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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

MAMMAR AMEUR, ) Civil Action No.  
)  
Plaintiff, ) PLAINTIFF’S COMPLAINT FOR  
) DAMAGES FOR FORCED  
v. ) DISAPPEARANCE; PROLONGED  
) ARBITRARY DETENTION; CRUEL,  
ROBERT M. GATES, in his individual ) INHUMAN, AND DEGRADING  
capacity; DONALD RUMSFELD, in his ) TREATMENT; TORTURE; WAR CRIMES  
individual capacity; PAUL WOLFOWITZ, in ) FOR TARGETING A CIVILIAN; AND  
his individual capacity; GORDON ) VIOLATION OF DUE PROCESS, ALL IN  
ENGLAND, in his individual capacity; ) VIOLATION OF THE LAWS OF NATIONS  
JAMES M. McGARRAH, in his individual ) PURSUANT TO THE ALIEN TORT  
capacity; RICHARD B. MYERS, in his ) STATUTE, AND THE FIFTH  
individual capacity; PETER PACE, in his ) AMENDMENT OF THE UNITED STATES  
individual capacity; MICHAEL GLENN ) CONSTITUTION (BIVENS CLAIM)  
“MIKE” MULLEN, in his individual capacity; )  
JAMES T. HILL, in his individual capacity; ) JURY DEMAND  
BANTZ CRADDOCK, in his individual )  
capacity; GEOFFREY D. MILLER, in his )  
individual capacity; JAY HOOD, in his )  
individual capacity; HARRY B. HARRIS, Jr., )  
in his individual capacity; MARK H. BUZBY, )  
in his individual capacity; ADOLPH )  
MCQUEEN, in his individual capacity; )  
NELSON CANNON, in his individual )  
capacity; MICHAEL BUMGARNER, in his )  
individual capacity; WADE DENNIS, in his )

1 individual capacity; BRUCE VARGO, in his )  
individual capacity; ESTEBAN RODRIGUEZ, )  
2 in his individual capacity; DANIEL )  
MCNEILL, in his individual capacity; )  
3 GREGORY J. IHDE, in his individual )  
capacity; JOHN DOE 1, in his individual )  
4 capacity; JOHN DOE 2, in his individual )  
capacity; JOHN DOE 3, in his individual )  
5 capacity; JOHN DOES 4-100, in their )  
individual capacities, )  
6 )  
Defendants. )  
7 \_\_\_\_\_)

## 8 COMPLAINT

9 Plaintiff Mammar Ameer (“Mr. Ameer” or “Plaintiff”), by and through his counsel,  
10 respectfully alleges the following:

### 11 I. PRELIMINARY STATEMENT

12 1. Mr. Ameer, Plaintiff, brings this action on behalf of himself.

13 2. Mr. Ameer is a fifty-four-year-old native, citizen, and current resident of Algeria.

14 The United States military released him from Guantánamo Bay and allowed him to return home  
15 to Algeria on October 8, 2008, after unlawfully seizing him from his home in Pakistan on July  
16 18, 2002, and unlawfully holding him for over six years, subjecting him to torture and cruel,  
17 inhuman, and degrading treatment. Moreover, U.S. officials continued to unlawfully hold him  
18 and subject him to cruel, inhuman, and degrading treatment for nearly three years after  
19 authorizing his return home to Algeria.

20 3. Mr. Ameer has never engaged in terrorism, acts supporting terrorism, or violence  
21 against the United States or its citizens. He did not commit any belligerent act, and did not  
22 support hostilities in aid of enemy armed forces. He was not seized from the battlefield, but  
23 from his private home at the direction of, upon information and belief, a U.S. citizen working

1 under color of law of the United States, but outside the scope of his employment and  
2 authorization.

3 4. During the summer of 2002, Mr. Ameer and his family were living in Pakistan as  
4 refugees, as determined by the United Nations High Commission for Refugees (UNHCR),  
5 having fled their homeland of Algeria to escape the violent civil war in that country. As a  
6 UNHCR-mandate refugee, he was under the protection of the United Nations and the host  
7 country of Pakistan. Although he was a UNHCR-mandate refugee, as well as a civilian and an  
8 innocent humanitarian aid worker, Mr. Ameer was unlawfully seized from his apartment in  
9 Pakistan in July of 2002, upon information and belief, at the direction of an American official.  
10 After being unlawfully held in Pakistan and at the U.S. Bagram Air Base in Bagram,  
11 Afghanistan (“Bagram”) where U.S. citizens subjected him to torture and cruel, inhuman, and  
12 degrading treatment, Mr. Ameer was transferred to the U.S. Guantánamo Bay Naval Base  
13 (“Guantánamo”) in Guantánamo Bay, Cuba, in March 2003. U.S. officials unlawfully held him  
14 there until October 2008. During the time at Guantánamo, U.S. officials subjected him to  
15 torture and to cruel, inhuman, and degrading treatment. All of these acts were done at the  
16 direction of, or by, American citizens affiliated with the United States government or military.

17 5. Defendants were acting outside the scope of their authority when they  
18 committed, directed, ordered, confirmed, ratified, had command responsibility for, aided and  
19 abetted, conspired to, encouraged, or condoned directly or indirectly all such acts which  
20 violated customary international law and Common Article III of the Geneva Conventions, and  
21 were outside of those allowed in the Army Field Manual.

22 6. In addition, upon information and belief, Defendants were acting outside the  
23 scope of their authority and/or employment when they engaged in all those acts described herein

1 against civilians they knew, or should have known, were innocent of engaging in terrorism, acts  
2 supporting terrorism, violence against the United States or its citizen, committing any  
3 belligerent act against, or supporting hostilities in aid of enemy armed forces (hereinafter  
4 “innocent”). Upon information and belief, the scope of Defendants’ authority, *at most*, was  
5 limited to engaging in said acts against those for whom a reasonable basis existed to suspect  
6 they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the  
7 United States or its citizen, or had supported hostilities in aid of enemy armed forces. Upon  
8 information and belief, Defendants’ scope of authority did not extend to engaging in such acts  
9 against those who they knew, or should have known through sufficient due process, were  
10 innocent.

11 7. Certain officials within the U.S. government, including Defendants, knew or  
12 should have known that many of the men seized and held at Guantánamo Bay and Bagram were  
13 innocent. Mr. Ameer was one of these innocent men.

14 8. As described by Col. Lawrence B. Wilkerson (Ret.), a former high-level official  
15 with the United States government, in a declaration in Plaintiff’s counsel’s possession, certain  
16 United States officials, including Defendants Rumsfeld and Gates, knew that innocent men had  
17 been unlawfully seized and were being held at Guantánamo Bay. They simply refused to  
18 release them out of fear of political repercussions. In addition, there was no meaningful way to  
19 determine who was an enemy combatant and who was not, both in the field and at Guantánamo  
20 Bay. Defendants knew or should have known of this deficiency.

21 9. Mr. Ameer is married with four children. The illegal actions against Mr. Ameer  
22 resulted in loss of income to his wife and children, leaving them destitute.

23 10. In total, Mr. Ameer was detained for over six years. Mr. Ameer was never

1 properly charged nor tried for any criminal act. Mr. Ameer was under the exclusive control of  
2 the Defendants and other officials of the United States at Bagram and Guantánamo for all but  
3 six months of that time. During those six months, he was detained without charge in a Pakistani  
4 prison near Islamabad by, or with assistance of, American officials who, upon information and  
5 belief, were acting outside the scope of their authority in detaining Mr. Ameer.

6 11. Not until October 26, 2004, over two years after initially being detained, was Mr.  
7 Ameer officially labeled an “enemy combatant” by the flawed Combatant Status Review  
8 Tribunal (CSRT) process. Upon information and belief, the basis for Mr. Ameer’s enemy  
9 combatant determination was simply because of his association as an employee of various  
10 organizations for whom he had done humanitarian and charity work, and the mandatory training  
11 he received for the Algerian army from 1979-1981, almost two decades prior. Mr. Ameer was  
12 not given notice of the basis for his detention until the CSRT was convened between July and  
13 October 2004, more than two years after first being detained.

14 12. Flaws in the CSRT process include the following: (1) detainees are not afforded  
15 adequate due process, (2) detainees are presumed guilty of being enemy combatants, (3)  
16 detainees are not permitted to review classified evidence that is used to justify an enemy  
17 combatant determination, (4) detainees are not afforded access to counsel, and (5) detainees are  
18 not permitted to present their own witnesses or evidence.

19 13. The United States military had actually cleared Mr. Ameer for return home to  
20 Algeria on November 4, 2005. However, it was not until February 2007, that Mr. Ameer’s pro  
21 bono habeas counsel was notified via electronic mail that Mr. Ameer was eligible for transfer  
22 back home to Algeria. It was not until September 4, 2007, nearly two years after Mr. Ameer  
23 was cleared for transfer, that he was personally notified. A heavily censored copy of this

1 clearance decision confirms the decision to clear Mr. Ameer for return home was made  
2 immediately after the Administrative Review Board, a board that is supposed to annually review  
3 the detention of those individuals U.S. officials are holding at Guantánamo Bay, reviewed his  
4 case. Despite the ARB's decision and its email notification, U.S. officials (including some of  
5 the defendants), acting outside the scope of their authority, continued to unlawfully detain Mr.  
6 Ameer. They did not allow him to return to Algeria until October 8, 2008. In his habeas  
7 proceeding, the court had ordered the United States to provide Mr. Ameer's pro bono habeas  
8 counsel with a factual return regarding Mr. Ameer's detention. The U.S. officials allowed Mr.  
9 Ameer to return to Algeria approximately two weeks ahead of the deadline imposed by that  
10 court order.

11 14. Plaintiff seeks compensation for unlawful forced disappearance; prolonged  
12 arbitrary detention; inhuman, degrading and cruel treatment; torture; being targeted during time  
13 of war as a civilian; and due process violations, all of which Plaintiff suffered while under the  
14 custody of certain United States officials at Bagram and Guantánamo who were acting outside  
15 the scope of their employment.

16 15. Plaintiff brings this action for compensatory and punitive damages against  
17 Defendants for their roles in the harms committed against Plaintiff in violation of domestic and  
18 international law. Defendants exercised command responsibility over, conspired with, aided  
19 and abetted subordinates, and/or directly or indirectly participated in the commission of abusive  
20 and illegal practices alleged herein, including prolonged arbitrary detention, cruel, inhuman, or  
21 degrading treatment, due process violations, and torture of Plaintiff at Bagram and Guantánamo.  
22 Accordingly, Defendants are liable in their individual capacities under domestic and  
23 international law for the injuries, pain, and suffering of Plaintiff.

1 **II. JURISDICTION AND VENUE**

2 16. This Court has jurisdiction over Plaintiff’s claims under 28 U.S.C. § 1331  
3 (federal question jurisdiction) and 28 U.S.C. § 1350 (Alien Tort Statute). As an alternative to  
4 federal question jurisdiction, this Court also has jurisdiction under 28 U.S.C. § 1332 (diversity  
5 jurisdiction).

