

FILED

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

ALEXANDRIA DIVISION

2017 10 P 3 38  
U.S. DISTRICT COURT  
ALEXANDRIA, VIRGINIA

JANE DOE and  
JOHN DOE

Plaintiffs,

v.

YUSUF ABDI ALI, a.k.a. TOKEH,

Defendant.

)  
) Civil Action No. 1:07CV1361 CLM/B/BRF  
)  
) **COMPLAINT FOR TORTURE;**  
) **ATTEMPTED EXTRAJUDICIAL**  
) **KILLING; CRUEL, INHUMAN**  
) **OR DEGRADING TREATMENT**  
) **OR PUNISHMENT; ARBITRARY**  
) **DETENTION; CRIMES**  
) **AGAINST HUMANITY; AND**  
) **WAR CRIMES**  
  
**JURY TRIAL DEMANDED**

Plaintiffs Jane Doe and John Doe (collectively "Plaintiffs") complain and allege as follows:

**PRELIMINARY STATEMENT**

1. This is an action for compensatory and punitive damages for torts in violation of international and domestic law. Plaintiffs institute this action against Defendant Yusuf Abdi Ali, a.k.a. Tokeh ("Abdi Ali") for his responsibility for the torture; cruel, inhuman or degrading treatment or punishment; and arbitrary detention of Plaintiff Jane Doe and for the attempted extrajudicial killing; torture; cruel, inhuman or degrading treatment or punishment; and arbitrary detention of Plaintiff John Doe. Plaintiffs also bring claims for war crimes and crimes against humanity against Defendant Abdi Ali.

2. Plaintiffs allege that Defendant Abdi Ali is personally liable for, or exercised command responsibility over or conspired with or aided and abetted subordinates in the Fifth Battalion of the Somali National Army, or person or groups acting in coordination with the Fifth

Battalion or under their control, to commit, acts of attempted extrajudicial killing; torture; crimes against humanity; war crimes; cruel, inhuman or degrading treatment or punishment; and arbitrary detention. Accordingly, Plaintiffs assert that Defendant Abdi Ali is liable under domestic and international law for their injuries, pain and suffering.

### **JURISDICTION AND VENUE**

3. Plaintiffs allege that Defendant Abdi Ali is liable for acts of torture 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). Plaintiffs further allege that Defendant Abdi Ali is liable for attempted extrajudicial killing; torture; cruel, inhuman or degrading treatment or punishment; arbitrary detention; war crimes and crimes against humanity contrary to customary international law. Accordingly, this Court has jurisdiction over this action based on 28 U.S.C. § 1350 (“Alien Tort Claims Act”) and 28 U.S.C. § 1331.

4. On information and belief, Defendant Abdi Ali resides in Alexandria, 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 Abdi Ali is a native of Somalia and a permanent resident of the United States. He currently resides in Alexandria, Virginia.

6. From approximately 1984 to 1989, Defendant Abdi Ali served as Commander of the Fifth Battalion of the Somali National Army. The Fifth Army Battalion was stationed in or near the northern city of Gebiley, Somalia.

7. On information and belief, Defendant Abdi Ali departed Somalia and eventually entered Canada in December 1990.

8. In 1992, Defendant Abdi Ali was deported from Canada for having committed gross human rights abuses in Somalia and came to the United States. After deportation proceedings in the United States were initiated against him, Defendant Abdi Ali voluntarily departed the United States in or about July 1994. He returned to the United States on or about December 8, 1996.

### *Plaintiffs*

9. Jane Doe is a native, citizen and resident of Somalia. She brings this action for the torture; cruel, inhuman or degrading treatment or punishment; and arbitrary detention she suffered at the hands of Defendant Abdi Ali or his subordinates in the Fifth Army Battalion. 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.

10. John Doe is a native, citizen and resident of Somalia. He brings this action for the attempted extrajudicial killing; torture; cruel, inhuman or degrading treatment or punishment; and arbitrary detention he suffered at the hands of Defendant Abdi Ali or his subordinates in the Fifth Army Battalion. Plaintiff John Doe 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**

11. Throughout the 1980s, the Somali National Army committed gross human rights abuses against the civilian population of Somalia, including the widespread and systematic use of torture, rape, arbitrary and prolonged detention, and mass executions. These human rights abuses were the hallmark of the military government that came to power in 1969 and brutally ruled Somalia until it was toppled in 1991.

