

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Judge Pauley

05 CV 10270

Civ No. _____

RA'ED MOHAMAD IBRAHIM MATAR,)
on behalf of himself and his deceased wife)
Eman Ibrahim Hassan Matar, and their)
deceased children Ayman, Mohamad and)
Dalia; MAHMOUD SUBHAI)
AL HUWEITI, on behalf of himself and his)
deceased wife Muna Fahmi Al Huweiti,)
their deceased sons Subhai and Mohammed,)
and their injured children, Jihad, Tariq,)
Khamis, and Eman; and MARWAN)
ZEINO on his own behalf,)

Plaintiffs,

v.

AVRAHAM DICHTER, former Director)
of Israel's General Security Service,)

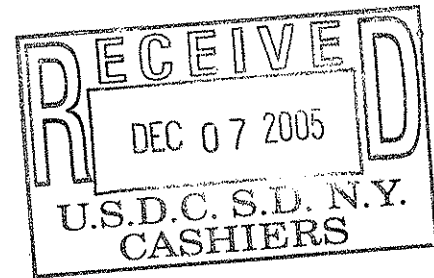
Defendant.

COMPLAINT

FILED UNDER SEAL

CLASS ACTION

JURY TRIAL DEMANDED



Plaintiffs, by and through their attorneys, allege the following:

I. PRELIMINARY STATEMENT

1. On or about July 22, 2002, just before midnight local time, the Israeli Defense Forces (hereinafter "IDF"), acting deliberately in executing a "targeted assassination," dropped a 1000-kilogram (2,205 pound) bomb on an apartment building in a residential neighborhood in Gaza City in the Occupied Palestinian Territory (OPT). The attack killed fifteen people, including eight children, and injured over 150 others.

2. The Plaintiffs are those who were injured and/or who represent those who were killed and injured in the attack. Defendant, Avraham (Avi) Dichter, former director

of the General Security Service (GSS) (also known as Shabak or Shin Bet), at the time of these events, participated, upon information and belief, in the decision to carry out the attack. He also had command responsibility for the attack.

3. This attack was widely condemned by the international community, the United Nations, international human rights organizations, and the U.S. government. In July 2002, U.S. State Department spokesman Richard Boucher criticized the attack, stating, “[W]e’ve made repeatedly clear that we oppose targeted killings.” On July 23, 2002, the White House Press Secretary Ari Fleischer stated that President Bush condemned this “deliberate attack against a building in which civilians were known to be located.”

4. This is a civil action for compensatory and punitive damages against Defendant Dichter for violation of state, federal, and international law committed against the Plaintiffs.

II. PARTIES

A. Named Plaintiffs

5. Plaintiff Ra’ed Mohamad Ibrahim Matar is a Palestinian citizen and a resident of Gaza City, Gaza, in the OPT. He brings this action for his own injuries and on behalf of his wife and children who were killed in the attack (and their next of kin): his wife Eman Ibrahim Hassan Matar and their children Ayman Ra’ed Mohamad Matar, age 1½, Mohamad Ra’ed Mohamad Matar, age 3, and Dalia Ra’ed Mohamad Matar, age 5. Also killed were Plaintiff Ra’ed Matar’s sister Ala’a Ibrahim Mohamad Matar, age 10, his niece, Dina Rami Matar, age 2 months, and his grandmother, Mariam Ibrahim

Mohamad Matar. The Matars' home was completely destroyed. Plaintiff Ra'ed Matar also sues on behalf of all others similarly situated.

6. Plaintiff Mahmoud Subhai Mohamad Al Huweiti is a Palestinian citizen and a resident of Gaza City, Gaza, in the OPT. He brings this action for his own injuries and on behalf of his family members who were killed in the attack (and their next of kin): his wife Muna Fahmi Al Huweiti, and their sons Subhai Mahmoud Subhai Al Huweiti, age 4½, and Mohammed Mahmoud Subhai Al Huweiti aged 5½; he also brings this action on behalf of their injured sons, Jihad Mahmoud Subhai Al Huweiti, then age 11, Tariq Mahmoud Subhai Al Huweiti, then age 12, Khamis Mahmoud Subhai Al Huweiti, then age 8, and their injured daughter Eman Mahmoud Subhai Al Huweiti, then age 10. Plaintiff Mahmoud Subhai Mohamad Al Huweiti's home was completely destroyed. He also sues on behalf of all others similarly situated.

