

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMIR MESHAL,
c/o ACLU, 125 Broad St., 18th floor,
New York, NY 10004,

Plaintiff,

v.

CHRIS HIGGENBOTHAM, FBI Supervising Special
Agent, in his individual capacity;

STEVE HERSEM, FBI Supervising Special Agent, in
his individual capacity;

TWO UNKNOWN NAMED EMPLOYEES,
OFFICERS, OR AGENTS OF THE UNITED
STATES GOVERNMENT, in their individual
capacities;

JOHN and JANE DOES 3-10,

Defendants.

No. 09-cv-_____

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES AND DECLARATORY RELIEF
**(Violation of Fourth and Fifth Amendment Rights, Illegal Interrogation,
Illegal Proxy Detention, Illegal Rendition, Torture)**

INTRODUCTION

1. Amir Meshal is a United States citizen who was born and raised in New Jersey. Mr. Meshal is also a Muslim. In 2006, he decided to visit Mogadishu, the capital of Somalia, to enrich his study of Islam after the country's volatile political situation had largely stabilized.

2. On or about January 24, 2007, while fleeing Somalia with other civilians after violence had erupted, Mr. Meshal was apprehended in a joint U.S.-Kenyan-Ethiopian operation along the Somalia-Kenya border. During the next four months and three days,

he was detained in three different countries without ever being charged, without ever being granted access to counsel, and without ever being presented before a judicial officer. Upon information and belief, Plaintiff's detention without due process was at the direction or behest of U.S. officials, was carried out with their active and substantial participation, and/or was the result of a conspiracy between the Defendants and foreign officials.

3. While detained, Mr. Meshal was interrogated more than thirty times by U.S. officials who failed to adhere to the most elementary requirements of the Fourth and Fifth Amendments and the Torture Victim Protection Act of 1991 ("TVPA"), 28 U.S.C. § 1350 note. During these interrogations, U.S. officials repeatedly threatened Mr. Meshal with torture, forced disappearance, and other serious harm in order to coerce him to confess to wrongdoing in which he had not engaged and to associations that he did not have.

4. Mr. Meshal was finally returned home on May 27, 2007, after more than four months of illegal detention. He was never charged with a crime and is innocent of all wrongdoing.

5. Mr. Meshal brings this action against two Supervising Special Agents of the United States Federal Bureau of Investigation ("FBI")—Chris Higgenbotham and Steve Hersem—and two unknown named employees, officers, or agents of the United States government for their role in the violation of Mr. Meshal's rights under the United States Constitution, including his right to be free from arbitrary detention, illegal rendition, and coercive interrogation methods such as threats of torture, forced disappearance, and other serious harm.

6. The Constitution does not permit U.S. officials to threaten American citizens with forced disappearance, torture, and other serious harm, or otherwise to interrogate them coercively. Nor does the Constitution permit U.S. officials to evade the elementary commands of due process simply by directing, conspiring, and/or actively and substantially participating with a foreign state to detain, interrogate, or render U.S. citizens in a manner that would be patently unlawful if carried out by those U.S. officials themselves.

7. Mr. Meshal also brings this action against the Defendants for their role in the violation of his rights under the TVPA, 28 U.S.C. § 1350 note. Defendants Higgenbotham and Hersem tortured Mr. Meshal by threatening him with forced disappearance and the infliction of severe physical and mental pain and suffering in the course of interrogations that took place when Mr. Meshal was detained in Kenya in order to coerce him into confessing to things that he had not done and to associations with al Qaeda and individuals connected to al Qaeda that he did not have. The TVPA prohibits U.S. officials from torturing a U.S. citizen during interrogations that are carried out under the actual or apparent authority of a foreign government, through a conspiracy between U.S. officials and foreign officials, and/or through the willful participation of U.S. officials in joint activity with foreign officials.

JURISDICTION AND VENUE

8. This complaint is for compensatory damages based upon civil rights violations committed by officers of the U.S. government, some or all of whom are believed to be officers of the Federal Bureau of Investigation, in violation of the Fourth and Fifth Amendments to the U.S. Constitution and the TVPA.

9. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1331. This action is authorized and instituted pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), and the TVPA, 28 U.S.C. § 1350 note.

10. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e)(2).

PARTIES

11. Plaintiff Amir Meshal is a United States citizen who resides in Tinton Falls, New Jersey. Mr. Meshal was born in Long Branch, New Jersey, on November 18, 1982, and has lived in New Jersey most of his life.

12. Upon information and belief, at the time of the events giving rise to this action, Defendant Chris Higgenbotham was a Supervising Special Agent of the FBI and was involved in investigating non-Somalis apprehended along the Somali-Kenyan border in a joint U.S-Kenyan-Ethiopian operation in and around December 2006. Defendant Higgenbotham deprived Mr. Meshal of his constitutional and statutory rights by knowingly directing, authorizing, conspiring to effect, and/or actively and substantially participating in Mr. Meshal's detention and interrogation in Kenya and his rendition to and detention in Somalia and Ethiopia. Defendant Higgenbotham tortured Mr. Meshal by threatening Mr. Meshal with disappearance and severe pain and suffering; coercively and repeatedly interrogated Mr. Meshal; directed, authorized, conspired to effect, and/or actively and substantially participated in Mr. Meshal's detention without due process; directed, authorized, conspired to effect, and/or actively and substantially participated in Mr. Meshal's illegal rendition; and otherwise engaged in conduct that created and/or increased known danger, which resulted in serious harm to Mr. Meshal. Upon

information and belief, Defendant Higgenbotham continues to be employed by the FBI and, in that capacity, works closely with the FBI in the District of Columbia during the course of conducting law enforcement investigations abroad. Defendant Higgenbotham is sued in his individual capacity. The residence of Defendant Higgenbotham is currently unknown to Plaintiff.

13. Upon information and belief, at the time of the events giving rise to this action, Defendant Hersem was a Supervising Special Agent of the FBI and was involved in investigating non-Somalis apprehended along the Somali-Kenyan border in a joint U.S-Kenyan-Ethiopian operation in and around December 2006. Defendant Hersem deprived Mr. Meshal of his constitutional and statutory rights by knowingly directing, authorizing, conspiring to effect, and/or actively and substantially participating in his detention and interrogation in Kenya, and his rendition to, and detention in, Somalia and Ethiopia. Defendant Hersem tortured Mr. Meshal by threatening him with disappearance and severe pain and suffering; coercively and repeatedly interrogated Mr. Meshal; directed, authorized, conspired to effect, and/or actively and substantially participated in Mr. Meshal's detention without due process; directed, authorized, conspired to effect, and/or actively and substantially participated in Mr. Meshal's illegal rendition; and otherwise engaged in conduct that created and/or increased known danger, which resulted in serious harm to Mr. Meshal. Upon information and belief, Defendant Hersem continues to be employed by the FBI and, in that capacity, works closely with the FBI in the District of Columbia during the course of conducting law enforcement investigations abroad. Defendant Hersem is sued in his individual capacity. The residence of Defendant Hersem is currently unknown to Plaintiff.

14. The full names and residences of Defendants John Doe 1 (“Tim”) and John Doe 2 (“Dennis”) are currently unknown to Plaintiff. Upon information and belief, at the time of the events giving rise to this action, one or both of Doe Defendants 1 and 2 were employees of the FBI who individually and together deprived Mr. Meshal of his constitutional rights by knowingly directing, authorizing, conspiring to effect, and/or actively and substantially participating in his detention, interrogation, and rendition in Kenya, Somalia, and Ethiopia. During an approximately four-month period, Doe Defendants 1 and 2 coercively and repeatedly interrogated Mr. Meshal; directed, authorized, conspired to effect, and/or actively and substantially participated in Mr. Meshal’s detention without due process; directed, authorized, conspired to effect, and/or actively and substantially participated in Mr. Meshal’s illegal rendition; and otherwise engaged in conduct that created and/or increased known danger to Mr. Meshal, which resulted in serious harm to him. Upon information and belief, one or both of Doe Defendants 1 and 2 were and may continue to be employed by the FBI, and in that capacity work closely with the FBI in the District of Columbia during the course of conducting law enforcement investigations abroad. Doe Defendants 1 and 2 are sued in their individual capacities. Plaintiff will amend this complaint to allege the true names of the Doe Defendants when ascertained.

15. Defendants John and Jane Does 3-10 are individuals currently unknown to Plaintiff who worked for federal governmental entities and were involved in initiating, ordering, directing, authorizing, conspiring to effect, and/or actively and substantially participating in Mr. Meshal’s torture, illegal detention, interrogation, and rendition in Kenya, Somalia, and Ethiopia, and otherwise engaged in conduct that created and/or

increased known danger, which resulted in serious harm to Mr. Meshal. Upon information and belief, some or all of Does 3-10 are or were stationed in the District of Columbia.

FACTUAL ALLEGATIONS

Amir Meshal's Travel to Somalia

16. Mr. Meshal is a Muslim, born to parents of Egyptian descent who are naturalized U.S. citizens.

17. As a young adult, Mr. Meshal had an increasing desire to develop his knowledge about and interest in Islam—a desire that ultimately led him to travel to Mogadishu, the capital city of Somalia, which for a time was governed by Islamic law.

