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BARBARA BAUMAN, et al.

13 UNITED STATES DISTRICT COURT  
14 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
15

16 BARBARA BAUMAN, on behalf of herself )  
and as heir of her son, OSCAR ALBERTO )  
17 ALVAREZ BAUMAN; GREGORY )  
GRIECO, on behalf of himself and as heir of )  
18 his brother MIGUEL GRIECO; JOSEFINA )  
NUNEZ, on behalf of herself and as heir of )  
19 her husband, DIEGO NUNEZ; GABRIELE )  
NUNEZ, MIRIAM NUNEZ and SILVIA )  
20 NUNEZ, on behalf of themselves and as )  
heirs of their father, DIEGO NUNEZ; )  
21 EMILIO GUILLERMO PESCE, on behalf )  
of himself and as heir of his brother, )  
22 ESTEBAN A. REIMBER; MIRTA )  
HAYDEE ARENAS, on behalf of herself )  
23 and as heir of her brother , ALBERTO )  
FRANCISCO ARENAS; GRACIELA )  
24 GIGENA, on behalf of herself and as heir of )  
her husband, ALBERTO GIGENA; )  
25 GUILLERMO ALBERTO GIGENA and )  
NURIA GIGENA, on behalf of themselves )  
26 and as heirs of their father, ALBERTO )  
GIGENA; AMELIA SCHIAFFO, on behalf )  
27 of herself and as heir of her husband )  
FERNANDO OMAR DEL CONNTE; )  
28 ELBA LEICHNER, on behalf of herself and )

Case No.: CV 04-00194 RMW

**FIRST AMENDED COMPLAINT FOR  
DAMAGES AND DECLARATORY  
RELIEF FOR:**

1. Extra-Judicial Killing
2. Torture
3. Crimes Against Humanity
4. Cruel, Inhuman and Degrading Treatment
5. Violation of California's Wrongful Death Statute
6. Intentional Infliction of Emotional Distress

**DEMAND FOR JURY TRIAL**

1 as heir of her son JORGE LEICHNER; )  
 ANUNCIACION SPALTRO DE )  
 2 BELMONTE, on behalf of herself and as )  
 heir of her husband HECTOR BELMONTE; )  
 3 HECTOR RATTO; EDUARDO )  
 OLASIREGUI; RICHARDO MARTIN )  
 4 HOFFMAN; EDUARDO ESTIVILLE, )  
 ALFREDO MANUEL MARTIN; JUAN )  
 5 JOSE MARTIN; JOSE BARREIRO; and )  
 ALEJANDRO DAER, )  
 6 )  
 Plaintiffs, )  
 7 )  
 vs. )  
 8 )  
 DAIMLERCHRYSLER AG and DOES 1 )  
 9 through 50, inclusive, )  
 10 Defendant. )

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1 I. NATURE OF ACTION

2 1. This case involves the forced disappearance and presumed murders of Oscar  
3 Alberto Alvarez Bauman, Miguel Grieco, Diego Nuñez, Estaban A. Reimer, Alberto Francisco  
4 Arenas, Alberto Gigena, Fernando Omar del Connte, Jorge Leichner and Hector Belmonte --  
5 all workers and trade unionists at the Mercedes Benz Argentina (“MBA”) plant in Gonzalez-  
6 Catan, Argentina. The disappearances of these individuals were carried out by state security  
7 forces acting under the direction of and in collaboration with MBA -- now known as  
8 DaimlerChrysler Argentina (“DCA”), a division or wholly-owned subsidiary of the multi-  
9 national corporation DaimlerChrysler Aktiengesellschaft, also known as DaimlerChrysler AG,  
10 “DCAG” or “Defendant”). Close relatives of these disappeared individuals bring this action  
11 on behalf of themselves for the injuries, including pain and suffering, they have endured as a  
12 result of these disappearances, and as heirs of the disappeared. This case also involves the  
13 kidnapping, detention and torture of Plaintiffs Hector Ratto, Eduardo Olasiregui, Ricardo  
14 Martin Hoffman, Eduardo Estivill, Alfredo Manuel Martin, Juan Jose Martin, Jose Barreiro  
15 and Alejandro Daer -- workers and trade unionists at the same MBA plant. The kidnapping,  
16 detention and torture of these Plaintiffs were carried out by state security forces acting under  
17 the direction of and with material assistance from MBA.

