

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
SOUTHERN DIVISION

TEÓFILA OCHOA LIZARBE, in her individual )  
capacity, and in her capacity as the foreign )  
personal representative of the estates of Silvestra )  
Lizarbe Solis, Gerardo Ochoa Lizarbe, Victor )  
Ochoa Lizarbe, Ernestina Ochoa Lizarbe, )  
Celestino Ochoa Lizarbe, and Edwin Ochoa )  
Lizarbe, and )

CIRILA PULIDO BALDEÓN, in her individual )  
capacity, and in her capacity as the foreign )  
personal representative of the estates of )  
Fortunata Baldeón Gutiérrez and Edgar Pulido )  
Baldeón, )

c/o The Center for Justice and Accountability )  
870 Market Street, Suite 688 )  
San Francisco, California 92102, )

Plaintiffs, )

v. )

JUAN MANUEL RIVERA RONDÓN )  
9502 Meadow Ridge Lane )  
Laytonsville, Montgomery County, )  
Maryland 20882, )

Defendant. )

Civil Action No.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Teófila Ochoa Lizarbe and Cirila Pulido Baldeón (collectively “Plaintiffs”) complain and allege as follows:

**PRELIMINARY STATEMENT**

1. This is an action for compensatory and punitive damages for torts in violation of international and domestic law. Plaintiffs institute this action against Defendant Juan Manuel

Rivera Rondón (“Defendant Rivera Rondón”) for his responsibility for the extrajudicial killings of Silvestra Lizarbe Solis, Gerardo Ochoa Lizarbe, Victor Ochoa Lizarbe, Ernestina Ochoa Lizarbe, Celestino Ochoa Lizarbe, Edwin Ochoa Lizarbe, Fortunata Baldeón Gutiérrez and Edgar Pulido Baldeón (collectively “Decedents”), on or about August 14, 1985, in the Accomarca district of Peru, in what became known as the Accomarca Massacre. Plaintiffs bring claims of torture, war crimes and crimes against humanity for their own mental pain and suffering in witnessing the Accomarca Massacre. Plaintiffs also bring claims of torture, war crimes and crimes against humanity on behalf of their decedent relatives.

2. Plaintiffs allege that Defendant Rivera Rondón engaged in a joint criminal enterprise with, conspired with, and/or aided and abetted officers and soldiers in the Peruvian Army (“Peruvian Army”) who carried out the Accomarca Massacre, as well as officers in the Peruvian Army who planned the military operation, to commit extrajudicial killings, torture, war crimes and crimes against humanity. Accordingly, Plaintiffs assert that Defendant Rivera Rondón is liable under domestic and international law for the injuries, pain and suffering they and their decedent relatives endured.

### **JURISDICTION AND VENUE**

3. Plaintiffs allege that Defendant Rivera Rondón is liable for extrajudicial killing and torture as defined by the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. §1350 note). Plaintiffs further allege that Defendant Rivera Rondón is liable for extrajudicial killing, torture, war crimes and crimes against humanity in violation of the law of nations. Accordingly, this Court has jurisdiction over this action based on the Alien Tort Statute, 28 U.S.C. §1350, and 28 U.S.C. §1331.

4. On information and belief, Defendant Rivera Rondón is a citizen of Peru, and his permanent residence is in Montgomery County, Maryland. Therefore venue is proper in the United States District Court for the District of Maryland pursuant to 28 U.S.C. § 1391(b) or (d).

### **PARTIES**

#### *Defendant Rivera Rondón*

5. Defendant Rivera Rondón is a citizen of Peru, and his permanent residence is in Montgomery County, Maryland.

6. In 1985, Defendant Rivera Rondón was a Lieutenant in the Peruvian Army. In or about August 1985, Defendant Rivera Rondón served in the Lince Company of the Second Infantry Division in Ayacucho, Peru. On or about August 14, 1985, Defendant Rivera Rondón served as the commander of Lince Company's 6th patrol unit ("Lince 6").

7. In or about 1992 or 1993, Defendant Rivera Rondón entered the United States.

#### *Plaintiff Teófila Ochoa Lizarbe*

8. Plaintiff Teófila Ochoa Lizarbe ("Plaintiff Teófila Ochoa") is a citizen and resident of Peru. She is of indigenous descent and speaks Quechua as her first language. She brings this action, in her individual capacity and in her capacity as personal representative of the estates of her decedent relatives, for the extrajudicial killings of her mother, Silvestra Lizarbe Solis; her brother, Gerardo Ochoa Lizarbe; her brother, Victor Ochoa Lizarbe; her sister, Ernestina Ochoa Lizarbe; her brother, Celestino Ochoa Lizarbe; and her brother, Edwin Ochoa Lizarbe. She brings claims of torture, war crimes and crimes against humanity for her own mental pain and suffering in witnessing the Accomarca Massacre. She also brings, in her capacity as personal representative of the estates of her decedent relatives, claims of torture, war crimes and crimes

against humanity on behalf of her decedent relatives. Plaintiff Teófila Ochoa was only 12 years old at the time of the Accomarca Massacre.

