

IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF VIRGINIA


ALEXANDRIA DIVISION

BASHE ABDI YOUSUF, *et al.* )  
 )  
 Plaintiffs, )  
 )  
 v. ) Civil Action No. 1:04 CV 1360 (LMB/BRP)  
 )  
 MOHAMED ALI SAMANTAR, )  
 )  
 Defendant. )

**PLAINTIFF'S MOTION FOR LEAVE TO**  
**FILE THE SECOND AMENDED COMPLAINT**

Plaintiffs Bashe Abdi Yousuf, Aziz Mohamed Deria, John Doe I, Jane Doe, and John Doe II, by counsel, pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, move this Court for an order granting Plaintiffs leave to file the Second Amended Complaint attached hereto as Exhibit 1. The grounds for this Motion are set forth in the accompanying Memorandum of Law.

BASHE ABDI YOUSUF, *et al.*,  
By Counsel

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Dated: February 22, 2007

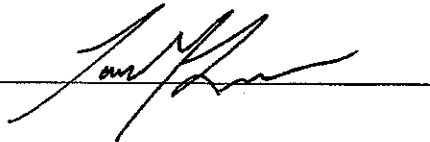
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## CERTIFICATE OF SERVICE

I hereby certify, this 22nd day of February, 2007, that a true copy of the foregoing was sent by electronic mail and overnight delivery to the following counsel of record:

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A handwritten signature in black ink, appearing to read "Julian H. Spierer", is written over a horizontal line.

# Exhibit 1

IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF VIRGINIA

ALEXANDRIA DIVISION

BASHE ABDI YOUSUF, )  
 ) Civil Action No. 1:04 CV 1360 (LMB/BRP)  
AZIZ MOHAMED DERIA, )  
in his capacity as the personal ) **SECOND AMENDED COMPLAINT**  
representative of the estate of ) **FOR TORTURE; EXTRAJUDICIAL**  
Mohamed Deria Ali, ) **KILLING; ATTEMPTED**  
 ) **EXTRAJUDICIAL KILLING; CRUEL,**  
AZIZ MOHAMED DERIA, in his capacity ) **INHUMAN OR DEGRADING**  
as the personal representative of the estate ) **TREATMENT OR PUNISHMENT;**  
of Mustafa Mohamed Deria, ) **ARBITRARY DETENTION; CRIMES**  
 ) **AGAINST HUMANITY; AND WAR**  
JOHN DOE I, ) **CRIMES**  
 )  
AZIZ MOHAMED DERIA, in his capacity ) **JURY TRIAL DEMANDED**  
as the personal representative of the estate )  
of James Doe I (the deceased brother of )  
John Doe I), )  
 )  
AZIZ MOHAMED DERIA, in his capacity )  
as the personal representative of the estate )  
of James Doe II (the deceased brother of )  
John Doe I), )  
 )  
JANE DOE, )  
 )  
and JOHN DOE II, )  
 )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
MOHAMED ALI SAMANTAR, )  
 )  
 )  
Defendant. )

For their complaint against the Defendant Mohamed Ali Samantar, Plaintiffs allege as follows:

## **PRELIMINARY STATEMENT**

1. This is a civil action for compensatory and punitive damages for torts in violation of international and domestic law. Plaintiffs institute this action against Defendant Mohamed Ali Samantar (“Samantar”) for his responsibility for the torture of Plaintiff Bashe Abdi Yousuf; for the extrajudicial killing of Decedents Mohamed Deria Ali and Mustafa Mohamed Deria; for the torture, arbitrary detention and cruel, inhuman or degrading treatment of Plaintiff John Doe I; for the extrajudicial killing of Decedents James Doe I and James Doe II, the brothers of Plaintiff John Doe I; for the torture, rape, arbitrary detention and cruel, inhuman or degrading treatment or punishment of Plaintiff Jane Doe; and for the attempted extrajudicial killing, torture, arbitrary detention and cruel, inhuman or degrading treatment or punishment of Plaintiff John Doe II. Plaintiffs also bring claims for crimes against humanity and war crimes based upon those wrongful acts.

2. Plaintiffs allege that Defendant Samantar exercised command responsibility over, conspired with, or aided and abetted members of the Armed Forces of Somalia, or persons or groups acting in coordination with the Armed Forces or under their control, to commit acts of extrajudicial killing, attempted extrajudicial killing, torture, crimes against humanity, war crimes, arbitrary detention, and cruel, inhuman, or degrading treatment or punishment and to cover up those abuses. Accordingly, Plaintiffs assert that Defendant Samantar is liable under domestic and international law for their injuries, pain and suffering.

## **JURISDICTION AND VENUE**

3. Plaintiffs allege that Defendant Samantar is liable for acts of torture, extrajudicial killing and attempted extrajudicial killing as defined by customary international law and the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350, note). Alien plaintiffs further allege that Defendant Samantar is liable for torture,

extrajudicial killing, attempted extrajudicial killing, crimes against humanity, war crimes, cruel, inhuman and degrading treatment or punishment, and arbitrary detention under the Alien Tort Statute, 28 U.S.C. §1350, in that they were in violation of customary international law.

Accordingly, this Court has jurisdiction over this action based on 28 U.S.C. § 1350 (Alien Tort Statute) and 28 U.S.C. § 1331.

4. On information and belief, Defendant Samantar is a citizen of Somalia and resides in Fairfax, Virginia. Therefore venue is proper in the United States District Court for the Eastern District of Virginia pursuant to 28 U.S.C. §§ 1391(b) or (d).

**PARTIES**  
***Defendant***

5. On information and belief, Defendant Mohamed Ali Samantar is a native and citizen of Somalia and currently resides in Fairfax, Virginia.

6. From about January 1980 to December 1986, Defendant Samantar served as First Vice President and Minister of Defense of the Democratic Republic of Somalia ("Somalia").

7. In or about January 1987, Defendant Samantar was appointed Prime Minister of Somalia, a position he held until approximately September 1990.

***Plaintiffs***

8. Bashe Abdi Yousuf is a native of Somalia and a naturalized U.S. citizen. He is a member of the Isaaq clan. He brings this action for the torture he suffered at the hands of the Somali Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control.

9. Aziz Mohamed Deria is a native of Somalia and a naturalized U.S. citizen. He is a member of the Isaaq clan. He brings this action in his capacity as personal representative of decedents' estates for the extrajudicial killing of Mohamed Deria Ali (his father) and Mustafa

Mohamed Deria (his brother), during the indiscriminate attack on the city of Hargeisa by the Somali Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control, in or about mid-June 1988. Mohamed Deria Ali and Mustafa Mohamed Deria were citizens and residents of Somalia at the time of their death. Aziz Mohamed Deria also brings this action in his capacity as personal representative of decedents' estates for the extrajudicial killing of James Doe I and James Doe II (the brothers of plaintiff John Doe I), at the hands of the Somali Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control.

