintiffs Juan Romagoza Arce and Jane Doe reallege and incorporate by reference the allegations set forth in paragraphs 1 through 102 as if fully set forth herein.

145. Defendants involvement in the torture of the plaintiffs constitutes assault and battery (violent injury or attempt to commit injury), actionable under the laws of Florida, the laws of the United States and the laws of the Republic of El Salvador.

146. As a result of the defendants' acts, the plaintiffs were placed in great fear for their lives and suffered severe physical or psychological abuse and agony. As a result of the assault and battery (violent injury or attempt to commit injury) described above, Plaintiffs Juan Romagoza Arce and Jane Doe have been damaged in an amount to be determined at trial.

147. Defendants' acts 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

(False Arrest and False Imprisonment)

148. Plaintiffs Juan Romagoza Arce and Jane Doe reallege and incorporate by reference the allegations set forth in paragraphs 1 through 102 as if fully set forth herein.

149. Defendants' wrongful restraint, confinement and detention of the plaintiffs against their will and without lawful privileges or reasonable cause constituted false arrest and false imprisonment, actionable under the laws of Florida, the laws of the United States and the laws of the Republic of El Salvador.

150. As a result of defendants' actions, the plaintiffs were placed in great fear for their lives, deprived of their freedom, separated from their families and forced to suffer severe physical and psychological abuse and agony. As a result of their false arrest described above, Plaintiff Juan Romagoza Arce and Plaintiff Jane Doe have been damaged in an amount to be determined at trial.

151. Defendants' acts 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.

NINTH CLAIM FOR RELIEF

(Intentional Infliction of Emotional Distress)

152. Plaintiffs Juan Romagoza Arce and Jane Doe, reallege and incorporate by reference the allegations set forth in paragraphs 1 through 102 as if fully set forth herein.

153. The acts described herein – including, but not limited to, the attempted murder and torture of Plaintiff Juan Romagoza Arce, conducting mock executions and subjecting the plaintiff to the torture of fellow detainees – constituted outrageous conduct, beyond all bounds of decency.

154. The acts described herein – including, but not limited to, the torture and subsequent death of Baby Doe, the repeated acts of torture and rape of Plaintiff Jane Doe, subjecting Plaintiff Jane Doe to the torture of fellow detainees, and conducting army massacres against innocent civilians – constituted outrageous conduct, beyond all bounds of decency.

155. Defendants' outrageous conduct was intentional or reckless. The acts described herein caused severe emotional distress to the plaintiffs. The defendants knew that their conduct, and the conduct of their co-conspirators, was certain or substantially certain to cause severe emotional distress to the Plaintiffs Juan Romagoza Arce and Jane Doe.

156. Defendants' outrageous conduct constitutes intentional infliction of emotional distress and is actionable under the laws of the State of Florida and the laws of the Republic of El Salvador.

157. As a result of the intentional infliction of emotional distress described above, Plaintiffs Juan Romagoza Arce and Jane Doe have been damaged in an amount to be determined at trial.

158. Defendants acts 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.

TENTH CLAIM FOR RELIEF

(Civil Conspiracy)

159. Plaintiffs Juan Romagoza Arce and Jane Doe, in her individual capacity and as personal representative for the Estate of Baby Doe, reallege and incorporate by reference the allegations set forth in paragraphs 1 through 102 as if fully set forth herein.

160. The acts described herein were committed in furtherance of a conspiracy among Salvadoran military officers – including the defendants, other officials and members of the National Guard, and members of the Civil Defense – to commit acts of extrajudicial execution, torture, cruel inhuman and degrading treatment, and crimes against humanity for the purpose of eliminating and/or intimidating perceived political opponents of the government of the Republic of El Salvador.

161. The defendants and their co-conspirators carried out a series of overt acts in furtherance of their conspiracy, including, *inter alia*, causing the death of Baby Doe, torturing plaintiffs Juan Romagoza Arce, Jane Doe and Baby Doe and subjecting Plaintiffs Juan Romagoza Arce and Jane Doe to the torture of other detainees.

162. The acts described herein constitute a civil conspiracy in violation of the laws of the State of Florida and the Republic of El Salvador.

163. As a result of the civil conspiracy described herein, each named plaintiff is entitled to compensatory damages in an amount to be determined at trial.

164. Defendants' acts 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.

WHEREFORE, plaintiffs pray for judgment against each defendant as follows:

For compensatory damages according to proof;
For punitive and exemplary damages, according to proof;
For prejudgment interest as allowed by law;
For attorneys' fees and costs of suit, according to proof;

For any such other and further relief as the Court deems just and proper.

Respectfully submitted,

May _____, 1999

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