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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**
11

12
13 SUNDUS SHAKER SALEH on
behalf of herself and those similarly
14 situated,

15 Plaintiffs,

16 vs.

17 GEORGE W. BUSH, RICHARD B.
CHENEY, DONALD H.
18 RUMSFELD, CONDOLEEZZA
RICE, COLIN L. POWELL, PAUL
19 M. WOLFOWITZ, and DOES 1-10,
inclusive,
20

21 Defendants.
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CASE NO. 3:13-cv-01124 JST

**AMENDED COMPLAINT FOR
CONSPIRACY TO COMMIT
AGGRESSION; AND THE CRIME OF
AGGRESSION**

DEMAND FOR TRIAL BY JURY

CLASS ACTION

1 SUNDUS SHAKER SALEH (hereinafter “Plaintiff”) on behalf of
 2 herself and those similarly situated, alleges against Defendants (1) GEORGE W.
 3 BUSH, (2) RICHARD B. CHENEY, (3) DONALD H. RUMSFELD, (4)
 4 CONDOLEEZZA RICE, (5) COLIN L. POWELL, (6) PAUL WOLFOWITZ, and
 5 (7) DOES 1-10 (collectively, “Defendants”), as follows:

6 **NATURE OF THIS ACTION**

7 1. Defendants GEORGE W. BUSH, RICHARD B. CHENEY,
 8 DONALD H. RUMSFELD, CONDOLEEZZA RICE, COLIN L. POWELL,
 9 PAUL WOLFOWITZ, and DOES 1-10 broke the law in conspiring and
 10 committing the crime of aggression against the people of Iraq.

11 2. Defendants planned the war against Iraq as early as 1998;
 12 manipulated the United States public to support the war by scaring them with
 13 images of “mushroom clouds” and conflating the Hussein regime with al-Qaeda;
 14 and broke international law by commencing the invasion without proper legal
 15 authorization.

16 3. More than sixty years ago, American prosecutors in
 17 Nuremberg, Germany convicted Nazi leaders of the crimes of conspiring and
 18 waging wars of aggression. They found the Nazis guilty of planning and waging
 19 wars that had no basis in law and which killed millions of innocents.

20 4. Plaintiff – now a single mother living as a refugee in Jordan –
 21 was an innocent civilian victim of the Iraq War. She seeks justice under the
 22 Nuremberg principles and United States law for the damages she and others like
 23 her suffered because of Defendants’ premeditated plan to invade Iraq.

24 **JURISDICTION AND VENUE**

25 5. This Court has subject matter jurisdiction over the claims and
 26 causes of action described herein pursuant to 28 U.S.C. § 1350.

27 6. Venue is proper in the Northern District of California because
 28 Defendant RICE is subject to personal jurisdiction in this district, and the

1 allegations described in this Complaint did not take place in any one judicial
2 district. 28 U.S.C. § 1391(b)(3).

3 7. Personal jurisdiction over Defendants is proper in this Court
4 because Defendants are within the jurisdiction of this Court.

5 **THE PARTIES**

6 8. Plaintiff Sundus Shaker Saleh is a citizen of Iraq and resides in
7 Amman, Jordan. She lived in Iraq at the inception of the Iraq War in 2003, lost her
8 home and her property, and was forced to flee to Jordan in 2005 because of the
9 lack of security caused by the war and the occupation that followed. She is
10 currently supporting four dependents by herself in Jordan.

11 9. Defendant George W. Bush (“BUSH”) was the 43rd President
12 of the United States from 2001 and 2009. Defendant BUSH, under his authority as
13 Commander-in-Chief of the United States armed forces, gave the order to invade
14 Iraq on March 19, 2003. In so ordering the invasion, and as further described in
15 this Complaint, Defendant BUSH joined the conspiracy and pre-existing plan
16 initiated by Defendants CHENEY, RUMSFELD and WOLFOWITZ to use the
17 United States armed forces to commit the crime of aggression against the people of
18 Iraq. Upon information and belief, Defendant BUSH is a resident of Dallas, Texas.

19 10. Defendant Richard B. Cheney (“CHENEY”) was the 46th Vice
20 President of the United States from 2001 to 2009, under Defendant Bush. As
21 further described in this Complaint, Defendant Cheney participated in a conspiracy
22 and pre-existing plan in the late 1990s with Defendants RUMSFELD and
23 WOLFOWITZ to use the United States armed forces to commit the crime of
24 aggression against the people of Iraq. Upon information and belief, Defendant
25 CHENEY is a resident of Wilson, Wyoming.

26 11. Defendant Donald H. Rumsfeld (“RUMSFELD”) was the 21st
27 Secretary of Defense of the United States from 2001 to 2006, under Defendant
28 BUSH. As further described in this Complaint, Defendant Rumsfeld participated in

1 a conspiracy and pre-existing plan in the late 1990s with Defendants CHENEY and
 2 WOLFOWITZ to use the United States armed forces to commit the crime of
 3 aggression against the people of Iraq. Upon information and belief, Defendant
 4 RUMSFELD is a resident of Washington DC.

5 12. Defendant Condoleezza Rice (“RICE”) was the 20th United
 6 States National Security Advisor from 2001 to 2005, under Defendant BUSH. As
 7 further described in this Complaint, Defendant RICE joined the conspiracy and
 8 pre-existing plan to invade Iraq at least in August 2002, when she joined and
 9 participated in the “White House Iraq Group,” a group established by the White
 10 House in August 2002 for the sole purpose of convincing the American public that
 11 the United States had to invade Iraq. Upon information and belief, Defendant
 12 RICE is a resident of Stanford, California.

13 13. Defendant Paul Wolfowitz (“WOLFOWITZ”) was the 25th
 14 Deputy Secretary of Defense from 2001 to 2005, under Defendant BUSH. As
 15 further described in this Complaint, Defendant WOLFOWITZ was the prime
 16 architect of the Iraq War and initiated a conspiracy and plan in the late 1990s with
 17 Defendants CHENEY and RUMSFELD to use the United States armed forces to
 18 commit the crime of aggression against the people of Iraq. Upon information and
 19 belief, Defendant WOLFOWITZ is a resident of Washington DC.

20 14. Defendants DOES One through Ten, inclusive, are previous
 21 high-ranking officials of the Bush Administration who joined in the conspiracy, or
 22 otherwise planned and executed, the pre-existing plan to invade Iraq. Plaintiff will
 23 fully name these Doe defendants following discovery into their complete identities.
 24 Does One through Ten, inclusive, are sued for damages in their individual
 25 capacity.

26 **NUREMBERG OUTLAWED THE CRIME OF AGGRESSION:**

27 **THE “SUPREME INTERNATIONAL CRIME”**

28 15. At the end of World War II, the United States and its allies put

1 Nazi leaders on trial for their crimes, including crimes against humanity and war
 2 crimes. But the chief crime prosecuted against the Nazis was the **crime of**
 3 **aggression**: engaging in a premeditated war without lawful reason.

4 16. Count One of the Nuremberg indictment charged Nazi leaders
 5 with a “Common Plan or Conspiracy” to engage in “Crimes against Peace, in that
 6 the defendants planned, prepared, initiated wars of aggression, which were also
 7 wars in violation of international treaties, agreements, or assurances.”¹

8 17. In his opening statement to the Tribunal, Chief Counsel for the
 9 United States Robert H. Jackson stated “This Tribunal . . . represents the practical
 10 effort of four of the most mighty of nations, with the support of 17 more, to utilize
 11 international law to meet the greatest menace of our times – aggressive war.”²

12 18. Chief Prosecutor Jackson argued, “The Charter of this Tribunal
 13 evidences a faith that the law is not only to govern the conduct of little men, but
 14 that even rulers are, as Lord Chief Justice Coke put it to King James, ‘**under God**
 15 **and the law.**’” (*Id.*) (Emphasis added).

16 19. Chief Prosecutor Jackson argued, “Any resort to war – to any
 17 kind of a war – **is a resort to means that are inherently criminal.** War inevitably
 18 is a course of killings, assaults, deprivations of liberty, and destruction of
 19 property.” (Emphasis added).

20 20. He continued, “The very minimum legal consequence of the
 21 treaties making aggressive wars illegal is to **strip those who incite or wage them**
 22 **of every defense the law ever gave, and to leave war-makers subject to**
 23 **judgment by the usually accepted principles of the law of crimes.**” (*Id.*)
 24 (Emphasis added).

25 ¹ See Judgment, *United States v. Goering et al.*, Int’l Military Tribunal (Oct. 1
 26 1946), available at http://www.loc.gov/rr/frd/Military_Law/pdf/NT_Vol-I.pdf.

27 ² Robert Jackson, Opening Statement Before the International Military Tribunal
 28 (Nov. 21, 1945), available at <http://www.roberthjackson.org/the-man/speeches-articles/speeches/speeches-by-robert-h-jackson/opening-statement-before-the-international-military-tribunal/>.

21. Chief Prosecutor Jackson recognized that the crime of aggression applied to the United States. He argued, “We must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our own lips as well.” (*Id.*)

22. The International Military Tribunal at Nuremberg found Nazi leaders guilty of the crimes of conspiracy to engage in a war of aggression and the crime of aggression.³ The Tribunal stated, “The charges in the Indictment that the defendants planned and waged aggressive wars are charges of the utmost gravity. **War is essentially an evil thing.** Its consequences are not confined to the belligerent states alone, but affect the whole world.” (Emphasis added).

23. The Tribunal held, “To initiate a war of aggression, therefore, is not only an international crime; it is the **supreme international crime** differing only from other war crimes in that it contains within itself the accumulated evil of the whole.” (Emphasis added).

24. The Tribunal rejected the defendants’ argument that Adolph Hitler was solely to blame for the acts of aggression. “[T]hose who execute the plan do not avoid responsibility by showing that they acted under the direction of the man who conceived it. Hitler could not make aggressive war by himself.” (Emphasis added).

25. High-ranking Nazis, including Hermann Göring, Alfred Jodl and Wilhelm Keitel were sentenced to death for their crimes.

THE PROJECT FOR THE NEW AMERICAN CENTURY

26. In 1997, William Kristol and Robert Kagan formed a think tank in Washington DC called “The Project for the New American Century,” or “PNAC.” PNAC members included Defendants CHENEY, RUMSFELD and

³ Judgment, *United States v. Goering et al.*, Int’l Military Tribunal (Oct. 1 1946), available at http://www.loc.gov/rr/frd/Military_Law/pdf/NT_Vol-I.pdf.

1 WOLFOWITZ.

2 27. PNAC adheres to a neoconservative philosophy regarding the
3 United States' use of its military and its role in international politics. With respect
4 to Iraq, PNAC had a larger strategic vision of expanding the United States'
5 influence and "showing its muscle in the Middle East."⁴

6 28. From 1997 to 2000, PNAC produced several documents
7 advocating the military overthrow of Saddam Hussein.⁵

8 29. In the December 1, 1997 issue of the neoconservative magazine
9 the *Weekly Standard*, Defendant WOLFOWITZ published an article, which
10 discussed how the United States should overthrow Saddam Hussein. The issue was
11 entitled "Saddam Must Go: A How-To Guide."⁶



24 ⁴ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and*
25 *the Selling of the Iraq War* 78-79 (2006).

26 ⁵ Project for the New American Century,
<http://www.newamericancentury.org/iraqmideeast2000-1997.htm>.