10. John Doe I is a native, citizen and resident of Somalia. He is a member of the Isaaq clan. He brings this action for the torture, arbitrary detention and cruel, inhuman, or degrading treatment or punishment he suffered at the hands of the Somali Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control. Plaintiff John Doe I seeks to proceed under a pseudonym because he fears reprisals against himself or his family as a result of his participation in this lawsuit.

11. Jane Doe is a native and citizen of Somalia. She currently resides in the United Kingdom. She is a member of the Isaaq clan. She brings this action for the torture, rape, arbitrary detention and cruel, inhuman or degrading treatment or punishment she suffered at the hands of the Somali Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control. Plaintiff Jane Doe seeks to proceed under a pseudonym because she fears reprisals against herself or her family as a result of her participation in this lawsuit.

12. John Doe II is a native, citizen and resident of Somalia. He is a member of the Isaaq clan. He brings this action for the attempted extrajudicial killing, torture, cruel, inhuman or degrading treatment or punishment, and arbitrary detention that he suffered at the hands of the



Somali Armed Forces, or persons or groups acting in coordination with or under their control, when he survived a mass execution of Isaaq officers and soldiers in the Somali Armed Forces in or about June 1988. Plaintiff John Doe II seeks to proceed under a pseudonym because he fears reprisals against himself or his family as a result of his participation in this lawsuit.

#### STATEMENT OF FACTS

13. Throughout the 1980s, the Somali Armed Forces committed gross human rights abuses against the civilian population of Somalia, including the widespread and systematic use of torture, rape, arbitrary detention, and mass executions. This deliberate reign of state terror occurred during the period Defendant Samantar served first as Minister of Defense, from about January 1980 to December 1986, and then as Prime Minister, from about January 1987 to about September 1990. These human rights abuses were the hallmark of the military government that came to power in 1969 and brutally ruled Somalia until the government was toppled in 1991.

14. In October 1969, a coup led by Major General Mohamed Siad Barre overthrew the first and only democratic government of the new nation of Somalia. Power was assumed by the Supreme Revolutionary Council (SRC), which consisted primarily of the Army officers who had supported and participated in the coup, including Defendant Samantar. The SRC suspended the existing Constitution, closed the National Assembly, abolished the Supreme Court and declared all political parties illegal. To further strengthen its grip on power, the SRC declared all groups not sponsored by the government, including civic or religious groups, to be illegal.

15. To further strengthen its grip on power, the military leadership systematically favored its own clans and oppressed other clans. Even before Somalia became an independent nation, the clan system served as the fundamental building block of Somali society. Clan affiliation had long attracted great emotional allegiance and had often been the sole avenue to jobs and other scarce resources.

16. The military leadership built upon and exploited the clan system. It appointed members of favored clans to top positions in the Armed Forces, the bureaucracy, and Somali state industries, while it ruthlessly oppressed and targeted other clans, including in particular the Isaaq clan in the Northern regions. The military leadership systematically excluded disfavored clans from positions of power within the government and military and pursued draconian policies intended to weaken them politically and harm them economically. This oppression led some disfavored clans to oppose the military government.

17. Somalia's defeat in the Ogaden War with Ethiopia from 1977 to 1978 significantly weakened support for the military government. As a result, the government took increasingly fierce measures against perceived opponents, including civilians from disfavored clans. Beginning in the early 1980s and escalating over the course of the decade, the Armed Forces committed numerous atrocities against ordinary citizens including businessmen, teachers, high school students, and nomads simply tending their herds. These measures were intended to terrorize the civilian population and to deter it from supporting the growing opposition movements.

18. The National Security Service ("NSS"), the Red Berets and the military police known as Hangash were the government's principal intelligence gathering agencies. These security forces frequently acted in coordination with or under the control of the Armed Forces, often conducted joint operations with members of the Armed Forces, and operated with the tacit approval and permission of the Armed Forces and their commander, Defendant Samantar. Security forces acting in coordination with or under the control of the Armed Forces were together responsible for the widespread and systematic use of torture, arbitrary detention and extrajudicial killing against the civilian population of Somalia.

19. The Isaaq clan, located primarily in the northwestern region of Somalia, was a special target of the government. The Isaaq were among the best educated and most prosperous Somalis and were therefore perceived from the outset as potential opponents. In the 1970s, the military government relied primarily upon discriminatory economic measures to weaken the Isaaq clan: it limited economic development in the north and restricted the clan's lucrative livestock trade. When the Ogaden War ended in 1978 and Ethiopian refugees flooded northern Somalia, the Somali government even implemented economic policies favoring those refugees over the Isaaq. During the 1980s, when Defendant Samantar was Minister of Defense and then Prime Minister, the government changed its approach and unleashed the Armed Forces in a violent campaign to eliminate Isaaq clan opposition.

20. The government's extreme oppression led some members of the Isaaq clan to establish the Somali National Movement ("SNM") in 1981. The SNM articulated Isaaq grievances ranging from inadequate political representation and economic neglect of the north to the torture and detention of Isaaq citizens. In 1983 and 1984, some members of the SNM began a campaign of violent resistance and, operating from bases in Ethiopia, SNM commandos attacked military posts near the northern cities of Hargeisa, Burao, and Berbera.

21. In response, human rights abuses and war crimes by the Somali Armed Forces dramatically increased. The Somali National Army initiated a brutal counterinsurgency campaign that intentionally disregarded the distinction between civilians and SNM fighters. It killed and looted livestock, blew up water reservoirs, destroyed homes, tortured and detained alleged SNM supporters, and indiscriminately killed civilians as collective punishment for SNM activities. Such acts were intended to, and did, spread terror among the Isaaq clan in order to deter them from assisting the SNM.

22. This violent confrontation between the SNM and the Armed Forces of Somalia from 1983 to 1990 constituted an armed conflict not of an international character.

23. This pattern of crimes against humanity, including war crimes, committed against the Issaq clan continued in 1988 during the period Defendant Samantar served as Prime Minister. In June and July 1988, following SNM attacks on military targets, the Somali Armed Forces launched an indiscriminate aerial and ground attack on cities and towns in northwest Somalia, including Hargeisa, the second largest city in the country. A 1989 U.S. General Accounting Office study, conducted at the request of Congress, found that the attack destroyed most of Hargeisa, with the most extensive damage in the residential areas, the marketplace and in public buildings in the downtown areas. A State Department report found that the Somali Armed Forces engaged in systematic assaults on unarmed civilians, killing more than 5,000 people. As a result of the fighting, approximately 400,000 Somalis fled to Ethiopia, a country itself racked by drought and internal conflict, where they remained in refugee camps for many years. More than a million people were displaced internally.

24. Throughout 1989 and 1990 the crimes of oppression and armed resistance continued, gradually leading to the reduced effective territorial control of the Barre regime and withdrawal of American and international support. By the end of 1990, the Barre regime was in the final stages of complete state collapse. In early December 1990, President Barre declared a state of emergency, and in January 1991, armed opposition factions finally drove Barre out of power, resulting in the complete collapse of the central government. When Barre and his supporters were ousted from power, they fled the country. Defendant Samantar fled first to Italy, then, in 1997, arrived in the United States.