18 2. The disappearance and presumed extra-judicial killings of the aforementioned  
19 missing individuals as well as the kidnapping, detention and torture of the aforesaid Plaintiffs  
20 were committed in contravention of the law of nations, and as such, are actionable under the  
21 Alien Tort Claims Act (“ATCA”), 28 U.S.C. §1350 and the Torture Victims Protection Act  
22 (“TVPA”), 28 U.S.C. §1350, Note. Plaintiffs bring this action against Defendant DCAG, of  
23 which DCA, the successor-in-interest of MBA, is a division, making DCAG the responsible  
24 corporate entity for the acts of its own employees. Alternatively, DCA is a wholly-owned  
25 subsidiary that DCAG so dominates and controls that DCA is its alter ego. High-ranking  
26 employees/officials of MBA, including Director of Legal Affairs Ruben Pablo Cueva, Human  
27 Resources Director Pedro de Elias and Director of Production Juan Tasselkraut conspired with,  
28 directed and aided and abetted state security forces in carrying out the human rights violations

1 alleged herein.

2 II. PARTIES

3 Category I Plaintiffs

4 3. Plaintiff Barbara Bauman is a citizen and permanent resident of Argentina. She  
5 is the mother and surviving heir of Oscar Alberto Alvarez Bauman. Oscar Alberto Alvarez  
6 Bauman had been an employee of MBA and was an independent union activist. He was  
7 disappeared along with his wife Monica on August 4, 1977. Plaintiff Barbara Bauman sues on  
8 behalf of herself for the injuries, including pain and suffering, she has endured as a result of  
9 the loss of her son. She also brings this action on behalf of her son, as his heir, for the injuries  
10 he suffered as a result of his kidnapping, torture, disappearance and presumed murder.

11 4. Gregorio Grieco is a citizen and permanent resident of Argentina. He is the  
12 brother and surviving heir of Miguel Grieco. Miguel Grieco had been an employee of MBA  
13 and an independent union activist. He was disappeared by state security forces on December  
14 14, 1976. Gregorio Grieco sues on behalf of himself for the injuries, including pain and  
15 suffering, he has endured as a result of the loss of his brother. He also brings this action on  
16 behalf of his brother, Miguel Grieco, as the latter's heir, for the injuries the latter suffered as a  
17 result of his kidnapping, torture, disappearance and presumed murder.

18 5. Josefina Nuñez is a citizen and permanent resident of Argentina. She is the  
19 surviving wife of Diego Nuñez, an MBA employee who was disappeared by state security  
20 forces on August 13, 1977. Josefina Nuñez sues on behalf of herself for the injuries, including  
21 pain and suffering, she has endured as a result of the loss of her husband. She also brings this  
22 action on behalf of her husband, Diego Nuñez, as the latter's heir, for the injuries the latter  
23 suffered as a result of his kidnapping, torture, disappearance and presumed murder.

24 6. Gabriele Nuñez, Miriam Nuñez and Silvia Nuñez are citizens and permanent  
25 residents of Argentina. They are surviving daughters of Diego Nuñez, who was disappeared  
26 on August 13, 1977. They sue on behalf of themselves, individually, for the injuries, including  
27 pain and suffering, they have endured as a result of the loss of their father. In addition, they  
28 bring this action on behalf of their father, Diego Nuñez, as the latter's heir, for the injuries he

1 suffered as a result of his kidnapping, torture, disappearance and presumed murder.