7. Plaintiff Marwan Zeino is a Palestinian citizen and a resident of Gaza City, Gaza, in the OPT. He brings this action for his own injuries and on behalf of all others similarly situated. In the attack, Plaintiff Marwan Zeino's spinal vertebrae were crushed and he sustained injuries all over his body. He was 32 years old at the time of the attack, and his house was partially destroyed. Plaintiff Marwan Zeino still suffers from his injuries and undergoes treatment. He is unable to work, due to mobility constraints and pain.

B. Defendant

8. Defendant Dichter is an Israeli citizen and was at all times relevant to this action the Director of GSS. Defendant is now retired from GSS, and is no longer in the service of the Israeli government.

C. Class Allegations

9. The class consists of all men, women, and children who are the surviving victims of the unlawful bombing of the al-Daraj neighborhood on or about July 22, 2002 and who suffered physical and mental injuries caused by Defendant. The class also consists of the legal/personal representatives of the next of kin of those who were killed by the July 22, 2002 unlawful bombing that Defendant planned and directed.

10. The exact number of class members is not known, but it is estimated that the class includes approximately 150-200 victims of the bombing. The class is so numerous that joinder of individual Plaintiffs is impracticable.

11. The claims of the named Plaintiffs, the class representatives, are typical of the claims of the class. The named Plaintiffs are able to, and will, fairly and adequately protect the interests of the class.

12. There are common questions of law and fact in this action that affect and relate to each member of the class, including:

- a. Whether Defendant authorized, commanded, or directed the unlawful acts of the forces under his command;
- b. Whether Defendant aided and abetted or conspired with other forces;
- c. Whether Defendant knew or should have known that forces under his command were: deliberately and wantonly dropping a 1000-kilogram (over one U.S. ton) bomb on a building in the densely-populated residential neighborhood of al-Daraj; failing to distinguish between combatants and protected civilians prior to launching a military attack; failing to take all feasible precautions in the choice of means and methods

of attack, with a view to avoiding or minimizing loss of civilian life and injury to civilians; undertaking an indiscriminate military attack; targeting civilians; retaliating against civilians; failing to warn civilians prior to the bombardment; disproportionately using lethal weapons; treating civilians inhumanely; and undertaking acts of violence the primary purpose of which was to spread terror among the civilian population;

- d. Whether Defendant failed to punish or ratified such unlawful acts by forces under his command;
- e. Whether Defendant failed to take adequate and appropriate measures to prevent subordinates under his command from committing violations of the laws of war;
- f. Whether Defendant's actions give rise to liability under applicable international and domestic laws.

13. This action is properly maintained as a class action because: a) Defendant has acted and failed to act in a way generally applicable to the class, making any declaratory relief awarded appropriate to the class as a whole, and b) questions of law and fact common to the class predominate over questions affecting individual members and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

III. JURISDICTION AND VENUE

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

allege that Defendant is liable for violations of customary international law and treaty law prohibiting the commission of human rights violations and war crimes. Accordingly, this Court has jurisdiction over this action based on 28 U.S.C. § 1350 (Alien Tort Statute) and 28 U.S.C. § 1331. The Court has jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

15. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. §§ 1391(b)(3) and (d). This Court has personal jurisdiction over Defendant.

IV. STATEMENT OF FACTS

A. Background

16. Since 1967, Israel has militarily occupied areas of the OPT, including the Gaza Strip. Under international law, the occupation of the OPT falls under the Geneva Conventions. The OPT is outside of Israel's territory.

17. Upon information and belief, since at least November 2000, the State of Israel has systematically engaged in so-called “targeted killings” (also known as “targeted assassinations” or “liquidations”) of “suspected terrorists” in the OPT and elsewhere outside of Israel, which are extra-judicial executions. Israel has “preemptively” executed Palestinians it has alleged are involved in terrorism without bringing the victims before a fair legal process to examine the allegations against them. These “targeted” executions have been carried out with knowledge that non-targeted civilians would also be killed or injured, or with utter disregard for that probability.

18. Upon information and belief, since September 29, 2000, Israel’s “targeted assassinations” have killed approximately 327 “targeted” persons and at least 174 non-targeted bystanders, including at least 47 children.