*Plaintiff Bashe Abdi Yousuf*

25. At the time of the events at issue, Plaintiff Bashe Abdi Yousuf was a young businessman in Hargeisa, the main city in the northwest region of Somalia. He operated a wholesale business selling goods imported from London and Saudi Arabia.

26. In early 1981, he joined with some friends to form a volunteer group to improve living conditions in Hargeisa, especially the local public schools and hospital. The group took the name of UFFO, which referred to the refreshing whirlwind that precedes the desert rains. UFFO's first project was to clean the sewage system of the Hargeisa General Hospital and to raise money for the purchase of badly-needed items such as bandages and medicine.

27. On or about November 19, 1981, in the late morning, Bashe Abdi Yousuf was working in the warehouse of his business. Three NSS agents entered the warehouse, forced him into a Land Cruiser and took him to the building that had housed the Somali immigration services, but was now reserved for the detention and interrogation of members of UFFO. He was searched, put in a room and left there for two days without food or water.

28. One night in early December 1981, two military policemen and an NSS officer came to Bashe Abdi Yousuf's cell. He was blindfolded, handcuffed, and forced into the back of a Land Cruiser. One of the interrogators put his boot on Bashe Abdi Yousuf's neck, forcing him to lean forward and keep his head down.

29. When the Land Cruiser stopped, Bashe Abdi Yousuf was pushed out of the car and forced face down on the ground. The interrogators tightly tied his hands and feet together behind his back so that his body was arched backward in a slightly-tilted U shape, with his arms and legs high in the air. Bashe Abdi Yousuf's interrogators slowly placed a heavy rock on his back, causing him excruciating pain. This form of torture was called the "Mig," because it placed the prisoner's body in a shape that resembled the Somali Air Force's MIG aircraft, with

its swept-back wings. They also tightened the ropes causing deep cuts to his arms and legs. They then turned him over and put the rock on his back again. They questioned him about the members and activities of UFFO and told him they would stop the torture if he confessed to anti-government crimes.

30. The interrogators also subjected him to torture by water. They held his nose closed, forced his mouth open and poured water into it, making him feel like he was suffocating. They repeated this several times until he lost consciousness.

31. Bashe Abdi Yousuf was tortured in this manner-eight times in the three months after he was arrested. He also twice endured electric shocks to his armpits.

32. On or about February 19, 1982, Bashe Abdi Yousuf was served with official indictment papers. He was charged with high treason, a crime that carried a mandatory death sentence by hanging. He also met with his court-appointed attorney that day. The meeting lasted five to ten minutes. Bashe Abdi Yousuf's attorney admitted there was no redress available to him.

33. In the early morning of February 28, 1982, Bashe Abdi Yousuf and the twenty-seven other detained members of UFFO were taken before the National Security Court, a special military court with jurisdiction over civilians accused of national security crimes, including political offenses. The courthouse was entirely surrounded by Army tanks and soldiers with machine guns.

34. The trial, which considered evidence against all twenty-eight men, lasted only two days. Neither Bashe Abdi Yousuf, nor any other UFFO member, was allowed to speak other than to answer preliminary questions such as "How do you plead?" He pleaded not guilty.

35. On or about March 3, 1982, Bashe Abdi Yousuf was again taken before the National Security Court. He was sentenced to twenty years in prison. He and the other twenty-seven members of UFFO were immediately taken to Hargeisa Central Prison. They were all placed together in a small cell. Bashe Abdi Yousuf remained in Hargeisa Central Prison for eight months.

36. On or about October 24, 1982, Bashe Abdi Yousuf was transferred to Labaatan Jirow prison, a notorious maximum security prison for political prisoners. He was placed in a small, windowless cell approximately 6 feet by 6 feet. The cell had an outer door that, when closed, put the cell in total darkness. The outer door was closed every day at 4 p.m. and not opened again until 7 a.m. He was fed millet gruel twice a day. He remained there in solitary confinement for approximately six and a half years.

37. Bashe Abdi Yousuf was released from prison in or about May 1989 and fled Somalia. He arrived in the United States in 1991.

*Plaintiff Aziz Mohamed Deria, in his capacity  
as personal representative of the estates  
of Mohamed Deria Ali and  
Mustafa Mohamed Deria*

38. In 1988, Aziz Mohamed Deria was living in California. Five years earlier he had fled Somalia where he had been persecuted because of his political activities on behalf of the Isaaq clan. His family, including his father, Mohamed Deria Ali, and his younger brother, Mustafa Mohamed Deria, remained in Somalia. Mohamed Deria Ali was a highly successful businessman who operated a large import-export business in Hargeisa. Like his father, Mustafa Mohamed Deria, then approximately 22 years old, was also in the import-export business.

39. In or about June of 1988, the Somali Armed Forces launched an indiscriminate aerial and ground attack on Hargeisa. The Somali Armed Forces dropped bombs on downtown

Hargeisa as well as the surrounding residential areas and shelled Hargeisa with heavy artillery from the hills surrounding the city. The Somali tanks and other armored vehicles also entered the city. Groups of soldiers shot, tortured, and detained civilians throughout Hargeisa.

40. In or about June of 1988, Aziz Mohamed Deria's family members were trapped in their home by the Armed Forces' attack on the city. From the window of their home, the family could see the bombs dropping on the city and Army vehicles taking civilians away to be executed. Several buildings owned by the family were completely destroyed during the bombing.

41. On a morning in mid-June 1988, during the indiscriminate bombing of the city, a group of approximately twenty members of the Somali Armed Forces came to the family's home. They kicked down the door and entered the house. They asked the family about the clan to which they belonged. The soldiers replied that they were going to kill all the members of the Isaaq clan that day. The soldiers then grabbed Mohamed Deria Ali and dragged him out of the house. The family never saw him again.

42. Later that afternoon, the same group of soldiers returned to the family's home. The soldiers told the family that their father, Mohamed Deria Ali, had been killed. They then grabbed Mustafa Mohamed Deria and dragged him out of the house. The family never saw Mustafa Mohamed Deria again.

***Plaintiffs John Doe I and Aziz Mohamed Deria,  
in his capacity as personal representative  
of the estates of James Doe I and James Doe II***

43. In or about December 1984, John Doe I, along with two of his brothers, Decedents James Doe I and James Doe II, and a young nephew were tending the family's camels in the rural areas around Burao, a small city in the north of Somalia. A large group of soldiers from the Somali Armed Forces, followed by military vehicles, approached them. The soldiers



interrogated them about SNM activity in the area the previous evening. When they denied having any knowledge of SNM activities, they were forced into one of the military truck and taken to the military installation in the village of Magaaloyar.

44. That night, John Doe I and his brothers, James Doe I and James Doe II, were ordered into a small hut made of thorns in the middle of the military base. He and his brothers were ordered to lie down on their chests. They were then tied into the "Mig" position, their bodies arched backward in a slightly-tilted U shape, causing them excruciating pain. The soldiers also beat them with guns and kicked them. When the soldiers were tired, the soldiers threw John Doe I and his brothers, still tied in the "Mig" position, into the back of an army truck. They were transported to the military base in the city of Burao.