12. In October 1969, a coup led by Major General Mohamed Siad Barre toppled 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. 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 military leadership, composed primarily of members of the Marehan, Ogadeni, and Dulbahante clans, systematically oppressed all other clans who opposed the military government.

13. 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 perceived from the outset as potential opponents to the Barre regime. The government’s extreme oppression led the Isaaq clan to establish an opposition force called the Somali National Movement (“SNM”) in 1981. The government responded by placing the northern region under military control. Throughout the 1980s, Somali National Army units were stationed in or near virtually every village and town throughout the region.

14. The Somali National Army committed widespread human rights abuses in its violent campaign to eliminate the SNM and any perceived supporters. It killed and looted livestock, blew up water reservoirs, burned homes, and tortured and detained alleged SNM supporters. Particularly after 1984, it also carried out a systematic policy of indiscriminately killing civilians as collective punishment for SNM activities. Such acts were intended to, and did, spread terror among Isaaq civilians in order to deter them from assisting the SNM.

15. The area around the northern town of Gebiley was a center of human rights abuses by the Somali National Army. Gebiley is surrounded by large, open agricultural and

grazing land where the area's semi-nomadic people farmed and tended their livestock. This region was a strategic focus of the military campaign because of its close proximity to the Ethiopian border, where SNM bases were located.

16. Defendant Abdi Ali commanded the army unit stationed in Gebiley. From approximately 1984 through 1989, Defendant Abdi Ali, as commander of the Fifth Battalion, directed, and participated in, a brutal counterinsurgency campaign that refused to distinguish between civilians and combatants.

*Plaintiff Jane Doe*

17. At the time of the events at issue, Plaintiff Jane Doe was married and living with her husband in Gogol Wanaag, a small village in the Huluq Valley, an agricultural area east of Gebiley. Like others in this area, they were nomads and tended herds of cattle, sheep, goats and camels for a living. Plaintiff Jane Doe is a member of the Isaaq clan.

18. On or about the night of October 3, 1984, army soldiers from the Fifth Battalion surrounded Jane Doe's home. When she came outside, she heard them speaking Defendant Abdi Ali's name. The soldiers burned down the couple's hut and killed and looted their livestock. She was four months pregnant at this time.

19. Jane Doe, her husband, and six other Isaaq men from the area were transported by military truck to the headquarters of the Twenty-Second Army Brigade in Dhagax Madoobe, located about fifteen kilometers northeast of Gebiley. They were held outside in a small area surrounded by a fence. They had no access to a toilet and were fed only a small bowl of rice once a day. Jane Doe was questioned repeatedly about whether she had provided assistance to SNM fighters and whether she had hidden arms on her farm. She and the others were detained at Dhagax Madoobee military base for approximately one week.

20. One night around midnight, Jane Doe and her husband were ordered into the back of a military vehicle. Defendant Abdi Ali sat in the front of the vehicle. They were then driven from Dhagax Madoobee military base to the Fifth Army Battalion headquarters in Gebiley. When they reached the headquarters, Defendant Abdi Ali ordered Jane Doe out of the vehicle.

21. At the Fifth Army Battalion headquarters, Jane Doe was detained in a cell with nine other women and a one-year-old child. The cell had no windows or toilet. She received no food during the first two days of her detention. She remained there for five days. She was repeatedly interrogated about whether she had provided help to an SNM fighter and whether she had concealed weapons on her farm.

22. During these interrogations, Jane Doe was repeatedly and brutally beaten. Her head was knocked against a wall, she was kicked by soldiers wearing army boots and beaten with the butts of their guns. Because she was pregnant, she was repeatedly beaten on her abdomen. The beatings caused severe vaginal bleeding but she received no medical attention. She lost her fetus soon thereafter.

23. On at least one occasion, Defendant Abdi Ali personally beat her during an interrogation.

24. On or about November 1, 1984, Jane Doe was brought before a military court in the nearby city of Arabsiyo. The court convened under some shade trees near the outskirts of the city. Her husband and several other nomads appeared before the court with her. She was charged with aiding enemies of the state. The evidence presented against her consisted primarily of the testimony of four soldiers who had arrested her. She was not permitted to present evidence in her own defense. She was sentenced to death, but the court commuted her sentence

to life in prison. She was not permitted to speak with a lawyer before or during the “trial,” nor was she provided any due process protections.