6 17. The Military Commissions Act (MCA) jurisdiction stripping provision, Section  
7 7, which amends 28 U.S.C. § 2241, does not prevent this Court from exercising jurisdiction, for  
8 reasons including, but not limited to:

- 9 a. The Supreme Court in *Boumediene v. Bush*, 128 S. Ct. 2229 (2008), invalidated
- 10 § 7 in its entirety;
- 11 b. Even if U.S.C. § 2241(e)(2) survived *Boumediene*, the provision is
- 12 unconstitutional on other grounds;
- 13 c. The provision is an unconstitutional bill of attainder;
- 14 d. The provision is not applicable to Mr. Ameer because, *inter alia*, he was not
- 15 properly determined to be an enemy combatant.

16 18. This action is brought pursuant to violations of the law of nations under the Alien  
17 Tort Statute and also brought directly under the Fifth Amendment to the United States  
18 Constitution. As an alternative, the claims for violation of the law of nations may also be  
19 brought under state common law.

20 19. Venue is proper in the United States District Court of Western Washington  
21 pursuant to 28 U.S.C. § 1391(b)(3) as Defendant Robert M. Gates is domiciled there.

22 **III. PARTIES**

23 **Plaintiff**



1 responsibility over, conspiring with, aiding and abetting subordinates, and/or directly or  
2 indirectly participating in the abuses of Plaintiff as hereinafter alleged. He is sued in his  
3 individual capacity because it is alleged that in engaging in the conduct for which Plaintiff sues  
4 him, Defendant Gates was, upon information and belief, acting outside the scope of his  
5 authority – the scope of his authority, *at most*, being limited to engaging in said acts against  
6 those for whom a reasonable basis existed to suspect they had engaged in terrorism, acts  
7 supporting terrorism, violence or belligerent acts against the United States or its citizen, or had  
8 supported hostilities in aid of enemy armed forces. In addition, Defendant Gates was acting  
9 outside the scope of his authority for all acts that violated customary international law and  
10 Article III of the Geneva Conventions, as well as for acts outside of those authorized in the  
11 Army Field Manual.

12 22. Defendant Donald H. Rumsfeld is a United States citizen residing in Illinois.  
13 Defendant Rumsfeld was the United States Secretary of Defense from January 20, 2001 until  
14 December 18, 2006, including the period of time in which the events herein described began.  
15 As the Secretary of Defense, Defendant Rumsfeld held the highest rank in the military  
16 command structure, other than the President of the United States. At all relevant times,  
17 Defendant Rumsfeld held the highest position in the Department of Defense, and in this  
18 capacity possessed and exercised command and control over the United States military and the  
19 United States detention facility at Guantánamo. At all relevant times, Defendant Rumsfeld was  
20 in charge of all military forces, and he was responsible for overseeing detainee interrogation, a  
21 large part of military intelligence acquisition. Therefore, he was ultimately in charge of  
22 Plaintiff's continued unlawful detention and illegal treatment. Defendant Rumsfeld is sued in  
23 his individual capacity for ordering, authorizing, condoning, creating methods and procedures

1 for, exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
2 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In  
3 committing the illegal acts alleged herein, Defendant Rumsfeld, upon information and belief,  
4 was acting outside the scope of his authority - the scope of his authority, *at most*, being limited  
5 to engaging in said acts against those for whom a reasonable basis existed to suspect they had  
6 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United  
7 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition,  
8 Defendant Rumsfeld was acting outside the scope of his authority for all acts that violated  
9 customary international law and Article III of the Geneva Conventions, as well as for those acts  
10 outside of those authorized by the Army Field Manual.

11 23. Defendant Paul Wolfowitz is a United States citizen residing in Maryland.  
12 Defendant Wolfowitz was Deputy Secretary of Defense from March 2, 2001 until March 17,  
13 2005, including the period of time in which events herein described occurred. In particular, Mr.  
14 Wolfowitz was responsible for creating and overseeing the implementation of the flawed  
15 CSRTs, through memoranda which called for specific treatment of detainees. Defendant  
16 Wolfowitz is sued in his individual capacity for ordering, authorizing, condoning, creating  
17 methods and procedures for, exercising command responsibility over, conspiring with, aiding  
18 and abetting subordinates, and/or directly or indirectly participating in the abuses of Plaintiff as  
19 hereinafter alleged. In committing the illegal acts alleged herein, Defendant Wolfowitz was  
20 acting, upon information and belief, outside the scope of his authority - the scope of his  
21 authority, *at most*, being limited to engaging in said acts against those for whom a reasonable  
22 basis existed to suspect they had engaged in terrorism, acts supporting terrorism, violence or  
23 belligerent acts against the United States or its citizen, or had supported hostilities in aid of

1 enemy armed forces. In addition, the defendant was acting outside the scope of his authority for  
2 all acts that violated customary international law and Article III of the Geneva Conventions, as  
3 well as for those acts outside of those authorized by the Army Field Manual.

4 24. Defendant Gordon England is a United States citizen and was Secretary of the  
5 Navy from October 1, 2003 until December 28, 2005 and was simultaneously the Designated  
6 Civilian Official of detainees from June 28, 2003 until May 12, 2005. During this period and in  
7 this capacity, Mr. England had a large role in determining whether a detainee should be released  
8 or not, based on the recommendations of a CSRT or ARB. Mr. England was also Deputy  
9 Secretary of Defense from May 13, 2005 until February 20, 2009, including the period of time  
10 in which events herein described occurred. During this period and in this capacity, Mr. England  
11 continued to oversee the flawed CSRT and ARB processes. Defendant England is sued in his  
12 individual capacity for ordering, authorizing, condoning, creating methods and procedures for,  
13 exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
14 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In  
15 committing the illegal acts alleged herein, Defendant England was acting, upon information and  
16 belief, outside the scope of his authority -- the scope of his authority, *at most*, being limited to  
17 engaging in said acts against those for whom a reasonable basis existed to suspect they had  
18 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United  
19 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition, the  
20 defendant was acting outside the scope of his authority for all acts that violated customary  
21 international law and Article III of the Geneva Conventions, and for acts beyond those  
22 authorized in the Army Field Manual.

23 25. Defendant James M. McGarrah, RADM, CEC, USN, is a United States citizen

1 and was the Director of the Office for the Administrative Review of the Detention of Enemy  
2 Combatants (OARDEC) and the CSRT from July 2004 to March 2006. In this capacity he  
3 helped develop the flawed ARB process and approved the CSRT recommendation that Plaintiff  
4 be designated an enemy combatant and that the case be considered final in a determination  
5 signed March 18, 2005. Defendant McGarrah is sued in his individual capacity for ordering,  
6 authorizing, condoning, creating methods and procedures for, exercising command  
7 responsibility over, conspiring with, aiding and abetting subordinates, and/or directly or  
8 indirectly participating in the abuses of Plaintiff as hereinafter alleged. In committing the illegal  
9 acts alleged herein, Defendant McGarrah was acting, upon information and belief, outside the  
10 scope of his authority -- the scope of his authority, *at most*, being limited to engaging in said  
11 acts against those for whom a reasonable basis existed to suspect they had engaged in terrorism,  
12 acts supporting terrorism, violence or belligerent acts against the United States or its citizen, or  
13 had supported hostilities in aid of enemy armed forces. In addition, the defendant was acting  
14 outside the scope of his authority for all acts that violated customary international law and  
15 Article III of the Geneva Conventions, as well as for those acts outside of those authorized by  
16 the Army Field Manual.

17 26. Defendant Air Force Gen. Richard B. Myers is a United States citizen.  
18 Defendant Myers was the Chairman of the Joint Chiefs of Staff from October 1, 2001 until  
19 October 1, 2005. As the senior uniformed military officer in the chain of command during  
20 March 2003 until October 2005, Defendant Myers possessed and exercised command and  
21 control over the United States military and the United States detention facility at Guantánamo.  
22 Defendant Myers is sued in his individual capacity for ordering, authorizing, condoning,  
23 creating methods and procedures for, exercising command responsibility over, conspiring with,

1 aiding and abetting subordinates, and/or directly or indirectly participating in the abuses of  
2 Plaintiff as hereinafter alleged. In committing the illegal acts alleged herein, Defendant Myers  
3 was acting, upon information and belief, outside the scope of his authority -- the scope of his  
4 authority, *at most*, being limited to engaging in said acts against those for whom a reasonable  
5 basis existed to suspect they had engaged in terrorism, acts supporting terrorism, violence or  
6 belligerent acts against the United States or its citizen, or had supported hostilities in aid of  
7 enemy armed forces. In addition, the defendant was acting outside the scope of his authority for  
8 all acts that violated customary international law and Article III of the Geneva Conventions, as  
9 well as for those acts outside of those authorized by the Army Field Manual.

10 27. Defendant Marine Gen. Peter Pace is a United States citizen. Defendant Pace  
11 was the Chairman of the Joint Chiefs of Staff from September 30, 2005 until October 1, 2007.  
12 As the senior military officer in the chain of command during his tenure as the Chairman of the  
13 Joint Chiefs of Staff, Defendant Pace possessed and exercised command and control over the  
14 United States military and the United States detention facility at Guantánamo. Defendant Pace  
15 is sued in his individual capacity for ordering, authorizing, condoning, creating methods and  
16 procedures for, exercising command responsibility over, conspiring with, aiding and abetting  
17 subordinates, and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter  
18 alleged. In committing the illegal acts alleged herein, Defendant Pace was acting, upon  
19 information and belief, outside the scope of his authority -- the scope of his authority, *at most*,  
20 being limited to engaging in said acts against those for whom a reasonable basis existed to  
21 suspect they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts  
22 against the United States or its citizen, or had supported hostilities in aid of enemy armed  
23 forces. In addition, the defendant was acting outside the scope of his authority for all acts that

1 violated customary international law and Article III of the Geneva Conventions, as well as those  
2 that went beyond those authorized by the Army Field Manual.

3 28. Defendant Admiral Michael Glenn “Mike” Mullen is a United States citizen.  
4 Defendant Mullen was the Chairman of the Joint Chiefs of Staff from October 1, 2007, until  
5 September 30, 2011. In his role, he visited Washington State several times. As the senior  
6 military officer in the chain of command, Defendant Mullen possessed and exercised command  
7 and control over the United States military and the United States detention facility at  
8 Guantánamo. Defendant Mullen is sued in his individual capacity for ordering, authorizing,  
9 condoning, creating methods and procedures for, exercising command responsibility over,  
10 conspiring with, aiding and abetting subordinates, and/or directly or indirectly participating in  
11 the abuses of Plaintiff as hereinafter alleged. In committing the illegal acts alleged herein,  
12 Defendant Mullen was acting, upon information and belief, outside the scope of his authority --  
13 the scope of his authority, *at most*, being limited to engaging in said acts against those for whom  
14 a reasonable basis existed to suspect they had engaged in terrorism, acts supporting terrorism,  
15 violence or belligerent acts against the United States or its citizen, or had supported hostilities in  
16 aid of enemy armed forces. In addition, the defendant was acting outside the scope of his  
17 authority for all acts that violated customary international law and Article III of the Geneva  
18 Conventions, as well as those that went beyond those authorized by the Army Field Manual.