45. At Burao, the soldiers untied John Doe I and his brothers, James Doe I and James Doe II, and ordered them out of the truck. They were directed to enter an office, one by one, where they were questioned by military officers. John Doe I was asked his name, age, and place of arrest. He was also interrogated at length about SNM activities in the Burao area. His answers were recorded in a register. He was then ordered to wait outside the office. His two brothers were similarly interrogated.

46. They were taken to a very small cell that already contained eleven prisoners. John Doe I was handcuffed to one prisoner already in the cell, and his two brothers, James Doe I and James Doe II, were handcuffed together. The cell had no windows or toilet, and the men were forced to urinate and defecate on the floor where they slept. They received one small meal of cooked rice in mid-afternoon.

47. The next day, John Doe I, his brothers, James Doe I and James Doe II, and ten other prisoners were ordered out of the cell, loaded onto a military truck and taken, with armored

vehicles as escorts, to the military court in Burao. Two of the soldiers who had detained John Doe I and his brothers testified that the brothers had hidden SNM fighters and probably were themselves members of the SNM. The brothers' attorney, whom they had met for the first time only at the start of the trial, argued that the brothers were innocent. The presiding judge closed the hearing, and the thirteen men, including John Doe I and his brothers were returned to their small cell in the military base.

48. Four days later, all the prisoners detained at the military base, approximately eighty men, including John Doe I and his brothers, James Doe I and James Doe II, were ordered out of their cells and taken to the courthouse. The road to the courthouse was heavily guarded by military vehicles. The presiding judge called the names of the first forty-five prisoners, including John Doe I and his brothers, and sentenced each to death, with the sentence to be executed immediately.

49. The prisoners to be executed were then directed out of the courthouse into army trucks waiting at the courthouse. A commander was standing at the truck, monitoring the count of prisoners. As John Doe I and his brothers James Doe I and James Doe II entered the truck, the commander asked John Doe I whether the three men were brothers. When John Doe I answered yes, the commander untied John Doe I from his brothers, led him to the front of the gate around the courthouse, and ordered the guard at the gate to let him escape.

50. As John Doe I ran down the road away from the courthouse, he was passed by the truck carrying the condemned prisoners, including his two brothers. The truck was heading for the road to the Burao airport, a well-known execution site. As he reached his brother's house, he heard the sound of gunshots and saw many people running toward the airport. His two brothers, James Doe I and James Doe II, were among the men executed.

51. Later that night, John Doe I was told that the paramilitary forces were searching for him because he had been illegally released. He therefore fled Burao on foot to the remote village of Shanshacade, and then headed to the rural settlement area of Urruraha where his extended family, including the families of his two dead brothers, lived. He subsequently moved the extended family for safety to a refugee camp in Ethiopia. John Doe I remained in northern Somalia.

*Plaintiff Jane Doe*

52. One night in or around July 1985, Jane Doe, a student at Farah Omar Secondary School, was at home with her family in Hargeisa. Several NSS agents arrived at her house, banged on the door and then kicked in the door. She and other members of her family were taken to NSS headquarters. They were detained there for one week. She was accused of being a "subversive leader" for her alleged support of the Somali National Movement.

53. A few days later, Jane Doe was taken to the headquarters of the 26th Military Sector, the headquarters for all military and security forces in the northern region of Somali. She was held in a very small cell with one other woman. Her arms were tied behind her back with wire and then chained to the wall. Her left leg was chained to the floor. She was given food only once a day at 7:00 p.m. The cell was always completely dark. She was detained at the 26th Military Sector headquarters in this manner for three months.

54. Jane Doe was regularly interrogated during her detention at the Military Sector headquarters. Each time, she was taken to a small room not far from her cell. She was subjected to continuing torture as the soldiers attached very tight clips to her nipples.

55. During her detention at the 26th Military Sector headquarters, Jane Doe was also raped at least fifteen times. On each occasion, she was taken from her cell and locked in a room. Although the room was dark, she could see that her rapist was wearing a camouflage uniform.

Like other girls in Somalia, Jane Doe had been subject to the practice of infibulation, a procedure whereby her vagina had been sewn closed except for a very tiny hole through which urine and menstrual blood could flow. Her rapist opened her vagina by cutting through her skin with the part of a fingernail clipper used for cleaning under the fingernails. Throughout this period, and after, Jane Doe suffered constant and severe physical pain. She never received medical attention for her injuries.

56. Months later, Jane Doe, along with the six other high school students who had been detained at the same time, was taken from her cell, loaded into an open Army truck with a net across the top and taken to the National Security Court. The courthouse was entirely surrounded by Army tanks and soldiers with machine guns.

57. At her trial, Jane Doe was not permitted defense counsel nor was evidence presented against her. The following day, the National Security Court sentenced her to life in prison. She was immediately taken by Army soldiers to a truck waiting outside the courthouse, where the soldiers severely beat her. Because of this beating, she could not stand or walk for months.

58. She was then taken to Hargeisa Central prison. She was held alone in a very small cell measuring approximately 3½ feet by 5½ feet. Her hands were tied together in front of her at all times. She remained in solitary confinement for the next three and a half years.

59. In November 1989, Jane Doe and three other women prisoners were taken to Mogadishu in an Army airplane. On the sixth night after their arrival, they were taken by Army soldiers to the presidential villa to see Major General Siad Barre. Barre asked Jane Doe why she supported the SNM. Barre then told Jane Doe to stay away from the SNM and released her from prison, but he ordered her not to leave the country.

60. After her release, Jane Doe fled Somalia. She remained with her family in a refugee camp in Ethiopia for two years. She returned to Somalia in 1991, and later immigrated to the United Kingdom.

***Plaintiff John Doe II***

61. During the Spring of 1988, John Doe II, a non-commissioned Isaaq officer in the Somali National Army, was assigned to the Hargeisa Department of Public Works to help with the repair of the Hargeisa airport.

62. In or around June 1988, John Doe II was arrested by an Army officer and three Red Berets while working near a small town about 50 kilometers from Hargeisa. He was immediately taken to the headquarters of the 26th Military Sector. There, he saw many other Isaaq Army officers with whom he had served in the nearby towns of Gebiley and Dararweine. He realized that they were being detained by the Somali Army for fear that they would desert and join the opposition Somali National Movement.

63. The next day, around 4:00 p.m., Army soldiers began taking prisoners in groups of four from the 26th Military Sector headquarters. They were taken and executed near the banks of the river that runs through the center of Hargeisa, just a mile away from the military headquarters. This well-known execution site was known as Malko Dur-Duro.