27 ⁶ Paul Wolfowitz & Zalmay M. Khalilzad, *Overthrow Him*, *Weekly Standard*,
28 (Dec. 1, 1997), available at
<http://www.weeklystandard.com/Content/Protected/Articles/000/000/008/876iiuqh.asp>

1 30. On January 26, 1998, Defendants RUMSFELD and
 2 WOLFOWITZ signed a letter⁷ to then President William J. Clinton, requesting that
 3 the United States implement a “**strategy for removing Saddam’s regime from**
 4 **power,**” which included a “willingness to **undertake military action** as
 5 diplomacy is clearly failing.” Removing Saddam from power had to “become the
 6 aim of American foreign policy.” (Emphasis added). The letter further stated that
 7 the United States could not be “crippled by a misguided insistence on unanimity in
 8 the UN Security Council.”

9 31. On May 29, 1998,⁸ Defendants RUMSFELD and
 10 WOLFOWITZ signed a letter to then Speaker of the House Newt Gingrich and
 11 Senate Majority Leader Trent Lott in which they advocated that “U.S. policy
 12 should have as its explicit goal removing Saddam Hussein’s regime from power
 13 and establishing a peaceful and democratic Iraq in its place,” which included the
 14 use of “U.S. and allied military power . . . to help remove Saddam from power.”

15 32. On September 18, 1998,⁹ Defendant WOLFOWITZ gave
 16 testimony before the House National Security Committee on Iraq in which he
 17 stated that the United States had to “liberat[e] the Iraqi people from Saddam’s
 18 tyrannical grasp and free Iraq’s neighbors from Saddam’s murderous threats.”
 19 Defendant WOLFOWITZ advocated that the United States establish a “safe
 20 protected zone in the South” and form a provisional government that would
 21 “**control the largest oil field in Iraq.**” (Emphasis added).

22 33. Defendant WOLFOWITZ was an avid supporter and believer of
 23 other neoconservative theorists such as Laurie Mylroie, and Defendant

24 _____
 25 ⁷ Letter to President Clinton (Jan. 26, 1998), *available at*
<http://www.newamericancentury.org/iraqclintonletter.htm>.

26 ⁸ Letter to Newt Gingrich and Trent Lott (May 29, 1998), *available at*
<http://www.newamericancentury.org/iraqletter1998.htm>.

27 ⁹ Letter by Gary Schmitt regarding Paul Wolfowitz’s Statement on U.S. Policy
 28 Toward Iraq (Sept. 18, 1998), *available at*
<http://www.newamericancentury.org/iraqsep1898.htm>.

1 WOLFOWITZ had been fixated on the overthrow of Saddam's regime in Iraq
 2 since the mid-1990s.¹⁰ In fact, in June 2001, Defendant WOLFOWITZ tried to get
 3 the CIA to reinvestigate Mylroie's theory that Iraq was involved in the 1993 World
 4 Trade Center bombings, which had been disproved by the CIA in 1996.¹¹

5 **ONCE IN POWER, DEFENDANTS USE 9/11 AS COVER TO EXECUTE**
 6 **THEIR PRE-EXISTING PLAN TO INVADE IRAQ**

7 34. In January 2001, Defendant BUSH was sworn in as 43rd
 8 President of the United States. Defendant CHENEY was Defendant BUSH's Vice
 9 President. Defendant BUSH appointed Defendants RUMSFELD, WOLFOWITZ,
 10 RICE and POWELL to high-ranking positions within his administration.

11 35. On September 11, 2001, Saudi Arabian terrorists with links to
 12 an Afghan-based group called "al-Qaeda," and headed by Osama bin Laden,
 13 hijacked four planes and committed terrorist acts against the American people.

14 36. According to British journalist John Kampfner,¹² the day of the
 15 9/11 attacks, Defendants WOLFOWITZ and RUMSFELD openly pushed for war
 16 against Iraq – despite the fact that the 9/11 hijackers were Saudi Arabian and had
 17 been based out of Afghanistan. Defendant RUMSFELD asked, "Why shouldn't we
 18 go against Iraq, not just al-Qaeda?" with Defendant WOLFOWITZ adding that
 19 Iraq was a "brittle, oppressive regime that might break easily—it was doable."

20 37. Kampfner writes, "from that moment on, he and Wolfowitz
 21 used every available opportunity to press the case."
 22
 23

24 ¹⁰ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and*
 25 *the Selling of the Iraq War* 68-82 (2006).

26 ¹¹ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and*
 27 *the Selling of the Iraq War* 76 (2006); Nat'l Comm. on Terrorist Attacks upon
 the United States, *The 9/11 Commission Report* 71-73 (2004)

28 ¹² Jonathan Kampfner, *Blair's Wars* (2003).

38. According to Richard A. Clarke,¹³ the former National Coordinator for Security, Infrastructure Protection and Counter-terrorism (and who worked for Presidents George H.W. Bush and William Clinton) Defendants WOLFOWITZ, RUMSFELD and BUSH sought to use 9/11 as an excuse to attack Iraq.

39. On Wednesday, September 12, 2001, the day after 9/11, Richard A. Clarke heard Defendant RUMSFELD state that the United States had to broaden its objectives by “getting Iraq.”¹⁴ Defendant POWELL pushed back, urging a focus on al-Qaeda. Richard A. Clarke stated, “Having been attacked by al-Qaeda, for us now to go bombing Iraq in response would be like our invading Mexico after the Japanese attacked us at Pearl Harbor.”

40. Later in the day, Richard A. Clarke heard Defendant RUMSFELD complain that there were no decent targets for bombing in Afghanistan and that the United States military should consider bombing Iraq, which, he said, had better targets. At first Richard A. Clarke thought Rumsfeld was joking. But he was serious, and Defendant BUSH did not reject out of hand the idea of attacking Iraq. Instead, Defendant BUSH noted that what the United States needed to do with Iraq was to change the government, not just hit it with more cruise missiles, as Defendant RUMSFELD had implied.

41. During the afternoon of September 11, 2001, Defendant RUMSFELD discussed with his staff the possibility of using the terrorist attacks on the World Trade Center as an “opportunity” to launch an attack on Iraq.¹⁵ On

¹³ This information is lifted from press articles and Richard A. Clarke, *Against All Enemies – Inside America’s War On Terror* (Free Press 2004).

¹⁴ Richard A. Clarke, *Against All Enemies*, N.Y. Times (March 28, 2004), available at <http://www.nytimes.com/2004/03/28/books/chapters/0328-1st-clarke.html?pagewanted=all>; See also Nat’l Comm. on Terrorist Attacks upon the United States, The 9/11 Commission Report 334-35 (2004).

¹⁵ Bob Woodward, *Plan of Attack* 24 (2004); See also Nat’l Comm. on Terrorist Attacks upon the United States, The 9/11 Commission Report 334-35 (2004).

September 11, 2001, an aide to Defendant RUMSFELD quickly scribbled notes regarding the attack and quoted Defendant RUMSFELD as saying, “Hit S.H. @ same time – Not only UBL.” The note referred to Saddam Hussein (S.H.) and Osama bin Laden (UBL). This note also read, “Go massive - Sweep it all up. Thing [sic] related + not.”¹⁶ (See Exhibit A, incorporated into this Amended Complaint hereto).

Handwritten notes on lined paper. The text reads: "Hit S.H. @ same time - Not only UBL" and "Near term target needs - go massive - sweep it all up. Thing related & not".

42. Defendant WOLFOWITZ has stated that during the weekend after 9/11, there was a “long discussion” about the part that Iraq would play in a counterterrorist strategy and the question was “about not whether but when.”¹⁷

43. On September 12, 2001, the day after the 9/11 attacks, Defendant BUSH approached Richard A. Clarke and a few other people and stated,

¹⁶ See Joel Roberts, *Plans for Iraq Attack Began On 9/11*, CBS News (Sept. 10, 2009), available at http://www.cbsnews.com/2100-500249_162-520830.html; Thad Anderson, Flickr, available at <http://www.flickr.com/photos/66726692@N00/sets/72057594065491946/>.

¹⁷ Sam Tannahais, *Interview with Paul Wolfowitz*, Vanity Fair (May 9, 2003), available at <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=2594>.

1 “I know you have a lot to do and all, but I want you, as soon as you can, to go back
 2 over everything, everything. See if Saddam did this. See if he’s linked in any way.”
 3 Richard A. Clarke was again incredulous. He responded, “But, Mr. President, Al
 4 Qaeda did this.” Defendant BUSH responded, “I know, I know, but - see if
 5 Saddam was involved. Just look. I want to know any shred-” “Absolutely, we will
 6 look-again,” Richard A. Clarke answered. “But you know, we have looked several
 7 times for state sponsorship of Al Qaeda and not found any real linkages to Iraq.
 8 Iran plays a little, as does Pakistan, and Saudi Arabia, Yemen.” “Look into Iraq,
 9 Saddam,” Defendant BUSH responded.

10 44. On September 18, 2001, Clarke’s office sent a memo to
 11 Defendant RICE entitled “Survey of Intelligence Information on Any Iraq
 12 Involvement in the September 11 Attacks,” which found “no compelling case” that
 13 linked Iraq to the 9/11 attack.¹⁸

14 45. During a December 9, 2001 appearance on *Meet the Press*,
 15 Defendant CHENEY attempted to falsely persuade the American public that Iraq
 16 and some connection to 9/11. Defendant CHENEY claimed it was “well confirmed
 17 that [Atta, the lead 9/11 hijacker] did go to Prague and he did meet with a senior
 18 official of the Iraqi Intelligence service.” However, this alleged meeting between
 19 Mohamed Atta and the Iraqi Intelligence service was not only unconfirmed, but the
 20 CIA and the FBI had already concluded that no such meeting had probably taken
 21 place.¹⁹

22 46. On November 27, 2001, Defendant RUMSFELD met with U.S.
 23 Central Command (CENTCOM) Commander General Tommy Franks in order to
 24

25 ¹⁸ Nat’l Comm. on Terrorist Attacks upon the United States, *The 9/11*
 26 *Commission Report* 334 (2004).

27 ¹⁹ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and*
 28 *the Selling of the Iraq War* 102-105 (2006); *Meet the Press*, Interview by Tim
 Russert with Dick Cheney (Dec. 9, 2001), transcript available at
[http://www.washingtonpost.com/wp-](http://www.washingtonpost.com/wp-srv/nation/specials/attacked/transcripts/cheneytext120901.html)
[srv/nation/specials/attacked/transcripts/cheneytext120901.html](http://www.washingtonpost.com/wp-srv/nation/specials/attacked/transcripts/cheneytext120901.html).

1 discuss the “decapitation of the [Iraqi] government.” In the meeting, Defendant
 2 RUMSFELD discussed strategies on how to justify a military invasion of Iraq,
 3 which included a debate on weapons of mass destruction (WMD) and a “Saddam
 4 connection to Sept. 11 attack...”²⁰ (See Exhibit B, incorporated into this Amended
 5 Complaint hereto).

6 47. According to Richard A. Clarke, the Bush Administration had
 7 been focused on Iraq **prior** to the attacks of 9/11: so focused that **they failed to**
 8 **listen to warnings** that al-Qaeda-linked terrorists were planning a spectacular
 9 attack.

10 48. For example, on January 25, 2001, four days after Defendant
 11 BUSH was inaugurated, Richard A. Clarke wrote to Defendant RICE and asked for
 12 a cabinet-level meeting to discuss the threat posed by al-Qaeda and suggesting how
 13 the United States should respond.²¹

14 49. Defendant RICE downgraded Richard A. Clarke’s position so
 15 that he no longer had direct access to the president, a privilege he had enjoyed
 16 under President Clinton.