25. Jane Doe was immediately transferred to Hargeisa Central Prison. She was detained in a cell containing more than thirty women. The cell had no window or other ventilation and contained a single toilet that constantly overflowed and filled the cell with human waste. The women were never allowed to leave the cell. Twice each year they were able to receive visitors. Jane Doe remained in that cell for just over six years.

26. Jane Doe was released from prison in September 1990. She fled Somalia and joined her family in a refugee camp in Harta-Shekh, Ethiopia. She currently resides in Gebiley, Somalia.

***Plaintiff John Doe***

27. At the time of the events at issue, Plaintiff John Doe was a farmer living in Fifo Uray, a small village located near the city of Gebiley. John Doe is a member of the Isaaq clan.

28. On or about December 12, 1987, Defendant Abdi Ali came to the village of Fifo Uray. A few days earlier, a water tanker that had been engaged to provide water to nearby Ethiopian refugees had been stolen. Defendant Abdi Ali called a public meeting of the villagers. He expressed his belief that the tanker had been stolen by the SNM. He threatened to execute everyone in Fifo Uray unless the water tanker was returned.

29. On or about the night of December 17, 1987, Plaintiff John Doe was sleeping near his family’s hut in Fifo Uray. At approximately 5:00 a.m., two army soldiers from the Fifth Battalion carrying AK-47 machine guns woke him up. He was taken to a central collection point where other farmers from the area were being detained by a group of army soldiers. All of the men were accused of supporting the SNM.

30. He and the other men were then forced to march for thirty days to the village of Xuurshalay, where an army truck was waiting for them. The soldiers forced them onto the truck and they were transported to the headquarters of the Fifth Battalion in Gebiley. Some members of the group were released because they were not Isaaq but rather members of clans that were allied with the government.

31. Plaintiff John Doe and the remaining ten members of the group were detained together in a small cell. There was no window or other ventilation and no toilet.

32. One night, around mid-January 1988, soldiers from the Fifth Battalion took Plaintiff John Doe to a roofed building with open sides in the army compound. He was hit on the head with the butt of a gun and fell forward onto the ground. The soldiers 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, 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. The soldiers took his clothing and repeatedly kicked his head with their boots. As the soldiers tortured him, they interrogated him about the SNM fighters the Army claimed had stolen the water tanker.

33. John Doe was then taken to Defendant Abdi Ali's office. His hands and legs were chained. Defendant Abdi Ali also questioned him about the SNM fighters who had allegedly stolen the water tanker and his family's alleged support for the SNM. After Defendant Abdi Ali finished interrogating him, John Doe was given back his clothing and returned to his cell.

34. Two nights later, John Doe was again taken from his cell, stripped naked, and beaten until he was unconscious. Each time he fainted, the soldiers poured cold water on him



and then beat him again. The soldiers warned him he would die if he did not reveal the identities of the SNM fighters who stole the water tanker.

35. After an hour, John Doe was once again taken to Defendant Abdi Ali's office. His hands and legs were chained. Defendant Abdi Ali questioned him about the SNM fighters who had allegedly stolen the water tanker and his family's alleged support for the SNM.

36. John Doe was tortured no fewer than nine times between January and March 1988. On more than one occasion, Defendant Abdi Ali was present while he was tortured.

37. One evening in early March 1988, while Plaintiff John Doe was being interrogated by Defendant Abdi Ali, the SNM attacked the Fifth Army Battalion headquarters. Defendant Abdi Ali spoke into his walkie-talkie and told his soldiers to either capture or kill the SNM fighters. Defendant Abdi Ali then took out his pistol and fired five shots at Plaintiff John Doe. Plaintiff John Doe was hit on the wrist and right leg and fell to the floor unconscious. Defendant Abdi Ali then ordered his bodyguards to bury Plaintiff John Doe's body.

38. The bodyguards then removed Plaintiff John Doe from Defendant Abdi Ali's office. They soon recognized that he was not dead. They agreed to accept a bribe of 1 million shillings from Plaintiff John Doe's family and subsequently released him.

### **GENERAL ALLEGATIONS**

39. Plaintiffs allege that Defendant Abdi Ali is personally liable for acts of torture; attempted extrajudicial killing; arbitrary detention; cruel, inhuman or degrading treatment or punishment; war crimes and crimes against humanity by virtue of his direct or indirect participation, including committing the acts himself or directing or ordering his subordinates in the Fifth Battalion of the Somalia National Army, to commit these acts.