18. In 2005, Mr. Meshal traveled to Cairo to live among some members of his extended family. In Cairo, Mr. Meshal worked in sales for a translation company, handling accounts for American and English-speaking clients. Mr. Meshal briefly considered traveling to Saudi Arabia in order to enhance his study of Islam and to live in a country governed by Islamic law. He decided not to do so, however, because he believed that it would be difficult to obtain a visa for travel to Saudi Arabia.

19. In June 2006, Mogadishu and its surrounding areas came under the control of the Supreme Council of Islamic Courts (“SCIC”)—a governing body whose former head, Sheikh Sharif Sheikh Ahmed, is now the president of Somalia and has received the open support of U.S. Secretary of State Hillary Clinton. Between June and December 2006, the SCIC secured control of most of southern Somalia, gained widespread local support, and brought governance and “a degree of peace and security unknown to the south for more than fifteen years.” *Somalia: The Tough Part is Ahead*, Africa Briefing No. 45,

(Int'l Crisis Group, Nairobi/Brussels) (Jan. 26, 2007), at 1,

http://www.crisisgroup.org/library/documents/africa/horn_of_africa/b45_somalia___the_tough_part_is_ahead.pdf.

20. In June 2006, Mr. Meshal read an Internet article explaining that the SCIC had gained control of Mogadishu, had established peace, and had instituted Islamic law. Mr. Meshal began thinking about going to Somalia. Over the course of the next few months, he continued to read Internet articles about the implementation of Islamic law in parts of Somalia, including Mogadishu and its surrounding areas.

21. In November 2006, Mr. Meshal decided to go to the parts of Somalia that were governed by Islamic law to experience living in such areas and to deepen his knowledge and understanding of Islam. At that time, Mogadishu and southern Somalia were enjoying a revival under the SCIC, if a precarious one. The SCIC had brought stability and peace to these areas by, among other things, tearing down militia checkpoints, removing weapons from the streets, and reopening the international port and airport for business. *Somalia: The Tough Part is Ahead*, *supra*, at 1.

Direct U.S. Involvement in the Horn of Africa

22. After the 1998 bombings of the U.S. Embassies in Kenya and Tanzania, the U.S. government deployed civilian and military personnel to the Horn of Africa region. The objectives of this deployment included identifying, arresting, and detaining individuals suspected of ties to terrorist organizations or activity in order to stem the rise of militant Islam in the region.

23. As part of this strategy, following the 1998 embassy bombings, the FBI Office of International Operations (“OIO”), located at FBI Headquarters in the District of

Columbia, and the FBI Legal Attaché office located in Nairobi, Kenya, coordinated the deployment of FBI personnel to the Horn of Africa region. Federal Bureau of Investigation, Major Investigative and Operational Accomplishments, <http://www.fbi.gov/contact/legat/accomplishments.htm> (last visited October 27, 2009).

24. Also as part of this strategy, in October 2002, the U.S. government established the Combined Joint Task Force-Horn of Africa (“CJTF-HOA”), which operates in Yemen, Eritrea, Ethiopia, Sudan, Kenya, and Uganda, and which is comprised of about 2,000 people from each military branch of the U.S. Armed Forces, civilian employees, and representatives of coalition countries.

25. Since at least 2004, CJTF-HOA and the FBI have been directly involved in training selected foreign armies and police units, including Kenya’s, in counter-terror and counterinsurgency tactics; they have also participated in the apprehension, detention, and interrogation of individuals alleged to have ties to foreign terrorists or foreign terrorist organizations operating in the region.

26. Foreign governments, inter-governmental entities, human rights organizations, and media have reported that, since the events of September 11, 2001, the U.S. government has increasingly engaged in “proxy detention,” a practice in which individuals alleged or suspected to have ties to foreign terrorists or foreign terrorist organizations are detained by foreign authorities at the behest of, the direction of, and/or with the active and substantial participation of the United States. *See* Center for Human Rights and Global Justice, *On the Record: U.S. Disclosures on Rendition, Secret Detention, and Coercive Interrogation* 17-18 (New York: NYU School of Law, 2008).

Mr. Meshal's Travel to, and Flight from, Somalia

27. At the end of November 2006, Mr. Meshal sought to travel by plane from Cairo to Mogadishu. Because there were no direct flights from Cairo to Mogadishu, Mr. Meshal first flew from Cairo to Dubai. In Dubai, Mr. Meshal purchased a ticket to travel by Jubba Airways to Mogadishu. Several days later, he boarded the Jubba Airways flight, which took him to Mogadishu. Mr. Meshal's journey from Cairo to Mogadishu was uneventful.

28. When Mr. Meshal arrived in Mogadishu on or around November 27, 2006, the city was under the control of the SCIC and enjoying peace, stability, and a revival after years of unrest and instability.

29. Mr. Meshal's first few weeks in Somalia were uneventful. Approximately a month after his arrival, however, fighting erupted between the SCIC and the U.S.-Ethiopia-backed Transitional Federal Government of Somalia ("TFG"), which had been created in 2004 as a government of national unity. The TFG, however, never controlled most of the country, including Mogadishu, and was largely a government in name only.

30. After fighting broke out, Mr. Meshal feared for his personal safety and sought to flee the country.

31. On December 24, 2006, the Ethiopian air force bombed the Mogadishu airport, causing extensive damage. Unable to get on a flight out of the country, Mr. Meshal evacuated Mogadishu with a group of Somalis in pick-up trucks that were headed south towards the Somali town of Kismayo. The trip to Kismayo took approximately five days as the trucks caravanned across rough terrain. The group was a small subset of the many thousands of civilians fleeing the violence in Mogadishu.

32. Once in Kismayo, Mr. Meshal noticed that there were many other non-Somalis in the town. An armed Somali man, whom Mr. Meshal did not recognize, approached him and said that Ethiopian soldiers were advancing on Kismayo and that the Americans had offered the Ethiopian and Somali forces money in return for any foreigners they captured and handed over to the Americans for detention and interrogation. He advised Mr. Meshal that all foreigners should leave for Kenya by boat.

33. On or about January 3, 2007, Mr. Meshal and approximately forty other foreign civilians—including men and women from Sweden, France, England, Jordan, and Morocco—loaded onto two large boats with small motors and simple rudders for navigation. They set off south toward Ras Kamboni, which borders Kenya at Somalia's southern-most tip and which offered the hope of access to Kenya and safety.

34. When Mr. Meshal reached Ras Kamboni, armed Somalis ordered him and the other civilians fleeing towards the border onto a truck, which was driven to a forest. The armed Somalis then ordered them to get out of the truck. Mr. Meshal and the other civilians then fled through the dense brush.

35. Citing security concerns, on Wednesday, January 3, 2007, the Kenyan government closed its 682-kilometer border with Somalia and refused entrance to thousands of civilians fleeing the political violence. On that same day, U.S. State Department spokesperson Sean McCormack announced that the United States was working closely with governments in the region to ensure that individuals suspected of terrorist activities would not be able to escape from Somalia. On January 9, 2007, Mr. McCormack stated that the U.S. State Department was in close contact with the Ethiopian

and Kenyan governments to prevent suspected terrorist operatives from fleeing Somalia and eluding capture.

Arrest and Detention in Kenya

36. On or about January 24, 2007, having wandered in the forest for nearly three weeks with four other men in an effort to seek safety in Kenya and find a way home, Mr. Meshal's group was surrounded by approximately thirty heavily armed Kenyan soldiers. The soldiers physically apprehended Mr. Meshal, stripped him to his underwear, and tightly bound Mr. Meshal's hands behind his back with thick rope.

37. One soldier asked Mr. Meshal where he was from. Mr. Meshal replied that he was an American citizen. The soldier then seized Mr. Meshal's U.S. passport, social security card, and approximately \$800 in cash.

38. The soldiers took Mr. Meshal and the four others to a nearby village and then transported them by helicopter and truck to a town that Mr. Meshal later learned was the town of Kiunga.

39. Once in Kiunga, Mr. Meshal was taken to a local jail and placed in a small cell. Approximately thirty minutes later, seven or eight Kenyan men dressed in civilian clothing came to the jail, removed Mr. Meshal from the cell, escorted him outside, photographed him, and then interrogated him for approximately forty-five minutes. One of the men asked Mr. Meshal a series of simple questions in English while the others took notes. The interrogator asked Mr. Meshal his name, where he was born, what school he attended, when he had arrived in Somalia, and what he was doing there. The interrogators subsequently returned Mr. Meshal to the cell, where he was held overnight.

Transfer to Nairobi

40. The following morning, on or about January 25, 2007, eight to ten Kenyans dressed in civilian clothes came to the Kiunga jail. They placed a black hood over Mr. Meshal's head and tightly bound his wrists with a plastic zip-tie. They then escorted Mr. Meshal onto a helicopter for a short flight. He overheard that he was being flown to Mombasa. From Mombasa, Mr. Meshal was escorted onto a plane, which flew to Nairobi.

41. Once in Nairobi, Mr. Meshal was placed in the back of a truck with four other men and taken to the Ruai Police Station on the outskirts of Nairobi. A group of Kenyan officials wearing civilian clothing were waiting for Mr. Meshal at the police station's jail. One of the Kenyan officials identified himself as an officer of Kenya's Criminal Investigation Department ("CID"). He asked Mr. Meshal only a few basic questions, such as where he was born, what citizenship he held, and why he was in Somalia.