19. Upon information and belief, Defendant developed, implemented, and escalated the practice of “targeted killings”.

20. “Targeted killings” continue to be carried out by the IDF in the OPT, including in Gaza.

B. The Bombing of al-Daraj

21. Al-Daraj is a residential neighborhood in Gaza City, in the Gaza Strip, with an estimated population density of over 3,000 people per square kilometer – one of the highest population densities in the world.

22. On the night of July 22, 2002, at approximately 11:55 pm local time, the Israeli Air Force (IAF), a branch of the IDF, dropped a 1000-kilogram (over one ton) bomb (or missile) from an F-16 fighter jet onto a three-story apartment building.

23. The operation was a so-called “targeted assassination” which was intended to kill and did kill Saleh Mustafa Shehadeh, who was purportedly a leader of Hamas and who was on the upper floor of the building.

24. The bomb completely destroyed the building Shehadeh was in. Upon information and belief, the bomb and resulting debris and shock wave completely destroyed eight (8) adjoining and nearby apartment buildings causing them to collapse upon the people inside. Other buildings nearby were seriously damaged; about nine (9) were partially destroyed, and approximately twenty-one (21) sustained considerable damage.

25. The bomb killed Shehadeh and fourteen other Palestinians, eight of whom were children or infants.

26. The bomb killed Plaintiff Ra'ed Matar's wife and three children. Upon information and belief, his wife Eman Ibrahim Hasan Matar died as a result of her injuries, which included shrapnel wounds to the head, skull, chest and limbs, shock and cardiac arrest as a result of explosive polytrauma. Upon information and belief, the bodies of his three children, Dalia Ra'ed Mohamad Matar (5), and Mohammed Ra'ed Mohamad Matar (3), and Ayman Ra'ed Mohamad Matar (1 ½) were discovered on July 24, 2002, decomposing under ruins approximately 10 meters away from their home; they had suffered multiple injuries caused by the explosion, the younger two having asphyxiated.

27. The bomb killed Plaintiff Ra'ed Matar's younger sister, Ala'a Ibrahim Mohamad Matar, age 10, his newborn niece, Dina Rami Matar, age 2 months, and his grandmother, Mariam Ibrahim Mohamad Matar.

28. The bomb killed Plaintiff Mahmoud Al Huweiti's wife, Muna Fahmi Al Huweiti, age 30, and two of their sons, Subhai Mahmoud Subhai Al Huweiti, age 4½, and Mohammed Mahmoud Subhai Al Huweiti aged 5½.

29. The bomb killed Yousef Subhai Ali Alshawa, age 42, while he was visiting his neighbor.

30. The bomb killed Salah Mustafa Shehadeh, age 49, his wife Leila Safira, age 45, and their daughter Iman Salah Shehadeh, age 15.

31. The bomb killed Zaher Nassar, age 37.

32. Upon information and belief, over 150 Palestinian civilians were injured as a result of the attack. Most of the civilians who were killed were in houses adjacent to Shehadeh.

33. Plaintiff Ra'ed Mohamad Ibrahim Matar suffered multiple traumas all over his body, and pain in his lower back.

34. Plaintiff Mahmoud Subhai Mohamad Al Huweiti suffered lacerated wounds on his head and his elbow. Four of his children were injured, and their injuries included: Jihad Mahmoud Subhai Al Huweiti (then age 11) sustained trauma to his knee; Tariq Mahmoud Subhai Al Huweiti (then age 12) suffered head trauma, including a cut wound, and a contusion on his hand; Khamis Mahmoud Subhai Al Huweiti (then age 8) suffered head trauma and multiple lacerated wounds to his face; and Eman Mahmoud Subhai Al Huweiti (then age 10) also suffered head trauma, including a cut wound.

35. In the attack, Plaintiff Marwan Zeino's spinal vertebrae were crushed and he sustained injuries all over his body. Plaintiff Marwan Zeino still suffers from his injuries and undergoes treatment. He is unable to work, due to mobility constraints and pain.

C. Defendant's Participation

36. GSS is one of several independent security organizations in Israel which collectively form the Israeli Security Forces. The Director of GSS reports directly to Israel's Prime Minister.

37. GSS works closely with the IAF, a branch of the IDF, providing the intelligence necessary to carry out "targeted assassinations." Upon information and belief, the main preparations for each "targeted assassination" are conducted by GSS, including proposing targets and providing information regarding the whereabouts of the target.