9. Plaintiff Teófila Ochoa has filed six Petitions for Administration (“Ochoa Petitions”) in the Circuit Court for the 11th Judicial Circuit in and for Miami-Dade County, Florida (“Probate Court”), Case No. 07-2768, Case No. 07-2769, Case No. 07-2770, Case No. 07-2771, Case No. 07-2772, and Case No. 07-2773. The Ochoa Petitions have asked the Probate Court to appoint Plaintiff Teófila Ochoa as the personal representative of the Estate of Silvestra Lizarbe Solis, the Estate of Gerardo Ochoa Lizarbe, the Estate of Victor Ochoa Lizarbe, the Estate of Ernestina Ochoa Lizarbe, the Estate of Celestino Ochoa Lizarbe, and the Estate of Edwin Ochoa Lizarbe.

*Plaintiff Cirila Pulido Baldeón*

10. Plaintiff Cirila Pulido Baldeón (“Plaintiff Cirila Pulido”) is a citizen and resident of Peru. She is of indigenous descent and speaks Quechua as her first language. She brings this action, in her individual capacity and in her capacity as personal representative of the estates of her decedent relatives, for the extrajudicial killings of her mother, Fortunata Baldeón Gutiérrez, and her brother, Edgar Pulido Baldeón. She brings claims of torture, war crimes and crimes against humanity for her own mental pain and suffering in witnessing the Accomarca Massacre. She also brings, in her capacity as personal representative of the estates of her decedent relatives, claims of torture, war crimes and crimes against humanity on behalf of her decedent relatives. Plaintiff Cirila Pulido was only 12 years old at the time of the Accomarca Massacre.

11. Plaintiff Cirila Pulido has filed two Petitions for Administration (“Pulido Petitions”) in the Circuit Court for the 11th Judicial Circuit in and for Miami-Dade County, Florida (“Probate Court”), Case No. 07-2766, and Case No. 07-2767. The Pulido Petitions have asked the Probate

Court to appoint Plaintiff Cirila Pulido as the personal representative of the Estate of Fortunata Baldeón Gutiérrez and the Estate of Edgar Pulido Baldeón.

**KEY MILITARY ACTORS INVOLVED IN THE ACCOMARCA MASSACRE**

12. Defendant Rivera Rondón – Commander of the Lince 6 patrol unit.
13. Second Lieutenant Telmo Ricardo Hurtado Hurtado – Commander of the Lince 7 patrol unit.
14. Major José Daniel Williams Zapata – Commander of Lince Company.
15. General Wilfredo Mori Orzo – Chief of the Political-Military Command for National Security Sub-Zone 5.
16. Lieutenant Colonel Carlos Medina Delgado – Chief of Operations (G-3) of the General Staff of the Peruvian Army's Second Infantry Division.
17. Captain Helber Gálvez Fernández – Commander of the Vilcashuamán base.
18. Second Lieutenant David Eduardo Castañeda Castillo – Commander of the Tigre patrol unit, based at the Vilcashuamán base.
19. Lieutenant Luis Armando Robles Nunura – Commander of the Lobo patrol unit, based at the San Pedro de Hualla base.

**DEFINITIONS**

*Military Terms*

20. Lince Company – A special countersubversive intelligence unit that was mobile and could be deployed quickly to different regions. Two of its units were involved in Operation Huancayoc and the Accomarca Massacre.

21. Lince 6 – One of two patrol units from Lince Company involved in the Accomarca Massacre. The unit, commanded by Defendant Rivera Rondón, operated in the upper part of Quebrada de Huancayoc.

22. Lince 7 – One of two patrol units from Lince Company involved in the Accomarca Massacre. The unit, commanded by Second Lieutenant Hurtado, operated in the lower part of Quebrada de Huancayoc.

23. Los Cabitos – The Peruvian Army barracks in the city of Ayacucho and the command headquarters for National Security Sub-Zone 5.

24. Sendero Luminoso – A Maoist rebel group which was engaged in a violent insurgency campaign against the government of Peru from 1980 to 2000.

#### *Geographical Locations*

25. Department of Ayacucho – A department, similar to a state in the United States, in the mountainous region of south central Peru.

26. City of Ayacucho – The capital city of the department of Ayacucho.

27. Sub-Zone 5 – The “emergency zone” declared by the Peruvian government which included the department of Ayacucho and the district of Accomarca.

28. Town of Pucayacu – A town in the northern part of the department of Ayacucho where, in August 1985, Peruvian Army soldiers executed approximately seven civilians.

29. Vilcashuamán Province – A province within the department of Ayacucho and Sub-Zone 5 in which the district of Accomarca is located.

30. City of Vilcashuamán – The capital city of Vilcashuamán province and the location of a Peruvian Army base.

31. District of Accomarca – A district located in Vilcashuamán province which encompasses, among others, the town of Accomarca and the area known as Quebrada de Huancayoc.

32. Town of Accomarca – The capital of the district of Accomarca, situated above Quebrada de Huancayoc.

33. Quebrada de Huancayoc – A large area below the town of Accomarca where the Accomarca Massacre occurred. The Peruvian Army devised Operation Huancayoc to “capture and/or destroy terrorist elements” in Quebrada de Huancayoc.

34. Quebrada de Huancayoc and the town of Accomarca are located within the district of Accomarca. The district of Accomarca and the city of Vilcashuamán are both located within the Vilcashuamán Province. The Vilcashuamán Province, the city of Pucayacu and the city of Ayacucho are all located within the Department of Ayacucho.