64. Around 6:30 p.m., Army soldiers took John Doe II and three other Isaaq officers from their cell and drove them to Malko Dur-Duro. A group of Army officers, Army soldiers and Red Berets were waiting at the execution site. John Doe II and the other Isaaq officers were told to stand between two poles located at the edge of the river. An Army officer ordered the Red Beret soldiers to shoot the prisoners. The Red Berets shot at the men and they all fell backward into the riverbed. John Doe II received only flesh wounds and briefly fell unconscious. When he awoke, he found himself lying among the dead bodies. He remained

there, covered by dead bodies, until the mass execution was completed and the soldiers had left the area. He subsequently fled Hargeisa and did not return until 1991.

## **GENERAL ALLEGATIONS**

### **Theories of Liability**

65. The acts described herein were carried out under actual or apparent authority or color of law of the government of Somalia. The acts of torture, extrajudicial killings, attempted extrajudicial killings, rape, arbitrary detention, and cruel, inhuman or degrading punishment or treatment inflicted upon Plaintiffs and Decedents were part of a pattern and practice of widespread or systematic human rights violations committed against the civilian population in Somalia from 1980 to 1990, and contrary to customary international law and the laws and customs of war, for which Defendant Samantar, acting as Minister of Defense, and later as Prime Minister, bears responsibility.

66. At all relevant times between 1980 and 1987, Defendant Samantar, as Minister of Defense, possessed and exercised command and effective control over the Armed Forces of Somalia. He also acquiesced in and permitted persons or groups acting in coordination with the Armed Forces, or under their control, to commit human rights abuses. Defendant Samantar knew or should have known that his subordinates had committed, were committing, or were about to commit extrajudicial killings, attempted extrajudicial killings, torture, crimes against humanity, war crimes, cruel, inhuman, or degrading treatment, or arbitrary detentions.

67. At all relevant times between 1980 and 1987, Defendant Samantar, as Minister of Defense, had the legal authority and practical ability to exert control over subordinates in the Armed Forces, or persons or groups acting in coordination with the Armed Forces, or under their control, who participated in the extrajudicial killings of Decedents James Doe I and James Doe II, and the abuses against Plaintiffs Bashe Abdi Yousuf, John Doe I, and Jane Doe. Defendant

Samantar's command over such forces included the authority and responsibility to give orders to, set policy for, and manage the affairs of, the forces under his control, and to appoint, remove and discipline personnel of such forces. Furthermore, Defendant Samantar had the actual authority and practical ability to investigate abuses, prevent their commission, and punish those responsible.

68. At all relevant times between 1980 and 1987, as Minister of Defense, Defendant Samantar had a duty under customary international law and multilateral treaties to ensure the protection of civilians, to prevent violations of international law by the Armed Forces, and to ensure that all persons under his command were trained in, and complied with, the laws of warfare and international law, including the prohibitions against torture, extrajudicial killing, rape, arbitrary detention, cruel, inhuman or degrading treatment or punishment, war crimes and crimes against humanity. Furthermore, Defendant Samantar was under a duty to investigate, prevent and punish violations of international law committed by the members of the Armed Forces under his command.

69. At all relevant times between 1980 and 1987, Defendant Samantar failed or refused to take all necessary measures to investigate and prevent these abuses, or to punish personnel under his command for committing such abuses.

70. At all relevant times between 1980 and 1987, Defendant Samantar failed or refused to take all necessary measures to investigate and prevent these abuses, or to punish personnel under his command for committing such abuses. Defendant Samantar knew or should have known that his subordinates had committed, were committing, or were about to commit extrajudicial killings, attempted extrajudicial killings, torture, crimes against humanity, war crimes, cruel, inhuman, or degrading treatment, or arbitrary detentions.

71. At certain relevant times between 1987 and 1990, Defendant Samantar, as Prime Minister, possessed and exercised command and effective control over the Armed Forces of Somalia. At times he also acquiesced in and permitted persons or groups acting in coordination with the Armed Forces, or under their control, to commit human rights abuses. In particular, he was in Hargeisa in May and June of 1988 and had command of the Somali Armed Forces that were engaged in the indiscriminate attack upon the civilian population of the city of Hargeisa. Defendant Samantar knew or should have known that his subordinates had committed, were committing, or were about to commit extrajudicial killings, attempted extrajudicial killings, torture, crimes against humanity, war crimes, cruel, inhuman, or degrading treatment, or arbitrary detentions.

72. At certain relevant times between 1987 and 1990, Defendant Samantar, as Prime Minister of Somalia, had the legal authority and practical ability to exert control over subordinates in the Armed Forces, or person or groups acting in coordination with the Armed Forces or under their control, who participated in the extrajudicial killings of Decedents Mohamed Deria Ali and Mustafa Deria and the abuses against Plaintiffs Bashe Abdi Yousuf, John Doe I, Jane Doe, and John Doe II. In particular, he was in Hargeisa in May and June of 1988 and had command of the Somali Armed Forces that were engaged in the indiscriminate attack upon the civilian population of the city of Hargeisa. Furthermore, Defendant Samantar had the actual authority and practical ability to investigate abuses, prevent their commission, and punish those responsible.

73. At all relevant times between 1987 and 1990, as Prime Minister of Somalia, Defendant Samantar had a duty under customary international law and multilateral treaties to ensure the protection of civilians, to prevent violations of international law by the Armed Forces,



and to ensure that all persons under his command were trained in, and complied with, the laws of warfare and international law, including the prohibitions against torture, extrajudicial killing, attempted extrajudicial killing, arbitrary detention, cruel, inhuman or degrading treatment or punishment, war crimes and crimes against humanity. Furthermore, Defendant Samantar was under a duty to investigate, prevent and punish violations of international law committed by the members of the Armed Forces under his authority.

74. At all relevant times between 1987 and 1990, Defendant Samantar failed or refused to take all necessary measures to investigate and prevent these abuses, or to punish personnel under his command for committing such abuses.

75. The acts of torture, extrajudicial killing, attempted extrajudicial killing, rape, arbitrary detention, and cruel, inhuman or degrading treatment or punishment inflicted upon Plaintiffs and Decedents between 1980 and 1990 were part of a pattern and practice of widespread or systematic human rights violations against the civilian population of Somalia and contrary to the law and customs of war. At all relevant times, the persons who carried out these acts knew or reasonably should have known that the acts were part of a widespread or systematic attack against a civilian population. At all relevant times, Defendant Samantar knew or reasonably should have known of the pattern or practice of gross human rights abuses perpetrated against the civilian population by subordinates under his command.

76. Defendant Samantar failed or refused to take all necessary measures to investigate and prevent these abuses, or to punish personnel under his command for committing such abuses.

77. Defendant Samantar, both as Minister of Defense and as Prime Minister, conspired with, or aided and abetted members of the Armed Forces or persons or groups acting

in coordination with the Armed Forces or under their control to commit acts of torture, extrajudicial killing, attempted extrajudicial killing, rape, arbitrary detention, cruel, inhuman or degrading treatment or punishment, war crimes and crimes against humanity, and to cover up these abuses.

78. The attempted acts of torture, extrajudicial killing, attempted extrajudicial killing, rape, arbitrary detention, cruel, inhuman or degrading treatment or punishment, war crimes and crimes against humanity described herein were a part of an organized system of repression and ill-treatment against members of the Isaaq clan.