42. Mr. Meshal explained to the CID officer that he was an American citizen and that he had gone to Somalia to further his religious education. The CID officer did not ask any follow-up questions. Mr. Meshal asked the CID officer why he was being held. The officer replied that his main purpose was to get Mr. Meshal out of Kenya and back to the United States as soon as possible. The CID officer also told Mr. Meshal that he had to find out what the United States wanted to do with him before he could send Mr. Meshal back to the United States.

43. On January 26, 2007, U.S. State Department spokesperson Sean McCormack acknowledged that the State Department was aware of news reports claiming that at least

one American citizen had been apprehended in Kenya and indicated that the State Department was working to verify these reports.

44. Mr. Meshal was detained at the Ruai Police Station for approximately one week in a tiny cell without any further interrogation and without any access to an attorney. During the first four days of his detention, Mr. Meshal wore only his underwear. At that point, a prisoner who was being released gave Mr. Meshal a pair of pants and a shirt. At its most crowded, the small cell held twenty-nine individuals. Mr. Meshal often slept standing up because he had nowhere to sit, let alone lay down. The food and bathroom facilities were woefully inadequate, exacerbating an intestinal infection from which Mr. Meshal was suffering.

45. During Mr. Meshal's detention in the Ruai Police Station, he was not allowed to use the telephone.

46. On information and belief, sometime between January 27 and February 3, 2007, U.S. government officials learned about Mr. Meshal's presence and detention in Kenya and ordered, directed, authorized, or approved Mr. Meshal's interrogation by Defendant Higgenbotham, Defendant Hersem, and Doe Defendants 1 and 2 by, among other things, following the procedures set forth in The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, which were in force at the time and provided, *inter alia*, that "[t]he FBI may conduct investigations abroad, participate with foreign officials in investigations abroad, or otherwise conduct activities outside the United States with the written request or approval of the Director of Central Intelligence and the Attorney General or their designees." The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence

Collection 17 (Oct. 31, 2003) (declassified Aug. 2, 2007). Although the aforementioned guidelines indicate that the Attorney General and the Director of Central Intelligence may have directly issued such orders, upon information and belief, in this case, orders were issued by lower-level government officials who were granted the authority to do so by the Attorney General and the Director of Central Intelligence.

47. Upon information and belief, the U.S. government officials who issued such orders or otherwise directed, authorized, and/or approved Mr. Meshal's interrogation by Defendant Higgenbotham, Defendant Hersem, and Doe Defendants 1 and 2 were either located in the District of Columbia or received communications from U.S. government officials located in the District of Columbia regarding their approval, authorization, and/or direction of the interrogation of Mr. Meshal.

U.S. Interrogations in Kenya

48. On or about February 3, 2007, the Kenyan CID officer who had questioned Mr. Meshal on his first day of detention at the Ruai Police Station returned to the station and told Mr. Meshal that a gentleman from the U.S. Embassy had come to see him. The CID officer escorted Mr. Meshal outside the police station where Mr. Meshal saw three Americans standing next to two dark blue vehicles. The three Americans later identified themselves to Mr. Meshal as "Steve," "Chris," and "Tim" (Doe Defendant 1).¹ Steve, Chris, and Tim refused to provide their true full names or titles to Mr. Meshal.

49. Upon information and belief, and based on the transcript of the preliminary detention hearing in *United States v. Daniel Joseph Maldonado*, No. 4:07-mj-00125-1 (S.D. Tex. 2007) (dkt. nos. 16 & 17), and as further described below, "Steve" is

¹ For clarity, Doe Defendant 1 will be referred to as "Tim," the name he provided to Plaintiff.

Defendant FBI Supervising Agent Steve Hersem, who interrogated Daniel Maldonado in Kenya.

50. Defendant Hersem was a clean-shaven white man, who appeared to be in his late forties and very fit. He stood about 6' 3" tall and had short blond hair and blue eyes. Each time Defendant Hersem came to interrogate Mr. Meshal, he was dressed in a dark suit and tie and wore reflective sunglasses, which he periodically removed. Defendant Hersem spoke with an American accent, although Mr. Meshal could not discern any specific regional accent.

51. Upon information and belief, and based on the transcript of the preliminary detention hearing in *United States v. Daniel Joseph Maldonado*, No. 4:07-mj-00125-1 (S.D. Tex. 2007) (dkt. nos. 16 & 17), and as further described below, "Chris" is Defendant FBI Supervising Agent Chris Higgenbotham, who interrogated Daniel Maldonado in Kenya.

52. Defendant Higgenbotham was a white man who appeared to be in his mid-to-late forties. He had brown hair, brown eyes, and a chinstrap beard (*i.e.*, facial hair extending from the hair line of one side of the face to the other, following the jawline). He stood approximately 6' tall and was much heavier than Defendant Hersem. Defendant Higgenbotham wore prescription glasses, jeans, a button-up shirt, and a khaki vest with pockets. On one occasion, Defendant Higgenbotham told Mr. Meshal that he was from Georgia and that he worked in an FBI office somewhere in Europe. Defendant Higgenbotham also spoke with an American accent, although Mr. Meshal could not discern any specific regional accent.

53. Tim was a white man and appeared to be in his late thirties or early forties. He stood approximately 6' tall and had grayish-black hair and a full, low-cut beard. Tim wore jeans, short-sleeve polo-style shirts, and sneakers. On one occasion, Tim told Mr. Meshal that he was from New Jersey. Tim also spoke with an American accent, although Mr. Meshal could not discern any specific regional accent.

54. After the Kenyan CID officer escorted Mr. Meshal outside of the police station, Defendant Hersem immediately asked him to get into the back seat of one of the vehicles—a dark blue Chevrolet Suburban. The CID officer got in the front passenger side and Defendant Higgenbotham sat in the back with Mr. Meshal. Because the Kenyan CID officer had informed Mr. Meshal that U.S. Embassy personnel had come to speak with him, Mr. Meshal believed that he was going to be taken to the U.S. Embassy.

55. Defendant Hersem asked Mr. Meshal how he was doing. Mr. Meshal replied that he was all right, but that the conditions in the prison had been horrible. Mr. Meshal then asked Defendant Hersem whether he would be able to take a shower and get some new clothing before going home. Defendant Hersem laughed and told Mr. Meshal that it was not going to be that easy for him to go home. He told Mr. Meshal that they had been talking to his buddy “Beantown” and that “Beantown” had a lot to say about Mr. Meshal.

56. Mr. Meshal thought that Defendant Hersem was referring to Daniel Maldonado, an American citizen from Boston whom Mr. Meshal met in Kismayo when Mr. Meshal was fleeing the violence in Mogadishu. When Mr. Meshal had met Mr. Maldonado, Mr. Maldonado said that he was from Boston; Mr. Meshal began to call him “Beantown” as a result. Defendant Hersem told Mr. Meshal that his story would have to match up with “Beantown’s” story or else he would know that one of them was lying. If

Mr. Meshal was lying, Defendant Hersem said, he would not allow Mr. Meshal to go home.

57. Daniel Maldonado had been seized by Kenyan soldiers on or about January 21, 2007. Mr. Maldonado was interviewed by FBI agents on several occasions while detained in Kenya, including on January 28 and January 30, 2007, and admitted to receiving military training in Somalia during December 2007.

58. Members of the Houston Joint Terrorism Task Force had subsequently transported Mr. Maldonado back to the United States between February 9 and 12, 2007, after Mr. Maldonado agreed to cooperate with the FBI agents who interrogated him in Kenya. Mr. Maldonado's three minor children, who had been detained in Kenya after fleeing Somalia, were also returned to the United States.

59. Between around February 3 and February 10, 2007, U.S. agents interrogated Mr. Meshal on at least four occasions. Each of these interrogation sessions lasted a full day and was carried out on the top floor of the Salonika Villas, a five-story beige building located on Muthangari Road in Nairobi. The suite in which the interrogations occurred had a sitting room, a bedroom, a bathroom, and an efficiency kitchen equipped with a small counter, sink, and dish cabinets.

60. On the first day of interrogation, Tim presented Mr. Meshal with a document and asked him to sign it, telling Mr. Meshal that the document notified him that he could refuse to answer any questions without a lawyer present. When Mr. Meshal asked for an attorney, however, Tim told him that he was not permitted to make any phone calls. Mr. Meshal then asked if he had a choice not to sign the document because he had no way of contacting an attorney. Defendant Higgenbotham responded: "If you want to go home,

this will help you get there. If you don't cooperate with us, you'll be in the hands of the Kenyans, and they don't want you." Defendant Higgenbotham also told Mr. Meshal that he was being held in a lawless country and did not have the right to legal representation. Believing that he had no other choice and hoping that it would expedite his safe return to the United States, Mr. Meshal signed the document. Upon information and belief, the document was a "waiver of rights" form of the type commonly used by FBI agents prior to conducting an interrogation in the absence of counsel.

61. After Mr. Meshal signed the form, Defendant Higgenbotham took out a laptop computer and told Mr. Meshal that he needed to take a digital image of his fingerprint. While taking Mr. Meshal's fingerprint, Defendant Higgenbotham explained to Tim how to use the computer to capture the image. Mr. Meshal believed that Tim was not familiar with the technology. Once Defendant Higgenbotham took the image, he removed a swab kit and explained to Mr. Meshal that he also needed to take a DNA sample. Mr. Meshal asked why they needed a DNA sample. Defendant Higgenbotham replied that they were taking the DNA sample so that if they found pieces of Mr. Meshal's body blown up, they would be able to identify "who did it." Mr. Meshal believed that Defendant Higgenbotham was insinuating that Mr. Meshal intended to blow himself up in an act of terrorism. At no time did Defendant Higgenbotham or the other U.S. agents offer any basis for this suspicion that Mr. Meshal might be a suicide bomber.