17 50. In April 2001, Richard A. Clarke met with Defendant
 18 WOLFOWITZ to discuss the threat posed by al-Qaeda. Defendant WOLFOWITZ
 19 responded, “I just don’t understand why we are beginning by talking about this one
 20 man bin Laden.” He told Richard A. Clarke, “You give bin Laden too much credit.
 21 He could not do all these things like the 1993 attack on New York, not without a
 22 state sponsor. Just because FBI and CIA have failed to find the linkages does not
 23 mean they don’t exist.”²²

24
 25 ²⁰ The U.S. Prepares for Conflict, 2001, *available at*
 26 <http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB326/>.

27 ²¹ Bush Administration’s First Memo on al-Qaeda- declassified, *available at*
 28 <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB147/index.htm>.

²² Rebecca Leung, *Excerpt: Against All Enemies* (Sept. 10, 2009),
http://www.cbsnews.com/8301-18560_162-607774.html.

1 51. Defendant WOLFOWITZ was repeating a discredited theory
2 that Iraq had been behind the 1993 attack, which was not true.

3 52. On August 6, 2001, Defendant BUSH received a briefing from
4 the CIA entitled, “Bin Ladin [sic] Determined To Strike US.”²³ (See Exhibit C,
5 incorporated into this Amended Complaint hereto).

6 53. Defendants were on notice of an attack against the United
7 States by al-Qaeda but failed to listen to warnings of an attack because they were
8 too focused on looking for ways to attack Iraq.

9 54. According to Defendant POWELL, Defendant WOLFOWITZ
10 could not justify his belief regarding a link between Iraq and the 9/11 attacks and
11 stated, “[Defendant WOLFOWITZ] was always of the view that Iraq was a
12 problem that had to be dealt with...And he saw this as one way of using this event
13 as a way to deal with the Iraq problem.”²⁴

14 **IN JULY 2002, THE BRITISH GOVERNMENT LEARNS THAT**
15 **DEFENDANTS PLAN TO INVADE IRAQ AND “FIX” INTELLIGENCE**
16 **AROUND THE INVASION**

17 55. In July 2002, high-ranking British politicians, including Prime
18 Minister Tony Blair, Foreign Secretary Jack Straw and Attorney General Lord
19 Goldsmith met to discuss intelligence on Iraq. This meeting was memorialized in a
20 secret memorandum that has since been leaked.²⁵ (See Exhibit D, incorporated into
21 this Amended Complaint hereto). During that meeting, head of Secret Intelligence
22 Service Sir Richard Dearlove reported on his recent meetings in the United States.
23 He stated, “There was a perceptible shift in attitude. Military action was now seen

24 _____
25 ²³ The President’s Daily Brief (Aug. 6, 2001), *available at*
<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB116/index.htm>.

26 ²⁴ Nat’l Comm. on Terrorist Attacks upon the United States, The 9/11
Commission Report 335 (2004).

27 ²⁵ This memo has been labeled the “Downing Street Memo” in the United
28 Kingdom, *available at*
<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB328/II-Doc14.pdf>.

1 as inevitable. Bush wanted to remove Saddam, through military action, justified by
 2 the conjunction of terrorism and WMD. **But the intelligence and facts were being**
 3 **fixed around the policy.**” (Emphasis added).

4 56. The meeting went on to discuss likely American military
 5 options, including a “slow build-up of 250,000 US troops, a short (72 hour) air
 6 campaign, then a move up to Baghdad from the south.”

7 57. Foreign Secretary Jack Straw stated that it seemed clear that
 8 Defendant BUSH had “made up his mind” to take military action, even if the
 9 timing was not yet decided. Foreign Secretary Straw noted, “But the case was thin.
 10 Saddam was not threatening his neighbours, and his WMD capability was less than
 11 that of Libya, North Korea or Iran.”

12 58. The Attorney General of the United Kingdom affirmed that
 13 there was no legal justification for the war. “[T]he desire for regime change was
 14 not a legal base for military action. There were three possible legal bases: self-
 15 defence, humanitarian intervention, or UN [Security Council] authorisation. The
 16 first and second could not be the base in this case. Relying on UNSCR 1205 of
 17 three years ago would be difficult. The situation might of course change.”

18 **DEFENDANTS EXECUTE A PLAN TO SCARE THE AMERICAN PUBLIC**
 19 **SO THAT THEY CAN INVADE IRAQ**

20 59. In August 2002, the White House established a group called the
 21 White House Iraq Group (“WHIG”), the purpose of which was to convince the
 22 American public into supporting a war against Iraq. Defendant RICE was a
 23 member of WHIG, along with Karl Rove, I. Lewis (“Scooter”) Libby, and other
 24 high-ranking Bush Administration officials. Defendant RICE, along with other
 25 members of WHIG continually used fabricated intelligence from unreliable sources
 26 in order to prep the public for an invasion of Iraq.²⁶

27 _____
 28 ²⁶ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and
 the Selling of the Iraq War* 59 (2006).

60. At a September 5, 2002 WHIG meeting, the term “smoking gun/mushroom cloud” was unveiled related to the supposed nuclear dangers posed by Saddam Hussein. According to Newsweek columnist Michael Isikoff, “The original plan had been to place it in an upcoming presidential speech, but WHIG members fancied it so much that when the *Times* reporters contacted the White House to talk about their upcoming piece [about aluminum tubes], one of them leaked Gerson’s phrase – and the administration would soon make maximum use of it.”²⁷

61. On September 7, 2002 unnamed White House officials told the New York Times²⁸ that the Bush Administration was unveiling this strategy to “persuade the public, the Congress and the allies of the need to confront the threat from Saddam Hussein.”

62. The New York Times also reported that White House Chief of Staff Andrew Card, Jr., explained that the Bush Administration waited until after Labor Day to begin this push because “From a marketing point of view you don’t introduce new products in August.”

63. The New York Times reported that the centerpiece of the strategy would be to use Mr. Bush’s “speech on September 11 to help move Americans towards support of action against Iraq, which could come early next year.”

64. An August 10, 2003 article in the Washington Post confirmed that during this period from September 2002 to the initiation of the war, Defendants engaged in a “pattern” of “depicting Iraq’s nuclear weapons program as more active, more certain and more imminent in its threat than the data they had

²⁷ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 35 (2006).

²⁸ Elisabeth Bumiller, *Traces of Terror: The Strategy; Bush Aides Set Strategy to Sell Policy on Iraq*, N.Y. Times (Sept. 7, 2002), available at <http://www.nytimes.com/2002/09/07/us/traces-of-terror-the-strategy-bush-aides-set-strategy-to-sell-policy-on-iraq.html>.

1 would support.”²⁹

2 65. On September 8, 2002,³⁰ Defendant RICE told CNN’s Late
3 Edition that Saddam Hussein was “actively pursuing a nuclear weapon.” “There
4 will always be some uncertainty about how quickly he can acquire nuclear
5 weapons but we don’t want the smoking gun to be a mushroom cloud.”

6 66. Additionally, Defendants BUSH, CHENEY, and RICE used
7 faulty intelligence and “cherry picked” intelligence facts in order to better market a
8 war with Iraq to the American people.³¹ For example, during an interview with
9 *Meet the Press* on September 8, 2002, Defendant CHENEY stated that the White
10 House knew “with absolute certainty” that “[Saddam] has been seeking to
11 acquire” aluminum tubes for his nuclear weapons program, even though there was
12 clear dissent over this fact and overwhelming evidence that the aluminum tubes
13 were not suitable for a nuclear centrifuge.³² Also, on CNN’s Late Edition,
14 Defendant RICE said the aluminum tubes “are only really suited for nuclear
15 weapons programs, centrifuge programs.” On FOX News Sunday, Defendant
16 POWELL said that “[Saddam] is still trying to acquire...some of the specialized
17 aluminum tubing one needs to develop centrifuges.”³³

18
19 ²⁹ Barton Gellman & Walter Pincus, *Depiction of Threat Outgrew Supporting*
20 *Evidence*, The Washington Post (Aug. 10, 2003), available at
[http://www.washingtonpost.com/wp-](http://www.washingtonpost.com/wp-dyn/content/article/2006/06/12/AR2006061200932.html)
[dyn/content/article/2006/06/12/AR2006061200932.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/06/12/AR2006061200932.html).

21 ³⁰ CNN *Late Edition*, Interview by Wolf Blitzer with Condoleezza Rice (Sept. 8,
22 2002), available at
<http://transcripts.cnn.com/TRANSCRIPTS/0209/08/le.00.html>

23 ³¹ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and*
24 *the Selling of the Iraq War* 16 (2006); See also *The World According to Dick*
Cheney (Cutler Productions, 2013).

25 ³² Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and*
26 *the Selling of the Iraq War* 36-42, 86-87, 222-24, 259-60 (2006); *Meet the*
Press, Interview by Tim Russert with Dick Cheney (Sept. 8, 2002), available at
<https://www.mtholyoke.edu/acad/intrel/bush/meet.htm>.

27 ³³ CNN *Late Edition*, Interview by Wolf Blitzer with Condoleezza Rice (Sept. 8,
28 2002), available at
<http://transcripts.cnn.com/TRANSCRIPTS/0209/08/le.00.html>; FOX News
Sunday, Interview by Tony Snow with Colin Powell (Sept. 8 2002), available at

67. During an address at the United Nations on September 12, 2002, Defendant BUSH claimed “Iraq has made several attempts to buy high-strength aluminum tubes used to enrich uranium for a nuclear weapon.”³⁴

68. Although the CIA had rejected the claim, Defendant BUSH declared during his weekly radio address on September 28, 2002 that Saddam “could launch a biological or chemical attack in as little as forty-five minutes.”³⁵

69. Furthermore, after the White House had been warned that the assertion that Iraq was trying to obtain large quantities of uranium from Africa was unconfirmed and highly unlikely, Defendant BUSH used the allegation in his 2003 State of the Union address in order to justify the invasion of Iraq.³⁶

70. In 2008,³⁷ former Bush aide and press secretary Scott McClellan would write that Defendants engaged in a “political propaganda campaign” aimed at “manipulating sources of public opinion.”

71. Defendants BUSH and RUMSFELD manipulated intelligence regarding Iraq’s drones and unmanned aerial vehicles (UAV) and their ability to attack the U.S. mainland with biological or chemical weapons in order to justify an invasion in Iraq. The CIA had reported by early 2003 that it had “no definite indications that Baghdad [was] planning to use WMD-armed UAV’s against the

<http://www.foxnews.com/story/2002/10/21/transcript-colin-powell-on-fox-news-sunday/>.

³⁴ President Bush, Address to the United Nations General Assembly (Sept. 12, 2002), *available at* <http://www.un.org/webcast/ga/57/statements/020912usaE.htm>.

³⁵ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 100 (2006); Radio Address by the President to the Nation, Sept. 28, 2002, transcript *available at* <http://georgewbush-whitehouse.archives.gov/news/releases/2002/09/20020928.html>.

³⁶ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 86-87, 222-24, 259-260 (2006).

³⁷ Michael D. Shear, *Ex-Press Aide Writes That Bush Misled U.S. on Iraq*, The Washington Post (May 28, 2008), *available at* <http://www.washingtonpost.com/wp-dyn/content/article/2008/05/27/AR2008052703679.html>.