38. GSS also works directly with the IDF during the “targeted killings” operation. Upon information and belief, GSS agents supervise and monitor operations with IDF officers in a command center established by the GSS, reacting to the IAF drone feedback and ensuring that the correct individual is targeted. The final approval for firing at the target is given by GSS, while the IAF decides whether an order can be executed based on environmental conditions at the time of the attack.

39. Upon information and belief, Defendant participated in the specific decision to authorize the “targeted assassination” of Shehadeh.

40. Upon information and belief, as Director of GSS, Defendant advocated using military aircraft to kill Shehadeh, despite actual and/or constructive notice that non-targeted individuals were present in the densely populated neighborhood of al-Daraj.

41. IDF officials have acknowledged that they decided to drop the bomb on Shehadeh’s house knowing his wife was with him, intentionally killing her as well.

42. Upon information and belief, the decision to attack took into consideration the possibility that along with Shehadeh about ten civilians would be killed.

43. Upon information and belief, Defendant, acting singly and in concert with others, authorized, directed, planned, commanded, mastered, instigated, conspired, aided, abetted, incited, ratified, and failed to prevent and/or is otherwise responsible for the attack on al-Daraj.

44. Upon information and belief, Defendant failed to take appropriate and necessary measures to prevent subordinates under his command from carrying out the attack against al-Daraj.

45. Upon information and belief, Defendant did not report, discipline or punish his subordinates for the attack against al-Daraj.

D. Inadequacy of Local Remedies

46. Upon information and belief, no adequate remedies are available to Plaintiffs under the laws or in the courts of the OPT, which is the place in which the conduct giving rise to the claim occurred, nor is any adequate remedy available in the State of Israel.

V. CLAIMS FOR RELIEF

47. Plaintiffs' causes of action arise under and violate domestic law and international law as defined in agreements, declarations, conventions, resolutions, and treaties, including but not limited to the following:

- a) Customary international law and treaties of the United States;
- b) Statutes and common law of the United States;
- c) Statutes and common law of New York;
- d) Any other applicable laws, domestic, foreign or international.

48. The claims herein under the law of nations are based on norms that are definable, obligatory, and universally recognized.

49. The law of nations requires all sides to an international armed conflict to distinguish between combatants and civilians prior to launching any military attack.

50. The law of nations requires military combatants to take all feasible precautions in the choice of means and methods of attack, with a view to avoiding or minimizing loss of civilian life and injury to civilians.

51. The law of nations prohibits indiscriminate military attacks, defined as attacks that are not directed at specific military targets.
52. The law of nations prohibits the targeting of civilians in a military attack.
53. The law of nations prohibits military retaliation against civilians, even in the event of prior unlawful military attacks on civilians by the other side to the armed conflict.
54. The law of nations requires a warning prior to any bombardment of towns or cities where civilians are present.
55. The law of nations prohibits the disproportionate use of lethal weapons.
56. The law of nations requires that civilians be treated humanely at all times by parties to an international armed conflict.
57. The law of nations applies equally to defensive and aggressive military attacks.
58. The law of nations prohibits acts or threats of violence the primary purpose of which is to spread terror among the civilian population.
59. The law of nations requires military commanders to take appropriate measures to prevent subordinates under their command from violating the laws of war.
60. Under the law of nations, the presence of individual combatants in the midst of a civilian population does not deprive that population of its civilian character.
61. In cases of doubt as to whether a person is a civilian, the law of nations requires combatants to consider that person as a civilian.

General Allegations

62. The acts described in this Complaint were undertaken under color of law.

63. The acts and injuries to Plaintiffs and their deceased relatives described herein, as well as those similarly situated, were part of a pattern and practice of systematic human rights violations designed, ordered, implemented and directed with the participation of Defendant and carried out by military personnel acting at his direction and/or with his encouragement or acquiescence.

FIRST CLAIM FOR RELIEF

(War Crimes)

64. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 63 of this Complaint as if fully set forth herein.

65. The abuses committed against Plaintiffs and Decedents described herein were acts against a civilian population and were war crimes in violation of: the Fourth Geneva Convention, including but not limited to Articles 27, 32, 33, 53, 68; Protocol I to the Geneva Conventions, including but not limited to Articles 48, 51, 52, 57, and 58; Protocol II to the Geneva Conventions, including but not limited to Articles 4 and 13.