62. Mr. Meshal was later told by other detainees that the American agents were classifying people seized by the Kenyans at the Kenya-Somalia boarder as "East African al Qaeda." Throughout his detention and interrogation Mr. Meshal repeatedly explained

to the U.S. agents that he had never been part of, had never supported, and had never received any training from al Qaeda.

63. During this first day of interrogation, Defendant Hersem, Defendant Higgenbotham, and Tim took turns questioning Mr. Meshal over approximately six hours.

64. The Kenyan CID officer who had accompanied the Americans to the Salonika Villas remained in the bedroom for the first part of Mr. Meshal's interrogation. He did not demonstrate any interest whatsoever in the interrogation, and did not ask a single question or take any notes. In fact, after approximately two hours, the Kenyan CID officer left the room and did not return for several hours.

65. At some point after the Kenyan CID officer had left the room, Tim gave Mr. Meshal a lined legal pad and asked him to write everything he had said down on paper. Mr. Meshal wrote approximately four pages. When he was finished, Tim took the statement from Mr. Meshal.

66. At approximately 4:00 p.m., the Kenyan CID officer returned to the suite. Tim asked the officer if he wanted to ask any questions. The Kenyan CID officer replied that he did not, revealing again the Kenyan government's lack of interest in Mr. Meshal.

67. On information and belief, Defendant Hersem, Defendant Higgenbotham, and Tim requested that Kenyan authorities move Mr. Meshal from the Ruai Police Station to a different location closer to the Salonika Villas to facilitate further interrogations.

68. At the end of Mr. Meshal's first day of interrogation, Defendant Hersem, Defendant Higgenbotham, and Tim took Mr. Meshal to a new prison, accompanied by

the Kenyan CID agent. As they approached the building, Mr. Meshal noticed a sign identifying it as the Kileleshwa Police Station.

69. At the Kileleshwa Police Station, the Kenyan CID official signed Mr. Meshal into the jail area and escorted him to a cell. There were two cells at the Kileleshwa Police Station separated by a hallway that contained an indoor bathroom. The cells were approximately 15-20 square feet and contained mats and blankets for the detainees. Mr. Meshal shared a cell with one British man and approximately twenty Kenyans, who appeared to have been arrested for petty crimes.

70. U.S. agents interrogated Mr. Meshal at the Salonika Villas on at least three subsequent occasions during the period of his detention at the Kileleshwa Police Station. On each of these occasions, a Kenyan officer took Mr. Meshal from his jail cell and brought him to the U.S. agents who drove him to the interrogation site.

71. During these subsequent interrogations, each of which lasted an entire day (from approximately 9 a.m. to 5 p.m.), Defendant Hersem, Defendant Higgenbotham, and Tim presented Mr. Meshal with a document notifying him that he could refuse to answer any questions without a lawyer present and asked him to sign it. Each time, however, these officials made Mr. Meshal believe that he had no choice other than to sign the document given to him, and therefore Mr. Meshal signed the document. Upon information and belief, the document was a "waiver of rights" form of the type commonly used by FBI agents prior to conducting an interrogation in the absence of counsel. Each time Mr. Meshal asked for an attorney, the U.S. officials told him that he could not make any phone calls.

72. During these day-long interrogations, Defendant Hersem, Defendant Higgenbotham, and Tim continuously accused Mr. Meshal of having received weapons training in an al Qaeda training camp and of serving as a translator for al Qaeda leadership in Somalia. Each time Mr. Meshal denied the accusations, Defendant Hersem, Defendant Higgenbotham, and Tim became enraged.

73. On one occasion, while Defendant Higgenbotham and Tim were interrogating Mr. Meshal, Defendant Higgenbotham grabbed Mr. Meshal and forced him to the window of the hotel room. Defendant Higgenbotham told him that “Allah is up in the clouds,” and that “the U.S. is almost as powerful as Allah.” He told Mr. Meshal that the agents knew he was hiding something, but that they “had ways of getting the information they want.” Defendant Higgenbotham threatened to send Mr. Meshal to Israel, where he said the Israelis would “make him disappear.”

74. On another occasion, Defendant Hersem approached Mr. Meshal, removed his (Defendant Hersem’s) sunglasses, and proceeded to yell at Mr. Meshal merely inches from his face while vigorously poking him in the chest. He accused Mr. Meshal of having connections to individuals in Dubai who recruit for al Qaeda. Defendant Hersem yelled at Mr. Meshal to confess his connection to al Qaeda. He promised that in return for such a confession that Mr. Meshal would be returned to the United States and would face civilian courts there. When Mr. Meshal asked what would happen if he refused to answer any more questions, Defendant Hersem told him that he would be sent back to Somalia. Tim and Defendant Higgenbotham made similar threats to Mr. Meshal on numerous occasions during their interrogations of Mr. Meshal in Kenya.

75. On another occasion, while Defendant Hersem was driving Mr. Meshal back to the Kileleshwa Police Station following a day-long interrogation, he told Mr. Meshal that he had spoken with the Egyptians and that they were very interested in speaking with him. Defendant Hersem said that the Egyptians “had ways of making [Mr. Meshal] talk.” Defendant Hersem asked Mr. Meshal whether he had ever seen the movie “Midnight Express,” in which a man who is caught smuggling drugs out of Turkey is thrown into prison and tortured. Defendant Hersem told Mr. Meshal that he could make those same things happen to him if Mr. Meshal did not cooperate and admit his connection with al Qaeda. Defendant Hersem also told Mr. Meshal, “You made it so that even your grandkids are going to be affected by what you did.”

76. When Mr. Meshal was not being interrogated by the U.S. officials, he remained in his cell at the jail of the Kileleshwa Police Station. He was never interrogated or questioned by the Kenyan authorities during this time. Nor did Kenyan authorities ever present any charges against him or provide him with any basis for his detention.

Contact with the Muslim Human Rights Forum

77. On or around February 5, 2007, when Mr. Meshal was returned to the Kileleshwa Police Station from his interrogation by Defendant Hersem, Defendant Higgenbotham, and Doe Defendant 1, members of the Muslim Human Rights Forum (“MHRF”), a Kenyan human rights organization, were at the jail seeking information about foreigners and Kenyans who had been picked up near the Somali border and whom the MHRF believed were being detained in contravention of Kenyan law.

78. Mr. Meshal spoke briefly with a member of the MHRF. Mr. Meshal explained that he was being interrogated by three American agents, at least some of whom he believed worked for the FBI. Mr. Meshal further explained that these agents had threatened him with torture and disappearance and denied him access to a lawyer. The MHRF member informed Mr. Meshal that the MHRF was monitoring his case and that they would bring the issue to the attention of the Kenyan courts.

79. Members of the MHRF visited Mr. Meshal and other detainees being held without charge at the Kileleshwa Police Station several times between February 5 and February 9, 2007. The MHRF's last visit with Mr. Meshal occurred at approximately 9:00 p.m. on February 9.

80. On information and belief, prior to Mr. Meshal's rendition from Kenya to Ethiopia via Somalia, the MHRF had filed a habeas corpus petition in Kenyan courts on Mr. Meshal's behalf arguing that his confinement was illegal under Kenyan law and demanding immediate relief. The maximum period a prisoner could be held without charge under Kenyan law at the time was fourteen days. On information and belief, similar petitions were filed by the MHRF on behalf of other prisoners who had been seized fleeing the violence in Somalia and who were similarly being detained in Kenya without charge.

FBI and State Department Contact with Mr. Meshal and His Father

81. On February 6, 2007, while Defendant Higgenbotham, Defendant Hersem and Tim interrogated Mr. Meshal in Kenya, two FBI agents, Charles Stern and Robert Reilly, visited Mr. Meshal's home in Tinton Falls, New Jersey, and asked Mr. Meshal's father, Mohammed Meshal, if he knew where Mr. Meshal was. Mohammed explained that he

had not spoken to his son since December. The agents informed Mohammed that Mr. Meshal had been seized in Kenya near the Somali border and was being detained in Kenya. The agents told Mohammed that they could arrange a phone call between Mohammed and his son.

82. The next day, on February 7, 2007, Agents Stern and Reilly returned to Mohammed Meshal's house and told him that they would not be able to arrange a call between Mohammed and his son. On information and belief, Defendant Higgenbotham, Defendant Hersem, and Tim prevented, conspired to prevent, and/or actively and substantially participated in preventing Agents Stern and Reilly from arranging a call between Mohammed and Mr. Meshal. On information and belief, Defendant Higgenbotham, Defendant Hersem, and Tim acted at the direction, with the approval, and/or with the knowledge of U.S. government officials located in the District of Columbia, including officials at FBI headquarters.

83. On February 7, 2007, Scott Niederman (spelling based on phonetic "Neederman"), a consular affairs officer from the U.S. Embassy in Nairobi, visited Mr. Meshal in jail for about fifteen minutes. He was accompanied by a Kenyan man dressed in plain clothes. Mr. Niederman told Mr. Meshal that he was trying to get him home, and that someone would be in touch with his family. Mr. Meshal explained to Mr. Niederman that U.S. officials had been interrogating him at a hotel in Nairobi. Mr. Niederman appeared shocked. Mr. Niederman asked Mr. Meshal how he knew that they were Americans. Mr. Meshal replied that they had American accents and identified themselves as U.S. agents. Mr. Niederman asked if they had disclosed which agency they were from. Mr. Meshal replied that he was told by the Kenyans that they were from

the U.S. Embassy and that at least one agent had identified himself as FBI. Looking confused and concerned, Mr. Niederman asked how they had been treating him. Mr. Meshal explained that they had threatened him with torture, forced disappearance, and other serious harm, and warned him that they would send him to Israel or Egypt to extract information.