U.S. mainland.” However, on February 6, 2003, Defendant BUSH still claimed an Iraqi UAV containing biological weapons “launched from a vessel off the American coast could reach hundreds of miles inland.” And during a news conference on March 12, 2003, Defendant RUMSFELD declared, “We know that [Saddam] continues to hide biological or chemical weapons, moving them to different locations as often as every twelve to twenty-four hours.”³⁸

72. In an interview given on May 9, 2003, Defendant WOLFOWITZ stated, “For reasons that have a lot to do with the U.S. bureaucracy we settled on the one issue [to justify the war] that everyone could agree on which was weapons of mass destruction as the core reason.”³⁹

DEFENDANTS FALSELY LINK AL-QAEDA TO IRAQ

73. Despite the fact that there has never been any proof of any operational cooperation between al-Qaeda and Iraq, Defendants engaged in a pattern and practice of deceiving the American public into believing that such a link existed in order to win approval for the crime of aggression against Iraq.

74. On December 9, 2001,⁴⁰ Defendant CHENEY alleged that an Iraqi intelligence officer met with one of the 9/11 hijackers (Mohammed Atta) in the Czech Republic. He repeated this allegation again in September 2003.⁴¹

75. No such meeting took place, and in 2006, Defendant CHENEY

³⁸ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 205-206 (2006); Statement by President Bush from the White House (Feb. 6, 2003), *available at* <http://georgewbush-whitehouse.archives.gov/news/releases/2003/02/20030206-17.html>.

³⁹ Sam Tannahill, *Interview with Paul Wolfowitz*, Vanity Fair (May 9, 2003), *available at* <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=2594>.

⁴⁰ *Meet the Press*, Interview by Tim Russert with Dick Cheney (December 9, 2001), transcript *available at* <http://georgewbush-whitehouse.archives.gov/vicepresident/news-speeches/speeches/print/vp20011209.html>.

⁴¹ *Meet the Press*, Interview by Tim Russert with Dick Cheney (Sept. 14, 2003), transcript *available at* <http://www.nbcnews.com/id/3080244/default.htm#.UTPUdRms1JM>.

1 retracted this statement.⁴²

2 76. In March 22, 2002, UK Director of the Foreign and
3 Commonwealth Office Peter Ricketts wrote a memo to Foreign Secretary Jack
4 Straw (now publicly available) and stated that the “US is scrambling to establish a
5 link between Iraq and Al Aaida [sic]” and that it was “so far frankly
6 unconvincing.”⁴³ (See Exhibit E, incorporated into this Amended Complaint).

7 77. In September 2002, Defendant RUMSFELD set up the Office
8 of Special Plans (OSP) in the Pentagon, where raw intelligence regarding Iraq
9 would be assessed and sent directly to Defendant BUSH, prior to being filtered
10 through the proper intelligence channels. Through the OSP, Defendants CHENEY,
11 RUMSFELD, and WOLFOWITZ were able to use intelligence that was uncertain,
12 unverified, and unreliable and turn it into fact.⁴⁴ The OSP was active until June
13 2003.

14 78. On October 7, 2002, Defendant BUSH told the American
15 Public that “Iraq and al Qaeda have had high-level contacts that go back a decade.
16 Some al Qaeda leaders who fled Afghanistan went to Iraq. These include one very
17 senior al Qaeda leader who received medical treatment in Baghdad this year, and
18 who have been associated with planning for chemical and biological attacks.
19 We’ve learned that Iraq has trained as Qaeda members in bomb-making and
20 poisons and deadly gases. And we know that after September the 11th, Saddam
21 Hussein’s regime gleefully celebrated the terrorist attacks on America.”⁴⁵

22
23 ⁴² *The Tony Snow Show*, Interview of Dick Cheney (March 29, 2006), transcript
24 available at [http://georgewbush-](http://georgewbush-whitehouse.archives.gov/news/releases/2006/03/20060329-2.html)
[whitehouse.archives.gov/news/releases/2006/03/20060329-2.html](http://georgewbush-whitehouse.archives.gov/news/releases/2006/03/20060329-2.html).

25 ⁴³ Letter from Peter Ricketts to Jack Straw, The Downing Street Memos (March
26 22, 2002), available at <http://downingstreetmemo.com/rickettstext.html>.

27 ⁴⁴ Bob Woodward, *Plan of Attack* 228-229 (2004); Michael Isikoff & David Corn,
28 *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 109
(2006).

⁴⁵ President Bush, Cincinnati Museum Center Speech: Outlines Iraqi Threat (Oct.
7, 2002), available at [http://georgewbush-](http://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021007-8.html)
[whitehouse.archives.gov/news/releases/2002/10/20021007-8.html](http://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021007-8.html).

79. In this same speech, Defendant BUSH claimed that Saddam Hussein had a group of “nuclear mujahaideen – his nuclear holy warriors.”

80. On October 14, 2002, Defendant BUSH stated that Saddam Hussein “has had connections with al Qaeda. This is a man who, in my judgment, would like to use al Qaeda as a forward army.”⁴⁶

81. Defendant BUSH made these statements despite the fact that ten days after the 9/11 attacks, he was told in his daily brief (“PDB”) from the CIA that there was no evidence linking Iraq to 9/11 and scant evidence that Iraq had any collaborative ties with al Qaeda.⁴⁷

82. A Defense Intelligence Agency document from February 2002 confirmed that the source of the intelligence linking Iraq to al Qaeda was a likely fabricator and “intentionally misleading” his interrogators.⁴⁸ The report concluded, “Saddam’s regime is intensely secular and is wary of Islamic revolutionary movements. Moreover, Baghdad is unlikely to provide assistance to a group it cannot control.”

83. According to Defendant POWELL, Defendants CHENEY and WOLFOWITZ feverishly looked for a connection between Saddam Hussein and 9/11. In January 2003, Defendant POWELL privately referred to Doug Feith’s office as the “Gestapo office,” a place where Defendant WOLFOWITZ, Scooter Libby, and Feith would meet and discuss a strategy to invade Iraq.⁴⁹

⁴⁶ President Bush, Thaddeus McCotter for Congress Dinner Speech (Oct. 14, 2002), *available at* <http://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021014-3.html>.

⁴⁷ Murray Waas, *Key Bush Intelligence Briefing Kept From Hill Panel*, *National Journal*, (Nov. 2005, updated May 29, 2013), <http://www.nationaljournal.com/whitehouse/key-bush-intelligence-briefing-kept-from-hill-panel-20051122>.

⁴⁸ Douglas Jehl, *Report Warned Bush Team Against Intelligence Doubts*, *N.Y. Times*, (Nov. 6, 2005), http://www.nytimes.com/2005/11/06/politics/06intel.ready.html?pagewanted=all&_r=0.

⁴⁹ Bob Woodward, *Plan of Attack* 292-293 (2004).

84. Defendant CHENEY claimed that Iraq had “direct ties” to al-Qaeda in order to convince individual members of Congress, including Representative Dick Armey, that an invasion of Iraq was necessary.⁵⁰

85. During a visit to Cairo in February 2001, Defendant POWELL stated that Iraq “has not developed any significant capability with respect to weapons of mass destruction.”⁵¹ However, in February 2003, Defendant POWELL gave a speech to the United Nations Security Council on the issue of Iraq, considered critical to winning approval for military action. In that speech, Defendant POWELL stated⁵² that Iraq “harbors a deadly terrorist network headed by Abu Musab Al-Zarqawi, an associated collaborator of Osama bin Laden and his al-Qaeda lieutenants.” He stated that Saddam Hussein was “more willing to assist al-Qaida after the 1998 bombings of [US] embassies in Kenya and Tanzania.” He alleged that, “From the late 1990s until 2001, the Iraqi Embassy in Pakistan played the role of liaison to the Al Qaeda organization.” In a 2005 interview with ABC News, Defendant POWELL admitted he felt “terrible” about this speech and considered it a “blot” on his record.⁵³

86. When asked about a specific Iraq and al-Qaeda connection, Defendant POWELL admitted, “I have never seen a connection . . . I can’t think otherwise because I’d never seen evidence to suggest there was one.” Defendant POWELL thus admitted that the allegations given in his speech were untrue.

87. In 2003, when asked about a specific Iraq and 9/11 connection, Defendant WOLFOWITZ admitted, “I’m not sure even now that I would say Iraq

⁵⁰ The World According to Dick Cheney (Cutler Productions, 2013).

⁵¹ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 26 (2006).

⁵² Colin Powell, U.S. Secretary of State’s Address to the United Nations Security Council (Feb. 5, 2003), *available at* <http://www.guardian.co.uk/world/2003/feb/05/iraq.usa3>.

⁵³ ABC News, “Colin Powell on Iraq, Race, and Hurricane Relief,” Sept. 8, 2005, *available at* <http://abcnews.go.com/2020/Politics/story?id=1105979&page=1>

1 had something to do with it.”⁵⁴

2 **DEFENDANTS REJECT ALL AVENUES FOR DIPLOMACY AND**
 3 **DISSENTING INTELLIGENCE REPORTS**

4 88. On November 26, 2002, shortly after U.N. Resolution 1441 was
 5 passed and even before the new team of UN weapons inspectors entered Iraq,
 6 Defendants RUMSFELD and BUSH approved the deployment of 300,000
 7 American troops to the Gulf. Defendant RUMSFELD even decided to “stagger”
 8 the order in two-week intervals in order to avoid generating too much attention
 9 related to the Defendants’ pre-planned invasion of Iraq.⁵⁵

10 89. Although the CIA sent a memo to the White House and
 11 specifically to Defendant RICE on October 6, 2002 which warned that the claims
 12 that Saddam Hussein attempted to purchase uranium from Africa were not
 13 confirmed and lacked sufficient evidence, Defendant BUSH still claimed that
 14 “Saddam Hussein recently sought significant quantities of uranium from Africa.”⁵⁶
 15 Moreover, Defendant RICE admitted that she failed to heed the warnings of the
 16 CIA and took “personal responsibility” for the misrepresentation.⁵⁷

17 90. On January 31, Defendant BUSH met with Prime Minister
 18 Blair and told Prime Minister Blair that the United States still planned to wage a
 19 war in Iraq on March 10, 2003 regardless of what happened at the United Nations
 20 or with the U.N. inspections in Iraq.⁵⁸ Defendant BUSH doubted that WMD would

21 _____
 22 ⁵⁴ *The Laura Ingraham Show*, Interview by Nancy Collins with Paul Wolfowitz
 23 (August 1, 2003), transcript available at
 24 <http://www.defense.gov/Transcripts/Transcript.aspx?TranscriptID=3208>.

25 ⁵⁵ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and*
 26 *the Selling of the Iraq War* 158 (2006).

27 ⁵⁶ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and*
 28 *the Selling of the Iraq War* 299-300 (2006); Carnegie Endowment for
 International Peace, WMD in Iraq: Evidence and Implications (Jan. 2004) 21.

⁵⁷ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and*
the Selling of the Iraq War 299-300 (2006).