79. Defendant Samantar had knowledge of and was an active participant in the enforcement of this system of repression and ill-treatment against members of the Isaaq clan.

80. Moreover, it was the intent of Defendant Samantar while he was the Minister of Defense and while he was the Prime Minister to further this system of repression and ill-treatment.

81. Additionally, the acts of torture, extrajudicial killing, attempted extrajudicial killing, rape, arbitrary detention, cruel, inhuman or degrading treatment or punishment, war crimes and crimes against humanity described herein were natural and foreseeable consequences of a common, shared design on the part of the leaders of the Barre regime and the Armed Forces of Somalia to rid the northern region of Somalia of members of the Isaaq clan, and to engage in a systematic attack against civilian populations.

82. The civilian populations targeted by this joint criminal enterprise included, but were not limited to, members of the Isaaq clan.

83. Defendant Samantar intended to participate in this common design and was reckless or indifferent to the risk that acts of torture, extrajudicial killing, attempted extrajudicial

killing, rape, arbitrary detention, cruel, inhuman or degrading treatment or punishment, war crimes and crimes against humanity would occur during the effecting of that common purpose.

#### **Equitable Tolling of the Statute of Limitations**

84. Defendant Samantar has resided in the United States only since 1997. Before that time, neither this court, nor any other United States court, could exercise jurisdiction over Samantar for claims relating to the actions described herein. For this reason, the statute of limitations for these claims was tolled until 1997.

85. Also, prior to 1997, Isaaq victims of human rights abuses committed in the 1980s by the Somali Armed Forces, or persons or groups acting in coordination with the Somali Armed Forces or under their control, could not have been expected to pursue a cause of action in the United States. Until approximately 1997, victims' reasonable fear of reprisals against themselves or members of their families still residing in Somalia served as an insurmountable deterrent to such action. Also, until approximately 1997, it would not have been possible to conduct safely investigation and discovery in Somalia in support of such a case.

86. Throughout the 1990s, Somalia fell into increasing chaos. Following the violent defeat of the military government in 1991, Somalia's central government collapsed. Fighting among rival clan leaders resulted in the killing, displacement, and mass starvation of tens of thousands of Somali citizens. The ensuing chaos led the United Nations to intervene militarily in 1992, though it proved incapable of restoring even a minimum level of order. Somalia's clan-based civil war and anarchic violence proved to be so brutal that it drove the United Nations from the country in 1994. Rival clan militias continued to commit gross and systematic human rights abuses in the years after the United Nations' departure, including the deliberate killing and kidnapping of civilians because of their clan membership.

87. During these years, conditions in Somalia precluded human rights cases against former commanders of the Somali Armed Forces from being brought either in Somalia or the United States or elsewhere. Throughout the time period alleged in the complaint, and up to the present, each of the Plaintiffs either lived in Somalia or had immediate family still residing there. No national government existed in Somalia to protect them from the continuing clan-based violence. Gross and systematic human rights violations openly committed by rival clans had a further chilling effect. Pursuit of human rights claims, even in the United States, would have exposed victims and their families to acts of retribution that discouraged them from pursuing such a course. Witnesses also reasonably feared acts of reprisal for assisting in such cases.

88. The return of stability sufficient to permit victims of Barre-era human rights abuses to come forward has been a slow and uneven process. Stable conditions still do not exist in most regions of the country. It took until approximately 1997 for even one region to establish the conditions that permitted victims to consider bringing their claims.

89. This region, the former British protectorate of Somaliland, is dominated by the Isaaq clan. In 1991, it declared its independence, reclaimed its previous name, and seceded from Somalia. A rudimentary civil administration was established there in 1993, but major armed conflicts in 1994 and 1996 plunged the region back into turmoil. Since about 1997, Somaliland's government has exercised a modicum of authority over its territory. Nonetheless, conditions remain dangerous and unstable throughout the country. Clan allegiances are still very strong, violence is still a daily possibility, and fear of clan-based repercussions is still of paramount concern to the anonymous plaintiffs of this case.

#### **Absence of Remedies in Somalia**

90. Somalia remains without a functioning national government and national judicial system in which victims of Barre-era human rights abuses could bring their claims. Shari'a

courts operate in some regions of the country, filling the vacuum created by the absence of governmental authority, but such courts impose religious and local customary law often in conflict with universal human rights conventions. Somalia still does not have a functioning national government with a court system capable of reviewing human rights abuses committed by the military government in the 1980s. The country remains under the de facto control of competing clan leaders, warlords and criminal gangs, many of whom commit or countenance the commission of serious human rights abuses.

91. Somaliland does not offer a forum in which victims of human rights abuses can bring their claims. Although civil order has prevailed there since 1997, it remains impossible to seek judicial remedies in its courts for such claims. The Somaliland government's human rights record is weak, and human rights activists are frequently arrested and detained. The judicial system remains very tied to religious and political elites and lacks properly trained judges and other legal personnel. Furthermore, no former members of the Barre government reside within Isaaq-dominated Somaliland. Thus the people who should be held accountable reside beyond the jurisdictional reach of the Somaliland courts. Accordingly, there were and are no adequate and available remedies for Plaintiffs to exhaust in Somalia.

## **CLAIMS FOR RELIEF**

### **FIRST CLAIM FOR RELIEF**

**(Extrajudicial Killing - Plaintiff Aziz Deria, in his capacity  
as the personal representative of the estates of the decedents)**

92. Plaintiff Aziz Deria realleges and incorporates by reference the allegations set forth in paragraphs 1 through 91 as if fully set forth herein.

93. The extrajudicial killings of Decedents Mohamed Deria Ali and Mustafa Mohamed Deria (father and brother of Plaintiff Aziz Mohamed Deria) and of Decedents James Doe I and James Doe II (brothers of Plaintiff John Doe I) 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 extrajudicial killing of Decedents Mohamed Deria Ali, Mustafa Mohamed Deria, James Doe I, and James Doe II 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 killing as reflected, expressed, defined, and codified in multilateral treaties and other international instruments, international and domestic judicial decisions and other authorities.

94. The extrajudicial killings of Mohamed Deria Ali, Mustafa Mohamed Deria, James Doe I and James Doe II 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.

95. Defendant Samantar exercised command responsibility over, conspired with, or aided and abetted members of the Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control, to murder Mohamed Deria Ali, Mustafa Mohamed Deria, James Doe I and James Doe II. Furthermore, Defendant Samantar knew or should have known that his subordinates had committed, were committing, or were about to commit human rights abuses, and he failed to prevent the abuses or to punish those responsible.

96. Moreover, defendant Samantar was an active participant in the joint criminal enterprise that resulted in the murders of Mohamed Deria Ali, Mustafa Mohamed Deria, James Doe I and James Doe II.

97. Defendant Samantar's acts or omissions described above and the acts committed by his subordinates, caused the extrajudicial killings of Mohamed Deria Ali, Mustafa Mohamed Deria, James Doe I and James Doe II, and caused family members of the decedents to suffer.