66. The abuses also constitute “grave breaches” of the Fourth Geneva Convention under Article 147, which includes as grave breaches: willful killing, torture, or inhumane treatment; willfully causing great suffering or serious injury to body or health; and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

67. Defendant knew or should have known that dropping a 1000-kilogram bomb on a building in a densely-packed residential neighborhood would kill or maim

civilians and destroy property in breach of the Geneva Conventions, and that the injuries complained of herein were a foreseeable result of such activity.

68. Defendant's acts and omissions constitute "tort[s]...committed in violation of the law of nations or a treaty of the United States" under 28 U.S.C. § 1350 and also violate 28 U.S.C. § 1331 in that the acts and omissions against Plaintiffs violated customary international law prohibiting war crimes as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

69. Violations of the Geneva Conventions are direct and enforceable treaty violations as well as violations of customary international law.

70. The acts and omissions constituting war crimes caused Plaintiffs to suffer damages, including severe physical and mental pain and suffering, in amounts to be determined at trial.

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

SECOND CLAIM FOR RELIEF

(Crimes Against Humanity)

72. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 71 of this Complaint as if fully set forth herein.

73. The abuses committed against Plaintiffs and Decedents constitute crimes against humanity. Defendant knew or should have known that dropping a 1000-kilogram bomb on a building in a densely-packed residential neighborhood would kill or maim

civilians, and that the injuries complained of herein were a foreseeable result of such activity. As such, Defendant was responsible for the murder of Decedents, and these murders were knowingly committed as part of a widespread or systematic attack against a civilian population.

74. Defendant, by virtue of this inhuman act, also caused great suffering and/or serious injury to body or to mental or physical health in the context of a widespread or systematic attack against a civilian population to Plaintiffs and to Decedents' next of kin.

75. Defendant's acts and omissions constitute "tort[s]...committed in violation of the law of nations or a treaty of the United States" under 28 U.S.C. § 1350 and also violate 28 U.S.C. § 1331 in that the acts and omissions against Plaintiffs violated customary international law prohibiting war crimes as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

76. The acts and omissions constituting crimes against humanity caused Plaintiffs to suffer damages, including severe physical and mental pain and suffering, in amounts to be determined at trial.

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

THIRD CLAIM FOR RELIEF

(Cruel, Inhuman, or Degrading Treatment or Punishment)

78. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 77 of this Complaint as if fully set forth herein.

79. The abuses committed against Plaintiffs and Decedents described herein each separately constitute cruel, inhuman, or degrading treatment or punishment. These acts include, but are not limited to: the intentional and illegal shelling of a residential neighborhood resulting in severe physical and psychological abuse and agony, humiliation, fear and debasement; the injury and death of family members during such shelling, resulting in profound fear, loss, and anguish.

80. Defendant's acts also constitute torts committed in violation of the law of nations, and thus of the United States, as reflected in federal common law which incorporates extrajudicial killing, pursuant to 28 U.S.C. §§ 1331 and 1350. Thus, the conduct constitutes a violation of the law of nations and customary international law prohibiting CIDTP as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions and other authorities. Extrajudicial killing is similarly reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities, and is thus actionable.

81. Defendant's acts and omissions described caused Plaintiffs to suffer damages, including severe mental and emotional pain and suffering in an amount to be proven at trial.

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

FOURTH CLAIM FOR RELIEF

(Extrajudicial Killing)

83. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 82 of this Complaint as if fully set forth herein.

84. With regard to the events alleged herein, Defendant acted under the actual or apparent authority and/or color of law of the State of Israel and the IDF.

85. The killings of Decedents were deliberate and not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees that are recognized as indispensable by civilized peoples. The killings were not lawfully carried out under the authority of any country or court.

86. The killings of Decedents 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 torts committed in violation of the law of nations, and thus of the United States, as reflected in federal common law which incorporates extrajudicial killing as a violation, pursuant to 28 U.S.C. §§ 1331 and 1350. The conduct constitutes violations of the law of nations and customary international law prohibiting extrajudicial killing, reflected, expressed, defined, and codified in multilateral treaties and other international instruments and domestic judicial decisions, and other authorities.