19 29. Defendant Army Gen. James T. Hill is a United States citizen. Defendant Hill  
20 lived in Pierce County, Washington, from September 1999 until August 2002, while serving as  
21 Commanding General, I Corps and Fort Lewis. Furthermore, Defendant Hill traveled to the  
22 State of Washington on at least six occasions between January 2006 and October of 2008  
23 pursuant to a consulting contract with Northrop Grumman. Additionally, Defendant Hill owns

1 and manages The J.T. Hill Group Inc., a consulting firm. The website for the company  
2 references his work in Washington State and advertises his contacts and experience gained  
3 while living in Washington State.

4 30. Defendant Hill was the Commanding General of the United States Southern  
5 Command (USSOUTHCOM) from August 18, 2002 until November 9, 2004. During his tenure  
6 as the senior commander with authority over the United States detention facility at Guantánamo,  
7 Defendant Hill possessed and exercised command and control over subordinates at  
8 Guantánamo. Defendant Hill is sued in his individual capacity for ordering, authorizing,  
9 condoning, creating methods and procedures for, exercising command responsibility over,  
10 conspiring with, aiding and abetting subordinates, and/or directly or indirectly participating in  
11 the abuses of Plaintiff as hereinafter alleged. In committing the illegal acts alleged herein,  
12 Defendant Hill was acting, upon information and belief, outside the scope of his authority -- the  
13 scope of his authority, *at most*, being limited to engaging in said acts against those for whom a  
14 reasonable basis existed to suspect they had engaged in terrorism, acts supporting terrorism,  
15 violence or belligerent acts against the United States or its citizen, or had supported hostilities in  
16 aid of enemy armed forces. In addition, the defendant was acting outside the scope of his  
17 authority for all acts that violated customary international law and Article III of the Geneva  
18 Conventions, as well as acts that went beyond the Army Field Manual.

19 31. Defendant Army Gen. Bantz Craddock is a United States citizen. Defendant  
20 Craddock was the Commander of the United States Southern Command from November 9,  
21 2004 until October 18, 2006. During his tenure as the senior commander with authority over  
22 the United States detention facility at Guantánamo, Defendant Craddock possessed and  
23 exercised command and control over subordinates at Guantánamo. Defendant Craddock is sued

1 in his individual capacity for ordering, authorizing, condoning, creating methods and procedures  
2 for, exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
3 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In  
4 committing the illegal acts alleged herein, Defendant Craddock was acting, upon information  
5 and belief, outside the scope of his authority -- the scope of his authority, *at most*, being limited  
6 to engaging in said acts against those for whom a reasonable basis existed to suspect they had  
7 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United  
8 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition, the  
9 defendant was acting outside the scope of his authority for all acts that violated customary  
10 international law and Article III of the Geneva Conventions, as well as those that went beyond  
11 those authorized by the Army Field Manual.

12 32. Defendant Army Maj. Gen. Geoffrey D. Miller is a United States citizen.  
13 Defendant Miller was the Commander of Joint Task Force-Guantánamo, responsible for all  
14 operations at the detention facility at Guantánamo including the conduct of all interrogations  
15 from October 2002 until March 2004. During his tenure, Defendant Miller possessed and  
16 exercised command and control over subordinates at Guantánamo. Defendant Miller is sued in  
17 his individual capacity for ordering, authorizing, condoning, creating methods and procedures  
18 for, exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
19 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In  
20 committing the illegal acts alleged herein, Defendant Miller was acting, upon information and  
21 belief, outside the scope of his authority -- the scope of his authority, *at most*, being limited to  
22 engaging in said acts against those for whom a reasonable basis existed to suspect they had  
23 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United

1 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition, the  
2 defendant was acting outside the scope of his authority for all acts that violated customary  
3 international law and Article III of the Geneva Conventions, as well as those that went beyond  
4 those authorized by the Army Field Manual.

5 33. Defendant Army Brig. Gen. Jay Hood is a United States citizen. Defendant  
6 Hood was the Commander of Joint Task Force-Guantánamo, responsible for all operations at  
7 the detention facility at Guantánamo including the conduct of all interrogations from March  
8 2004 until March 2006. During his tenure, Defendant Hood possessed and exercised command  
9 and control over subordinates at Guantánamo. Defendant Hood is sued in his individual  
10 capacity for ordering, authorizing, condoning, creating methods and procedures for, exercising  
11 command responsibility over, conspiring with, aiding and abetting subordinates, and/or directly  
12 or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In committing the  
13 illegal acts alleged herein, Defendant Hood was acting, upon information and belief, outside the  
14 scope of his authority -- the scope of his authority, *at most*, being limited to engaging in said  
15 acts against those for whom a reasonable basis existed to suspect they had engaged in terrorism,  
16 acts supporting terrorism, violence or belligerent acts against the United States or its citizen, or  
17 had supported hostilities in aid of enemy armed forces. In addition, the defendant was acting  
18 outside the scope of his authority for all acts that violated customary international law and  
19 Article III of the Geneva Conventions, as well as those that went beyond those authorized by the  
20 Army Field Manual.

21 34. Defendant Navy Rear Adm. Harry B. Harris, Jr. is a United States citizen.  
22 Defendant Harris was stationed at Whidbey Island Naval Base in Washington State from 1994  
23 to 1996. Defendant Harris has owned property in Washington State for over 15 years.

1 Defendant Harris has continued to rent out the property – a home and adjacent land -- and he  
2 employs a property manager to manage his property in Washington State. Thus, Defendant  
3 Harris has routinely and systematically conducted business in Washington State. As a property  
4 owner in the State of Washington, Defendant Harris has paid annual property taxes; in return, he  
5 is conferred certain benefits from tax-funded resources, including emergency fire services. In  
6 fact, in 2003, law enforcement and rescue services responded to a fire at Defendant Harris’  
7 rental property. In addition, Defendant Harris has continued to visit Washington State to attend  
8 various military ceremonies.

9 35. Defendant Harris was the Commander of Joint Task Force-Guantánamo (JTF-  
10 GTMO) during 2006 and 2007, for over a year during the time in which Plaintiff was detained.  
11 As Commander of JTF-GTMO, Defendant Harris had responsibilities for issuing, implementing  
12 and enforcing policies that touched every aspect of detainees’ daily existence, including  
13 Plaintiff’s. In fact, Defendant Harris was responsible for all interrogation and operations in  
14 Guantánamo during this time. In 2007, before Plaintiff was released, Defendant Harris was  
15 promoted to Director of Operations for the United States Southern Command  
16 (USSOUTHCOM). In both positions, Defendant Harris oversaw all detainee operations at  
17 Guantánamo Bay. Defendant Harris is sued in his individual capacity for ordering, authorizing,  
18 condoning, creating methods and procedures for, exercising command responsibility over,  
19 conspiring with, aiding and abetting subordinates, and/or directly or indirectly participating in  
20 the abuses of Plaintiff as hereinafter alleged. In committing the illegal acts alleged herein,  
21 Defendant Harris was acting, upon information and belief, outside the scope of his authority --  
22 the scope of his authority, *at most*, being limited to engaging in said acts against those for whom  
23 a reasonable basis existed to suspect they had engaged in terrorism, acts supporting terrorism,

1 violence or belligerent acts against the United States or its citizen, or had supported hostilities in  
2 aid of enemy armed forces. In addition, the defendant was acting outside the scope of his  
3 authority for all acts that violated customary international law and Article III of the Geneva  
4 Conventions, as well as those that went beyond those authorized by the Army Field Manual.

5 36. Defendant Rear Adm. Mark H. Buzby is a United States citizen. Defendant  
6 Buzby was the Commander of Joint Task Force-Guantánamo, responsible for all operations at  
7 the detention facility at Guantánamo including the conduct of all interrogations from May 2007  
8 until January 2008. During his tenure, Defendant Buzby possessed and exercised command and  
9 control over subordinates at Guantánamo. Defendant Buzby is sued in his individual capacity  
10 for ordering, authorizing, condoning, creating methods and procedures for, exercising command  
11 responsibility over, conspiring with, aiding and abetting subordinates, and/or directly or  
12 indirectly participating in the abuses of Plaintiff as hereinafter alleged. In committing the illegal  
13 acts alleged herein, Defendant Buzby was acting, upon information and belief, outside the scope  
14 of his authority -- the scope of his authority, *at most*, being limited to engaging in said acts  
15 against those for whom a reasonable basis existed to suspect they had engaged in terrorism, acts  
16 supporting terrorism, violence or belligerent acts against the United States or its citizen, or had  
17 supported hostilities in aid of enemy armed forces. In addition, the defendant was acting  
18 outside the scope of his authority for all acts that violated customary international law and  
19 Article III of the Geneva Conventions, as well as those that went beyond those authorized by the  
20 Army Field Manual.

21 37. Defendant Army Col. Adolph McQueen is a United States citizen. Defendant  
22 McQueen was the Commander of Joint Detention Operations Group at the United States  
23 detention facility at Guantánamo, responsible for guarding the detainees and providing security

1 from November 2002 until August 2003. During his tenure, Defendant McQueen possessed and  
2 exercised command and control over subordinates at Guantánamo. Defendant McQueen is sued  
3 in his individual capacity for ordering, authorizing, condoning, creating methods and procedures  
4 for, exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
5 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In  
6 committing the illegal acts alleged herein, Defendant McQueen was acting, upon information  
7 and belief, outside the scope of his authority -- the scope of his authority, *at most*, being limited  
8 to engaging in said acts against those for whom a reasonable basis existed to suspect they had  
9 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United  
10 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition, the  
11 defendant was acting outside the scope of his authority for all acts that violated customary  
12 international law and Article III of the Geneva Conventions, as well as those that went beyond  
13 those authorized by the Army Field Manual.

14 38. Defendant Army Brig. Gen. Nelson Cannon is a United States citizen.  
15 Defendant Cannon was the Commander of Joint Detention Operations Group at the United  
16 States detention facility at Guantánamo, responsible for guarding the detainees and providing  
17 security from August 2003 until September 2004. During his tenure, Defendant Cannon  
18 possessed and exercised command and control over subordinates at Guantánamo. Defendant  
19 Cannon is sued in his individual capacity for ordering, authorizing, condoning, creating methods  
20 and procedures for, exercising command responsibility over, conspiring with, aiding and  
21 abetting subordinates, and/or directly or indirectly participating in the abuses of Plaintiff as  
22 hereinafter alleged. In committing the illegal acts alleged herein, Defendant Cannon was acting,  
23 upon information and belief, outside the scope of his authority -- the scope of his authority, *at*

1 *most*, being limited to engaging in said acts against those for whom a reasonable basis existed to  
2 suspect they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts  
3 against the United States or its citizen, or had supported hostilities in aid of enemy armed  
4 forces. In addition, the defendant was acting outside the scope of his authority for all acts that  
5 violated customary international law and Article III of the Geneva Conventions, as well as those  
6 that went beyond those authorized by the Army Field Manual.