## **STATEMENT OF FACTS**

### *The Conflict Between Sendero Luminoso and the Peruvian Government*

35. From 1980 to 2000, Peru was in a state of civil war. Throughout that time, the Peruvian Army and other government forces were responsible for widespread and systematic human rights abuses against the civilian population of Peru. Especially during the 1980s, the Peruvian Army carried out massacres, disappearances and torture in the Andean highlands, and particularly in the department of Ayacucho. The Peruvian Army committed these abuses under the guise of fighting the Maoist rebel group *Sendero Luminoso* (Shining Path in English, “Sendero Luminoso”), which was engaged in a violent insurgency campaign in Ayacucho and in other Andean areas. Sendero Luminoso also committed widespread abuses, including massacres, bombings and targeted assassinations.

36. Plaintiffs and Decedents were civilians, and were not members of Sendero Luminoso or the Peruvian Army.

37. Historically the economic advances and modernity of Peru's coastal region, particularly the capital city of Lima, have not benefited the residents of the Andean highlands. The mountainous regions have always been the most underdeveloped in the country. Most of the residents of those areas live in extreme poverty, and have had very little access to the most basic services, including electricity, sanitation, medical care, education and dependable transportation. In addition, prior to 1980, these areas were fairly isolated from the government power center in Lima, and there was very little investment in the region. Roads to many of the villages and towns were nonexistent or in precarious conditions, which resulted in their isolation.

38. This situation has been exacerbated by persistent racist attitudes toward many of the inhabitants of the Andean region. Most people in those areas are of indigenous descent, unlike the white and mestizo populations that populate coastal areas. Many speak Quechua, the primary indigenous language in Peru, as their first language rather than Spanish. These ethnic and cultural differences played significant roles in the mistreatment that residents of the Andes endured at the hands of the Peruvian Army during the civil war.

39. In or about May 1980, national elections were held to replace the ruling military government with a civilian leader. In this context, Sendero Luminoso launched its insurrection in Ayacucho. In or about October 1981, the government declared a state of emergency in five of Ayacucho's seven provinces – known as the “Emergency Zone” – and suspended constitutional protections. Sendero Luminoso continued to extend its influence in the region. The police responded with arbitrary arrests and murders of prisoners.



*Human Rights Abuses in Ayacucho*

40. In or about December 1982, the government deployed the Peruvian Army to the department of Ayacucho, which by then had been included in an area the Peruvian Army designated as National Security Sub-Zone 5 (“Sub-Zone 5”). The Los Cabitos barracks in the city of Ayacucho became the command headquarters for Sub-Zone 5.

41. This deployment led to a major increase in killings and disappearances of civilians by both the Peruvian Army and Sendero Luminoso, as well as the forced displacement of the civilian population. Many innocent civilians were caught between the brutality of Sendero Luminoso and the Peruvian Army. If Sendero Luminoso entered a town and left, the Peruvian Army often sent a patrol into the town and killed anyone suspected of providing support to or even speaking with Sendero Luminoso.

42. The Peruvian Army began installing “countersubversive” bases in barracks throughout Sub-Zone 5. One of the key bases was established in the city of Vilcashuamán in or about 1983. Vilcashuamán became the capital of the newly created province of the same name in or about 1984. Special “countersubversive” patrols were sent out from these bases to carry out military operations in areas claimed to be controlled or influenced by Sendero Luminoso, which the Peruvian Army called *zonas rojas* (red zones). Often during these operations, the Peruvian Army did not encounter any Sendero Luminoso fighters in the towns. Despite this, Peruvian Army soldiers systematically raped women and murdered villagers.

43. Beginning in or about 1983, the Peruvian Army targeted the Accomarca District (a district in what would be called the Vilcashuamán province), claiming that Sendero Luminoso had gained a foothold in communities in the district. The Peruvian Army focused, in particular,

on an area in the Accomarca district known as Quebrada de Huancayoc, located just below the town of Accomarca, the capital of the district.

44. In or about September 1983, the Peruvian Army raided the homes of approximately eleven people in the town of Accomarca and killed them for being suspected Sendero Luminoso supporters. The residents of Accomarca and surrounding areas were caught between the violent conduct of the Peruvian Army and Sendero Luminoso.

45. Between approximately 1983 and 1985 this pattern was repeated throughout Sub-Zone 5. The Peruvian Army committed numerous massacres and arrested and disappeared hundreds of civilians. Massacres and disappearances were carried out throughout the province of Vilcashuamán. Numerous civilians were arbitrarily arrested, tortured and/or murdered at Los Cabitos barracks in Ayacucho.

46. In or about August 1984, General Wilfredo Mori Orzo (“Mori Orzo”) was named Chief of the Political-Military Command for Sub-Zone 5.

47. On or about August 7, 1985, in the town of Pucayacu, in the northern part of the department of Ayacucho, Peruvian Army soldiers executed approximately seven civilians who had been arbitrarily detained and tortured during the previous days. The soldiers dumped their bodies in a common grave.

*Planning for Operation Huancayoc*

48. In or about August 1985, Mori Orzo ordered the General Staff of the Peruvian Army’s Second Infantry Division to devise an operational plan to “capture and/or destroy terrorist elements in Quebrada de Huancayoc.” The operation was placed under the control of Lieutenant Colonel Carlos Medina Delgado (“Medina”), the Chief of Operations (G-3) of the General Staff.

49. Medina convened a meeting to discuss the plan, which was named “Operation Huancayoc.” In attendance at the meeting were the commander of the nearby Vilcashuamán base, Captain Helber Gálvez Fernández (“Gálvez Fernández”); the commander of Lince Company, Major José Daniel Williams Zapata (“Williams Zapata”); Second Lieutenant Telmo Ricardo Hurtado Hurtado (“Hurtado”); Defendant Rivera Rondón, who was a Lieutenant at that time; and Medina.