40. Plaintiffs allege that Defendant Abdi Ali is also liable because he conspired with, or aided and abetted, subordinates in the Fifth Battalion of the Somali National Army to commit

acts of torture; attempted extrajudicial killing; arbitrary detention; cruel, inhuman or degrading treatment or punishment; war crimes and crimes against humanity. Defendant Abdi Ali is therefore also jointly and severally liable for the actions of members of the Fifth Army Battalion, all of which were actions undertaken as part of a common plan, design and scheme.

41. Plaintiffs allege that Defendant Abdi Ali is also liable because, as commander of the Fifth Battalion of the Somali National Army, he possessed and exercised command and control over the Fifth Battalion. He also acquiesced in, and permitted, groups acting in coordination with the Fifth Battalion, to commit human rights abuses.

42. Defendant Abdi Ali had the legal authority and practical ability to exert control over subordinates in the Fifth Battalion, or persons or groups acting in coordination with the Fifth Battalion, or under their control, who participated in the torture; attempted extrajudicial killing; arbitrary detention; cruel, inhuman or degrading treatment or punishment; war crimes and crimes against humanity described herein. Defendant Abdi Ali's command over the Fifth Battalion included the authority and responsibility to give orders to, set policy for and manage the affairs of forces under his control, and to appoint, remove and discipline such forces.

43. As commander of the Fifth Battalion, Defendant Abdi Ali had a duty under customary international law and multilateral treaties to ensure the protection of civilians, to prevent violations of international law by the Fifth Battalion, 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; cruel, inhuman or degrading treatment or punishment; arbitrary detention; crimes against humanity and war crimes. Furthermore, Defendant Abdi Ali was under a duty to investigate, prevent and punish violations of international law committed by members of the Fifth Battalion under his command.

44. Defendant Abdi Ali 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.

45. The acts of torture; attempted extrajudicial killing; cruel, inhuman or degrading treatment or punishment; and arbitrary detention inflicted upon Plaintiffs were part of a pattern and practice of systematic or widespread human rights violations against the civilian population of Somalia. At all relevant times, Defendant Abdi Ali knew or reasonably should have known of the pattern and practice of gross human rights abuses perpetrated against the civilian population by subordinates under his command, including the abuses committed against Plaintiffs.

*Equitable Tolling of the Statute of Limitations*

46. The Statute of Limitations should be tolled during periods when Defendant Abdi Ali has resided outside the United States. Defendant Abdi Ali has resided in the United States for less than ten years since he first arrived in the United States. Therefore the filing of this complaint is timely.

47. The Statute of Limitations should also be tolled because 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, 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.

48. 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.

49. 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. 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.

50. 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.

51. 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.

### *Absence of Remedies in Somalia*

52. 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. Despite the very recent selection of a former warlord as president, 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.

53. 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 closely 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 (TORTURE – PLAINTIFF JANE DOE )**

54. Plaintiff Jane Doe realleges and incorporates by reference the allegations set forth in paragraphs 1 through 53 as if fully set forth herein.

55. 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 a “tort ... committed in violation of the law of nations or a treaty of the United States” under the Alien Tort Claims Act, 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.

56. The acts described herein were inflicted deliberately and intentionally upon Plaintiff Jane Doe for purposes that include, among others, intimidating or coercing her, discriminating against her for her presumed political beliefs or discrimination against her for her membership in a specific ethnic group.

57. The torture of Plaintiff Jane Doe did not arise from and was not inherent in or incidental to lawful sanctions.

58. Defendant Abdi Ali personally tortured, or exercised command responsibility over or directed, ordered, conspired with or aided and abetted soldiers in the Fifth Army Battalion to torture, Plaintiff Jane Doe.

59. Defendant Abdi Ali’s acts or omissions described above and the acts committed by his subordinates, caused the torture of Plaintiff Jane Doe and caused her to suffer severe mental pain and suffering.

60. Defendant Abdi Ali's acts or omissions described above and the acts committed by his subordinates against Plaintiff Jane Doe were committed under actual or apparent authority, or color of law, of the government of Somalia.

61. As a result of the torture described above, Plaintiff Jane Doe is entitled to damages in an amount to be determined at trial.

62. Defendant Abdi Ali'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  
(CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT –  
PLAINTIFF**

63. Plaintiff Jane Doe realleges and incorporates by reference the allegations set forth in paragraphs 1 through 62 as if fully set forth herein.