7 39. Defendant Army Col. Michael “Mike” Bumgarner is a United States citizen.  
8 Defendant Bumgarner was the Commander of Joint Detention Operations Group at the United  
9 States detention facility at Guantánamo, responsible for guarding the detainees and providing  
10 security from April 2005 until March 2006. During his tenure, Defendant Bumgarner possessed  
11 and exercised command and control over subordinates at Guantánamo. Defendant Bumgarner  
12 is sued in his individual capacity for ordering, authorizing, condoning, creating methods and  
13 procedures for, exercising command responsibility over, conspiring with, aiding and abetting  
14 subordinates, and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter  
15 alleged. In committing the illegal acts alleged herein, Defendant Bumgarner was acting, upon  
16 information and belief, outside the scope of his authority -- the scope of his authority, *at most*,  
17 being limited to engaging in said acts against those for whom a reasonable basis existed to  
18 suspect they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts  
19 against the United States or its citizen, or had supported hostilities in aid of enemy armed  
20 forces. In addition, the defendant was acting outside the scope of his authority for all acts that  
21 violated customary international law and Article III of the Geneva Conventions, as well as those  
22 that went beyond those authorized by the Army Field Manual.

23 40. Defendant Army Col. Wade Dennis is a United States citizen. Defendant Dennis

1 was the Commander of Joint Detention Operations Group at the U.S. detention facility at  
2 Guantánamo, responsible for guarding the detainees and providing security from March 2006  
3 until June 2007. During his tenure, Defendant Dennis possessed and exercised command and  
4 control over subordinates at Guantánamo. Defendant Dennis is sued in his individual capacity  
5 for ordering, authorizing, condoning, creating methods and procedures for, exercising command  
6 responsibility over, conspiring with, aiding and abetting subordinates, and/or directly or  
7 indirectly participating in the abuses of Plaintiff as hereinafter alleged. In committing the illegal  
8 acts alleged herein, Defendant Dennis was acting, upon information and belief, outside the  
9 scope of his authority -- the scope of his authority, *at most*, being limited to engaging in said  
10 acts against those for whom a reasonable basis existed to suspect they had engaged in terrorism,  
11 acts supporting terrorism, violence or belligerent acts against the United States or its citizen, or  
12 had supported hostilities in aid of enemy armed forces. In addition, the defendant was acting  
13 outside the scope of his authority for all acts that violated customary international law and  
14 Article III of the Geneva Conventions, as well as those that went beyond those authorized by the  
15 Army Field Manual.

16 41. Defendant Army Col. Bruce Vargo is a United States citizen. Defendant Vargo  
17 was the Commander of Joint Detention Operations Group at the United States detention facility  
18 at Guantánamo, responsible for guarding the detainees and providing security from July 2007  
19 until Mr. Ameer's release in October 2008. During his tenure, Defendant Vargo possessed and  
20 exercised command and control over subordinates at Guantánamo. Defendant Vargo is sued in  
21 his individual capacity for ordering, authorizing, condoning, creating methods and procedures  
22 for, exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
23 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In

1 committing the illegal acts alleged herein, Defendant Vargo was acting, upon information and  
2 belief, outside the scope of his authority -- the scope of his authority, *at most*, being limited to  
3 engaging in said acts against those for whom a reasonable basis existed to suspect they had  
4 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United  
5 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition, the  
6 defendant was acting outside the scope of his authority for all acts that violated customary  
7 international law and Article III of the Geneva Conventions, as well as those that went beyond  
8 those authorized by the Army Field Manual.

9 42. Defendant Esteban (aka Steven, aka Stephen) Rodriguez is a United States  
10 citizen. Defendant Rodriguez was the civilian Director of the Joint Intelligence Group  
11 responsible for managing intelligence-gathering operations at Guantánamo and reporting to the  
12 Commander of the Joint Task Force at Guantánamo from July 2003 to October 2005. During  
13 his tenure, Defendant Rodriguez possessed and exercised command and control over  
14 subordinates at Guantánamo. Defendant Rodriguez is sued in his individual capacity for  
15 ordering, authorizing, condoning, creating methods and procedures for, exercising command  
16 responsibility over, conspiring with, aiding and abetting subordinates, and/or directly or  
17 indirectly participating in the abuses of Plaintiff as hereinafter alleged. In committing the illegal  
18 acts alleged herein, Defendant Rodriguez was acting, upon information and belief, outside the  
19 scope of his authority -- the scope of his authority, *at most*, being limited to engaging in said  
20 acts against those for whom a reasonable basis existed to suspect they had engaged in terrorism,  
21 acts supporting terrorism, violence or belligerent acts against the United States or its citizen, or  
22 had supported hostilities in aid of enemy armed forces. In addition, the defendant was acting  
23 outside the scope of his authority for all acts that violated customary international law and

1 Article III of the Geneva Conventions, as well as those that went beyond those authorized by the  
2 Army Field Manual.

3 43. Defendant Lt. General Daniel McNeill is a United States citizen. In 1997 and  
4 1998, Defendant McNeill was a Deputy Commanding General at Ft. Lewis, an army base in  
5 Washington State, during which time he had hunting and fishing licenses with the State. He  
6 continued to visit Ft. Lewis in his official capacity as a commanding general on more than one  
7 occasion between May 2004 and January 2007, the time during which Plaintiff's claims were  
8 accruing. Defendant McNeill continued to visit Washington as a private citizen to provide  
9 training on a consultant basis at Ft. Lewis on at least four occasions during 2009 and 2010.

10 44. Defendant McNeill was Commander of the Combined Forces Command of  
11 Afghanistan for the entire duration of Plaintiff's detention at Bagram Air Base. Defendant  
12 McNeill was responsible for all forces, intelligence activity, and treatment of prisoners in  
13 Afghanistan during his tenure. During his tenure, Defendant McNeill possessed and exercised  
14 command and control over subordinates in Afghanistan. Defendant McNeill is sued in his  
15 individual capacity for ordering, authorizing, condoning, creating methods and procedures for,  
16 exercising command responsibility over, conspiring with, aiding and abetting subordinates,  
17 and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter alleged. In  
18 committing the illegal acts alleged herein, Defendant McNeill was acting, upon information and  
19 belief, outside the scope of his authority -- the scope of his authority, *at most*, being limited to  
20 engaging in said acts against those for whom a reasonable basis existed to suspect they had  
21 engaged in terrorism, acts supporting terrorism, violence or belligerent acts against the United  
22 States or its citizen, or had supported hostilities in aid of enemy armed forces. In addition, the  
23 defendant was acting outside the scope of his authority for all acts that violated customary

1 international law and Article III of the Geneva Conventions, as well as those that went beyond  
2 those authorized by the Army Field Manual.

3 45. Defendant Brigadier General Gregory J. Ihde, a United States citizen, was the  
4 Commander of the United States air base in Bagram, Afghanistan during the time Mr. Ameer  
5 was detained there from January 2003 to March 2003. Defendant Ihde exercised command  
6 responsibility over, conspired with, aided and abetted subordinates, and/or directly or indirectly  
7 participated in Mr. Ameer's prolonged arbitrary detention, cruel, inhuman, or degrading  
8 treatment, torture, forced disappearance and due process violations at Bagram as hereinafter  
9 alleged. In committing the illegal acts alleged herein, Defendant Ihde was acting, upon  
10 information and belief, outside the scope of his authority -- the scope of his authority, *at most*,  
11 being limited to engaging in said acts against those for whom a reasonable basis existed to  
12 suspect they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts  
13 against the United States or its citizen, or had supported hostilities in aid of enemy armed  
14 forces. In addition, the defendant was acting outside the scope of his authority for all acts that  
15 violated customary international law and Article III of the Geneva Conventions, as well as those  
16 that went beyond those authorized by the Army Field Manual.

17 46. Defendant John Doe 1, Colonel, United States Army Tribunal President is a  
18 United States citizen and presided over the flawed CSRT that recommended Mr. Ameer be  
19 designated an enemy combatant. Defendant John Doe 1 is sued in his individual capacity for  
20 ordering, authorizing, condoning, creating methods and procedures for, exercising command  
21 responsibility over, conspiring with, aiding and abetting subordinates, and/or directly or  
22 indirectly participating in the abuses of Plaintiff as hereinafter alleged. In committing the illegal  
23 acts alleged herein, Defendant Doe was acting, upon information and belief, outside the scope

1 of his authority -- the scope of his authority, *at most*, being limited to engaging in said acts  
2 against those for whom a reasonable basis existed to suspect they had engaged in terrorism, acts  
3 supporting terrorism, violence or belligerent acts against the United States or its citizen, or had  
4 supported hostilities in aid of enemy armed forces. In addition, the defendant was acting  
5 outside the scope of his authority for all acts that violated customary international law and  
6 Article III of the Geneva Conventions, as well as those that went beyond those authorized by the  
7 Army Field Manual.

8 47. Defendant John Doe 2, is a United States citizen and was Presiding Officer of the  
9 flawed ARB, which recommended that Mr. Ameer be transferred back to the Algeria. Despite  
10 this recommendation, Defendant Doe 2 failed to provide or ensure proper notification to Mr.  
11 Ameer and/or Mr. Ameer's habeas counsel of the ARB's decision. Defendant John Doe 2 is  
12 sued in his individual capacity for ordering, authorizing, condoning, creating methods and  
13 procedures for, exercising command responsibility over, conspiring with, aiding and abetting  
14 subordinates, and/or directly or indirectly participating in the abuses of Plaintiff as hereinafter  
15 alleged. In committing the illegal acts alleged herein, Defendant Doe 2 was acting, upon  
16 information and belief, outside the scope of his authority -- the scope of his authority, *at most*,  
17 being limited to engaging in said acts against those for whom a reasonable basis existed to  
18 suspect they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts  
19 against the United States or its citizen, or had supported hostilities in aid of enemy armed  
20 forces. In addition, the defendant was acting outside the scope of his authority for all acts that  
21 violated customary international law and Article III of the Geneva Conventions, as well as those  
22 that went beyond those authorized by the Army Field Manual.