98. Defendant Samantar's acts or omission described above and the acts committed by his subordinates against Decedents Mohamed Deria Ali, Mustafa Mohamed Deria, James Doe I and James Doe II were committed under actual or apparent authority, or color of law, of the government of Somalia.

99. As a result of the extrajudicial killings of Mohamed Deria Ali, Mustafa Mohamed Deria, James Doe I and James Doe II, Plaintiff Aziz Mohamed Deria, in his capacity as personal representatives of the estates of the decedents, is entitled to damages in an amount to be determined at trial.

100. Defendant Samantar's 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**  
**(Attempted Extrajudicial Killing — Plaintiff**  
**John Doe II)**

101. Plaintiff John Doe II realleges and incorporates by reference the allegations set forth in paragraphs 1 through 100 as if fully set forth herein.

102. The attempted extrajudicial killing of Plaintiff John Doe II constitutes an attempt to commit an extrajudicial killing as defined by the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 Note). Additionally, the attempted extrajudicial killing of Plaintiff John Doe II constitutes a "tort ... 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 it was 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.

103. The attempted extrajudicial killing of John Doe II was not authorized by a judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

104. Defendant Samantar exercised command responsibility over, conspired with, or aided and abetted members of the Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control, in their attempts to extrajudicially kill John Doe II. Furthermore, Defendant Samantar knew or should have known that his subordinates had committed, were committing, or were about to commit human rights abuses, and he failed to prevent the abuses or to punish those responsible.

105. Moreover, defendant Samantar was an active participant in the joint criminal enterprise that resulted in the attempted extrajudicial killing of Plaintiff John Doe II.

106. Defendant Samantar's acts or omissions described above and the acts committed by his subordinates against Plaintiff John Doe II were committed under actual or apparent authority, or color of law, of the government of Somalia.

107. Defendant Samantar's acts or omissions described above and the acts committed by his subordinates, caused the attempted extrajudicial killing of John Doe II, and caused him to suffer.

108. As a result of these attempts to kill him extrajudicially, John Doe II is entitled to damages in an amount to be determined at trial.



109. Defendant Samantar's 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**  
**(Torture – Plaintiffs Bashe Abdi Yousuf, John Doe I,**  
**Jane Doe and John Doe II)**

110. Bashe Abdi Yousuf, John Doe I, Jane Doe and John Doe II reallege and incorporate by reference the allegations set forth in paragraphs 1 through 109 as if fully set forth herein.

111. The acts described herein 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, these acts 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.

112. The acts described herein were inflicted deliberately and intentionally upon Bashe Abdi Yousuf, John Doe I, Jane Doe and John Doe II for purposes that include, among others, intimidating or coercing them, discriminating against them for their presumed political beliefs, or discriminating against them for their membership in a specific ethnic group.

113. The torture of Bashe Abdi Yousuf, John Doe I, Jane Doe and John Doe II did not arise from, and was not inherent in or incidental to, lawful sanctions.

114. Defendant Samantar exercised command responsibility over, conspired with, or aided and abetted members of the Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control, to torture Bashe Abdi Yousuf, John Doe I, Jane

Doe and John Doe II. Furthermore, Defendant Samantar knew or should have known that his subordinates had committed, were committing, or were about to commit human rights abuses, and he failed to prevent the abuses or to punish those responsible.

115. Moreover, defendant Samantar was an active participant in the joint criminal enterprise that resulted in the torture of Bashe Abdi Yousuf, John Doe I, Jane Doe and John Doe II.

116. Defendant Samantar's acts or omissions described above and the acts committed by his subordinates against Bashe Abdi Yousuf, John Doe I, Jane Doe and John Doe II were committed under actual or apparent authority, or color of law, of the government of Somalia.

117. Defendant Samantar's acts or omissions described above and the acts committed by his subordinates, caused the torture of Bashe Abdi Yousuf, John Doe I, Jane Doe and John Doe II and caused them to suffer severe physical and mental pain and suffering.

118. As a result of their torture, Bashe Abdi Yousuf, John Doe I, Jane Doe and John Doe II are entitled to damages in an amount to be determined at trial.

119. Defendant Samantar's 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 – Plaintiffs John Doe I,  
Jane Doe and John Doe II)**

120. John Doe I, Jane Doe and John Doe II reallege and incorporate by reference the allegations set forth in paragraphs 1 through 119 as if fully set forth herein.

121. The acts described herein 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 cruel, inhuman or degrading

punishment or treatment as reflected, expressed, defined, and codified in multilateral treaties and other international instruments, international and domestic judicial decisions and other authorities.

122. The acts of cruel, inhuman or degrading treatment or punishment described herein had the intent and effect of inflicting severe or serious physical or mental pain or suffering upon John Doe I, Jane Doe and John Doe II. As an intended result of these acts, John Doe I, Jane Doe and John Doe II suffered severe or serious physical or mental pain or suffering.

123. The cruel, inhuman, or degrading treatment or punishment of John Doe I, Jane Doe and John Doe II did not arise from, and was not inherent in or incidental to, lawful sanctions.

124. Defendant Samantar exercised command responsibility over, conspired with, or aided and abetted subordinates in the Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control, to inflict cruel, inhuman or degrading treatment or punishment upon John Doe I, Jane Doe and John Doe II. Furthermore, Defendant Samantar knew or should have known that his subordinates had committed, were committing, or were about to commit human rights abuses, and he failed to prevent the abuses or to punish those responsible.

125. Moreover, defendant Samantar was an active participant in the joint criminal enterprise that resulted in the cruel, inhuman or degrading treatment or punishment of John Doe I, Jane Doe and John Doe II.

126. Defendant Samantar's acts or omissions described above and the acts committed by his subordinates against John Doe I, Jane Doe and John Doe II, were committed under actual or apparent authority, or color of law, of the government of Somalia.

127. Defendant Samantar's acts or omissions described above and the acts committed by his subordinates, caused the cruel, inhuman or degrading treatment or punishment of John Doe I, Jane Doe and John Doe II and caused them to suffer severe or serious physical or mental pain or suffering.

128. As a result of the cruel, inhuman or degrading treatment or punishment described above, John Doe I, Jane Doe and John Doe II are entitled to damages in an amount to be determined at trial.

129. Defendant Samantar's 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 – Plaintiffs John Doe I, Jane Doe and John Doe II)**

130. Plaintiffs John Doe I, Jane Doe and John Doe II reallege and incorporate by reference the allegations set forth in paragraphs 1 through 129 as if fully set forth herein.

131. The arbitrary detentions of Plaintiffs John Doe I, Jane Doe and John Doe II described herein 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 arbitrary detention as reflected, expressed, defined, and codified in multilateral treaties and other international instruments, international and domestic judicial decisions and other authorities.

132. John Doe II was detained without warrant, probable cause, or articulable suspicion and was never provided due process protections.

133. John Doe I and Jane Doe were detained without warrant, probable cause, or articulable suspicion and were sentenced by courts that failed to accord them due process protections.