64. The acts described herein constitute a "tort ... committed in violation of the law of nations or a treaty of the United States" under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that they were in violation of customary international law prohibiting cruel, inhuman or degrading treatment or punishment as reflected, expressed, defined, and codified in multilateral treaties and other international instruments, international and domestic judicial decisions and other authorities.

65. The acts of cruel, inhuman or degrading treatment or punishment described herein had the intent and effect of grossly humiliating Plaintiff Jane Doe and inducing fear and anguish. As an intended result of these acts, Plaintiff Jane Doe was placed in great fear of her life and suffered psychological abuse and agony.

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

67. The cruel, inhuman or degrading treatment or punishment of Plaintiff Jane Doe caused her to suffer severe mental pain and suffering, including prolonged mental harm.

68. Defendant Abdi Ali personally committed, or exercised command responsibility over or directed, ordered, conspired with or aided and abetted soldiers in the Fifth Army Battalion to commit, acts of cruel, inhuman or degrading treatment or punishment against Plaintiff Jane Doe.

69. Defendant Abdi Ali's acts or omissions described above and the acts committed by his subordinates against Plaintiff Jane Doe were committed under actual or apparent authority, or color of law, of the government of Somalia.

70. As a result of the cruel, inhuman or degrading treatment or punishment described above, Plaintiff Jane Doe is entitled to damages in an amount to be determined at trial.

71. Defendant Abdi Ali'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  
(ARBITRARY DETENTION - PLAINTIFF JANE DOE )**

72. Plaintiff Jane Doe alleges and incorporates by reference the allegations set forth in paragraphs 1 through 71 as if fully set forth herein.

73. The arbitrary detention of Plaintiff Jane Doe described herein constitutes a "tort ... committed in violation of the law of nations or a treaty of the United States" under the Alien Tort Claims Act, 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.

74. Plaintiff Jane Doe was detained without warrant, probable cause, or articulable suspicion.

75. Plaintiff Jane Doe was sentenced by a court that failed to accord her due process.

76. Defendant Abdi Ali arbitrarily detained, or exercised command responsibility over or directed, ordered, conspired with or aided and abetted soldiers in the Fifth Army Battalion to arbitrarily detain, Plaintiff Jane Doe.

77. Defendant Abdi Ali's acts or omissions described above and the acts committed by his subordinates against Plaintiff Jane Doe were committed under actual or apparent authority, or color of law, of the government of Somalia.

78. As a result of her arbitrary detention, Plaintiff Jane Doe is entitled to damages in an amount to be determined at trial.

79. Defendant Abdi Ali'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  
(CRIMES AGAINST HUMANITY – PLAINTIFF JANE DOE)**

80. Plaintiff Jane Doe realleges and incorporates by reference paragraphs 1 through 79 as if fully set forth herein.

81. The torture; cruel, inhuman or degrading treatment or punishment; and arbitrary detention of Plaintiff Jane Doe described herein constitute a “tort ... committed in violation of the law of nations or a treaty of the United States” under the Alien Tort Claims Act, 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.

82. These acts were committed as part of a widespread or systematic attack against a civilian population, namely the Isaaq clan.

83. These acts were committed by the Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control, with knowledge of the attack.

84. Defendant Abdi Ali personally committed, or exercised command responsibility over or directed, ordered, conspired with or aided and abetted soldiers in the Fifth Army Battalion to commit, acts of torture; cruel, inhuman or degrading treatment or punishment; and arbitrary detention against Plaintiff Jane Doe as part of a widespread or systematic attack against a civilian population, with knowledge of the attack.

85. Defendant Abdi Ali's acts or omission described above and the acts committed by his subordinates against Plaintiff Jane Doe were committed under actual or apparent authority, or color of law, of the government of Somalia.

86. As a result of these crimes against humanity, Plaintiff Jane Doe is entitled to damages in an amount to be determined at trial.

87. Defendant Abdi Ali'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  
(WAR CRIMES – PLAINTIFF JANE DOE)**

88. Plaintiff Jane Doe alleges and incorporates by reference the allegations set forth in paragraphs 1 through 87 as if fully set forth herein.

89. The torture; cruel, inhuman or degrading treatment or punishment; and arbitrary detention of Plaintiff Jane Doe described herein constitute a “tort ... committed in violation of the law of nations or a treaty of the United States” under the Alien Tort Claims Act, 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.