⁵⁸ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and*
the Selling of the Iraq War 179-180 (2006);

1 be found during the inspections and Defendant BUSH even admitted to the
 2 possibility of provoking confrontation with Iraq in order to justify an attack by the
 3 United States.⁵⁹

4 91. Even though the National Intelligence Estimate (NIE)
 5 concluded it was unlikely that Saddam Hussein would cooperate with terrorists and
 6 give WMD to al Qaeda, Defendants BUSH and RICE stated that Iraq had
 7 operational ties to al Qaeda and would give terrorists WMD to use against the
 8 United States.⁶⁰ Defendant RICE stated “[T]here clearly are contacts between Al
 9 Qaeda and Iraq...and...there’s a relationship there.”⁶¹ Defendant BUSH stated,
 10 “Evidence...reveal[s] that Saddam Hussein aids and protects terrorists, including
 11 members of Al Qaeda...Imagine those 19 hijackers with other weapons and other
 12 plans—this time armed by Saddam Hussein.”⁶²

13 92. A few weeks after the UN Security Council passed Resolution
 14 1441 on November 8, 2002, Defendant BUSH called French president Jacques
 15 Chirac and attempted to persuade him to support the United States’ invasion of
 16 Iraq. After Chirac informed Defendant BUSH that he needed more concrete
 17 evidence that Iraq possessed WMD and that the UN inspectors “need more time,”
 18 Defendant BUSH stated that a U.S. invasion of Iraq is “willed by God” and that
 19 “Gog and Magog are at work in the Middle East.” Chirac was bewildered over
 20 Defendant BUSH’s statement.⁶³

21 _____
 22 ⁵⁹ *Ibid.*

23 ⁶⁰ Carnegie Endowment for International Peace, WMD in Iraq: Evidence and
 Implications (Jan. 2004) 43.

24 ⁶¹ PBS *NewsHour with Jim Lehrer*, Interview with Condoleezza Rice (September
 25 25, 2002), transcript available at
http://www.pbs.org/newshour/bb/international/july-dec02/rice_9-25.html.

26 ⁶² President Bush, State of the Union (Jan. 28, 2003), available at
<http://whitehouse.georgewbush.org/news/2003/012803-SOTU.asp>.

27 ⁶³ Kurt Eichenwald, *500 Days: Secrets and Lies in the Terror Wars* 458-59
 28 (2012); see also New York Times Sunday Book Review, “Fear Factor,”
 available at <http://www.nytimes.com/2012/10/07/books/review/500-days-by-kurt-eichenwald.html>.

93. On November 27, 2002, the International Atomic Energy Agency (IAEA) resumed inspections in Iraq. Every site which was identified in overhead satellite imagery as having suspicious activity was also inspected. On March 7, 2003, the IAEA Director General Mohamed ElBaradei reported to the UN Security Council that there was no indication “of resumed nuclear activities,” “that Iraq has attempted to import uranium,” “that Iraq has attempted to import aluminum tubes for use in centrifuge enrichment.”⁶⁴

94. Although the Bush administration claimed that Iraq had large stockpiles of chemical weapons and had covert chemical weapon production facilities, UN Monitoring Verification and Inspection Commission (UNMOVIC) did not find significant stockpiles nor did it find any active production facilities or evidence of hidden chemical weapon production capability. Defendant POWELL stated, “There is no doubt that he has chemical weapons stocks”⁶⁵ and Defendant BUSH stated, “We know that the regime has produced thousands of tons of chemical agents, including mustard gas, sarin nerve gas, and VX nerve gas.”⁶⁶

**DEFENDANTS WERE NOT ACTING WITHIN THEIR SCOPE OF
EMPLOYMENT IN PLANNING AND COMMITTING AGGRESSION**

95. The systematic manipulation and exaggeration of intelligence in order to convince the American public that an invasion of Iraq was necessary was not the kind of conduct that Defendants’ were employed to perform. Defendants were not hired, *inter alia*, to falsely link al Qaeda to Iraq, which is

⁶⁴ Mohamed ElBaradei, The Status of Nuclear Inspections in Iraq: An Update, (March 7, 2003), *available at* www.iaea.org/NewsCenter/Statements/2003/ebsp2003n006.shtml (accessed December 4, 2003); Carnegie Endowment for International Peace, WMD in Iraq: Evidence and Implications (Jan. 2004) 23-25.

⁶⁵ Secretary of State Powell, Fox “News Sunday” (Sept. 8, 2002), *available at* <https://www.mtholyoke.edu/acad/intrel/bush/fox.htm>.

⁶⁶ President Bush, Address on Iraq (October 7, 2002), *available at* <http://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021007-8.html>.

1 what they did.⁶⁷ For example, On October 14, 2002, Defendant BUSH stated that
 2 Saddam Hussein “has had connections with al Qaeda. This is a man who, in my
 3 judgment, would like to use al Qaeda as a forward army.”⁶⁸ On December 9,
 4 2001,⁶⁹ Defendant CHENEY alleged that an Iraqi intelligence officer met with one
 5 of the 9/11 hijackers (Mohammed Atta) in the Czech Republic. He repeated this
 6 allegation again in September 2003.⁷⁰ Through the OSP, Defendants CHENEY,
 7 RUMSFELD, and WOLFOWITZ were able to use intelligence that was uncertain,
 8 unverified, and unreliable and turn it into fact.⁷¹ Defendant POWELL stated that
 9 Iraq “harbors a deadly terrorist network headed by Abu Musab Al-Zarqawi, an
 10 associated collaborator of Osama bin Laden and his al-Qaeda lieutenants.”⁷²

11 96. Defendants were not hired, *inter alia*, to scare and mislead the
 12 public by exaggerating and inflating the threat of the Iraq. For example although
 13 most of the intelligence regarding Iraq’s nuclear weapons program was
 14 unconfirmed and tainted, on September 8, 2002, Defendant RICE told CNN’s Late
 15 Edition that Saddam Hussein was “actively pursuing a nuclear weapon.” She
 16 stated, “There will always be some uncertainty about how quickly he can acquire
 17 nuclear weapons but we don’t want the smoking gun to be a mushroom cloud.”

18 ⁶⁷ Carnegie Endowment for International Peace, WMD in Iraq: Evidence and
 19 Implications (Jan. 2004) 48.

20 ⁶⁸ President Bush, Remarks by the President at Thaddeus McCotter for Congress
 21 Dinner (Oct. 14, 2002), *available at* [http://georgewbush-](http://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021014-3.html)
 22 [whitehouse.archives.gov/news/releases/2002/10/20021014-3.html](http://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021014-3.html).

23 ⁶⁹ *Meet the Press*, Interview by Tim Russert with Dick Cheney (Dec. 9, 2001),
 24 transcript *available at* [http://georgewbush-](http://georgewbush-whitehouse.archives.gov/vicepresident/news-speeches/speeches/print/vp20011209.html)
 25 [whitehouse.archives.gov/vicepresident/news-](http://georgewbush-whitehouse.archives.gov/vicepresident/news-speeches/speeches/print/vp20011209.html)
 26 [speeches/speeches/print/vp20011209.html](http://georgewbush-whitehouse.archives.gov/vicepresident/news-speeches/speeches/print/vp20011209.html).

27 ⁷⁰ *Meet the Press*, Interview by Tim Russert with Dick Cheney (Sept. 14, 2003),
 28 transcript *available at* <http://www.nbcnews.com/id/3080244/default.htm#.UTPUdRms1JM>.

29 ⁷¹ Bob Woodward, *Plan of Attack* 228-229 (2004); Michael Isikoff & David Corn,
 30 *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 109
 31 (2006).

32 ⁷² Colin Powell, U.S. Secretary of State’s Address to the United Nations Security
 33 Council (Feb. 5, 2003), *available at* <http://www.guardian.co.uk/world/2003/feb/05/iraq.usa3>.

1 97. Defendants were not hired to execute a pre-existing plan to
 2 invade another country, whatever the cost, and by using an unrelated terrorist
 3 attack as an excuse to execute their plan. “The aggressive intentions present from
 4 the beginning” and the “nature of [the] plan”⁷³ to invade Iraq constitutes
 5 premeditated planning and waging of a war that constitutes the crime of aggression
 6 against Iraq by the Defendants. The crime of aggression is the “supreme
 7 international crime” and thus not within the duty of high-government officials. For
 8 example, Defendant BUSH told Prime Minister Tony Blair that the United States
 9 would wage war against Iraq in March 2003 regardless of a lack of evidence of
 10 WMD and the UN’s alternative diplomatic avenues. Defendants’ premeditated
 11 aggressive actions against Iraq and the manipulative media campaign to rally
 12 American public support for the invasion of Iraq do not constitute conduct that is
 13 within the scope of the Defendants’ employment.

14 98. The plan to invade Iraq commenced prior to Defendants taking
 15 office and thus did not occur substantially within the authorized time and space
 16 limits of Defendants’ employment. From 1997 to 2000, PNAC produced several
 17 documents advocating the military overthrow of Saddam Hussein.⁷⁴ On January
 18 26, 1998, Defendants RUMSFELD and WOLFOWITZ signed a letter⁷⁵ to then
 19 President William J. Clinton, requesting that the United States implement a
 20 “**strategy for removing Saddam’s regime from power**,” which included a
 21 “willingness to **undertake military action** as diplomacy is clearly failing.”
 22 Removing Saddam from power had to “become the aim of American foreign
 23 policy.” (Emphasis added). The letter further stated that the United States could not

24 _____
 25 ⁷³ *The United States of America, et al. v. Hermann Wilhelm Goering, et al.*,
 26 Opinion and Judgment (October 1, 1946), reprinted in 41 Am. J. Int’l L. 172,
 189.

27 ⁷⁴ Project for the New American Century,
<http://www.newamericancentury.org/iraqmideeast2000-1997.htm>.

28 ⁷⁵ Letter to President Clinton (Jan. 26, 1998), *available at*
<http://www.newamericancentury.org/iraqclintonletter.htm>.

1 be “crippled by a misguided insistence on unanimity in the UN Security Council.”
 2 On May 29, 1998,⁷⁶ Defendants RUMSFELD and WOLFOWITZ signed a letter to
 3 then Speaker of the House Newt Gingrich and Senate Majority Leader Trent Lott
 4 in which they advocated that “U.S. policy should have as its explicit goal removing
 5 Saddam Hussein’s regime from power and establishing a peaceful and democratic
 6 Iraq in its place,” which included the use of “U.S. and allied military power . . . to
 7 help remove Saddam from power.”

8 99. On September 18, 1998,⁷⁷ Defendant WOLFOWITZ gave
 9 testimony before the House National Security Committee on Iraq in which he
 10 stated that the United States had to “liberat[e] the Iraqi people from Saddam’s
 11 tyrannical grasp and free Iraq’s neighbors from Saddam’s murderous threats.”
 12 Defendant WOLFOWITZ advocated that the United States establish a “safe
 13 protected zone in the South” and form a provisional government that would
 14 **“control the largest oil field in Iraq.”** (Emphasis added).

15 100. Defendants’ conduct in executing this pre-existing plan to
 16 invade Iraq was not actuated by a purpose to serve the master. In fact, Defendants
 17 RUMSFELD and WOLFOWITZ advocated for the overthrow of Saddam Hussein
 18 during the Defendants’ involvement with PNAC from 1997-2000. Defendant
 19 CHENEY took unusually frequent trips to the Pentagon in order to meet with
 20 intelligence officials about Iraq, intimidate intelligence officials, as well as dig
 21 through unverified raw intelligence at the OSP.

22 101. Defendants were not motivated by genuine national security
 23 interests but by their pre-existing plan and agenda to invade Iraq, which began as
 24 early as 1998. Defendants were motivated, *inter alia*, by personally-held neo-

26 ⁷⁶ Letter to Newt Gingrich and Trent Lott, (May 29, 1998), *available at*
<http://www.newamericancentury.org/iraqletter1998.htm>.