23 48. Defendant John Doe 3 is a United States citizen. He commanded that Pakistanis

1 take custody of Plaintiff, even though he had no basis – let alone a reasonable basis – to do so,  
2 other than the fact that Plaintiff was a refugee from Algeria residing in Pakistan. Defendant  
3 John Doe 3 is sued in his individual capacity for ordering, authorizing, condoning, creating  
4 methods and procedures for, exercising command responsibility over, conspiring with, aiding  
5 and abetting subordinates, and/or directly or indirectly participating in the abuses of Plaintiff as  
6 hereinafter alleged. In committing the illegal acts alleged herein, Defendant Doe 3 was acting,  
7 upon information and belief, outside the scope of his authority -- the scope of his authority, at  
8 most, being limited to engaging in said acts against those for whom a reasonable basis existed to  
9 suspect they had engaged in terrorism, acts supporting terrorism, violence or belligerent acts  
10 against the United States or its citizen, or had supported hostilities in aid of enemy armed  
11 forces. In addition, the defendant was acting outside the scope of his authority for all acts that  
12 violated customary international law and Article III of the Geneva Conventions, as well as those  
13 that went beyond those authorized by the Army Field Manual.

14 49. Plaintiff does not know the true names and capacities of Defendants sued herein  
15 as John Does 4-100, and therefore sues these Defendants by fictitious names. John Does 4-100  
16 are sued in their individual capacity, and are the military, intelligence, and civilian personnel  
17 who exercised command responsibility over, conspired with, aided and abetted subordinates,  
18 and/or directly or indirectly participated in Plaintiff's prolonged arbitrary detention, cruel,  
19 inhuman, or degrading treatment, torture, targeting of a civilian, forced disappearance and due  
20 process violations as hereinafter alleged.

21 50. All Defendants named herein are sued in their individual capacity and are alleged  
22 to have acted, upon information and belief, outside the scope of their employment and/or  
23 authority, especially with regard to men such as Mr. Ameer, a civilian, who was not

1 apprehended on a battlefield and for whom there was insufficient evidence to warrant his taking,  
2 detention or treatment.

#### 3 IV. STATEMENT OF FACTS

##### 4 Background

5 51. From the outset of the War on Terror following the September 11, 2001 attacks,  
6 Pakistan has been a key front-line ally to the United States. As documented in the State  
7 Department Report on Pakistan issued in March 2009, “The United States-Pakistan relationship  
8 changed significantly once Pakistan agreed to support the United States’ campaign to eliminate  
9 the Taliban in Afghanistan and to join the United States in the Global War on Terror. Since  
10 September 2001, Pakistan has provided extensive assistance in the war on terror by capturing  
11 more than 600 al-Qaida members and their allies. The United States has stepped up its  
12 economic assistance to Pakistan, providing debt relief and support for a major effort for  
13 education reform.”

14 52. As part of this relationship change, the United States and Pakistan established the  
15 Working Group on Counterterrorism and Law Enforcement Cooperation in 2002, with the first  
16 meeting held in May of that year. Around this time, United States involvement, particularly the  
17 Federal Bureau of Investigation (FBI), with local Pakistani police increased. It has been  
18 reported that FBI agents actively took part in raids with local police, carrying weapons and  
19 directing local police in nighttime arrests.

20 53. The United States military has maintained continuous control and jurisdiction  
21 over Bagram since December 2001, following the invasion of Afghanistan. This control is  
22 evidenced by the Lease Agreement and the Status of Forces Agreement (SOFA) between the  
23 United States and Afghanistan. The base has served as a primary staging center for the military

1 during Operation: Enduring Freedom. It has also served as the primary known detention  
2 centers, interrogation points, and transfer centers for detainees arrested in the region, including  
3 Pakistan. Numerous media reports and human rights organizations have documented the harsh  
4 conditions and treatment administered to detainees at Bagram, which were particularly harsh  
5 during the initial years of its operation under United States control.

6 54. The United States has maintained exclusive and continuous control and  
7 jurisdiction over Guantánamo pursuant to a 1903 Lease Agreement with Cuba. Beginning in  
8 early 2002, the United States began to transfer detainees seized throughout the world to  
9 Guantánamo. Numerous media reports and human rights organizations have documented harsh  
10 conditions and treatment administered to detainees at Guantánamo.

11 55. At Guantánamo, detainees have been held indefinitely without charges ever  
12 being filed against them. Under the auspices of the United States Department of Defense  
13 (DOD), the Office for the Administrative Review of the Detention of Enemy Combatants  
14 (OARDEC) was created in 2004 to establish military tribunals to determine the status of the  
15 individuals detained at Guantánamo. The two procedures established by OARDEC were the  
16 Combatant Status Review Tribunals (CSRT) and Administrative Review Boards (ARB).

17 56. Detainees' statuses have been determined by a flawed CSRT procedure. The  
18 process fails to provide for adequate due process in numerous ways because detainees are  
19 presumed guilty of being enemy combatants, not permitted to review classified evidence that is  
20 used to justify an enemy combatant determination, not afforded access to counsel, and not  
21 permitted to present their own witnesses or evidence.

22 57. Following an enemy combatant determination by a CSRT, a detainee's status is  
23 to be reviewed annually by an ARB. The ARB is to recommend, based on current evidence at

1 the time, whether the detainee should be released, transferred, or continue to be detained. At its  
2 core, the ARB was designed to “ensure no one is detained any longer than is warranted . . .”

3 **Facts Specific to Plaintiff**

4 58. 4. During the summer of 2002, Mr. Ameer and his family were living in  
5 Pakistan as refugees, as determined by the United Nations High Commission for Refugees  
6 (UNHCR), having fled their homeland of Algeria to escape the violent civil war in that country.  
7 As a UNHCR-mandate refugee, he was under the protection of the United Nations and the host  
8 country of Pakistan. Having a difficult time living on funds provided to him by the United  
9 Nations as a refugee, and being unable to find work in Pakistan, Plaintiff and his family were  
10 preparing to return to Algeria, as the civil war from which they had fled had ended.

11 59. On July 18, 2002, in the early-morning hours, just days before he and his family  
12 were scheduled to return to Algeria, Plaintiff was seized during a raid by Pakistani authorities,  
13 upon information and belief, at the direction of an unknown American official. Numerous  
14 heavily armed men raided the private building in Peshawar that Plaintiff was living in with his  
15 family, initially seeking his upstairs neighbor. Plaintiff provided the men with his  
16 documentation from the UNHCR that identified him as a refugee from Algeria. After initially  
17 ignoring Plaintiff, the Pakistani police took custody of him at the behest of their American  
18 leader, who had taken an interest in Plaintiff, upon information and belief, based solely on his  
19 nationality, as reflected in his UNHCR document. The Pakistani police had informed the  
20 American leader that they had not come for Plaintiff, but for his upstairs neighbor; that they did  
21 not need him; and that they did not desire to take him into custody. But the American official  
22 ignored their pleas, ordering that they take Plaintiff into custody. Plaintiff's wife was informed  
23 that he would be detained for only two days. After being held in a local jail overnight, Plaintiff

1 was transferred on July 19, 2002 to a jail in Islamabad, Pakistan, where he was held for three  
2 days with no outside contact, interrogated, and subjected to cruel, inhuman, and degrading  
3 treatment.

4 60. On July 22, 2002, Plaintiff was hooded, chained with heavy metal links and old-  
5 fashioned padlocks, and transferred to another Pakistani prison. It is possible this location was  
6 in Islamabad; it is also possible this location was at a site controlled/operated at least partly by  
7 the United States military. He was given food laced with hot peppers to eat, and only his one  
8 set of clothes to use throughout the summer heat and winter cold that spanned the time he spent  
9 there. He was severely restricted in the amount of times he was allowed to use the restroom or  
10 shower. Plaintiff was allowed to see light only once or twice during this entire time.

11 61. During his detainment at this Pakistani prison, Plaintiff was never permitted to  
12 have outside contact, including with the International Committee of the Red Cross (ICRC), his  
13 family, consulate, or an attorney. Plaintiff was never charged with a crime or interrogated. His  
14 family did not know what had happened to him or where he was.

15 62. In approximately January 2003, Plaintiff was hooded, chained, and driven in a  
16 van to be transferred once again. The Pakistani police informed him that he was being  
17 transferred home. However, that is not what occurred. Upon arrival at a tarmac, Plaintiff was  
18 thrown to the ground, beaten and kicked, and retrussed in plastic zip-tie cuffs by American  
19 officials. Plaintiff was then put onto a non-commercial flight to Bagram that lasted  
20 approximately one and one-half hours.

21 63. Plaintiff was a prisoner under the exclusive control of the United States at  
22 Bagram Air Base from approximately January 2003 until approximately March 23, 2003. Upon  
23 arrival at Bagram, American officials pushed and dragged Plaintiff outside in freezing

1 temperatures, kicked him, cut his clothes off with a knife, forced him to lie on the ground naked,  
2 and took pictures of him. He was also subjected to cavity searches. They set dogs upon  
3 Plaintiff while United States military personnel, including female personnel, laughed and  
4 mocked him.

5 64. While at Bagram, Plaintiff was forced to stand for long periods of time without  
6 sleep or food. He was subjected to loud music, sounds, and lights on all the time. Plaintiff was  
7 also subjected to intense stress positions, including being hung by his handcuffs.

8 65. During his detention at Bagram, Plaintiff was subjected to prolonged arbitrary  
9 detention, cruel, inhuman, or degrading treatment, torture, and due process violations. Plaintiff  
10 had contact once with ICRC while he was at Bagram in early March 2003. Until such time, he  
11 was deprived of all outside contact.

12 66. During his detention at Bagram, Plaintiff did not receive any notice of the  
13 reasons why the individuals apprehended and detained him. Plaintiff was not charged with any  
14 crime or offense, and he was deprived of any proceeding in which he could challenge the basis  
15 for his detention. No evidence was presented against him. Rather, he was simply imprisoned  
16 without cause and routinely subjected to harsh interrogations and abusive treatment. Given his  
17 role at Bagram, Defendant McNeill personally participated in violating Plaintiff's rights through  
18 his command authority.

19 67. On approximately March 23, 2003, Plaintiff was transferred to an airplane for  
20 transfer to Guantánamo Bay. At that time, his beard and hair were shaved, he was subjected to  
21 another cavity search, handcuffed, and forced to stay on his knees for nearly ten hours without  
22 food, water, or access to a restroom. Plaintiff was then shackled and blindfolded, had muffs  
23 placed on his ears, and strapped down with a full-face hood for the entire flight to Guantánamo.

1 If the prisoners tried to move during the flight, the guards beat them. Plaintiff was given a  
2 bucket to use during the flight rather than having access to the restroom.

3 68. Plaintiff was a prisoner under the exclusive control of the United States at  
4 Guantánamo from approximately March 23, 2003, until his release and subsequent transfer to  
5 Algeria on approximately October 8, 2008. During this time, Plaintiff continued to be  
6 interrogated and detained, despite no reasonable basis for such treatment.

7 69. For the first month at Guantánamo, Plaintiff was held in isolation and  
8 interrogated daily in Delta Camp 3, the harshest of the camps. Plaintiff was then placed in Camp  
9 1. He was allowed only a 20-minute walk in the yard two times per week.