90. These acts were committed during the armed conflict in northern Somalia against a civilian population, namely the Isaaq clan.

91. This armed conflict was sufficient to trigger at least some of the obligations of the four Geneva Conventions of 1949 and the customary norms of armed conflict.

92. Defendant Abdi Ali personally committed, or exercised command responsibility over or directed, ordered, conspired with or aided and abetted soldiers in the Fifth Army Battalion to commit, acts of torture; cruel, inhuman or degrading treatment or punishment; and arbitrary detention against Plaintiff Jane Doe during the armed conflict in northern Somalia in violation of the laws and customs of war.

93. As a result of these war crimes, Plaintiff Jane Doe is entitled to damages in an amount to be determined at trial.

94. Defendant Abdi Ali’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  
(ATTEMPTED EXTRAJUDICIAL KILLING – PLAINTIFF JOHN DOE)**

95. Plaintiff John Doe realleges and incorporates by reference the allegations set forth in paragraphs 1 through 94 as if fully set forth herein.

96. The attempted murder of Plaintiff John Doe described herein constitutes an attempted extrajudicial killing as defined by the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (codified at 28 U.S.C. § 1350 note). Additionally, the attempted extrajudicial killing of Plaintiff John Doe constitutes a “tort ... committed in violation of the law of nations or a treaty of the United States” under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that it was 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.

97. The attempted extrajudicial killing of Plaintiff John Doe was not authorized by any court judgment. Plaintiff John Doe was never charged with, convicted of or sentenced for any crime.

98. Defendant Abdi Ali personally committed, or exercised command responsibility over or directed, ordered, conspired with or aided and abetted soldiers in the Fifth Army Battalion to commit, the attempted extrajudicial killing of Plaintiff John Doe.

99. Defendant Abdi Ali’s acts or omissions described above and the acts committed by his subordinates against Plaintiff John Doe were committed under actual or apparent authority, or color of law, of the government of Somalia.

100. As a result of his attempted extrajudicial killing, Plaintiff John Doe is entitled to damages in an amount to be determined at trial.

101. Defendant Abdi Ali’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  
(TORTURE – PLAINTIFF JOHN DOE)**

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

103. 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 a “tort ... committed in violation of the law of nations or a treaty of the United States” under the Alien Tort Claims Act, 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.

104. The acts described herein were inflicted deliberately and intentionally upon Plaintiff John Doe for purposes that include, among others, intimidating or coercing him, discriminating against him for his presumed political beliefs, or discriminating against him for his membership in a specific ethnic group.

105. The torture of Plaintiff John Doe did not arise from, and was not inherent in or incidental to, lawful sanctions.

106. Defendant Abdi Ali personally tortured, or exercised command responsibility over or directed, ordered, conspired with or aided and abetted soldiers in the Fifth Army Battalion to torture, Plaintiff John Doe.

107. Defendant Abdi Ali’s acts or omissions described above and the acts committed by his subordinates caused the torture of Plaintiff John Doe and caused him to suffer severe mental pain and suffering.

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

109. As a result of the torture described above, Plaintiff John Doe is entitled to damages in an amount to be determined at trial.

110. Defendant Abdi Ali'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.

**EIGHTH CLAIM FOR RELIEF  
(CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT –  
PLAINTIFF JOHN DOE)**

111. Plaintiff John Doe realleges and incorporates by reference the allegations set forth in paragraphs 1 through 110 as if fully set forth herein.

112. The acts described herein constitute a "tort ... committed in violation of the law of nations or a treaty of the United States" under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that they were in violation of customary international law prohibiting cruel, inhuman or degrading treatment or punishment as reflected, expressed, defined, and codified in multilateral treaties and other international instruments, international and domestic judicial decisions and other authorities.

113. The acts of cruel, inhuman or degrading treatment or punishment described herein had the intent and effect of grossly humiliating Plaintiff John Doe and inducing fear and anguish. As an intended result of these acts, Plaintiff John Doe was placed in great fear of his life and suffered psychological abuse and agony.

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

115. The cruel, inhuman or degrading treatment or punishment of Plaintiff John Doe caused him to suffer severe mental pain and suffering, including prolonged mental harm.

116. Defendant Abdi Ali personally committed, or exercised command responsibility over or directed, ordered, conspired with or aided and abetted soldiers in the Fifth Army Battalion to commit, the cruel, inhuman or degrading treatment or punishment of Plaintiff John Doe.