27 ⁷⁷ Letter by Gary Schmitt regarding Paul Wolfowitz’s Statement on U.S. Policy
 28 Toward Iraq (Sept. 18, 1998), *available at*
<http://www.newamericancentury.org/iraqsep1898.htm>.

conservative convictions which called for American military dominance of the Middle East, and by a religious worldview that conceived that, “Gog and Magog are at work in the Middle East.” Defendants were thus motivated by personal and independent malicious and/or mischievous purposes, and not for purposes related to serving the United States.

102. The use of force by Defendants was unexpected. Defendants were hired to protect the United States and serve its national interests, not to wage war in the interest of a pre-existing plan and personal agenda.

**DEFENDANTS INVADE IRAQ IN VIOLATION OF LAW, COMPLETING
THEIR CRIME OF AGGRESSION AGAINST IRAQ**

103. The crime of aggression is regarded as a violation of law by United Nations General Assembly Resolution 3314, the Kellogg-Briand Pact, Article 6 of the Nuremberg Charter, and Article 5 of the International Military Tribunal for the Far East. Whether aggression has been committed must be determined “in light of all the circumstances of each particular case.”⁷⁸

104. On March 19, 2003, the United States, upon the order of Defendant BUSH and in coordination with other Defendants, invaded Iraq.

105. Defendants failed to secure United Nations authorization for the war. Article 39 of the United Nations Charter requires the United Nations Security Council to “determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42 to maintain or restore international peace and security.”

106. No such determination was ever or has ever been made by the United Nations Security Council.

107. On March 19, 2003, there was no imminent humanitarian

⁷⁸ See G.A. Res. 3314 (XXIX), U.N. Doc. A/RES/3314 (XXIX) (Dec. 14, 1974).

1 disaster or event in Iraq requiring the intervention of a foreign power.

2 108. On March 19, 2003, Iraq did not pose an imminent military
3 threat requiring the use of the American military in self-defense.

4 109. Even had Iraq posed an imminent military threat on March 19,
5 2003 (which it did not), the invasion of Iraq was not reasonably related or
6 proportionate to the threat posed.

7 110. On September 14, 2004, United Nations Secretary General Kofi
8 Annan stated,⁷⁹ “I have indicated it was not in conformity with the UN charter.
9 From our point of view and from the charter point of view it was illegal.”

10 111. Defendants violated international law, treaties and assurances
11 by failing to secure proper United Nations authorization for the war, and in
12 implementing a plan they had devised as early as 1998.

13 112. Defendants violated international law, treaties and assurances
14 by ignoring all avenues for diplomacy and seeking to invade Iraq, regardless of the
15 cost, and in implementing a plan they had devised as early as 1998.

16 113. Defendants violated international law, treaties and assurances
17 by attempting to secure domestic and international authorization for the Iraq War
18 through the deception described in this Amended Complaint, and in implementing
19 a plan they had devised as early as 1998.

20 **PLAINTIFF IS INJURED AS A RESULT OF THE WAR**

21 114. In 2003, lived in Jalawla, Iraq. She used to teach and work in
22 private galleries. She and her family also had a jewelry store. Plaintiff lived with
23 her husband (from whom she is now divorced) and four children.

24 115. In 2003, the Kurdish Army allied with the United States forced
25 Plaintiff to leave her home in Jalawla. Masked troops came and threatened Plaintiff
26

27 ⁷⁹ Ewan MacAskill & Julian Borger, *Iraq War Was Illegal and Breached UN*
28 *Charter, says Annan*, The Guardian (Sept. 15, 2004),
<http://www.guardian.co.uk/world/2004/sep/16/iraq.iraq>.

1 and her family, telling Plaintiff she would be killed if they did not leave the house.

2 116. Plaintiff was not able to take anything from her house except
3 for some clothes.

4 117. Plaintiff moved to Baghdad, where she found employment
5 working for the independent committee for elections.

6 118. In 2005, while in Baghdad, Plaintiff was repeatedly threatened
7 by Shia Muslims over a period of four to five months. Plaintiff is Sabeen Mandeian,
8 and is considered an “infidel” by some Muslim groups in Iraq.

9 119. In 2005, Plaintiff went to the police for protection. The police
10 refused to help her because they told her they could not even protect themselves.

11 120. One day in 2005, as Plaintiff was going home, a group of Shia
12 Muslims tried to kill her by ramming their car into hers on the road.

13 121. After this attempt, Plaintiff and her family moved in with
14 relatives, where they stayed for 10 days. On the tenth day, Shia Muslims found
15 them again and fired ammunition at them in their home. No one was injured.

16 122. Following this attack, Plaintiff fled Iraq to Jordan, where she
17 lives today.

18 123. Since arriving in Jordan, Plaintiff has been unable to secure
19 steady employment.

20 124. Defendants are the “but-for” and proximate cause of Plaintiff’s
21 damages. By launching an illegal war of aggression, Defendants produced the
22 chaos that enveloped Iraq and which led to Plaintiff losing her home, being
23 threatened for her religion, and being forced to flee and live as a refugee in Jordan.

24 **CLASS ACTION ALLEGATIONS**

25 **Definition of the Plaintiff Class**

26 125. Pursuant to Federal Rule of Civil Procedure 23(a), Plaintiff
27 brings this action for herself and on behalf of a class of persons consisting of all
28 innocent Iraqi civilians who, through no fault of their own, suffered damage as a

1 but-for and proximate cause of Defendants' international legal torts, specifically
 2 (1) their conspiracy to commit the crime of aggression and (2) the crime of
 3 aggression itself. Plaintiff requests certification pursuant to Federal Rule of Civil
 4 Procedure 23(b)(3) (hereinafter referred to as the "**Iraq Civilian Victims' Class**")

5 126. The Iraq Civilian Victims' Class, as defined herein, includes all
 6 Iraqi civilians (i.e. non-combatants) who were damaged by the Iraq War.

7 127. Plaintiff and members of the Iraq Civilian Victims' Class may
 8 also seek to amend this complaint further in order to establish subclasses including,
 9 but not limited to, one or more of the following:

10 a. A subclass of Iraqi civilian victims who were subject to
 11 torture or other war crimes;

12 b. A subclass of Iraqi civilian victims who were forced to
 13 flee Iraq and are now refugees in other countries;

14 c. A subclass of Iraqi civilian victims who sustained
 15 property damage and/or property loss;

16 d. A subclass of Iraq civilian victims who sustained only
 17 emotional harm, such as pain and suffering as defined by law;

18 e. Any additional subclass or subclasses of Iraqi civilian
 19 victims who have suffered injuries necessitating compensatory damages, to be
 20 determined at a later stage in these proceedings.

21 **Rule 23(a) Prerequisites**

22 128. The prerequisites to a class action under Rule 23(a) of the
 23 Federal Rules of Civil Procedure exist:

24 a. **Numerosity:** The members of the Iraq Civilian Victims'
 25 Class are so numerous that joinder of all class members is impracticable. While the
 26 exact number of Iraqi victims is unknown to the Representative Plaintiff at this
 27 time, it is likely that hundreds of thousands or even millions of Iraqis may have
 28 been subject to damages as a result of Defendants' actions, and would have

standing to pursue such claims under 28 U.S.C. § 1350.

b. **Commonality:** Common questions of law and fact exist as to all members of the Iraq Civilian Victims' Class and predominate over questions affecting individual members of the Iraq Civilian Victims' Class. Questions of law and fact common to the Iraq Civilian Victims' Class include, but are not limited to, the following:

(1) Whether the actions of Defendants constituted a conspiracy to engage in a war of aggression, and whether that conspiracy was the cause of damages to Iraqi civilians;

(2) Whether the actions of Defendants constituted a war of aggression, and whether that war of aggression was the cause of damages to Iraq civilians.

c. **Typicality:** The claims of the Representative Plaintiff is typical of the claims of all members of the Iraq Civilian Victims' Class because all members of the proposed class share the common characteristic of being civilian non-combatants who did not take up arms and who were damaged as a result of Defendant's conspiracy and waging of aggressive war, as complained herein.

d. **Adequacy of Representation:** The Representative Plaintiff will fairly and adequately protect the interests of the Iraq Civilian Victims' Class and is represented by counsel competent and experienced in litigation. The Representative Plaintiff is a member of the Iraq Civilian Victims' Class with claims typical of the claims of all class members. The Representative Plaintiff does not have interests that are antagonistic to or in conflict with those persons whom the Representative Plaintiff seeks to represent.

COUNT I

(Conspiracy To Commit the Crime of Aggression Against All Defendants)

129. Plaintiff incorporates herein Paragraphs 1 through 128 of this Complaint.

1 130. Defendants violated the rule of Nuremberg by engaging in a
2 common plan to attack another country. Defendants initiated this plan as early as
3 1998.

4 131. Once in positions of power, Defendants attracted co-
5 conspirators in government to plan and commit the crime of aggression against
6 Iraq.

7 132. Defendants violated the Kellogg-Briand Pact, a treaty signed in
8 1928, to which the United States is still a signatory. The Kellogg-Briand Pact
9 requires signatory nations such as the United States to “condemn recourse to war
10 for the solution of international controversies, and renounce it, as an instrument of
11 national policy in their relations with one another.” The Kellogg-Briand Pact
12 requires signatory nations such as the United States to resolve all disputes or
13 conflicts through “peaceful means.” As a Treaty of the United States, the United
14 States Constitution incorporates this principle into its law under Article VI, clause
15 2, which declares “treaties made . . . to be the supreme law of the land.”

16 133. Defendants violated the United Nations Charter by planning to
17 commit the crime of aggression. Article II, Section 4 of the United Nations Charter
18 requires countries to “refrain in their international relations from the threat or use
19 of force against the territorial integrity or political independence of any state, or in
20 any other manner inconsistent with the Purposes of the United Nation.” As a
21 Treaty of the United States, the United States Constitution incorporates this
22 principle into its law under Article VI, clause 2, which declares “treaties made . . .
23 to be the supreme law of the land.”

24 134. The crime of conspiracy to wage an aggressive war is also a
25 violation of customary international law, which creates binding obligations on the
26 United States, its citizens, and its courts. The United States has not only recognized
27 “[i]nternational law is part of our law, and must be ascertained and administered by
28

the courts of justice”⁸⁰ but it has established that a court may look to customary international law when its own nation lacks any instruction that is on point for a particular matter.⁸¹ The crime of conspiracy to wage an aggressive war has been recognized by the United States, *inter alia*, in the Nuremberg Charter.⁸²

135. The crime of a conspiracy to wage an aggressive war is a violation of international law that rests “on a norm of international character accepted by the civilized world and defined with a specificity comparable to the features of the 18th-century paradigms [the United States Supreme Court has] recognized.” *Sosa v. Alvarez-Machain*, 542 U.S. 692, 725 (2004). Conspiracy to engage in aggressive war was a chief crime prosecuted at Nuremberg, and that Tribunal rejected Nazi attempts to claim vagueness with respect to the specific, definitive, and obligatory nature of this crime.