10 70. Plaintiff was eventually moved to Camp 4. However, during one month of his  
11 detention, Plaintiff was again placed in Camp 3, where the treatment was much worse than in  
12 Camp 4.

13 71. While at Guantánamo Bay, Plaintiff was subjected to beatings from the guards.  
14 He was allowed to take cold showers once a week, but only while chained and stripped. If  
15 detainees refused to strip, the guards would beat them, so Plaintiff was forced to comply. The  
16 guards also repeatedly sprayed all the detainees with mace and cut off the water supply so that  
17 the detainees could not clean it off. Upon information and belief, the mace attacks were  
18 unprovoked and the guards were randomly subjecting the detainees to this treatment. In  
19 addition, the guards would punish all the detainees if there was a problem with one detainee.  
20 Treatment Plaintiff endured as punishment for other detainees' behavior included having his  
21 Qur'an taken away, as well as his mattress, bed sheet, blankets, soap, toothbrush, and  
22 toothpaste. Sometimes officers refused to let Plaintiff conduct his prayers.

23 72. Plaintiff was not allowed to contact his family until approximately June of 2007,

1 almost five years after his initial detainment. Until ICRC became involved, his letters never  
2 made it to his family, and he never received letters from them, even though both sides were  
3 attempting to contact each other.

4 73. As a result of the footwear Plaintiff was provided at Guantánamo Bay, Plaintiff  
5 received substantial injuries to both of his feet. Infections in both of his heels and soles caused  
6 constant pain. By December 2007, four separate doctors agreed that he should be provided  
7 padded soled inserts for his shoes, but the head doctor refused to approve his request. Plaintiff  
8 received a steroid injection in both soles, but he was unable to walk 25 yards without pain in his  
9 feet. Plaintiff was also required to take a variety of pain killers, which still did not relieve the  
10 pain in his feet. The head doctor finally approved the fifth request for inserts in February 2008,  
11 which Plaintiff eventually received.

12 74. Plaintiff's injuries to his feet continued to inflict substantial pain. He was unable  
13 to walk for even moderate distances. He could not stand for more than a five minutes at a time  
14 which forced him to modify his prayers. The effects of these injuries affected his ability to  
15 work and function in daily activities even after his release from Guantánamo Bay.

16 75. Plaintiff was not given notice of the basis for his detention until more than two  
17 years after first being detained, after the CSRT was convened sometime between July and  
18 October 2004. The interrogations continued until Plaintiff was transferred in 2008, even though  
19 Plaintiff was approved for transfer over two years earlier.

20 76. President George W. Bush, under his authority as Commander-in-Chief, signed  
21 Executive Order of November 13, 2001. Executive Order of November 13, 2001, Section 2  
22 states that "individuals subject to this order" are those that the President will determine "from  
23 time to time in writing" fall under the following determinations: 1) individuals who are or were

1 members of al Qaida; 2) engaged in, aided or abetted, conspired to commit, acts of international  
2 terrorism or acts in preparation therefor, caused, threaten to cause, injury or adverse effects to  
3 the United States, its citizens, national security, foreign policy, or economy; or 3) harbored one  
4 or more individuals described in the first two sections.

5 77. This Order was in effect when Plaintiff was detained. Over two years passed  
6 between the Plaintiff's detainment and the initiation of the CSRT process. Prior to this two year  
7 gap, Plaintiff was never determined to be an "enemy combatant", supporting forces hostile to  
8 the United States, or coalition partners in Afghanistan. There was no finding that Plaintiff was a  
9 member of al-Qaida, involved in acts of international terrorism against the United States, or  
10 knowingly harboring anyone who had. Plaintiff was not subject to the Executive Order of  
11 November 13, 2001. There was no cause to detain Plaintiff.

12 78. Plaintiff was in the exclusive custody, care, and control of Defendants at Bagram  
13 and Guantánamo from January 2003 until being released and transferred to Algeria in October  
14 2008. He was detained with Internment Serial Number (ISN) Number 939.

#### 15 **CSRT Determination and ARB Review**

16 79. It was not until October 2004 that Plaintiff was officially labeled as an "enemy  
17 combatant" by the flawed CSRT process, two years after initially being detained. The CSRT  
18 itself did not afford Plaintiff elementary due process.

19 80. Upon information and belief, the military tribunal determined that Plaintiff was  
20 an enemy combatant simply because of his association as an employee of various organizations  
21 for whom he had done humanitarian and charity work and the mandatory training he received  
22 for the Algerian army from 1979-1981, almost two decades prior to his detention.

23 81. The CSRT's allegations against Plaintiff included that he was associated with the

1 African Muslim Agency (AMA). AMA is an organization that the U.S. State Department's  
2 Bureau of Democracy, Human Rights and Labor has recognized as doing important  
3 humanitarian work in Africa. It is not on the list of terrorist organizations.

4 82. The CSRT's determination of Plaintiff as an enemy combatant was reviewed  
5 only one time by a military ARB, which was convened on August 15, 2005. The purpose of the  
6 ARB is to provide for annual review in light of the flawed CSRT procedures. In November  
7 2005, the ARB determined, upon information and belief, that Plaintiff was eligible to be  
8 released from Guantánamo and returned to Algeria.

9 83. Not until February 22, 2007, did Plaintiff's pro bono habeas counsel receive an  
10 email from OARDEC, notifying them that Plaintiff, based on either the ARB process or the  
11 process the Department of Defense had in place prior to ARBs, had in fact been "approved to  
12 leave Guantánamo." This notification via email came eighteen months after the ARB had  
13 determined that Plaintiff was eligible for return to Algeria.

14 84. Despite the ARB determination and email notification, Plaintiff was not allowed  
15 to return to Algeria until approximately October 8, 2008. In his habeas proceeding, the court  
16 had ordered the United States to provide Plaintiff's pro bono habeas counsel with a factual  
17 return regarding his detention. The U.S. officials allowed Plaintiff to return to Algeria  
18 approximately two weeks ahead of the deadline imposed by that court order.

19 85. Certain officials within the U.S. government, including Defendants, knew or  
20 should have known, or believed that many of the men seized in Pakistan and Afghanistan and  
21 held at Guantánamo Bay and Bagram were innocent. Plaintiff was one of these innocent men.

22 86. As sworn by Col. Lawrence B. Wilkerson (Ret.), a former high-level official  
23 with the United States government, certain United States officials, including Defendants

1 Rumsfeld and Gates and most likely many of the other Defendants, knew that they had seized  
2 and were holding innocent men at Guantánamo Bay. They simply refused to release them out  
3 of fear of political repercussions. There was no meaningful way to determine who was an  
4 enemy combatant and who was not, either in the field or at Guantánamo Bay, and Defendants  
5 knew, or should have known, this.

6 87. Upon information and belief, only five to seven percent of the men held at  
7 Guantánamo Bay were actually apprehended during military engagement or “on the battlefield.”  
8 Nearly ninety-three to ninety-five percent of the men were not. Many of these men were taken  
9 by Pakistanis and Afghans who received a bounty, or did it for retribution or revenge. Upon  
10 information and belief, there was no credible effort to determine whether there was any  
11 suspicion or belief – let alone a *reasonable* suspicion or belief – that men apprehended had  
12 engaged in or supported hostilities toward or against the United States.

13 88. As officers of the U.S. military, military official defendants’ authority is limited  
14 by numerous legal authorities, including the Army Field Manual and the Geneva Conventions.  
15 All actions taken, or not taken, with regard to Plaintiff, who was a civilian, that resulted in  
16 prolonged arbitrary detention, torture, cruel, inhuman and degrading treatment, violations of due  
17 process, forced disappearance, were outside such authority, and all defendants knew or should  
18 have known such actions were outside their legal authority, and were illegal.

19 **Additional Information on**  
20 **the Role of Individual Defendants**

21 89. Throughout the period when Defendant Rumsfeld was Secretary of Defense and  
22 exercised command authority over Guantánamo, he and his subordinates, including Defendants  
23 Miller, Hood, Harris, Hill, McQueen, Cannon, Bumgarner, and Dennis, oversaw a system of

1 detention, coercive interrogations and harsh and humiliating conditions in contravention of the  
2 Geneva Conventions, customary international law, and the Army Field Manual. Specifically, in  
3 October 2002, Defendant Rumsfeld ordered an overhaul of the operation at Guantánamo  
4 resulting in new interrogation techniques that did not conform to the Geneva Conventions of  
5 1949 or customary international law and went beyond those approved in the U.S. Army Field  
6 Manual. All Defendants knew or should have known that such techniques were unlawful.

7 90. In a memo dated October 25, 2002, Defendant Hill requested in writing  
8 permission to use enhanced interrogation techniques, later used against Plaintiff, that constitute  
9 torture and cruel, inhuman and degrading treatment, in direct contradiction to the Geneva  
10 Conventions, customary international law, and the Army Field Manual. Defendant Hill justified  
11 violations of the Geneva Convention in the use of such “counter-resistance techniques” by  
12 noting detainees’ tenacious resistance against the more humane interrogation methods lawfully  
13 employed at the time. He expressed reservations about the legality of the most severe types of  
14 methods (such as the implied or explicit use of threats of death to detainee and/or his family),  
15 but asked for authorization to use them nonetheless.

16 91. In addition, during Defendant Hill’s leadership, the ICRC reported that the  
17 military was intentionally using psychological and physical coercion “tantamount to torture” on  
18 prisoners, and that their treatment was increasingly “refined and repressive.”

19 92. Beginning on November 8, 2002, Defendant Miller commanded JTF-GTMO, a  
20 unit that combined the detention and security operations (JTF-160) and interrogation and  
21 intelligence-gathering functions (JRF-170). In that position he oversaw both military  
22 intelligence and military police functions. Defendant Miller was in regular contact with  
23 Defendant Rumsfeld during his time as commander at Guantánamo.

1           93. Defendant Wolfowitz discussed the use of aggressive interrogation techniques at  
2 Guantánamo with others in the Department of Defense leadership, and concurred with the  
3 November 27, 2002, recommendation to Defendant Rumsfeld that the majority of the  
4 aggressive techniques be approved, including stress positions, removal of clothing, use of  
5 phobias, and deprivation of light and auditory stimuli. Defendant Wolfowitz encouraged others  
6 to use even more aggressive interrogation techniques and expressed dissatisfaction with the  
7 level of intelligence gathering taking place at Guantánamo. Defendant Wolfowitz was well  
8 informed of the day-to-day operations at Guantánamo, as he was briefed on at least a weekly  
9 basis by Defendant Miller during the latter's time as Commander of Guantánamo.

10           94. On December 2, 2002, Defendant Rumsfeld authorized aggressive interrogation  
11 techniques. On that date, Defendant Rumsfeld signed a memorandum approving numerous  
12 illegal interrogation methods, including putting detainees in "stress positions" for up to four  
13 hours, forcing detainees to strip naked, intimidating detainees with dogs, interrogating them for  
14 twenty hours at a time, forcing them to wear hoods, shaving their heads and beards, keeping  
15 them in total darkness and silence, and using what was euphemistically called "mild, non-  
16 injurious physical contact" techniques. Defendant Rumsfeld and all Defendants knew or should  
17 have known that these techniques were unlawful, and in contravention of the Geneva  
18 Conventions and customary international law. Upon information and belief, they also knew or  
19 should have known that they were not authorized to use them against those who were innocent  
20 and/or for whom there was not a sufficient basis to be held in custody.