84. Mr. Niederman gave Mr. Meshal his business card and said that he didn't know what was going on, but that if Mr. Meshal was moved, he should contact him immediately. Mr. Niederman's tone and facial expressions concerned Mr. Meshal.

85. That same night Mr. Niederman called Mohammed Meshal and confirmed that Amir Meshal was being detained in Kenya. Mr. Niederman asked Mohammed to wire money so that a ticket from Nairobi to New York could be purchased for Amir Meshal's return to the United States.

86. On or about February 8, 2007, Mr. Niederman told Mr. Meshal that he had spoken with his family in New Jersey and was working on getting him home.

87. Mr. Niederman spoke again with Mr. Meshal's father, Mohammed, on or about February 10, 2007. Mr. Niederman explained to Mohammed that he had lost contact with Mr. Meshal, that he did not know where Mr. Meshal was, and that he could not help him further.

Daniel Maldonado's Return to the United States

88. On or about February 9, 2007, U.S. officials transported Daniel Maldonado and his three children back to the United States. U.S. officials transported Mr. Maldonado to the United States because Mr. Maldonado admitted facts that the U.S. officials believed would support a federal charge against him for receiving military-type

training from a foreign terrorist organization. Mr. Maldonado subsequently pled guilty and agreed to cooperate with the government in exchange for a reduced sentence.

89. On or around February 20-21, 2007, during Mr. Maldonado's preliminary detention hearing in the United States District Court for the Southern District of Texas, FBI agent Loretta Eglen-Anderson testified that she and one Agent Gutierrez questioned Mr. Maldonado several times in a safe house in Kenya after he had been questioned for several days by FBI Supervising Special Agents Steve Hersem and Chris Higgenbotham. Preliminary/Detention (Partial Transcript) (Testimony of Loretta Eglen-Anderson Only) at 4, *United States v. Daniel Joseph Maldonado*, No. 4:07-mj-00125-1, (S.D. Tex. Feb. 20, 2007) (filed Aug. 31, 2007) (dkt. no. 16).

Amir Meshal's Rendition to Somalia and Ethiopia

90. On February 9, Kenyan officials dressed in dark clothes, wearing goggles and carrying guns, arrived at the Kileleshwa Police Station in the middle of the night and removed Mr. Meshal and one other prisoner from the jail cell. The Kenyan officials tightly zip-tied Mr. Meshal's hands behind his back and then placed Mr. Meshal in a white Peugeot station wagon.

91. Mr. Meshal was transported to the Jomo Kenyatta International Airport and placed on a privately chartered aircraft from Bluebird Aviation along with twelve other individuals identified on the passenger manifest.² A black hood was placed over Mr. Meshal's head. He could barely sit in his seat because his hands were still awkwardly handcuffed behind his back.

² A copy of the manifest has been published at http://www.reprive.org.uk/static/downloads/2007_03_21_Rendition_Report.pdf.

92. Mr. Meshal heard one of the Kenyans on the flight mention Somalia. Mr. Meshal was terrified of being returned to Somalia and believed that he would be seriously injured or killed if taken there because of the violence and other abuses that were occurring.

93. After the plane landed, men speaking a language Mr. Meshal believed to be Somali entered the plane and removed the prisoners. They escorted them onto trucks and drove them to a place the prisoners later called “the cave.” At the cave, the soldiers removed Mr. Meshal’s hood and directed him to descend steps to an underground room which was almost completely dark. Armed men snipped the zip-ties that had held Mr. Meshal’s hands behind his back and chained his wrists in front of him.

94. Mr. Meshal remained handcuffed in the cave for two days. He was terrified and thought that he was going to be executed. The cave was approximately twenty-five square feet and did not contain any windows or toilets. The cave was excruciatingly hot and Mr. Meshal had difficulty breathing. Only a little light filtered through from small holes pierced into the door that led to the outside. When guards opened this door, Mr. Meshal noticed that enormous cockroaches were clustered in the corners of the cell and large black millipedes were all over the walls.

95. On or about February 12, 2007, men who appeared to be members of the Somali military came to the cave and ordered all thirteen of the prisoners who had been rendered from Kenya, except four British detainees—Mohammed Ezzouek, Reza Afsharzadagen, Hamza Chentouf, and Shahajan Janjua—to leave the cell. The four British detainees were handed over to British officials in Somalia and were immediately returned to England, where they were released.

96. The Somalis handed Mr. Meshal and the eight others who remained over to individuals wearing Ethiopian military uniforms. The uniformed men blindfolded Mr. Meshal and brought him to an airport.

97. At the airport, the Ethiopians escorted Mr. Meshal and the others to what appeared to be a storage tent that was patrolled by armed guards.

98. Mr. Meshal remained in this tent with his hands shackled from approximately February 12 to February 16, 2007. Guards brought the prisoners dry biscuits, marmalade, and water once a day. Mr. Meshal was without adequate food or water and was hungry and thirsty all of the time.

99. On or about February 16, 2007, the Ethiopian soldiers took Mr. Meshal and the other prisoners to a plane. The prisoners were all blindfolded. After the plane took off, one of the Ethiopians informed Mr. Meshal that they were being taken to Ethiopia.

100. On information and belief, on or about February 9, 2007, one or more of Defendant Higgenbotham, Defendant Hersem, and Doe Defendants 1 and 2 directed, authorized, conspired to effect, actively and substantially participated in, and/or took affirmative action(s) demonstrating consent and acquiescence to Mr. Meshal's rendition to Somalia and Ethiopia, despite the manifest danger and risk of harm to Mr. Meshal, because Mr. Meshal had steadfastly maintained his innocence of any terrorist activity and because U.S. officials wished to interrogate him further without affording him guarantees mandated under the Fourth and Fifth Amendments to the U.S. Constitution.

101. On information and belief, Defendant Higgenbotham, Defendant Hersem, and Doe Defendants 1 and 2, acted with the approval or knowledge of U.S. government

officials located in the District of Columbia, including officials at FBI headquarters, and U.S. government officials located at the FBI Legal Attaché office in Nairobi.

102. According to statements made at the time by two U.S. officials familiar with Mr. Meshal's case, Daniel Maldonado was returned to the United States because he quickly confessed to involvement with al Qaeda, but Mr. Meshal was not brought back to the United States because he did not admit to such involvement. One U.S. official indicated that Mr. Meshal was not brought home because there was insufficient evidence to charge and jail Mr. Meshal in the United States. Jonathan S. Landay and Shashank Bengali, *U.S. Citizen Stuck in Ethiopian Jail: Case Raises Questions About U.S. Policies in Pursuing Terror Suspects*, Times Union, Mar. 17, 2007, at A4.

103. Defendant Higgenbotham, Defendant Hersem, and Doe Defendants 1 and 2 knew, or reasonably should have known, that Mr. Meshal would face grave danger and risk of harm if he were rendered to Somalia at that time due to fact that following the December 27, 2006 attack by the U.S.-Ethiopia-backed TFG on the SCIC and the SCIC's subsequent and abrupt collapse, widespread human rights violations—including kidnapping, torture, beatings, harsh and life-threatening prison conditions, and arbitrary arrest and detention—were occurring in Somalia because of the lack of effective governance institutions, the widespread availability of small arms, and conflicts between armed political factions and warlords over control of territory. U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *Somalia*, 2006 (March 6, 2007); *Somalia: The Tough Part is Ahead*, Africa Briefing No. 45, (Int'l Crisis Group, Nairobi/Brussels) Jan. 26, 2007, at 1.

104. Defendant, Higgenbotham, Defendant Hersem, and Doe Defendants 1 and 2 also knew, or reasonably shown have known, that Mr. Meshal would face grave danger and risk of serious harm if rendered to Ethiopia because at that time human rights violations were similarly widespread and included, among other things, mistreatment of detainees, poor prison conditions, arbitrary arrest and detention, the detention of thousands of individuals without charge, and lengthy pretrial detention. U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *Ethiopia*, 2006 (March 6, 2007).

105. On information and belief, on February 16, 2007, the FBI Legal Attaché office in Nairobi informed the FBI Office of International Operations in the District of Columbia and the FBI Legal Attaché office in Sanaa, Yemen, which is responsible for FBI activity in Ethiopia, that Mr. Meshal was, or would soon be in, Ethiopia. On information and belief, this information was conveyed to initiate and facilitate the further interrogation of Mr. Meshal by U.S. officials, including Tim (Doe Defendant 1), who had interrogated Mr. Meshal in Kenya.

Mr. Meshal's Detention in Ethiopia and Continued Interrogation by the FBI

106. When the flight from Somalia landed in Addis Ababa, Ethiopian soldiers escorted Mr. Meshal and the other prisoners off the plane, placed them in the back of a pick-up truck, and drove them approximately thirty minutes to a facility. Soldiers removed Mr. Meshal's blindfold. Mr. Meshal saw the facility, which appeared to be a military barracks.