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

118. As a result of the cruel, inhuman or degrading treatment or punishment described above, Plaintiff John Doe is entitled to damages in an amount to be determined at trial.

119. Defendant Abdi Ali'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.

**NINTH CLAIM FOR RELIEF  
(ARBITRARY DETENTION - PLAINTIFF JOHN DOE)**

120. Plaintiff John Doe alleges and incorporates by reference the allegations set forth in paragraphs 1 through 119 as if fully set forth herein.

121. The acts described herein constitutes a "tort ... committed in violation of the law of nations or a treaty of the United States" under the Alien Tort Claims Act, 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.

122. Plaintiff John Doe was detained without warrant, probable cause, or articulable suspicion.

123. Plaintiff John Doe was never provided due process protections.

124. Defendant Abdi Ali arbitrarily detained, or exercised command responsibility over or directed, ordered, conspired with or aided and abetted soldiers in the Fifth Army Battalion to arbitrarily detain, Plaintiff John Doe.

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

126. As a result of his arbitrary detention, Plaintiff John Doe is entitled to damages in an amount to be determined at trial.

127. Defendant Abdi Ali'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.

**TENTH CLAIM FOR RELIEF  
(CRIMES AGAINST HUMANITY – PLAINTIFF JOHN DOE)**

128. Plaintiff John Doe realleges and incorporates by reference the allegations set forth in paragraphs 1 through 127 as if fully set forth herein.

129. The attempted extrajudicial killing; torture; cruel, inhuman or degrading treatment or punishment; and arbitrary detention of Plaintiff John Doe described herein constitute a "tort ... committed in violation of the law of nations or a treaty of the United States" under the Alien Tort Claims Act, 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.

130. These acts were committed as part of a widespread or systematic attack against a civilian population, namely the Isaaq clan.

131. These acts were committed by the Armed Forces, or persons or groups acting in coordination with the Armed Forces or under their control, with knowledge of the attack.

132. Defendant Abdi Ali personally committed, exercised command responsibility over or directed, ordered, conspired with or aided and abetted soldiers in the Fifth Army Battalion to commit, the attempted extrajudicial killing; torture; cruel, inhuman degrading treatment or punishment; and arbitrary detention of Plaintiff John Doe as part of a widespread or systematic attack against a civilian population, with knowledge of the attack.

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

134. As a result of these crimes against humanity, Plaintiff John Doe is entitled to damages in an amount to be determined at trial.

135. Defendant Abdi Ali'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.

**ELEVENTH CLAIM FOR RELIEF  
(War Crimes – Plaintiff John Doe)**

136. Plaintiff John Doe alleges and incorporates by reference the allegations set forth in paragraphs 1 through 135 as if fully set forth herein.

137. The attempted extrajudicial killing; torture; cruel, inhuman or degrading treatment or punishment; and arbitrary detention of Plaintiff John Doe during the armed conflict in northern Somalia and described herein constitute a “tort ... committed in violation of the law of nations or a treaty of the United States” under the Alien Tort Claims Act, 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.

138. These acts were committed during the armed conflict in northern Somalia against a civilian population, namely the Isaaq clan.

139. This armed conflict was sufficient to trigger at least some of the obligations of the four Geneva Conventions of 1949 and the customary norms of armed conflict.

140. Defendant Abdi Ali personally committed, or exercised command responsibility over or directed, ordered, conspired with or aided and abetted soldiers in the Fifth Army Battalion to commit, acts of attempted extrajudicial killing; torture; cruel, inhuman degrading treatment or punishment; and arbitrary detention against Plaintiff John Doe during the armed conflict in northern Somalia in violation of the laws and customs of war.

141. As a result of these war crimes, Plaintiff John Doe is entitled to damages in an amount to be determined at trial.

142. Defendant Abdi Ali’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.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against 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: November 10, 2004

JANE DOE and  
JOHN DOE  
By Counsel

By:



Robert R. Vieth (VSB #24304)  
Daniel J. Wadley (VSB #45967)  
Tara M. Lee  
Cooley Godward LLP  
One Freedom Square  
11951 Freedom Drive  
Reston, Virginia 20190-5656  
(703) 456-8000

Matthew Eisenbrandt  
Helene Silverberg  
Center for Justice & Accountability  
870 Market Street, Suite 684  
San Francisco, California 94102  
(415) 544-0444