50. At the meeting, the plans of the operation were discussed. Four patrol units would be employed – two from Lince Company, one from the countersubversive base at Vilcashuamán, and one from the countersubversive base at San Pedro de Hualla.

51. Lince Company was a special countersubversive intelligence unit that was mobile and could be deployed quickly to different regions.

52. Williams Zapata chose the patrol units from Lince Company that would participate. Williams Zapata selected Lince 6, commanded by Defendant Rivera Rondón, and the Lince 7 patrol unit (“Lince 7”), commanded by Hurtado. Those two units were responsible for going into Quebrada de Huancayoc. The other two units would guard escape routes, and would be commanded by Second Lieutenant David Eduardo Castañeda Castillo and Lieutenant Luis Armando Robles Nunura.

53. Gálvez Fernández told the attendees of the meeting that any villager appearing in Quebrada de Huancayoc should be considered a terrorist-communist.

*The Accomarca Massacre*

54. On or about August 14, 1985, Lince 7 left the town of Accomarca and descended to Quebrada de Huancayoc, approximately 2 miles below the town. The soldiers were dressed in fatigues and black boots and carried machine guns. Most of them wore ski masks. They also

brought dogs with them. The soldiers, shooting their guns to prevent people from escaping, entered an area in the lower part of Quebrada de Huancayoc where animals were brought for grazing. The soldiers went house to house removing villagers and bringing them out into the open. Although the soldiers searched the houses, they did not find any weapons or Sendero Luminoso materials.

55. Among those who came out of their houses were Silvestra Lizarbe Solis, mother of Plaintiff Teófila Ochoa; Victor Ochoa Lizarbe, Ernestina Ochoa Lizarbe, Celestino Ochoa Lizarbe and Edwin Ochoa Lizarbe, siblings of Plaintiff Teófila Ochoa; and Fortunata Baldeón Gutiérrez and Edgar Pulido Baldeón, the mother and brother of Plaintiff Cirila Pulido.

56. Along with her brother, Gerardo Ochoa Lizarbe, Plaintiff Teófila Ochoa initially remained in her house. However, soldiers eventually found them, so the siblings fled in opposite directions. Plaintiff Teófila Ochoa was spotted by soldiers who began shooting at her. She managed to escape and hide. Her brother Gerardo was shot and killed by soldiers.

57. From her hiding place, Plaintiff Teófila Ochoa observed soldiers abduct young girls and take them into houses. She heard desperate screams from the girls, and then heard gunshots. When the soldiers came out of the houses, they set the houses on fire.

58. In order to avoid the soldiers, Plaintiff Cirila Pulido, along with two of her siblings, left their house and hid.

59. Once most of the villagers were forced out of their own houses and into an open field, the soldiers separated the men and women. Some of the women were taken away to a field where soldiers raped them.

60. Later in the morning of August 14, 1985, a group of approximately 50 villagers was being held in front of the home of Cesareo Gamboa de la Cruz, also located in Quebrada de

Huancayoc. In this group were Decedents Silvestra Lizarbe Solis, Victor Ochoa Lizarbe, Ernestina Ochoa Lizarbe, Celestino Ochoa Lizarbe, Edwin Ochoa Lizarbe, Fortunata Baldeón Gutiérrez and Edgar Pulido Baldeón. Soldiers forced part of the group into the kitchen, which was a separate structure apart from the house. Then soldiers forced the rest of the group into the house. From her hiding place, Plaintiff Cirila Pulido saw her relatives, including Decedents Fortunata Baldeón Gutiérrez and Edgar Pulido Baldeón, forced into the house. Once all the villagers were in the house, the troops opened fire on the two buildings. Hurtado also threw a grenade toward one of the buildings, causing an explosion and a fire that burned the building with the villagers inside. Among those killed were several pregnant women and elderly citizens.

61. The soldiers killed other villagers, including children, in the surrounding areas. Soldiers found an elderly woman trying to put out the fire at the home of Cesareo Gamboa, so they shot her.

62. During the Accomarca Massacre, Defendant Rivera Rondón and Lince 6 operated in the upper part of Quebrada de Huancayoc, a short distance from where the Lince 7 soldiers were located. Soldiers in Lince 6 also fired shots and burned houses, and they blocked a possible escape route for the villagers. The position of Lince 6 was close enough to Lince 7 for its members to be able to hear the shots and grenade explosions from the Lince 7 soldiers.

63. After the killings, the soldiers of Lince 7, while still at Quebrada de Huancayoc, celebrated their actions by drinking alcohol, dancing and killing the villagers' farm animals. Then they changed out of their fatigues and into civilian clothes, and returned to the town of Accomarca.

64. Approximately 69 unarmed civilians were killed by the Peruvian Army during Operation Huancayoc.

65. Defendant Rivera Rondón took no steps to stop other officers or soldiers from committing human rights abuses against civilians during Operation Huancayoc, including those committed during the Accomarca Massacre. Even though his unit had a radio, and the abuses continued over many hours, Defendant Rivera Rondón did not contact his superiors to tell them that human rights abuses were being committed. He failed to report the abuses to his superiors after the operation was over.