107. Mr. Meshal immediately recognized some of the prisoners as people whom he had encountered in the jungle between Somalia and Kenya after fleeing the violence in

Mogadishu. There were approximately fifty prisoners being held at the facility, including approximately eleven women and thirteen children.

108. On arrival at the facility, Mr. Meshal was briefly questioned by five or six Ethiopians dressed in civilian clothing. The questioning lasted approximately ten minutes. As in Kenya, the questioning sought only the most basic details from Mr. Meshal.

109. Mr. Meshal tried to ask why he was being held and demanded that he be able to see an attorney. His questions were not answered and his demand to see an attorney was ignored. After this first meeting, Mr. Meshal was never questioned by Ethiopian intelligence, police, or military officers for the remaining three-and-one-half months that he was detained in Ethiopia.

110. The location of the prison facility where Mr. Meshal and the other detainees were held remained secret. Mr. Meshal was placed in a cell with five other prisoners. There were four or five other cells in the facility. Mr. Meshal was prohibited from leaving the cell and had extremely limited access to bathroom facilities.

111. Each day, prisoners were taken out of the prison facility and moved to a different location for interrogation. While most prisoners were returned to the facility at the end of the day, on a few occasions certain prisoners did not return for days and sometimes for weeks. When prisoners returned, some said that they had been interrogated by American officials.

112. During the three-plus months that Mr. Meshal was imprisoned in Ethiopia, U.S. officials actively and substantially participated in the detention and interrogation of individuals in Ethiopia who had fled the violence in Somalia. According to media

accounts, one hotel in Addis Ababa “swarmed with U.S. intelligence officers during the processing of detainees” in early 2007. Paul Salopek, *Renditions Fuel Anger Against U.S.*, Chicago Tribune, Dec. 4, 2008.

113. As one human rights organization found, when U.S. officials conducting interrogations lost interest in a particular detainee, the detainee was released from custody. Human Rights Watch, *“Why Am I Still Here?”: The 2007 Horn of Africa Renditions and the Fate of Those Still Missing* (Oct. 2008), <http://www.hrw.org/en/node/75257/section/1>.

114. On information and belief, U.S. government officials, including officials designated by the Attorney General and the Director of Central Intelligence, ordered, directed, or authorized Doe Defendants 1 and 2, as well as other U.S. agents, to interrogate Mr. Meshal in Ethiopia. On information and belief, these actions were taken pursuant to the procedures set forth on page 17 of The Attorney General’s Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, which were in force at the time and provided that “[t]he FBI may conduct investigations abroad, participate with foreign officials in investigations abroad, or otherwise conduct activities outside the United States with the written request for approval of the Director of Central Intelligence and the Attorney General or their designees.” The Attorney General’s Guidelines for FBI National Security Investigations and Foreign Intelligence Collection, *supra*, par. 40 at 17.

115. After approximately one week of incommunicado detention, on or about February 23, 2007, Mr. Meshal was taken from the prison facility by an Ethiopian guard

and driven approximately forty-five minutes to a gated villa where he was subjected to intense interrogation by U.S. agents.

116. Over the next three months, Mr. Meshal was interrogated by U.S. agents at the same gated villa on a regular basis. On each occasion, an Ethiopian named Asafha arrived at the prison at approximately 5:00 a.m. and called out Mr. Meshal's name. Asafha removed Mr. Meshal from the prison, placed him in a Land Rover, drove Mr. Meshal to the villa, and escorted him inside. Asafah was not present during Mr. Meshal's interrogations and never asked Mr. Meshal any questions.

117. On the day of his first interrogation by U.S. officials in Ethiopia, Mr. Meshal was blindfolded before exiting the prison. Once at the villa, Mr. Meshal was guarded by an Ethiopian wearing civilian clothing and carrying a handgun until American interrogators requested him by name. Mr. Meshal's blindfold was not removed until he was brought into a room with the American interrogators.

118. On later occasions, Mr. Meshal was not blindfolded when taken from the prison to the villa for interrogation and arrived at the villa before the American interrogators. On these occasions, Mr. Meshal waited by the garage or driveway of the villa under close watch of an armed Ethiopian guard and saw Asafha drive to the villa in a vehicle carrying American agents. Sometimes Asfaha drove a microbus that carried approximately ten American agents. Other times, Asfaha drove a Land Rover that carried fewer than ten American agents. The windows of the microbus and Land Rover were clear, so Mr. Meshal could see the individuals sitting inside. Mr. Meshal knew that the agents driven by Asfaha to the villa were American because, after their arrival at the villa, he heard them speaking English with American accents. Upon arrival at the villa,

the agents entered a large room where they waited before separating into smaller groups to interrogate detainees in different rooms in the villa.

119. Only American officials interrogated Mr. Meshal, including Tim (Doe Defendant 1), who had participated in Mr. Meshal's interrogations in Kenya, an American official who introduced himself to Mr. Meshal as "Dennis" (Doe Defendant 2),³ and an American official who was bald, who did not provide his name, and who participated only in Mr. Meshal's last interrogation in Ethiopia. No Ethiopian official ever interrogated Mr. Meshal. Tim led each of the interrogations of Mr. Meshal in Ethiopia, except for the final interrogation, and was joined at times by Dennis. Dennis led the final interrogation of Mr. Meshal in Ethiopia and was joined by the above-mentioned bald American official during the interrogation.

120. Dennis was a clean-shaven African-American man, who appeared to be in his late forties and was stocky. He stood about 5' 10" tall and had short black hair. He wore a goatee and had tattoos on his arms. Dennis usually wore slacks or casual pants, a button-down shirt or polo shirt, and black sneakers or boots when he interrogated Mr. Meshal. On one occasion, Dennis wore a Boys & Girls Club of New York t-shirt. During Dennis's last interrogation of Mr. Meshal, he wore a suit. Dennis told Mr. Meshal that he was from Brooklyn. Dennis spoke with an American accent, although Mr. Meshal could not discern any specific regional accent. Dennis refused to provide his true full name or title to Mr. Meshal.

121. The interrogations of Mr. Meshal that took place during the first two months of his detention in Ethiopia generally lasted a full day or close to a full day. On many of

³ For clarity, Doe Defendant 2 will be referred to as "Dennis," the name he provided to Plaintiff.

these occasions, Mr. Meshal was taken from the prison to the interrogation site early in the morning and returned to the prison after dark. Interrogations that took place during the last month of Mr. Meshal's detention in Ethiopia generally were shorter, typically lasting a few hours or less.

122. On the first day that Mr. Meshal was interrogated by U.S. officials in Ethiopia, Tim asked Mr. Meshal if he was surprised to see him. Tim told Mr. Meshal that he and his colleagues thought Mr. Meshal wasn't "being truthful" with them in Kenya, which is why Mr. Meshal was now in Ethiopia. Tim also told Mr. Meshal that his truthfulness now would determine whether he ever could go home. Dennis remained in the background while Tim conducted the interrogation.

123. Tim appeared to lead and control all of the interrogations of Mr. Meshal, except the last interrogation. At the beginning of each interrogation that he led, Tim presented Mr. Meshal with a document to sign, which notified him that he could refuse to answer any questions without a lawyer present. Upon information and belief, the document was a "waiver of rights" form of the type commonly used by FBI agents prior to conducting an interrogation in the absence of counsel. Each time, Tim made Mr. Meshal believe that he had no choice except to sign the document if he ever wanted to go home. Each time, Mr. Meshal signed the document.

124. During the interrogations, Tim constantly suggested that Mr. Meshal was a terrorist or had connections to terrorists. He also asked Mr. Meshal about particular people from the United States and people whom he had encountered while fleeing Somalia. Tim frequently accused Mr. Meshal of lying. Dennis participated in several of

the interrogations led by Tim; at other times, Dennis remained silent and stood or sat in the background.

125. During the period Mr. Meshal was detained in Ethiopia, other prisoners were also transported to the villa for interrogations. Typically, four or five other prisoners were taken with Mr. Meshal in the Land Rover to the villa where they too were interrogated, each in different rooms. The other prisoners told Mr. Meshal that their interrogations were conducted by non-Ethiopian officials, including the FBI in numerous instances.

126. Mr. Meshal repeatedly asked to speak with a lawyer. Despite these requests, Tim and Dennis directly prohibited and/or actively and substantially participated with Ethiopian officials in prohibiting Mr. Meshal from contacting or otherwise communicating with any attorney during the entire time he was detained in Ethiopia.

127. Mr. Meshal was also denied all access to the International Committee for the Red Cross or any other international humanitarian or human rights organization during the entire time he was detained in Ethiopia.

128. While he was not being interrogated, Mr. Meshal remained in his prison cell handcuffed. Often his hands were cuffed tightly behind his back, making it difficult to sit or lie down. On several occasions, Mr. Meshal was moved to a solitary confinement cell in a nearby courtyard, which was barely large enough to fit Mr. Meshal if he lay down. Mr. Meshal was twice forced to remain in solitary confinement for several days.

129. On three occasions, Mr. Meshal was taken along with a group of other prisoners for closed proceedings before an Ethiopian military tribunal. The first appearance occurred on or around March 16, 2007. At the tribunal, there were three

military judges, a prosecutor, and Arabic, Swahili, Somali, and English translators. The three-member tribunal asked Mr. Meshal a few basic questions: his name and nationality; where he was arrested; whether he had carried a weapon; and whether he had been in military uniform. When Mr. Meshal asked for a lawyer, one of the judges told him that he had no rights until his status had been determined by the tribunal. The judge also said that he would be classified as “innocent,” as an “enemy combatant,” or as an “unlawful enemy combatant.” No formal charges were ever filed against Mr. Meshal nor was Mr. Meshal ever provided any documentation in connection with the proceeding.