21           95. Defendant Miller unified the command over military intelligence units and  
22 military police units, and had them work together to weaken detainees for interrogation. After  
23 the approval of the harsh interrogation techniques in the December 2, 2002 memorandum by

1 Defendant Rumsfeld, Defendant Miller implemented the techniques, which were designed to  
2 “soften up” detainees. These included sleep deprivation, extended isolation, forcing detainees  
3 to stand or crouch in stress positions, stripping detainees and exposing them to extremes of heat  
4 and cold. Plaintiff suffered from these techniques. Defendant Miller and the other defendants  
5 knew or should have known that such techniques were in contravention of the Geneva  
6 Conventions, international law, and the Army Field Manual and thus not legal, and that they  
7 were not authorized to use them against innocent civilians.

8 96. On January 15, 2003, Secretary Rumsfeld rescinded permission for the more  
9 controversial techniques, although upon information and belief, under Defendant Miller’s  
10 command at Guantánamo, these techniques continued to be used. The defendants responsible  
11 for Guantánamo Bay and Bagram, upon information and belief, continued to use some of the  
12 techniques. They were not authorized to do so.

13 97. On March 21, 2003, Defendant Hill again sent a memorandum to Defendant  
14 Myers regarding the interrogation techniques that had been temporarily rescinded by Defendant  
15 Rumsfeld in January of that year. Defendant Hill’s March 21, 2003 memo stated that both he  
16 and Defendant Miller felt that approval of *all* of the previously authorized techniques (all of  
17 which had been previously placed in categories -- Categories I, II or III – depending on their  
18 level of severity) were “eessential.” Defendant Hill stated that “both Geoff Miller and I believe  
19 that we need as many appropriate tools as possible” and called Category II techniques and the  
20 one previously-authorized Category III technique critical to maximizing our ability to  
21 accomplish the mission, now and in the future.” The “critical” techniques referred to by  
22 Defendant Hill included stress positions, deprivation of light and auditory stimuli, removal of  
23 clothing, use of detainee phobias such as dogs. In a prior communication, Defendant Hill had

1 been made aware that some of the techniques were likely not lawful and could expose  
2 interrogators to possible federal prosecution.

3 98. On April 16, 2003, Defendant Rumsfeld issued the “Memorandum for the  
4 Commander, US Southern Command: Counter-Resistance Techniques in the War on  
5 Terrorism,” which contains 24 interrogation techniques, with the proviso that “use of these  
6 techniques is limited to interrogations of unlawful combatants held at Guantánamo Bay, Cuba.”  
7 These techniques, however, were inconsistent with the United States’ obligations under  
8 international law. He and the other defendants knew or should have known such techniques  
9 were illegal, and also that they were not authorized to use them on innocent civilians. In  
10 addition, they were not authorized to use them against those who had not been properly  
11 determined to be unlawful combatants.

12 99. Defendant Miller supported and approved these techniques and oversaw their  
13 implementation at a time when Plaintiff was detained at Guantánamo, even though he knew  
14 they were illegal under international law.

15 100. Serious mistreatment of detainees was a constant, unrelenting theme under  
16 Defendant Miller’s command. In July 2003, Defendant Miller sought approval for an  
17 interrogation plan that included previously-banned interrogation techniques. Moreover, upon  
18 information and belief, others held continued to suffer - techniques such as threats against  
19 themselves and threats against their families, even though, upon information and belief, these  
20 techniques had been ordered not to be used.

21 101. Plaintiff was subjected to many of these techniques that were illegal under the  
22 Geneva Conventions and customary international law.

23 102. On October 10, 2003, the ICRC conducted more than 500 interviews at

1 Guantánamo before meeting with Defendant Miller and his top aides. The ICRC voiced its  
2 concerns over the treatment of detainees, particularly with regard to the lack of a legal system  
3 for the detainees, the continued use of steel cages, the “excessive use of isolation” and the lack  
4 of repatriation for the detainees. Defendant Miller objected to the conclusions and told the  
5 ICRC that interrogation techniques were none of their concern.

6 103. Defendant Hood, commander of the Joint Task Force-Guantánamo, had  
7 knowledge of abuse amounting to torture but failed to address it while in a position to do so. In  
8 confidential reports to Defendant Hood and other government officials in July 2004, the ICRC  
9 charged that the military was intentionally using psychological and physical coercion,  
10 “tantamount to torture,” on prisoners at Guantánamo. Defendant Hood conceded the futility of  
11 indefinite and arbitrary detention of detainees at Guantánamo. More than two years after the  
12 first prisoners were brought to Guantánamo, Defendant Hood acknowledged that “[t]here are  
13 significant numbers of men here, who once their cases are heard will probably be given over to  
14 their government or released.” However, Plaintiff remained in detention without charge.

15 104. On July 29, 2004, Defendant England, then Secretary of the Navy and the  
16 Designated Civilian Official of detainees, signed a memorandum implementing the CSRT  
17 procedures used at Guantánamo. By Defendant England’s own admission, the CSRT  
18 procedures were not designed as legal proceedings. The procedures implemented ensured that  
19 panels would “rubber-stamp decisions already made rather than applying independent judgment  
20 as to whether those decisions were correct,” according to a written statement of Lt. Col. Stephen  
21 Abrahams, who served on a CSRT panel in the Office for the Administrative Review of the  
22 Detention of Enemy Combatants, presented to the House Armed Services Committee on July  
23 26, 2007. The implementation of the CSRT procedures deprived Plaintiff of due process and

1 condemned him to prolonged arbitrary detention.

2 105. In his role as director of OARDEC, Defendant England appointed Defendant  
3 McGarrah the “convening authority” to review all CSRT decisions, including that Plaintiff be  
4 designated an “enemy combatant” and that the case be considered final in a determination  
5 signed October 27, 2004. In that capacity Defendant McGarrah presided over the system that  
6 deprived Plaintiff of due process, condemned Plaintiff to prolonged arbitrary detention, and  
7 exposed him to continued abusive treatment.

8 106. As Joint Detention Operation Group (“JDOG”) Commander at Guantánamo with  
9 the responsibility for guarding the detainees and providing security, Defendant Bumgarner  
10 played an integral role in implementing torture from April 2005 until March 2006. With his  
11 attitude toward detainees being that “we can’t trust them any farther than we can throw them[,]”  
12 Defendant Bumgarner attempted to justify the mistreatment of detainees at Guantánamo by  
13 demonizing them through various public statements, including “they hate us” and “they will cut  
14 your throat in a heartbeat.”

15 107. Defendant Bumgarner demonstrated that he was unwilling and/or unable to bring  
16 the detention facility into compliance with the universal standards of humane treatment  
17 mandated by the Geneva Conventions of 1949. Defendant Bumgarner tolerated and failed to  
18 exercise adequate command responsibility over the treatment of detainees by his officers.

19 108. While responsible for guarding and securing detainees, Defendant Bumgarner  
20 was aware, or should have been aware, that torture and cruel, inhuman, or degrading treatment  
21 of detainees at Guantánamo was occurring. Defendant Bumgarner ignored the manifest  
22 illegality of the treatment he authorized, implemented, and/or otherwise condoned during his  
23 tenure. Plaintiff suffered serious mistreatment and abuse under the tenure of Defendant

1 Bumgarner.

2 109. Defendant Cannon, as commander of the Joint Detention Operation Group failed  
3 to exercise sufficient command responsibility in response to incidents of detainee abuse  
4 committed at Guantánamo. Defendant Cannon failed to take action to investigate or punish his  
5 subordinates for abuses committed against Plaintiff.

6 110. Defendant McNeill, in his role, was, upon information and belief, aware of  
7 abuses taking place in Bagram. In fact, an April 2003 memorandum to General Pace noted that  
8 Defendant McNeill had specifically endorsed aggressive interrogation techniques that would be  
9 illegal under international law. Upon information and belief, he had been questioned by media  
10 about such abuses taking place there. Moreover, he did not give sufficient guidance to his  
11 subordinates regarding which interrogation measures were appropriate and which were not. At  
12 most, he condoned the abuses taking place there; at the very least, he failed to end them.

### 13 **Habeas Petition**

14 111. Plaintiff submitted a petition for a writ of habeas corpus which was officially  
15 filed on March 22, 2005. An amended petition for the writ of habeas corpus was filed by his  
16 habeas counsel on July 9, 2008. The habeas process was delayed on numerous occasions due to  
17 the acts of the government. As a consequence of this and Plaintiff's eventual transfer to  
18 Algeria, no court opinion on the merits of Plaintiff's habeas petition was ever issued. Plaintiff's  
19 case was consolidated with other petitioners held in Guantánamo Bay, specifically to determine  
20 procedural issues. The consolidated cases were dismissed on November 9, 2009, by a federal  
21 district judge in the District of Columbia.

## 22 **V. INJURIES**

23 112. The wrongful acts of Defendants, as set forth above and herein, caused Plaintiff:

- a. Ongoing physical injuries;
- b. Ongoing emotional and psychological injuries;
- c. Loss of earnings and earning capacity;
- d. Loss of interfamilial relations;
- e. Loss of reputation; and
- f. Medical expenses, past and future.

## VI. CLAIMS FOR RELIEF

113. Plaintiff's causes of action arise under and violate domestic and international law, agreements, declarations, conventions, resolutions and treaties, including the following:

- a. Customary international law and treaties of the United States;
- b. Statutes and common law of the United States;
- c. Common law of numerous states, including Washington;
- d. Other applicable domestic, foreign, or international law.

## VII. FIRST CLAIM FOR RELIEF

### **Prolonged Arbitrary Detention as a Violation of Customary International Law and the Geneva Conventions under the ATS and State Common Law, Brought Against All Defendants in Their Individual Capacities**

114. Plaintiff repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

115. The acts described herein constitute prolonged arbitrary detention of Plaintiff in violation of customary international law and the Geneva Conventions, Common Article III, and are actionable under the Alien Tort Statute, 28 U.S.C. § 1350, in that the acts violated both customary international law and Common Article III prohibiting prolonged arbitrary detention as reflected, expressed, and defined in multilateral treaties and other international treaties,

1 domestic and international judicial decisions, and other authorities.

2 116. All Defendants are liable for said conduct in that they, acting under color of law,  
3 committed, directed, ordered, confirmed, ratified, had command responsibility for, aided and  
4 abetted, conspired to, and/or directly or indirectly participated in bringing about the prolonged  
5 arbitrary detention of Plaintiff. Defendants intended and/or knew or should have known that  
6 prolonged arbitrary detention was being enforced by their subordinates and failed to prevent  
7 those abuses or punish those responsible.