134. Defendant Samantar exercised command responsibility over, conspired with, or aided and abetted members of the Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control, to arbitrarily detain John Doe I, Jane Doe and John Doe II. Furthermore, Defendant Samantar knew or should have known that his subordinates had committed, were committing, or were about to commit human-rights abuses, and he failed to prevent the abuses or to punish those responsible.

135. Moreover, defendant Samantar was an active participant in the joint criminal enterprise that resulted in the arbitrary detentions of John Doe I, Jane Doe and John Doe II.

136. Defendant Samantar's acts or omissions described above and the acts committed by his subordinates against John Doe I, Jane Doe and John Doe II were committed under actual or apparent authority, or color of law, of the government of Somalia.

137. As a result of their arbitrary detention as described above, John Doe I, Jane Doe and John Doe II are entitled to damages in an amount to be determined at trial.

138. Defendant Samantar's 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**  
**(Crimes Against Humanity – Plaintiffs Aziz Mohamed Deria,**  
**(in his capacity as personal representative of the estates**  
**of the decedents) John Doe I, Jane Doe and John Doe II)**

139. Plaintiffs Aziz Mohamed Deria, in his capacity as personal representative of the decedents, John Doe I, Jane Doe and John Doe II reallege and incorporate by reference the allegations set forth in paragraphs 1 through 138 as if fully set forth herein.

140. The extrajudicial killings of Mohamed Deria Ali, Mustafa Mohamed Deria, James Doe I and James Doe II, the torture of John Doe I, Jane Doe and John Doe II, the rape of Jane Doe, the cruel, inhuman, or degrading treatment or punishment of John Doe I, Jane Doe and John Doe II, and the arbitrary detentions of John Doe I, Jane Doe and John Doe II described herein 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 crimes against humanity as reflected, expressed, defined, and codified in multilateral treaties and other international instruments, international and domestic judicial decisions and other authorities.

141. These acts were committed as part of a widespread or systematic attack against a civilian population.

142. These acts were committed by members of the Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control. The persons who carried out these acts knew or reasonably should have known that the acts were part of a widespread or systematic attack against a civilian population. Defendant Samantar knew or reasonably should have known of the pattern or practice of gross human rights abuses perpetrated against the civilian population by the subordinates under his command.

143. Defendant Samantar exercised command responsibility over, conspired with, or aided and abetted members of the Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control, to commit crimes against humanity, including the extrajudicial killings of Mohamed Deria Ali, Mustafa Mohamed Deria, James Doe I and James Doe II, the torture of John Doe I, Jane Doe and John Doe II, the attempted extrajudicial killings of John Doe II, the rape of Jane Doe, the cruel, inhuman, or degrading treatment or punishment of John Doe I, Jane Doe and John Doe II, and the arbitrary detentions of John Doe I, Jane Doe and John Doe II. Furthermore, Defendant Samantar knew or should have known that his subordinates had committed, were committing, or were about to commit human rights abuses and that they were being committed as part of a widespread or systematic attack on civilians, and he failed to prevent the abuses or to punish those responsible.

144. Moreover, defendant Samantar was an active participant in the joint criminal enterprise that resulted in the crimes against humanity described herein.

145. Defendant Samantar's acts or omissions described above, and the acts committed by his subordinates, were committed under actual or apparent authority, or color of law, of the government of Somalia.

146. As a result, Plaintiffs Aziz Mohamed Deria (in his capacity as the personal representative of the estates of the decedents), John Doe I, Jane Doe and John Doe II are entitled to damages in an amount to be determined at trial.

147. Defendant Samantar's 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**  
**(War Crimes – Plaintiffs Aziz Mohamed Deria (in his capacity as**  
**personal representative of the estates of the decedents),**  
**John Doe I, Jane Doe and John Doe II)**

148. Plaintiffs Aziz Mohamed Deria, (in his capacity as personal representative of the estates of the decedents), John Doe I, Jane Doe, and John Doe II reallege and incorporate by reference the allegations set forth in paragraphs 1 through 147 as if fully set forth herein.

149. The attempted extrajudicial killing, extrajudicial killings, torture, rape, cruel, inhuman, or degrading treatments or punishments, and arbitrary detentions described herein 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.

150. These acts were committed during the armed conflict between the SNM and the Armed Forces of Somalia.

151. This armed conflict bound Defendant Samantar to follow the obligations of Common Article 3 of Geneva Conventions of 1949 and the customary norms of internal armed conflict.

152. Defendant Samantar exercised command responsibility over, conspired with, or aided and abetted members of the Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control, to commit war crimes, including the attempted extrajudicial killings, extrajudicial killings, torture, rape, cruel, inhuman or degrading treatments or punishments, and arbitrary detention, suffered by Plaintiffs and decedents during the armed conflict in northern Somalia. Furthermore, Defendant Samantar knew or should have known that



his subordinates had committed, were committing, or were about to commit human rights abuses, and he failed to prevent the abuses or to punish those responsible.

153. As a result of these acts, Plaintiff Aziz Mohamed Deria (in his capacity as personal representative of the estates of the decedents), John Doe I, Jane Doe, and John Doe II are entitled to damages in an amount to be determined at trial.

154. Moreover, defendant Samantar was an active participant in the joint criminal enterprise that resulted in the war crimes described herein.

155. Defendant Samantar's 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.

156. As a result of these acts, Plaintiffs Aziz Mohamed Deria (in his capacity as personal representative of the estates of the decedents), John Doe I, Jane Doe, and John Doe II are entitled to damages in an amount to be determined at trial.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against the Defendant as follows:

1. For compensatory damages according to proof;
2. For punitive and exemplary damages according to proof;
3. For prejudgment interest as allowed by law;
4. For attorneys' fees and costs of suit according to proof;
5. For any such other and further relief as the Court deems just and proper.

#### **JURY TRIAL DEMANDED**

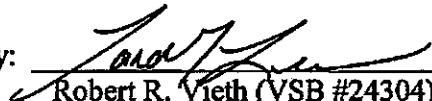
The plaintiffs hereby demand a trial by jury.

Dated: February 22, 2007

BASHE ABDI YOUSUF,  
AZIZ MOHAMED DERIA,  
in his capacity as the personal representatives of the  
estate of Mohamed Deria Ali,  
AZIZ MOHAMED DERIA, in his capacity as the  
personal representative of the estate of Mustafa  
Mohamed Deria,  
JOHN DOE I,  
AZIZ MOHAMED DERIA, in his capacity as the  
personal representative of the estate of James Doe I  
(the deceased brother of John Doe I),  
AZIZ MOHAMED DERIA, in his capacity as the  
personal representative of the estate of James Doe  
II (the deceased brother of John Doe I),  
JANE DOE,  
and JOHN DOE II,

By Counsel

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**CERTIFICATE OF SERVICE**

I hereby certify, this 22<sup>nd</sup> day of February, 2007, that a true copy of the foregoing was sent by electronic mail and overnight delivery to the following counsel of record:

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A handwritten signature in black ink, appearing to read "Harvey J. Volzer", is written over a solid horizontal line.

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