66. On or about August 17, 1985, both Defendant Rivera Rondón and Hurtado submitted written reports about the operation to Medina in his capacity as Chief of Operations (G-3) of the General Staff of the Second Infantry Division. In his report, Defendant Rivera Rondón did not mention any interaction with civilians in Quebrada de Huancayoc or the fact that dozens of people were killed during the operation.

67. In his report, Hurtado also made no mention of the interaction with civilians in Quebrada de Huancayoc or the fact that he and his troops killed dozens of people.

68. On our about August 27, 1985, less than two weeks after the Accomarca Massacre, Peruvian Army soldiers murdered approximately 59 civilians in the nearby towns of Umaro and Bellavista, both located in the province of Vilcashuamán.

69. After information began to surface in late August 1985 about the killings in Accomarca and Pucayacu, the Peruvian Senate created a human rights commission (“Peruvian Senate commission”) to investigate the massacres.

70. On or about September 8, 1985, Peruvian Army soldiers returned to Accomarca and murdered at least two eyewitnesses to the Accomarca Massacre. A few days later, members of the Peruvian Senate commission traveled to Accomarca and found more corpses, with fresh blood and without signs of rigor mortis, in the cemetery.

71. The Peruvian Senate commission interviewed eyewitnesses to the Accomarca Massacre as well as most of the Peruvian Army officers involved in Operation Huancayoc. Hurtado admitted to the Peruvian Senate commission his involvement in the killings. Defendant Rivera Rondón falsely told the Peruvian Senate commission that he had been charged with crimes and therefore had a right not to answer some of the Senators' questions.

72. According to Peru's Commission for Truth and Reconciliation, 26,259 people died or disappeared in the department of Ayacucho during the civil war.

### **GENERAL ALLEGATIONS**

73. The acts described herein were carried out under actual or apparent authority or color of law of the government of Peru. Defendant Rivera Rondón bears responsibility for engaging in a joint criminal enterprise with, conspiring with, and/or aiding and abetting officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc.

74. Defendant Rivera Rondón knew or should have known about the human rights abuses committed during Operation Huancayoc including those committed during the Accomarca Massacre. Moreover, human rights abuses committed by the Peruvian Army and other government forces were widely reported in the national and international media. Politicians, human rights organizations and others openly voiced their concerns about these abuses. At all relevant times, Defendant Rivera Rondón knew or reasonably should have known of the pattern and practice of human rights abuses perpetrated by the Peruvian Army and other government forces.

75. The extrajudicial killings and torture inflicted upon Decedents and Plaintiffs were part of a pattern and practice of widespread and systematic human rights violations committed

against the civilian population of Peru from approximately 1980 to 2000 by the Peruvian Army and other government forces and therefore constitute crimes against humanity. At all relevant times, Defendant Rivera Rondón knew or should have known of the pattern and practice of gross human rights abuses perpetrated against the civilian population.

76. Defendant Rivera Rondón conspired with officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, to commit extrajudicial killings, torture, war crimes and crimes against humanity. Defendant Rivera Rondón conspired and acted in concert with one or more members of the Peruvian Army pursuant to a common plan, design, and scheme to carry out Operation Huancayoc and commit human rights abuses against civilians. Defendant Rivera Rondón knowingly joined and participated in carrying out the common plan, design and scheme. In addition to being personally liable for his own actions, Defendant Rivera Rondón is jointly and severally liable for the actions of his co-conspirators, all of which were actions undertaken in furtherance of a common plan, design and scheme to carry out Operation Huancayoc and commit human rights abuses against civilians.

77. Defendant Rivera Rondón also aided and abetted officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, to commit extrajudicial killings, torture, war crimes and crimes against humanity. Defendant Rivera Rondón substantially assisted officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, to commit extrajudicial killings, torture, war crimes and crimes against humanity. He knew or should have known that his actions and omissions would assist in these abuses at the time he provided the



assistance. In addition to being personally liable for his own actions, Defendant Rivera Rondón is jointly and severally liable for the actions of those he aided and abetted.

78. Defendant Rivera Rondón also engaged in a joint criminal enterprise with officers and soldiers in the Peruvian Army who carried out the Accamarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, to commit extrajudicial killings, torture, war crimes and crimes against humanity. The extrajudicial killings, torture, war crimes and crimes against humanity committed during Operation Huancayoc were a part of an organized system of repression against the civilian population in Peru. Defendant Rivera Rondón had knowledge of and was an active participant in the enforcement of this system of repression against the civilian population in Peru. It was the intent of Defendant Rivera Rondón to further this system of repression.

79. The extrajudicial killings, torture, war crimes and crimes against humanity committed during Operation Huancayoc were foreseeable consequences of a common, shared intention on the part of Defendant Rivera Rondón, officers and soldiers in the Peruvian Army who carried out the Accamarca Massacre, including Hurtado, and officers in the Peruvian Army who planned Operation Huancayoc, to commit extrajudicial killings, torture, war crimes and crimes against humanity.

80. These acts and omissions were outside the scope of Defendant Rivera Rondón's lawful authority and were not authorized by international or Peruvian law.

*Equitable Tolling of the Statute of Limitations*

81. Plaintiffs could not have brought a lawsuit in the United States against Defendant Rivera Rondón or other members of the Peruvian military prior to the removal of Alberto Fujimori ("Fujimori") as president of Peru in or about November 2000. Prior to that time,

Plaintiffs, who reside in Peru, had a reasonable fear of reprisals against themselves and members of their families residing in Peru, which served as an insurmountable deterrent to such action. Also, until November 2000, it would not have been possible to safely conduct investigation and discovery in Peru in support of such a case.