130. A few days after Mr. Meshal’s first appearance before the military tribunal, Mr. Meshal was interrogated. During this interrogation, Tim immediately asked Mr. Meshal about the military tribunal proceeding. After Mr. Meshal described to him what had happened, Tim said that Mr. Meshal would be permitted to go back to the United States if Mr. Meshal told him what he wanted to know. Mr. Meshal asked Tim what more he wanted to know and said that he had told Tim everything. Tim replied that he wanted to know the truth. Tim then interrogated Mr. Meshal again, asking whether he had received explosives training and counter-intelligence training. He also pressed Mr. Meshal to admit that he was connected to al Qaeda. Tim told Mr. Meshal that he would not be allowed to go home unless Mr. Meshal told him what he wanted to hear.

131. Although FBI agents had been regularly interrogating Mr. Meshal in Ethiopia for almost one month, U.S. consular officials did not gain access to Mr. Meshal until on or around March 21, 2007. This consular access did not occur until after *McClatchey Newspapers* first reported that Mr. Meshal, an American citizen, was being held at a secret location in Ethiopia, and after the fact of Mr. Meshal’s detention in Ethiopia

became public. *See American's Rendition to an Ethiopian Prison Raises New Questions*, McClatchey Newspapers, Mar. 16, 2007. The consular visit occurred at the Ethiopian security headquarters in the presence of one Ethiopian officer and an officer of the FBI Legal Attaché. Mr. Meshal explained to the consular official the circumstances of his detention.

132. Following increasing media attention surrounding Mr. Meshal's detention, Mr. Meshal's Congressman, Representative Rush Holt (D-NJ), began to make inquiries about Mr. Meshal's status and fate to the FBI and State Department and began to call attention to Mr. Meshal's plight in Congress.

133. On or about March 29 and April 3, 2007, Mr. Meshal was taken to the Ethiopian National Intelligence and Security Service Headquarters in Addis Ababa for his second and third consular visits. Each visit lasted approximately thirty minutes and occurred in the presence of an Ethiopian officer.

134. On or about April 13, 2007, Mr. Meshal was brought before the Ethiopian military tribunal a second time. He appeared along with approximately eleven other prisoners and was again denied access to counsel. The three-member tribunal told Mr. Meshal that it was continuing to assess his status. Again, no formal charges were filed against Mr. Meshal.

135. On or around April 16, 2007, Plaintiff's father, Mohammed Meshal, contacted the U.S. Ambassador to Ethiopia, Donald Yamamoto, to discuss the proceedings before the Ethiopian military tribunal. Ambassador Yamamoto told him that the outcome of the April 13, 2007 military tribunal proceedings "did not matter" in terms of when Mr. Meshal was to be returned home.

136. On or around May 12, 2007, Mr. Meshal was brought before the Ethiopian military tribunal a third time. He was not individually questioned by the tribunal. Mr. Meshal never received any decision or determination in his case by the military tribunal and no charges were ever filed against him.

137. Prior to and following each of the proceedings before the military tribunal, Tim (Doe Defendant 1) and Dennis (Doe Defendant 2) continued to interrogate Mr. Meshal at the villa.

138. Upon information and belief, Defendant Higgenbotham, Defendant Hersem and Doe Defendants 1 and 2 communicated repeatedly with U.S. government officials in the FBI, the U.S. Department of Justice, and the U.S. Department of State to report on the progress of their interrogations of Mr. Meshal in Kenya and Ethiopia and to discuss whether sufficient evidence existed for federal authorities to transfer Mr. Meshal to the United States for criminal prosecution. Upon information and belief, the FBI officials with whom Defendants Higgenbotham and Hersem and Doe Defendants 1 and 2 communicated about Mr. Meshal included officials in the FBI Office of International Operations in the District of Columbia (“FBI OIO”), other FBI officials located at FBI Headquarters in the District of Columbia, and officials of the FBI Legal Attaché offices in Nairobi, Kenya, and Sanaa, Yemen, both of which are managed by the FBI OIO.

Mr. Meshal’s Return to the United States

139. On or about May 24, 2007, an Ethiopian guard came to Mr. Meshal’s cell and informed Mr. Meshal that he would be released. No further explanation was provided. Mr. Meshal was then taken to the U.S. Embassy in Addis Ababa, where he remained overnight. The following day, Mr. Meshal was flown back to the United States via

Frankfurt. He arrived at John F. Kennedy International Airport on May 26, 2007.

During the four months and three days that Mr. Meshal was detained abroad, he had lost approximately eighty pounds.

140. On the flight between Frankfurt and New York, Mr. Meshal noticed two men who seemed to be watching him very closely. Upon arrival in the United States, these men followed Mr. Meshal off the flight and, joined by two other men from the flight, immediately escorted Mr. Meshal to a customs office where he was detained for approximately an hour and a half. The customs agents made Mr. Meshal empty his pockets and bag. They questioned him about his travels and his plans upon his return to the United States. At one point, Mr. Meshal heard one of the customs officials yelling into a telephone, asking, "What am I supposed to do with this guy?" Eventually, the customs officials told Mr. Meshal that he was free to leave. Mr. Meshal then met his mother and father at the airport and returned with them to their home in New Jersey.

141. Mr. Meshal was and remains deeply traumatized by his treatment. U.S. officials threatened Mr. Meshal with serious physical and mental abuse, told him that he would be made to "disappear," and denied him access to counsel and other due process protections. U.S. officials also caused Mr. Meshal to be held, or actively and substantially participated with foreign authorities who caused him to be held, in stark and inhuman conditions without charge or legal basis. As the result of actions by these U.S. officials, Mr. Meshal suffered physical injuries, pain and suffering, severe mental anguish, as well as the loss of income and livelihood.

Partial Identification of Doe Defendant 1 (“Tim”)

142. On or around April 20, 2009, Mr. Meshal was watching a television news report about an alleged Somali pirate being brought to New York to face federal charges. The report aired video footage of federal law enforcement officers escorting the defendant out of a federal courthouse in New York and identified the officers as FBI agents. Mr. Meshal immediately recognized the agent standing to the right of the defendant as Tim, the U.S. official who had repeatedly interrogated Mr. Meshal in both Kenya and Ethiopia. Mr. Meshal had a clear memory of Tim’s face and hairline, which permitted Mr. Meshal to recognize Tim on television despite the fact that Tim no longer wore the beard he had maintained in Kenya and Ethiopia. Astounded to see one of his interrogators on American television, Mr. Meshal watched the entire show and then found other channels showing similar video footage of Tim escorting the defendant out of federal court. Each channel identified the agents escorting the defendant as FBI or federal law enforcement officers.

143. Mr. Meshal then conducted an Internet search for “Somali pirate in New York.” Through the search, Mr. Meshal located a photo of Tim standing to the right side of the alleged Somali pirate and escorting him, which matched the video footage he had seen on television. The caption to the photo indicated that the law enforcement agents were FBI officers.

CAUSES OF ACTION

I: FIFTH AMENDMENT (Violation of Substantive Due Process)

144. Defendants' actions described herein violate the Due Process Clause of the Fifth Amendment to the Constitution, which prohibits any person acting under color of U.S. law from subjecting or conspiring to subject any individual in U.S. custody or control to conduct that "shocks the conscience."

145. Defendants' violations of Plaintiff's Due Process rights give rise to a cause of action for damages directly under the Fifth Amendment, pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

146. Defendant Higgenbotham and Defendant Hersem are liable for violating Plaintiff's substantive due process rights because they personally subjected Plaintiff to threats of torture, serious injury, disappearance, and other serious harms during custodial interrogations in Kenya.

147. Doe Defendant 1 (Tim) is also liable for violating Plaintiff's substantive due process rights because he actively and substantially participated in the coercive interrogations of the Plaintiff in Kenya during which he was threatened with torture, serious injury, disappearance, and other serious harms.

148. Defendant Higgenbotham, Defendant Hersem and Doe Defendant 1 (Tim) are also liable for the violation of Plaintiff's substantive due process rights because they directed, authorized, approved, conspired to effect, and/or actively and substantially participated in Mr. Meshal's detention in Kenya without due process and illegal rendition from Kenya to Somalia and Ethiopia. As a result of these decisions, Plaintiff was subjected to treatment that shocks the conscience.

149. Defendant Higgenbotham, Defendant Hersem, Doe Defendant 1 (Tim), and Doe Defendant 2 (Dennis) are also liable for the violation of Plaintiff's substantive due process rights in Somalia and Ethiopia because they were aware of the danger and risk of serious harm that Plaintiff faced if rendered to these countries from Kenya, including prolonged arbitrary detention and physical and mental abuse in detention, and because the Defendants took affirmative steps that created and/or increased this danger and risk, which did, in fact, result in serious to harm to Plaintiff.

150. Doe Defendant 1 (Tim) and Doe Defendant 2 (Dennis) are liable for the violation of Plaintiff's substantive due process rights because they directed, authorized, approved, conspired to effect, and/or actively and substantially participated in Mr. Meshal's custodial interrogation in Ethiopia and further detention of over three months in that country. As a result of these decisions, Plaintiff was subjected to treatment that shocks the conscience.