8 117. All Defendants practiced, encouraged, and/or condoned prolonged arbitrary  
9 detention of Plaintiff for over six years.

10 118. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered  
11 physical harm, emotional harm, and financial loss.

## 12 VIII. SECOND CLAIM FOR RELIEF

### 13 **Cruel, Inhuman, or Degrading Treatment as a Violation of Customary International Law** 14 **and the Geneva Conventions under the ATS and State Common Law, Brought Against All** **Defendants in Their Individual Capacities**

15 119. Plaintiff repeats and re-alleges the allegations contained in the preceding  
16 paragraphs of this Complaint as if fully set forth herein.

17 120. The acts described herein constitute cruel, inhuman, or degrading treatment of  
18 Plaintiff in violation of customary international law and Common Article III of the Geneva  
19 Conventions and are actionable under the Alien Tort Statute, 28 U.S.C. § 1350, in that the acts  
20 violated both customary international law and Article III prohibiting cruel, inhuman, or  
21 degrading treatment as reflected, expressed, and defined in multilateral treaties and other  
22 international treaties, domestic and international judicial decisions, and other authorities.

23 121. Defendants are liable for said conduct in that they, under color of law, directed,

1 ordered, confirmed, ratified, had command responsibility for, aided and abetted, conspired to,  
2 and/or directly or indirectly participated in bringing about the cruel, inhuman, or degrading  
3 treatment of Plaintiff. Defendants intended and/or knew or should have known that cruel,  
4 inhuman, or degrading treatment was being enforced by their subordinates and failed to prevent  
5 those abuses or punish those responsible.

6 122. Defendants practiced, encouraged, and/or condoned cruel, inhuman, or degrading  
7 treatment of Plaintiff for over six years.

8 123. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered  
9 physical harm, emotional harm, and financial loss.

10 **IX. THIRD CLAIM FOR RELIEF**

11 **Torture as a violation of Customary International Law and the Geneva Conventions**  
12 **under the ATS and State Common Law, Brought Against All Defendants in Their**  
13 **Individual Capacities**

14 124. Plaintiff repeats and re-alleges the allegations contained in the preceding  
15 paragraphs of this Complaint as if fully set forth herein.

16 125. The acts described herein constitute torture of Plaintiff in violation of customary  
17 international law and Common Article III of the Geneva Conventions and are actionable under  
18 the Alien Tort Statute, 28 U.S.C. § 1350, in that the acts violated both customary international  
19 law and Common Article III prohibition against torture as reflected, expressed, and defined in  
20 multilateral treaties and other international treaties, domestic and international judicial  
21 decisions, and other authorities.

22 126. Defendants are liable for said conduct in that they, under color of law,  
23 committed, directed, ordered, confirmed, ratified, had command responsibility for, aided and  
24 abetted, conspired to, and/or directly or indirectly participated in bringing about the torture of

1 Plaintiff. Defendants intended and/or knew or should have known that torture was being  
2 enforced by their subordinates and failed to prevent those abuses or punish those responsible.

3 127. Defendants Gates, Rumsfeld, Myers, Pace, Mullen, Hill, Craddock, Miller,  
4 Hood, Harris, Buzby, McQueen, Cannon, Bumgarner, Dennis, Vargo, Rodriguez, McNeill and  
5 Ihde, Does 3-100 practiced, encouraged, and/or condoned torture of Plaintiff.

6 128. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered  
7 physical harm, emotional harm, and financial loss.

#### 8 X. FOURTH CLAIM FOR RELIEF

##### 9 Targeting of a Civilian as a Violation of Customary International Law and the Geneva 10 Conventions under the ATS and State Common Law, Brought Against All Defendants in 11 Their Individual Capacities

12 129. Plaintiff repeats and re-alleges the allegations contained in the preceding  
13 paragraphs of this Complaint as if fully set forth herein.

14 130. The acts described herein constitute war crimes as acts against a private civilian,  
15 in violation of the Fourth Geneva Convention and Customary International Law, which strictly  
16 prohibit intentional acts upon a civilian.

17 131. All Defendants are liable for said conduct in that they, acting under color of law,  
18 committed, directed, ordered, confirmed, ratified, had command responsibility for, aided and  
19 abetted, conspired to, and/or directly or indirectly participated in the bringing about the war  
20 crimes as acts against Plaintiff, a private civilian.

21 132. All Defendants intended and/or knew or should have known that war crimes  
22 were being committed and enforced by their subordinates and failed to prevent those abuses or  
23 punish those responsible. In accordance with the Army Field Manual, military commanders  
may be responsible for war crimes committed by subordinate members of the armed forces, as

1 in the instant case.

2 133. All Defendants practiced, encouraged, and/or condoned war crimes against  
3 Plaintiff for over six years by targeting him as a civilian who never actively engaged in combat  
4 or directly supported hostilities.

5 134. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered  
6 physical harm, emotional harm, and financial loss.

7 **XI. FIFTH CLAIM FOR RELIEF**

8 **Violation of Due Process as a Violation of Customary International Law under the ATS**  
9 **and State Common Law, Brought Against all Defendants in Their Individual Capacities**

10 135. Plaintiff repeats and re-alleges the allegations contained in the preceding  
11 paragraphs of this Complaint as if fully set forth herein.

12 136. The acts described herein constitute violations of the life and liberty interests of  
13 Plaintiff in violation of the laws of nations and are actionable under the Alien Tort Statute, 28  
14 U.S.C. § 1350, in that the acts violated customary international law requiring due process as  
15 reflected, expressed, and defined in multilateral treaties and other international treaties,  
16 domestic and international judicial decisions, and other authorities.

17 137. All Defendants are liable for said conduct in that they, acting under color of law,  
18 committed, directed, ordered, confirmed, ratified, had command responsibility for, aided and  
19 abetted, conspired to, and/or directly or indirectly participated in bringing about violations of  
20 due process of Plaintiff. Defendants intended and/or knew or should have known that due  
21 process violations were being enforced by their subordinates and failed to prevent those abuses  
22 or punish those responsible.

23 138. All Defendants practiced, encouraged, and/or condoned due process violations of

1 Plaintiff for over six years. Plaintiff was detained for more than two years before his status was  
2 reviewed by a flawed CSRT.

3 139. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered  
4 physical harm, emotional harm, and financial loss.

5 **XII. SIXTH CLAIM FOR RELIEF**

6 **Forced Disappearance as a Violation of Customary International Law under the ATS and**  
7 **State Common Law, Brought Against Certain Defendants in Their Individual Capacities**

8 140. Plaintiff repeats and re-alleges the allegations contained in the preceding  
9 paragraphs of this Complaint as if fully set forth herein.

10 141. The acts described herein constitute the forced disappearance of Plaintiff in  
11 violation of the law of nations and are actionable under the Alien Tort Statute, 28 U.S.C. §  
12 1350, in that the acts violated customary international law prohibiting forced disappearance as  
13 reflected, expressed, and defined in multilateral treaties and other international treaties,  
14 domestic and international judicial decisions, and other authorities.

15 142. Defendants Rumsfeld, Myers, McNeill, Ihde, and Does 3-100 are liable for said  
16 conduct in that they, acting under color of law, committed, directed, ordered, confirmed,  
17 ratified, had command responsibility for, aided and abetted, conspired to, and/or directly or  
18 indirectly participated in the forced disappearance of Plaintiff. Defendants Rumsfeld, Myers,  
19 McNeill, Ihde, and Does 3-100 intended and/or knew or should have known that Plaintiff's  
20 disappearance was forced by their subordinates and failed to prevent those abuses or punish  
21 those responsible.

22 143. Defendants Rumsfeld, Myers, McNeill, Ihde, and Does 3-100 practiced,  
23 encouraged, and/or condoned the forced disappearance of Plaintiff for almost five years until

1 the letters to his family stopped disappearing and were finally received.

2 144. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered  
3 physical harm, emotional harm, and financial loss.

4 **XIII. SEVENTH CLAIM FOR RELIEF**

5 **United States Constitution, Fifth Amendment: Violation of Due Process, against Certain**  
6 **Defendants in Their Individual Capacities**

7 145. Plaintiff repeats and re-alleges the allegations contained in the preceding  
8 paragraphs of this Complaint as if fully set forth herein.

9 146. The acts described herein constitute violations of the life and liberty interests of  
10 Plaintiff in violation of the Fifth Amendment of the United States Constitution, which prohibits  
11 cruel and inhumane treatment constituting punishment.

12 147. Defendants Gates, Rumsfeld, Wolfowitz, England, McGarrah, Myers, Pace,  
13 Mullen, Hill, Craddock, Miller, McNeill, Hood, Harris, Buzby, McQueen, Cannon, Bumgarner,  
14 Dennis, Vargo, Rodriguez, and Does 1 and 2 are liable for said conduct in that they, acting  
15 under color of law, committed, directed, ordered, confirmed, ratified, had command  
16 responsibility for, aided and abetted, conspired to, and/or directly or indirectly participated in  
17 the bringing about of violations of Plaintiff's rights to due process.

18 148. Defendant Gates Defendants Gates, Rumsfeld, Wolfowitz, England, McGarrah,  
19 Myers, Pace, Mullen, Hill, Craddock, Miller, McNeill, Hood, Harris, Buzby, McQueen,  
20 Cannon, Bumgarner, Dennis, Vargo, Rodriguez, and Does 1 and 2 intended and/or knew or  
21 should have known that due process violations were being enforced by their subordinates and  
22 failed to prevent those abuses or punish those responsible. Defendants Gates, Rumsfeld,  
23 Wolfowitz, England, McGarrah, Myers, Pace, Mullen, Hill, Craddock, Miller, McNeill, Hood,

1 Harris, Buzby, McQueen, Cannon, Bumgarner, Dennis, Vargo, Rodriguez, and Does 1, 2, and  
2 3-100 practiced, encouraged, and/or condoned due process violations of Plaintiff for over six  
3 years.

4 149. During the time Plaintiff was held in Guantánamo Bay, the Defendants were on  
5 notice that the detainees enjoyed various Constitutional rights which Defendants violated with  
6 their unlawful conduct.

7 150. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered  
8 physical harm, emotional harm, and financial loss.

9 **XIV. PRAYER FOR RELIEF**

10 WHEREFORE Plaintiff respectfully requests the Court enter a judgment against Defendants:

11 151. Awarding compensatory damages in an amount to be proven at trial that is fair,  
12 just, and reasonable;

13 152. Awarding exemplary and punitive damages;

14 153. Awarding reasonable attorneys' fees and costs of suit;

15 154. Ordering such further relief as the Court may deem just and proper.

16  
17 DATED this 6th day of October, 2011.

18 WILLAMETTE UNIVERSITY SCHOOL OF LAW  
19 INTERNATIONAL HUMAN RIGHTS CLINIC

20 /s/ GWYNNE L. SKINNER

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