136. Plaintiff is aware of *Nixon v. Fitzgerald*, 457 U.S. 731 (1982) in which the United States Supreme Court held in a 5-4 decision that the President of the United States possesses immunity in civil court for actions taken pursuant to his official duties as President. Plaintiff submits that *Nixon* is distinguishable in this case in that the plan to invade Iraq commenced prior to the President taking office. Plaintiff further submits that *Nixon* is distinguishable in that she alleges violations of accepted customary norms of international law. Plaintiff submits that *Nixon* does not prohibit a cause of action against the President or any other Executive official who engages in behavior considered reprehensible in a civilized society, such as torture, crimes against humanity, or the crime of aggression. To the extent that *Nixon* stands for the proposition that the person holding the office of President cannot be held civilly liable for violations of accepted customary norms

⁸⁰ *Paquete Habana*, 175 U.S. 677, 700 (1900).

⁸¹ *See Paquete Habana*, 175 U.S. at 690-701.

⁸² Charter of the Int’l Military Tribunal, article 6(a) (1945) (hereinafter Nuremberg Charter).

of international law – such as torture, crimes against humanity or the crime of aggression – then Plaintiff submits that *Nixon* is wrongly decided and in direct contravention of accepted principles of the common law, particularly the principle that rulers are “under God and the law.”

137. Defendants, by engaging in a conspiracy to commit the crime of aggression, were the but-for and proximate cause of Plaintiff's damages (and others like her) in the form of property loss, physical pain, shame, humiliation, degradation and emotional stress, entitling her to damages in an amount to be determined at trial.

138. In light of Defendants' willful, knowing and intentional violations of law against Plaintiff and others like her, and in light of their reckless and callous indifference to the impact their actions would have on innocent Iraqi civilians, their breach of international peace, their deception and fraud to the democratic polity which elected them, and their reprehensible and cowardice use of a terrorist attack to commit the crime of aggression against another a country that posed no threat to the United States, endangering the United States armed forces and millions of Iraqi civilians for their own malicious purposes, Plaintiff and others like her seek an award of punitive and exemplary damages in an amount to be determined at trial.

COUNT II

(The Crime of Aggression Against All Defendants)

139. Plaintiff incorporates herein Paragraphs 1 through 138 of this Complaint.

140. Defendants violated the rule of Nuremberg by attacking another country without legal justification, and specifically, by committing the crime of aggression against Iraq on March 19, 2003.

141. Defendants violated the rule of Nuremberg by using fraudulent and untrue statements in an attempt to convince diplomats, world leaders and the

1 American public that Iraq posed a threat to the United States and/or that Iraq was
2 in league with al-Qaeda, when neither of these things was true.

3 142. Defendants violated the Kellogg-Briand Pact, a treaty signed in
4 1928, to which the United States is still a signatory. The Kellogg-Briand Pact
5 requires signatory nations such as the United States to “condemn recourse to war
6 for the solution of international controversies, and renounce it, as an instrument of
7 national policy in their relations with one another.” The Kellogg-Briand Pact
8 requires signatory nations such as the United States to resolve all disputes or
9 conflicts through “peaceful means.” As a Treaty of the United States, the United
10 States Constitution incorporates this principle into its law under Article VI, clause
11 2, which declares “treaties made . . . to be the supreme law of the land.”

12 143. Defendants violated the United Nations Charter by engaging in
13 aggressive war. Article II, Section 4 of the United Nations Charter requires
14 countries to “refrain in their international relations from the threat or use of force
15 against the territorial integrity or political independence of any state, or in any
16 other manner inconsistent with the Purposes of the United Nation.” As a Treaty of
17 the United States, the United States Constitution incorporates this principle into its
18 law under Article VI, clause 2, which declares “treaties made . . . to be the supreme
19 law of the land.”

20 144. The crime of aggression is also a violation of customary
21 international law, which creates binding obligations on the United States, its
22 citizens, and its courts. The United States has not only recognized “[i]nternational
23 law is part of our law, and must be ascertained and administered by the courts of
24 justice”⁸³ but it has established that a court may look to customary international
25 law when its own nation lacks any instruction that is on point for a particular
26 matter.⁸⁴ The crime of aggression has been recognized by the United States in the

27 ⁸³ *Paquete Habana*, 175 U.S. 677, 700 (1900).

28 ⁸⁴ *See Paquete Habana*, 175 U.S. at 690-701.

Nuremberg Charter,⁸⁵ the International Military Tribunal for the Far East,⁸⁶ the Kellogg-Briand Pact,⁸⁷ the United Nations Charter,⁸⁸ and United Nations General Assembly Resolution 3314.⁸⁹

145. The crime of aggression is a violation of international law that rests “on a norm of international character accepted by the civilized world and defined with a specificity comparable to the features of the 18th-century paradigms [the United States Supreme Court has] recognized.” *Sosa v. Alvarez-Machain*, 542 U.S. 692, 725 (2004). The crime of aggression was the chief crime prosecuted at Nuremberg and is the “supreme international crime.” The Nuremberg Tribunal rejected Nazi attempts to claim vagueness with respect to the specific, definitive, and obligatory nature of this crime.

146. Plaintiff is aware of *Nixon v. Fitzgerald*, 457 U.S. 731 (1982) in which the United States Supreme Court held in a 5-4 decision that the President of the United States possesses immunity in civil court for actions taken pursuant to his official duties as President. Plaintiff submits that *Nixon* is distinguishable in this case in that the plan to invade Iraq commenced prior to the President taking office. Plaintiff further submits that *Nixon* is distinguishable in that she alleges violations of accepted customary norms of international law. Plaintiff submits that *Nixon* does not prohibit a cause of action against the President or any other Executive official who engages in behavior considered reprehensible in a civilized society, such as torture, crimes against humanity, or the crime of aggression. To the extent that *Nixon* stands for the proposition that the person holding the office of

⁸⁵ Charter of the Int’l Military Tribunal, art. 6(b) (1945) (hereinafter Nuremberg Charter).

⁸⁶ Charter of the Int’l Military Tribunal for the Far East, art. 5(a) (1946) (hereinafter Tokyo Charter).

⁸⁷ General Treaty for the Renunciation of War as an Instrument of National Policy, arts. 1-2 (August 27, 1928) (hereinafter Kellogg-Briand Pact).

⁸⁸ The Charter of the United Nations, art. 2(4) (1945).

⁸⁹ See G.A. Res. 3314 (XXIX), U.N. Doc. A/RES/3314 (XXIX) (Dec. 14, 1974).

1 President cannot be held civilly liable for violations of accepted customary norms
 2 of international law – such as torture, crimes against humanity or the crime of
 3 aggression – then Plaintiff submits that *Nixon* is wrongly decided and in direct
 4 contravention of accepted principles of the common law, particularly the principle
 5 that rulers are “under God and the law.”

6 147. Defendants, by engaging in the crime of aggression, were the
 7 but-for and proximate cause of Plaintiff’s damages (and others like her) in the form
 8 of property loss, physical pain, shame, humiliation, degradation and emotional
 9 stress, entitling her to damages in an amount to be determined at trial.

10 148. In light of Defendants’ willful, knowing and intentional
 11 violations of law against Plaintiff and others like her, and in light of their reckless
 12 and callous indifference to the impact their actions would have on innocent Iraqi
 13 civilians, their breach of international peace, their deception and fraud to the
 14 democratic polity which elected them, and their reprehensible and cowardice use
 15 of a terrorist attack to commit the crime of aggression against another a country
 16 that posed no threat to the United States, endangering the United States armed
 17 forces and millions of Iraqi civilians for their own malicious purposes, Plaintiff and
 18 others like her seek an award of punitive and exemplary damages in an amount to
 19 be determined at trial.

20 **PRAYER FOR RELIEF**

21 **WHEREFORE**, Plaintiff prays for judgment against Defendants on
 22 all alleged claims, as follows:

23 1. For an order finding that Defendants conspired to, planned and
 24 committed the crime of aggression against Iraq.

25 2. For an award of compensatory damages against Defendants in
 26 an amount sufficient to compensate Plaintiff and all members of the Iraq Civilian
 27 Victims’ Class for damages they sustained as a result of Defendants’ illegal actions
 28 in planning and mounting a war of aggression against Iraq.

3. To the extent that Defendants' assets do not cover damages of the Iraq Civilian Victims' Class, that Defendants set up, manage and obtain other funding at their expense a restitution fund to provide for proper compensation to any and all Iraqi civilians who were damaged because of Defendants' commission of the crime of aggression against Iraq.

4. For an award of exemplary and punitive damages against Defendants in an amount sufficient to punish and set an example of them in their unconscionable conduct in planning and committing the crime of aggression against another country, in violation of international treaties and assurances.

5. For an order awarding Plaintiff's costs of suit, including litigation expenses (such as costs for depositions and experts), photocopying expenses, and filing fees in an amount which this Court deems just, equitable and proper. Counsel for Plaintiff has no financial interest tied to the outcome of this litigation and is not charging fees for representing the Plaintiff and the proposed class.

6. Such other and further relief as the Court deems just, equitable and proper.

TRIAL BY JURY DEMANDED

Pursuant to Federal Rule of Civil Procedure 38 and Civil Local Rule 3-6, Plaintiff hereby demands a jury trial on all issues so triable.

Dated: September 10, 2013

COMAR LAW

By /s/ Inder Comar
D. Inder Comar
Attorney for Lead Plaintiff

EXHIBIT A

~~TOP SECRET~~

2:40

Resume Statement:

N.R.

Best info past

judge whether good enough

judge whether

Hit SH @ same time -

Not only UBL

Tasks Jim Haynes to talk w/ PW
for additional support w/ U.S. &
connection w/ UBL

N.R.,
(le)(1)

- Hard to get a good case

- Need to move swiftly -

- Near term target needs -

- go massive - sweep it all up

- Thing related & not

need to do so
to get any thing
useful

~~TOP SECRET~~

(6)

EXHIBIT B

fig E.1 of 3

UNCLASSIFIED

~~TOP SECRET CLOSE HOLD~~

November 27, 2001

- Focus on WMD.

- Slices (building momentum for regime change): *might not have to go all the way*

b(1) 1.4(a), 1.4(c)

- WMD sites.
- Seize or destroy offensive missile sites (factories; deployed systems).
- Seize or destroy Republican Guards.

b(1) 1.4(a), 1.4(c)

Do in advance?

- Oil fields in south.

- Oil fields in north.

- Seize western desert:

- Secure Jordanian border,
- Prevent SCUD missile launches (against Israel).

- Deploy ground forces in western desert or south of Baghdad:

- Threaten Baghdad.

- Force Republican Guards to move and present targets.

- Cut off Baghdad:

- Prevent movement of WMD materials.
- Pressure on regime.

- Protect Provisional Government, north or south.

- Regime change.

- How start?

- Saddam moves against Kurds in north?
- US discovers Saddam connection to Sept. 11 attack or to anthrax attacks?
- Dispute over WMD inspections?
 - Start now thinking about inspection demands.

- Surprise, speed, shock and risk.

- Do not reduce footprint now.
- Be ready to strike from a standing start.

Enhance current footprint.

Start military action before moving into place all the force Republican Guards that would be required in the worst case. Larger forces flow in behind.

- Decapitation of government.

- Do early.
- Cut off communications too – including television and radio.

** what order to create likelihood of collapse?*

→ what do forces do coming out of Afghanistan?

*— Power communications, etc
People hate him -- many want to take him out.*

~~TOP SECRET CLOSE HOLD~~

UNCLASSIFIED

EXHIBIT C

Declassified and Approved
for Release, 10 April 2004

Bin Ladin Determined To Strike in US



Clandestine, foreign government, and media reports indicate Bin Ladin since 1997 has wanted to conduct terrorist attacks in the US. Bin Ladin implied in US television interviews in 1997 and 1998 that his followers would follow the example of World Trade Center bomber Ramzi Yousef and "bring the fighting to America."