87. Defendant knew or should have known that dropping a 1000-kilogram bomb on a building in a densely-packed residential neighborhood would unlawfully kill innocent civilians, and that the deaths complained of herein were a deliberate and/or foreseeable result of such activity.

88. Upon information and belief, no adequate remedies are available to the Plaintiffs under the laws or in the courts of the OPT, which is the place in which the conduct giving rise to the claim occurred, nor is any adequate remedy available in the State of Israel.

89. Defendant's acts and omissions caused Plaintiffs and Decedents' next of kin to suffer damages, including severe physical and mental pain and suffering, in amounts to be determined at trial.

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

FIFTH CLAIM FOR RELIEF

(Wrongful Death)

91. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 90 of this Complaint as if fully set forth herein.

92. Defendant owed a duty to Decedents to refrain from intentional and wantonly harmful or outrageous conduct. Defendant owed a duty to Decedents because they were foreseeable victims of the planned attack on al-Daraj. Defendant also owed a duty to Decedents under customary international law, including but not limited to the

Geneva Conventions, which imposes duties upon an occupying power and its officials with regard to protected populations.

93. Defendant breached that duty by authorizing the dropping a 1000-kilogram bomb on a building in a densely-packed residential neighborhood, where Defendant knew or should have known that innocent civilians in the vicinity of the attack would be killed and wounded.

94. As a direct and proximate cause of Defendant's breach of duty, Decedents were killed. It was reasonably foreseeable that the attack would result in such deaths.

95. Plaintiff Ra'ed Mohamad Ibrahim Matar is the legal and personal representative of his deceased wife Eman Ibrahim Hassan Matar and their children Aymán Ra'ed Mohamad Matar, age 1½, Mohamad Ra'ed Mohamad Matar, age 3, and Dalia Ra'ed Mohamad Matar, age 5, and brings this suit on behalf of all of their next of kin.

96. Plaintiff Mahmoud Subhai Mohamad Al Huweiti is the legal and personal representative of his deceased wife Muna Fahmi Al Huweiti and their children Subhai Mahmoud Subhai Al Huweiti, age 4½, and Eman Mahmoud Subhai Al Huweiti, age 6, and brings this suit on behalf of all of their next of kin.

97. Defendant's acts and omissions described herein caused Plaintiffs and all of Decedents' next of kin, to suffer damages, including pecuniary damages, in an amount to be proven at trial.

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

SIXTH CLAIM FOR RELIEF

(Negligence)

99. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 98 of this Complaint as if fully set forth herein.

100. Defendant owed a duty to Plaintiffs and Decedents because they were foreseeable victims of the planned attack on al-Daraj. Furthermore, Defendant owed a duty to Plaintiffs and Decedents to refrain from intentional and wantonly harmful or outrageous conduct.

101. Defendant breached that duty by authorizing the dropping a 1000-kilogram bomb on an apartment building in a densely-settled residential neighborhood, where Defendant knew or should have known that innocent civilians in the vicinity of the attack would be killed and wounded.

102. As a direct and proximate cause of Defendant's breach of duty, Plaintiffs and Decedents were harmed. It was reasonably foreseeable that the attack would cause this harm.

103. Beyond mere negligence, Defendant's acts were deliberate, willful, intentional, wanton, malicious, and/or oppressive, and should be punished by an award of punitive damages in addition to compensatory damages, in respective amounts to be determined at trial.

SEVENTH CLAIM FOR RELIEF

(Public Nuisance)

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

105. Plaintiffs, as members of the public, had a right to health, public safety, public peace, public comfort, and/or public convenience.

106. Defendant deliberately and unreasonably interfered with the aforementioned rights by authorizing, commanding, and directing the attack on al-Daraj.

107. The attack arranged and directed by Defendant caused substantial property damage to the neighborhood and disturbed the peace. The bombing injured and/or endangered the comfort, repose, health and/or safety of Plaintiffs, thereby creating a public nuisance.

108. The public nuisance created by Defendant directly caused Plaintiffs to suffer special injuries and damages, unique from those suffered by the public at large. The nuisance interfered with, obstructs, and/or injures, Plaintiffs' individual rights.

109. Defendant's acts and omissions were deliberate, willful, intentional, wanton, malicious, and/or oppressive.

110. Defendant's acts and omissions described herein constituted a public nuisance and directly caused Plaintiffs and Decedents to suffer damages, including pecuniary damages, in an amount to be proven at trial.