82. From about 1985 to 1990, including at the time of the Accamarca Massacre, Alan García served as president of Peru. Throughout his presidency, Peruvian government forces, and in particular the Peruvian Army, continued to commit widespread and systematic human rights abuses against the civilian population of Peru. Government forces abducted, tortured and disappeared suspected “subversives” and murdered civilians in military operations. These abuses continued to be committed throughout the department of Ayacucho. For example, in or about May 1988, Peruvian Army soldiers murdered approximately 30 civilians in the town of Cayara.

83. Even after information about the Accamarca Massacre became public, Defendant Rivera Rondón was promoted within the Peruvian Army. In or about 1989, he was promoted to Captain.

84. In or about 1990, Fujimori was elected president of Peru. Widespread and systematic human rights abuses against civilians continued during his presidency. In or about 1992, Fujimori declared a “self-coup,” closing down Congress, purging the judiciary and suspending the constitution. Fujimori’s government then enacted a series of “anti-terrorism” laws that provided virtually no due process protections. These laws also provided greater power to the military and intelligence services.

85. Between 1990 and 2000, government forces and death squads continued to commit widespread killings. In or about November 1991, members of the Peruvian Army Intelligence

Service (“SIE”) killed approximately 15 people in the Barrios Altos Massacre. In or about July 1992, in what came to be known as the La Cantuta Massacre, members of the SIE and another Peruvian Army intelligence service, DINTE, abducted approximately ten people, murdered them and buried their bodies in common graves. The perpetrators of these massacres also belonged to a death squad known as Grupo Colina.

86. By approximately 1993, Plaintiffs both had moved to live in the Peruvian capital, Lima, where abuses were concentrated at that time. Government forces continued to abduct, torture and disappear civilians. Many abuses were carried out by the National Intelligence Service (“SIN”), which was headed by Vladimiro Montesinos (“Montesinos”) from about 1990 to 2000. Montesinos was also connected to the activities of Grupo Colina.

87. In or about 1995, Fujimori’s government passed a sweeping law that granted amnesty to all members of the military and police for actions taken as part of the “fight against terrorism” dating back to May 1980.

88. Abuses continued in the late 1990s. In or about April 1997, Williams Zapata commanded a military unit that executed several hostage takers. Despite being the commander of the troops that carried out the executions, Williams Zapata was promoted in 1998 to Brigadier General.

89. Therefore, in light of Plaintiffs’ reasonable fear of reprisals against themselves or members of their families residing in Peru and the impossibility of safely conducting investigation and discovery in Peru, the statute of limitations was tolled until the removal of Fujimori as President of Peru in November 2000.

*Absence of Remedies in Peru*

90. There are no adequate legal remedies available to Plaintiffs in Peru. Although there are criminal charges pending against Defendant Rivera Rondón in Peru based on his responsibility for the Accomarca Massacre, that case cannot proceed unless Defendant Rivera Rondón is physically present in Peru. Victims of the Accomarca Massacre, including Plaintiffs, are not entitled to civil compensation until the criminal case in civilian court results in a conviction against Defendant Rivera Rondón.

91. In or about October 1985, the Peruvian Senate commission published its report concluding that 69 people were killed in the Accomarca Massacre and that the murders were common crimes, not military crimes, and should therefore be investigated and prosecuted in a civilian court. Around the same time, both government prosecutors and military authorities opened their own investigations. Despite the Peruvian Senate commission's conclusions, the Peruvian Supreme Court eventually ruled that the case was solely within the jurisdiction of the military justice system because the killings occurred inside the emergency zone and were perpetrated by members of the Peruvian Army.

92. Once the military gained exclusive control over the case, military authorities failed to sufficiently punish those responsible for the Accomarca Massacre, including Defendant Rivera Rondón, and they left the victims of the massacre without adequate remedies. Victims of human rights abuses are not permitted to seek compensation through the military justice system.

93. In or about 1987, two years after the Accomarca Massacre, a military court absolved Defendant Rivera Rondón and others on the charge of homicide because the court found that the killing of civilians by members of the military could not be charged as homicide in the military justice system. Only Hurtado was convicted of a lesser charge of "abuse of authority" and

sentenced to four years in prison. Defendant Rivera Rondón and the other defendants were absolved of all charges.

94. The court's 1987 ruling was thrown out by the Supreme Council for Military Justice. In or about 1989 the lower military court again dismissed the charges against all the defendants except Hurtado.

95. Defendant Rivera Rondón was promoted within the Peruvian Army. In or about 1989, he was promoted to Captain.

96. In or about 1992, the lower military court again convicted Hurtado only of the lesser charge of abuse of authority and sentenced him to six years in prison.

97. In or about 1995, Fujimori's government passed a sweeping law that granted amnesty to all members of the military and police for actions taken as part of the "fight against terrorism" dating back to May 1980.

98. Other officers responsible for the Accomarca Massacre, including Williams Zapata, continued to be promoted. Williams Zapata remains on active duty as a General. He is currently the chief of Peru's delegation to the Inter-American Defense Board in Washington, D.C.

99. In or about 2001, the Inter-American Court of Human Rights declared Peru's amnesty law invalid.

100. In or about 2005, Peruvian prosecutors filed murder charges in civilian court against Defendant Rivera Rondón, Hurtado, Williams Zapata and several other officers responsible for the Accomarca Massacre. Prosecutors also filed charges against Alan García, who was president of Peru at the time of the Accomarca Massacre.