After US missile strikes on his base in Afghanistan in 1998, Bin Ladin told followers he wanted to retaliate in Washington, according to a [REDACTED] service.

An Egyptian Islamic Jihad (EIJ) operative told an [REDACTED] service at the same time that Bin Ladin was planning to exploit the operative's access to the US to mount a terrorist strike.

The millennium plotting in Canada in 1999 may have been part of Bin Ladin's first serious attempt to implement a terrorist strike in the US. Convicted plotter Ahmed Ressam has told the FBI that he conceived the idea to attack Los Angeles International Airport himself, but that Bin Ladin lieutenant Abu Zubaydah encouraged him and helped facilitate the operation. Ressam also said that in 1998 Abu Zubaydah was planning his own US attack.

Ressam says Bin Ladin was aware of the Los Angeles operation.

Although Bin Ladin has not succeeded, his attacks against the US Embassies in Kenya and Tanzania in 1998 demonstrate that he prepares operations years in advance and is not deterred by setbacks. Bin Ladin associates surveilled our Embassies in Nairobi and Dar es Salaam as early as 1993, and some members of the Nairobi cell planning the bombings were arrested and deported in 1997.

Al-Qa'ida members—including some who are US citizens—have resided in or traveled to the US for years, and the group apparently maintains a support structure that could aid attacks. Two al-Qa'ida members found guilty in the conspiracy to bomb our Embassies in East Africa were US citizens, and a senior EIJ member lived in California in the mid-1990s.

A clandestine source said in 1998 that a Bin Ladin cell in New York was recruiting Muslim-American youth for attacks.

We have not been able to corroborate some of the more sensational threat reporting, such as that from a [REDACTED] service in 1998 saying that Bin Ladin wanted to hijack a US aircraft to gain the release of "Blind Shaykh" Umar 'Abd al-Rahman and other US-held extremists.

continued

For the President Only
6 August 2001

Declassified and Approved
for Release, 10 April 2004

- Nevertheless, FBI information since that time indicates patterns of suspicious activity in this country consistent with preparations for hijackings or other types of attacks, including recent surveillance of federal buildings in New York.

The FBI is conducting approximately 70 full field investigations throughout the US that it considers Bin Ladin-related. CIA and the FBI are investigating a call to our Embassy in the UAE in May saying that a group of Bin Ladin supporters was in the US planning attacks with explosives.

For the President Only
6 August 2001


 Declassified and Approved
for Release, 10 April 2004

EXHIBIT D

SECRET AND STRICTLY PERSONAL - UK EYES ONLY

DAVID MANNING

From: Matthew Rycroft

Date: 23 July 2002

S 195 /02

cc: Defence Secretary, Foreign Secretary, Attorney-General, Sir Richard Wilson, John Scarlett, Francis Richards, CDS, C, Jonathan Powell, Sally Morgan, Alastair Campbell

IRAQ: PRIME MINISTER'S MEETING, 23 JULY

Copy addressees and you met the Prime Minister on 23 July to discuss Iraq.

This record is extremely sensitive. No further copies should be made. It should be shown only to those with a genuine need to know its contents.

John Scarlett summarised the intelligence and latest JIC assessment. Saddam's regime was tough and based on extreme fear. The only way to overthrow it was likely to be by massive military action. Saddam was worried and expected an attack, probably by air and land, but he was not convinced that it would be immediate or overwhelming. His regime expected their neighbours to line up with the US. Saddam knew that regular army morale was poor. Real support for Saddam among the public was probably narrowly based.

C reported on his recent talks in Washington. There was a perceptible shift in attitude. Military action was now seen as inevitable. Bush wanted to remove Saddam, through military action, justified by the conjunction of terrorism and WMD. But the intelligence and facts were being fixed around the policy. The NSC had no patience with the UN route, and no enthusiasm for publishing material on the Iraqi regime's record. There was little discussion in Washington of the aftermath after military action.

CDS said that military planners would brief CENTCOM on 1-2 August, Rumsfeld on 3 August and Bush on 4 August.

The two broad US options were:

- (a) Generated Start. A slow build-up of 250,000 US troops, a short (72 hour) air campaign, then a move up to Baghdad from the south. Lead time of 90 days (30 days preparation plus 60 days deployment to Kuwait).
- (b) Running Start. Use forces already in theatre (3 x 6,000), continuous air campaign, initiated by an Iraqi casus belli. Total lead time of 60 days with the air campaign beginning even earlier. A hazardous option.

The US saw the UK (and Kuwait) as essential, with basing in Diego Garcia and Cyprus critical for either option. Turkey and other Gulf states were also important, but less vital. The three main options for UK involvement were:

- (i) Basing in Diego Garcia and Cyprus, plus three SF squadrons.
- (ii) As above, with maritime and air assets in addition.

(iii) As above, plus a land contribution of up to 40,000, perhaps with a discrete role in Northern Iraq entering from Turkey, tying down two Iraqi divisions.

The Defence Secretary said that the US had already begun “spikes of activity” to put pressure on the regime. No decisions had been taken, but he thought the most likely timing in US minds for military action to begin was January, with the timeline beginning 30 days before the US Congressional elections.

The Foreign Secretary said he would discuss this with Colin Powell this week. It seemed clear that Bush had made up his mind to take military action, even if the timing was not yet decided. But the case was thin. Saddam was not threatening his neighbours, and his WMD capability was less than that of Libya, North Korea or Iran. We should work up a plan for an ultimatum to Saddam to allow back in the UN weapons inspectors. This would also help with the legal justification for the use of force.

The Attorney-General said that the desire for regime change was not a legal base for military action. There were three possible legal bases: self-defence, humanitarian intervention, or UNSC authorisation. The first and second could not be the base in this case. Relying on UNSCR 1205 of three years ago would be difficult. The situation might of course change.

The Prime Minister said that it would make a big difference politically and legally if Saddam refused to allow in the UN inspectors. Regime change and WMD were linked in the sense that it was the regime that was producing the WMD. There were different strategies for dealing with Libya and Iran. If the political context were right, people would support regime change. The two key issues were whether the military plan worked and whether we had the political strategy to give the military plan the space to work.

On the first, CDS said that we did not know yet if the US battleplan was workable. The military were continuing to ask lots of questions.

For instance, what were the consequences, if Saddam used WMD on day one, or if Baghdad did not collapse and urban warfighting began? You said that Saddam could also use his WMD on Kuwait. Or on Israel, added the Defence Secretary.

The Foreign Secretary thought the US would not go ahead with a military plan unless convinced that it was a winning strategy. On this, US and UK interests converged. But on the political strategy, there could be US/UK differences. Despite US resistance, we should explore discreetly the ultimatum. Saddam would continue to play hard-ball with the UN.

John Scarlett assessed that Saddam would allow the inspectors back in only when he thought the threat of military action was real.

The Defence Secretary said that if the Prime Minister wanted UK military involvement, he would need to decide this early. He cautioned that many in the US did not think it worth going down the ultimatum route. It would be important for the Prime Minister to set out the political context to Bush.

Conclusions:

(a) We should work on the assumption that the UK would take part in any military action. But we needed a fuller picture of US planning before we could take any firm decisions. CDS should tell the US military that we were considering a range of options.

(b) The Prime Minister would revert on the question of whether funds could be spent in preparation for this operation.

(c) CDS would send the Prime Minister full details of the proposed military campaign and possible UK contributions by the end of the week.

(d) The Foreign Secretary would send the Prime Minister the background on the UN inspectors, and discreetly work up the ultimatum to Saddam.

He would also send the Prime Minister advice on the positions of countries in the region especially Turkey, and of the key EU member states.

(e) John Scarlett would send the Prime Minister a full intelligence update.

(f) We must not ignore the legal issues: the Attorney-General would consider legal advice with FCO/MOD legal advisers.

(I have written separately to commission this follow-up work.)

MATTHEW RYCROFT

EXHIBIT E

CONFIDENTIAL AND PERSONAL

PR.121

FROM: P F RICKETTS
POLITICAL DIRECTOR

DATE: 22 MARCH 2002

CC: PUS

SECRETARY OF STATE

IRAQ: ADVICE FOR THE PRIME MINISTER

1 You invited thoughts for your personal note to the Prime Minister covering the official advice (we have put up a draft minute separately). Here are mine.

2 By sharing Bush's broad objective¹ the Prime Minister can help shape how it is defined, and the approach to achieving it. In the process, he can bring home to Bush some of the realities which will be less evident from Washington. He can help Bush make good decisions by telling him things his own machine probably isn't.

3 By broad support for the objective brings two real problems which need discussing.

4 First, the THREAT. The truth is that what has changed is not the pace of Saddam Hussein's WMD programmes, but our tolerance of them post-11 September. This is not something we need to be defensive about, but attempts to claim otherwise publicly will increase scepticism about our case. I am relieved that you decided to postpone publication of the unclassified document. My meeting yesterday showed that there is more work to do to ensue that the figures are accurate and consistent with those of the US. But even the best survey of Iraq's WMD programmes will not show much advance in recent years ont he nuclear, missile or CW/BW fronts: the programmes are extremely worrying but have not, as far as we know,¹ been stepped up.

5 US scrambling to establish a link between Iraq and Al Aaida is so far frankly unconvincing. To get public and Parliamentary support for military operations, we have to be convincing that:

- the threat is so serious/imminent that it is worth sending our troops to die for;
- it is qualitatively different from the threat posed by other proliferators who are closer to achieving nuclear capability (including Iran).

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We can make the case on qualitative difference (only Iraq has attacked a neighbour¹¹ used CW and fired missiles against Israel). The overall strategy needs to include re-doubled efforts to tackle other proliferators, including Iran, in other ways (the UK/French ideas on greater IAEA activity are helpful here). But we are still left with a problem of bringing public opinion to accept the imminence of a threat from Iraq. This is something the Prime Minister and President need to have a frank discussion about.

6 The second problem is the END STATE. Military operations need clear and compelling military objectives. For Kosovo¹¹ it was: Serbs out, Kosovars back¹¹ peace-keepers in. For Afghanistan, destroying the Taliban and Al Qaida military capability. For Iraq, "regime change" does not stack up. It sounds like a grudge between Bush and Saddam. Much better, as you have suggested, to make the objective ending the threat to the international community from Iraqi WMD before Saddam uses it or gives it to terrorists. This is at once easier to justify in terms of international law¹¹ but also more demanding. Regime change which produced another Sunni General still in charge of an active Iraqi WMD programme would be a bad outcome (not least because it would be almost impossible to maintain UN sanctions on a new leader who came in promising a fresh start). As with the fight against UBL, Bush would do well to de¹¹personalise the objective¹¹ focus on elimination of WMD, and show that he is serious about UN Inspectors as the first choice means of achieving that (it is win/win for him: either Saddam against all the odds allows Inspectors to operate freely¹¹ in which case we can further hobble his WMD programmes, or he blocks/hinders, and we are on stronger ground for switching to other methods).

7 Defining the end state in this way, and working through the UN, will of course also help maintain a degree of support among the Europeans, and therefore fits with another major message which the Prime Minister will want to get across: the importance of positioning Iraq as a problem for the international community as a whole¹¹ not just for the US.

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