EIGHTH CLAIM FOR RELIEF

(Battery)

111. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 110 of this Complaint as if fully set forth herein.

112. Defendant, by authorizing, commanding, and directing the dropping a 1000-kilogram bomb on a building in a densely-packed residential neighborhood, where Defendant knew or should have known that innocent civilians in the vicinity of the attack

would be killed and wounded, brought about harmful and/or offensive contact with to the Plaintiffs' persons.

113. Defendant intended to bring about this contact.

114. As a direct and proximate cause of Defendant's conduct, Plaintiffs and Decedents were harmed. It was reasonably foreseeable that the attack would cause this harm.

115. Defendant's acts and omissions caused Plaintiffs to suffer damages, including severe physical and mental pain and suffering, in amounts to be determined at trial.

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

NINTH CLAIM FOR RELIEF

(Intentional Infliction of Emotional Distress)

117. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 116 of this Complaint as if fully set forth herein.

118. Defendant's authorization, command over, and direction of the dropping a 1000-kilogram bomb on a building in a densely-packed residential neighborhood, which attack Defendant knew or should have known would cause the deaths, injury, and suffering of many innocent civilians, amounts to extreme and outrageous intentional conduct that transcends all possible bounds of decency and is utterly intolerable in a civilized society.

119. Defendant intended to cause Plaintiffs to suffer humiliation, mental anguish, and extreme emotional distress or, alternatively, Defendant recklessly disregarded a substantial probability of causing humiliation, mental anguish, and severe emotional distress to Plaintiffs with his conduct.

120. As a direct and proximate cause of Defendant's outrageous conduct, Plaintiffs suffered severe emotional distress and mental suffering. It was reasonably foreseeable that the attack would cause this suffering.

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

TENTH CLAIM FOR RELIEF

(Negligent Infliction of Emotional Distress)

122. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 121 of this Complaint as if fully set forth herein.

122. Defendant owed a duty to Plaintiffs to refrain from intentional and wantonly harmful or outrageous conduct.

123. By authorizing, commanding, and directing an outrageous, wantonly violent nighttime attack on the densely populated neighborhood of the Plaintiffs, Defendant violated this duty and created an unreasonable and foreseeable risk of substantial bodily harm or death to the Plaintiffs. The attack placed the Plaintiffs in grave danger and/or made them reasonably fear for their physical safety. During the attack that Defendant planned, authorized, and directed, the surviving Plaintiffs all feared for their lives and experienced great trauma and shock.

124. Plaintiffs have suffered and will continue to suffer extreme mental anguish and emotional distress that was directly caused by the trauma, shock, and fear that they experienced during and directly after the violent bombing that was orchestrated by the Defendant.

125. Moreover, Defendant's conduct caused many of the Plaintiffs to witness members of their immediate families suffer violent deaths or grave physical injury during the nighttime bomb. Defendant's conduct was a substantial factor in bringing about the injuries and deaths to which Plaintiffs bore witness.

126. Many Plaintiffs suffered and continue to suffer emotional torment caused by directly witnessing the violent death or serious physical injury of their immediate relatives during the attack authorized, commanded, and directed by the Defendant.

127. When he authorized, commanded, and directed the attack, Defendant carelessly and negligently ignored the obvious risk of causing Plaintiffs this trauma, shock, fear, and severe emotional and mental suffering. Defendant's disregard for the substantial risk of causing this trauma, suffering, and fear was so extreme in degree, as to go beyond all possible bounds of decency, and are utterly outrageous and intolerable in a civilized community.

128. In this manner, Defendant negligently inflicted severe emotional distress upon Plaintiffs. Defendant's acts and omissions caused Plaintiffs to suffer damages in amounts to be determined at trial.

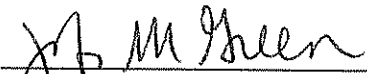
PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

- a. For compensatory damages in an amount to be proven at trial;
- b. For punitive and exemplary damages in an amount to be proven at trial;
- c. For reasonable attorneys' fees and costs of suit;
- d. For a declaratory judgment holding that Defendant's conduct was in violation of the law of nations.
- e. For such other and further relief as the Court may deem just and proper.

A jury trial is demanded on all issues.

Dated: December 7, 2005



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