101. In or about June 2005, the Third Supraprovincial Criminal Court threw out the charges against Alan García. In the same ruling, the court opened an investigation against 29 officers, including Defendant Rivera Rondón, Hurtado and Williams Zapata, and ordered their arrests.

102. On or about July 4, 2006, Alan García was elected again as president of Peru. He currently remains president of Peru.

103. Under Peruvian law, the criminal cases in civilian court against Defendant Rivera Rondón and Hurtado cannot proceed while they are outside Peru.

104. Under Peruvian law, victims of human rights abuses, including Plaintiffs, are not entitled to civil compensation until a criminal case in a civilian court results in a conviction against a defendant. Therefore, Plaintiffs cannot seek civil compensation against Defendant Rivera Rondón in Peru while he is in the United States.

105. In light of these circumstances, there are no adequate and available remedies for Plaintiffs to exhaust in Peru.

**FIRST CLAIM FOR RELIEF**  
*(Extrajudicial Killing)*

106. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 103 as if fully set forth herein.

107. The killings of Decedents Silvestra Lizarbe Solis, Gerardo Ochoa Lizarbe, Victor Ochoa Lizarbe, Ernestina Ochoa Lizarbe, Celestino Ochoa Lizarbe and Edwin Ochoa Lizarbe (mother and siblings of Plaintiff Teófila Ochoa) and of Decedents Fortunata Baldeón Gutiérrez and Edgar Pulido Baldeón (mother and brother of Cirila Pulido) constitute extrajudicial killings as defined by the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 Note). Additionally, the killings constitute “tort[s] ... committed in violation of the law of nations or a treaty of the United States” under the Alien Tort Statute, 28 U.S.C. §1350, in that they were in violation of customary international law prohibiting extrajudicial killings as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

108. The killings were not authorized by a judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

109. Defendant Rivera Rondón engaged in a joint criminal enterprise with, conspired with, and/or aided and abetted officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, to commit the killings.

110. Defendant Rivera Rondón’s acts or omissions described above, and the acts committed by officers and soldiers in the Peruvian Army who carried out the Accomarca

Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, caused the killings, and caused Plaintiffs to suffer severe mental pain and suffering.

111. Defendant Rivera Rondón's acts or omissions described above, and the acts committed by officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, were committed under actual or apparent authority or color of law of the government of Peru.

112. As a result of these killings, Plaintiffs, in their individual capacities and in their capacities as personal representatives of the estates of their decedent relatives, are entitled to damages in an amount to be determined at trial.

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

**SECOND CLAIM FOR RELIEF**  
*(Torture of Plaintiffs)*

114. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 113 as if fully set forth herein.

115. The acts described herein, namely subjecting Plaintiffs to the threat of imminent death or the threat that other individuals would imminently be subjected to death or severe physical pain or suffering, constitute torture as defined by the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. §1350 note). Additionally, they constitute "tort[s] ... committed in violation of the law of nations or a treaty of the United States" under the Alien Tort Statute, 28 U.S.C. §1350, in that they were in violation of customary international law



prohibiting torture as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

116. The acts described herein were inflicted deliberately and intentionally for purposes that include, among others, punishing Plaintiffs for acts that Plaintiffs or third persons were suspected of having committed, intimidating or coercing Plaintiffs or third persons, or discriminating against Plaintiffs.

117. The torture of Plaintiffs did not arise from and was not inherent in or incidental to lawful sanctions.

118. At the time these acts occurred, Plaintiffs were in the custody or physical control of Defendant Rivera Rondón and/or his co-conspirators.

119. Defendant Rivera Rondón engaged in a joint criminal enterprise with, conspired with, and/or aided and abetted officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, to commit torture.

120. Defendant Rivera Rondón's acts or omissions described above, and the acts committed by officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, caused Plaintiffs to suffer severe physical and mental pain and suffering, including prolonged mental harm resulting from the threat of imminent death or the threat that other individuals would imminently be subjected to death or severe physical pain or suffering.

121. Defendant Rivera Rondón's acts or omissions described above, and the acts committed by officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation

Huancayoc, were committed under actual or apparent authority or color of law of the government of Peru.

122. As a result of their torture, Plaintiffs, in their individual capacities, are entitled to damages in an amount to be determined at trial.

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

### **THIRD CLAIM FOR RELIEF**

#### *(Torture of Decedents)*

124. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 123 as if fully set forth herein.

125. The acts described herein, namely subjecting Decedents Silvestra Lizarbe Solis, Gerardo Ochoa Lizarbe, Victor Ochoa Lizarbe, Ernestina Ochoa Lizarbe, Celestino Ochoa Lizarbe and Edwin Ochoa Lizarbe (mother and siblings of Plaintiff Teófila Ochoa) and Decedents Fortunata Baldeón Gutiérrez and Edgar Pulido Baldeón (mother and brother of Cirila Pulido) to the threat of imminent death or the threat that other individuals would imminently be subjected to death or severe physical pain or suffering, constitute torture as defined by the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. §1350 note). Additionally, they constitute "tort[s] ... committed in violation of the law of nations or a treaty of the United States" under the Alien Tort Statute, 28 U.S.C. §1350, in that they were in violation of customary international law prohibiting torture as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

126. The acts described herein were inflicted deliberately and intentionally for purposes that include, among others, punishing Decedents for acts that Decedents or third persons were suspected of having committed, intimidating or coercing Decedents or third persons, or discriminating against Decedents.