151. Each defendant had actual or constructive knowledge that his conduct toward Plaintiff violated his due process rights, and each had actual or constructive knowledge that his actions, orders, or omissions would lead to such violations.

152. Defendants acted under color of official authority in violating Plaintiff's due process rights.

153. Defendants' actions were a proximate cause of the violation of Plaintiff's due process rights. Plaintiff was a foreseeable victim of these acts.

154. Defendants' violations of Plaintiff's due process rights caused Plaintiff to suffer damages, including mental and emotional pain and suffering, in an amount to be determined at trial.

155. Defendants' violations of Plaintiff's substantive due process rights were deliberate, willful, intentional, wanton, malicious, and oppressive, and should be punished by an award of punitive damages in an amount to be determined at trial.

**II: FIFTH AMENDMENT
(Violation of Procedural Due Process)**

156. Defendants' actions described herein violated the rights of Plaintiff under the Due Process Clause of the Fifth Amendment to the United States Constitution by depriving him of liberty without due process of law.

157. Defendants' orders, authorizations, and other actions violated Plaintiff's due process rights by: (a) subjecting him to prolonged, arbitrary, and indefinite detention without charges of any kind; (b) denying him access to a court or other meaningful process to challenge the legality of his detention; and (c) denying him access to counsel.

158. Defendants' actions, authorizations, and other actions depriving Plaintiff of his procedural due process rights give rise to a cause of action for damages directly under the Fifth Amendment, pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

159. Defendant Higgenbotham and Defendant Hersem are liable for violating Plaintiff's due process rights because they directed, authorized, conspired to effect, and/or actively and substantially participated in Mr. Meshal's illegal detention and custodial interrogation in Kenya and his illegal rendition to Somalia and Ethiopia, without due process of law.

160. Defendant Higgenbotham and Defendant Hersem are also liable for the violation Plaintiff's Fifth Amendment rights because Plaintiff's arbitrary, prolonged, and

illegal detention in Somalia and Ethiopia without due process of law was the foreseeable result of Mr. Meshal's illegal rendition from Kenya to Somalia and Ethiopia.

161. Doe Defendant 1 (Tim) is liable for violating Plaintiff's Fifth Amendment rights because he directed, authorized, conspired to effect, and/or actively and substantially participated in Plaintiff's detention and custodial interrogation in Kenya, his illegal rendition to Somalia and Ethiopia, his continued detention in Somalia and Ethiopia for over three months, and his custodial interrogation in Ethiopia, all of which occurred without due process of law.

162. Doe Defendant 2 (Dennis) is liable for violating Plaintiff's Fifth Amendment rights because he directed, authorized, conspired to effect, and/or actively and substantially participated in Mr. Meshal's rendition to Somalia and Ethiopia, his continued detention in Somalia and Ethiopia for over three months, and his custodial interrogation in Ethiopia, all of which occurred without due process of law.

163. Each defendant had actual or constructive knowledge that the detention, rendition, and custodial interrogation of Plaintiff violated Plaintiff's due process rights, and each had actual or constructive knowledge that his actions, orders, practices, and/or omissions would lead to such violations.

164. Defendants acted under color of official authority in violating Plaintiff's due process rights.

165. Defendants' actions were a proximate cause of the violation of Plaintiff's due process rights. Plaintiff was a foreseeable victim of these acts.

166. Defendants' violations of Plaintiff's due process rights caused Plaintiff to suffer damages, including mental and emotional pain and suffering, in an amount to be determined at trial.

167. Defendants' violations of Plaintiff's due process rights were deliberate, willful, intentional, wanton, malicious, and oppressive, and should be punished by an award of punitive damages in an amount to be determined at trial.

III: FOURTH AMENDMENT (Unreasonable Search and Seizure)

168. Defendants' actions described herein violated the rights of Plaintiff under the Fourth Amendment to the Constitution.

169. The actions, orders, authorizations, and other conduct of Defendant Higgenbotham, Defendant Hersem, and Doe Defendant 1 (Tim) and Doe Defendant 2 (Dennis) violated Plaintiff's Fourth Amendment rights by subjecting him to prolonged, arbitrary, and indefinite detention without probable cause, without charge, and without any other prompt and effective process to challenge the legality of his detention.

170. Defendants' actions, orders, and authorizations, which deprived Plaintiff of his rights, give rise to a cause of action for damages directly under the Fourth Amendment, pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

171. Defendant Higgenbotham, Defendant Hersem, Doe Defendant 1 (Tim), and Doe Defendant 2 (Dennis) are liable for violating Plaintiff's Fourth Amendment rights because they directed, authorized, conspired to effect, or actively and substantially participated in Plaintiff's prolonged detention without probable cause and because they

failed to provide him with access to a court or prompt, effective legal process to challenge the legality of his detention.

172. Each defendant had actual or constructive knowledge that his detention of Plaintiff violated Plaintiff's Fourth Amendment rights, and each had actual or constructive knowledge that his actions, orders, policies, practices, and/or omissions would lead to such violations.

173. Defendants acted under color of official authority in violating Plaintiff's Fourth Amendment rights.

174. Defendants' actions were a proximate cause of the violation of Plaintiff's Fourth Amendment rights. Plaintiff was a foreseeable victim of these acts.

175. Defendants' violations of Plaintiff's Fourth Amendment rights caused Plaintiff to suffer damages, including mental and emotional pain and suffering, in an amount to be determined at trial.

176. Defendants' violations of Plaintiff's Fourth Amendment rights were deliberate, willful, intentional, wanton, malicious, and oppressive, and should be punished by an award of punitive damages in an amount to be determined at trial.

IV: TORTURE VICTIM PROTECTION ACT OF 1991

28 U.S.C. § 1350, note

177. Defendant Higgenbotham's and Defendant Hersem's actions described herein violated the rights of Plaintiff under the Torture Victim Protection Act of 1991, 28 U.S.C. § 1350, note.

178. Defendant Higgenbotham and Defendant Hersem are liable for violating the TVPA because they personally and intentionally subjected Plaintiff to severe mental pain

and suffering through extreme, outrageous, deliberate and unusually cruel practices during their custodial interrogations of Plaintiff in Kenya. Such practices include threatening to send Mr. Meshal to Israel where he would be made to “disappear”; threatening to send Mr. Meshal to Egypt or another place where he would be tortured in a manner similar to the torture exacted upon the protagonist of the film “Midnight Express”; threatening to send Mr. Meshal to Somalia where law and order had broken down and where Mr. Meshal feared he would be killed; warning Mr. Meshal that they “had ways of getting the information they want” by making him afraid for his life and safety; and threatening Mr. Meshal that “even [his] grandkids” would be negatively affected unless Mr. Meshal admitted to the connections that Defendant Higgenbotham and Defendant Hersem accused him of having.

179. Defendant Higgenbotham and Defendant Hersem intentionally subjected Mr. Meshal to torture in an effort to coerce him into confessing that he was connected to and/or had supported al Qaeda, even though Mr. Meshal had never supported and was not connected to al Qaeda and had repeatedly denied any such support or connection.

180. Defendant Higgenbotham’s and Defendant Hersem’s actions, orders, and authorizations that deprived Plaintiff of his rights give rise to a cause of action for damages directly under the TVPA, 28 U.S.C. § 1350, note.

181. Defendant Higgenbotham and Defendant Hersem each had actual or constructive knowledge that his torture of Plaintiff violated Plaintiff’s rights under the TVPA and each had actual or constructive knowledge that his actions, orders, policies, and/or practices would lead to such violations.

182. Defendant Higgenbotham and Defendant Hersem acted under actual or apparent authority of the Kenyan government and/or under the color of Kenyan law in conducting their interrogations of Plaintiff.

183. While Mr. Meshal was in nominal or apparent Kenyan custody (but was being detained at the direction, behest, and/or with the active and substantial participation of U.S. officials), Defendant Higgenbotham and Defendant Hersem subjected Mr. Meshal to interrogations during which they tortured Mr. Meshal. In order to conduct these interrogations, Defendant Higgenbotham and Defendant Hersem conspired with Kenyan officials, acted as willful participants in joint activity with Kenyan officials, and/or engaged in actions entwined with Kenyan authorities' detention of Mr. Meshal.

184. Alternatively, even if Mr. Meshal was under actual Kenyan custody (and was not detained at the direction, behest, and/or with the active and substantial participation of U.S. officials), Defendant Higgenbotham and Defendant Hersem subjected Mr. Meshal to interrogations during which the Defendants tortured Mr. Meshal. In order to conduct these interrogations, Defendant Higgenbotham and Defendant Hersem conspired with Kenyan officials, acted as willful participants in joint activity with Kenyan officials, and/or engaged in actions entwined with Kenyan authorities' detention of Mr. Meshal.

185. Defendants' actions were a proximate cause of the violation of Plaintiff's rights under the TVPA. Plaintiff was a foreseeable victim of these acts.

186. Defendants' violations of Plaintiff's rights under the TVPA caused Plaintiff to suffer damages, including severe mental and emotional pain and suffering, in an amount to be determined at trial.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment including:

- A. Compensatory damages in an amount to be proven at trial;
- B. Punitive damages in an amount to be determined at trial;
- C. Reasonable attorneys' fees and costs of suit; and
- D. Such other relief as the Court deems just and proper.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE.

Respectfully submitted,

/s/ Arthur B. Spitzer

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