127. The torture of Decedents did not arise from and was not inherent in or incidental to lawful sanctions.

128. At the time these acts occurred, Decedents were in the custody or physical control of Defendant Rivera Rondón and/or his co-conspirators.

129. Defendant Rivera Rondón engaged in a joint criminal enterprise with, conspired with, and/or aided and abetted officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, to commit torture.

130. Defendant Rivera Rondón's acts or omissions described above, and the acts committed by officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, caused Decedents to suffer severe physical and mental pain and suffering, including prolonged mental harm resulting from the threat of imminent death or the threat that other individuals would imminently be subjected to death or severe physical pain or suffering.

131. Defendant Rivera Rondón's acts or omissions described above, and the acts committed by officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, were committed under actual or apparent authority or color of law of the government of Peru.

132. As a result of the torture of Decedents, Plaintiffs, in their capacities as personal representatives of the estates of Decedents, are entitled to damages in an amount to be determined at trial.

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

**FOURTH CLAIM FOR RELIEF**  
*(War Crimes against Plaintiffs)*

134. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 133 as if fully set forth herein.

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

136. Defendant Rivera Rondón engaged in a joint criminal enterprise with, conspired with, and/or aided and abetted officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, to commit war crimes.

137. These acts were committed during and in connection with the armed conflict between the Peruvian government and Sendero Luminoso, which was an armed conflict not of an international character.

138. Under Peruvian and international law, this armed conflict bound Defendant Rivera Rondón to follow the obligations of Common Article 3 of Geneva Conventions of 1949 and the customary norms of international law regarding internal armed conflicts.

139. As a result of these war crimes, Plaintiffs, in their individual capacities, are entitled to damages in an amount to be determined at trial.

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

**FIFTH CLAIM FOR RELIEF**  
*(War Crimes against Decedents)*

141. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 140 as if fully set forth herein.

142. The killings and torture of Decedents Silvestra Lizarbe Solis, Gerardo Ochoa Lizarbe, Victor Ochoa Lizarbe, Ernestina Ochoa Lizarbe, Celestino Ochoa Lizarbe, Edwin Ochoa Lizarbe, Fortunata Baldeón Gutiérrez and Edgar Pulido Baldeón, constitute "tort[s] ... committed in violation of the law of nations or a treaty of the United States" under the Alien Tort Statute, 28 U.S.C. §1350, in that they were in violation of customary international law prohibiting war crimes as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

143. Defendant Rivera Rondón engaged in a joint criminal enterprise with, conspired with, and/or aided and abetted officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, to commit war crimes.

144. These acts were committed during and in connection with the armed conflict between the Peruvian government and Sendero Luminoso, which was an armed conflict not of an international character.

145. Under Peruvian and international law, this armed conflict bound Defendant Rivera Rondón to follow the obligations of Common Article 3 of Geneva Conventions of 1949 and the customary norms of international law regarding internal armed conflicts.

146. As a result of these war crimes, Plaintiffs, in their capacities as personal representatives of the estates of Decedents, are entitled to damages in an amount to be determined at trial.

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

**SIXTH CLAIM FOR RELIEF**  
*(Crimes Against Humanity against Plaintiffs)*

148. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 147 as if fully set forth herein.

149. The acts of torture against Plaintiffs were committed as part of a widespread or systematic attack against a civilian population. The acts constitute "tort[s] ... committed in violation of the laws of nations or a treaty of the United States" under the Alien Tort Statute, 28 U.S.C. §1350, in that they were in violation of customary international law prohibiting crimes against humanity as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

150. Defendant Rivera Rondón engaged in a joint criminal enterprise with, conspired with, and/or aided and abetted officers and soldiers in the Peruvian Army who carried out the

Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, to commit crimes against humanity.

151. As a result of these crimes against humanity, Plaintiffs, in their individual capacities, are entitled to damages in an amount to be determined at trial.

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

**SEVENTH CLAIM FOR RELIEF**  
*(Crimes Against Humanity against Decedents)*

153. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 152 as if fully set forth herein.

154. The killings and torture of Decedents Silvestra Lizarbe Solis, Gerardo Ochoa Lizarbe, Victor Ochoa Lizarbe, Ernestina Ochoa Lizarbe, Celestino Ochoa Lizarbe, Edwin Ochoa Lizarbe, Fortunata Baldeón Gutiérrez and Edgar Pulido Baldeón, were committed as part of a widespread or systematic attack against a civilian population. They constitute "tort[s] ... committed in violation of the laws of nations or a treaty of the United States" under the Alien Tort Statute, 28 U.S.C. §1350, in that they were in violation of customary international law prohibiting crimes against humanity as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

155. Defendant Rivera Rondón engaged in a joint criminal enterprise with, conspired with, and/or aided and abetted officers and soldiers in the Peruvian Army who carried out the Accomarca Massacre, including Hurtado, as well as officers in the Peruvian Army who planned Operation Huancayoc, to commit crimes against humanity.





OF COUNSEL

Pamela Merchant  
Center for Justice & Accountability  
870 Market Street, Suite 688  
San Francisco, CA 94102  
415.544.0444  
415.544.0456 Facsimile  
pmerchant@cja.org

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Attorneys for Plaintiffs  
TEÓFILA OCHOA LIZARBE and  
CIRILA PULIDO BALDEÓN