2 7. Emilio Guillermo Pesce is a citizen and permanent resident of Argentina. He is  
3 the surviving brother of Esteban A. Reimer, an MBA employee who was disappeared by state  
4 security forces on January 5, 1977. He sues on behalf of himself for the injuries, including  
5 pain and suffering, that he has endured as a result of the loss of his brother. He also brings this  
6 action on behalf of his brother, Esteban A. Reimer, as the latter's heir, for the injuries he  
7 suffered as a result of his kidnapping, torture, disappearance and presumed murder.

8 8. Mirta Haydee Arenas is a citizen and permanent resident of Argentina. She is  
9 the surviving sister of Alberto Francisco Arenas who was disappeared by state security forces  
10 on August 19, 1977. She sues on behalf of herself for the injuries, including pain and  
11 suffering, that she has endured as a result of the loss of her brother. She also brings this action  
12 on behalf of her brother, Alberto Francisco Arenas, as the latter's heir, for the injuries he  
13 suffered as a result of his kidnapping, torture, disappearance and presumed murder.

14 9. Graciela Gigena is a citizen and permanent resident of Argentina. She is the  
15 surviving wife of Alberto Gigena who was disappeared by state security forces on August 13,  
16 1977. She sues on behalf of herself for the injuries, including pain and suffering, that she has  
17 endured as a result of the loss of her husband. She also brings this action on behalf of her  
18 husband, Alberto Gigena, as the latter's heir, for the injuries he suffered as a result of his  
19 kidnapping, torture, disappearance and presumed murder.

20 10. Guillermo Alberto Gigena and Nuria Gigena are citizens and permanent  
21 residents of Argentina. They are the children of Alberto Gigena who was disappeared by state  
22 security forces on August 13, 1977. They bring this case on behalf of themselves for the  
23 injuries, including pain and suffering, that they endured as result of the loss of their father.  
24 They also bring this action on behalf of Alberto Gigena, as the latter's heir, for the injuries he  
25 suffered as a result of his kidnapping, torture, disappearance and presumed murder.

26 11. Amelia Schiaffo is a citizen and permanent resident of Argentina. She is the  
27 surviving wife of Fernando Omar Del Connte who was disappeared on August 12, 1977. She  
28 brings this action on behalf of herself for the injuries, including pain and suffering, that she

1 endured as a result of the loss of her husband. She also brings this case on behalf of Fernando  
2 Omar Del Connte, as the latter's heir, for the injuries he suffered as a result of his kidnapping,  
3 torture, disappearance and presumed murder.

4 12. Elba Leichner is a citizen of Chile and a permanent resident of Argentina. She  
5 is the mother of Jorge Leichner who was disappeared on August 14, 1977. She brings this  
6 action on behalf of herself for the injuries, including pain and suffering, that she endured as a  
7 result of the loss of her son. She also brings this case on behalf of Jorge Leichner, as the  
8 latter's heir, for the injuries he suffered as a result of his kidnapping, torture, disappearance  
9 and presumed murder.

10 13. Anunciacion Spaltro de Belmonte is a citizen and permanent resident of  
11 Argentina. She is the wife of Hector Belmonte, an MBA employee and union activist who  
12 was disappeared on August 13, 1977. She brings this action on behalf of herself for the  
13 injuries, including pain and suffering, that she endured as a result of the loss of her husband.  
14 She also brings this case on behalf of Hector Belmonte, as the latter's heir, for the injuries he  
15 suffered as a result of his kidnapping, torture, disappearance and presumed murder.

16 Category II Plaintiffs

17 14. Alfredo Manuel Martin is a citizen and permanent resident of Argentina.  
18 Alfredo Martin was kidnapped, detained and tortured on December 14, 1976 by state security  
19 forces and Ruben Lavallen, a police station Chief. Alfredo Martin brings this action on behalf  
20 of himself for the damages he suffered as a result of his kidnapping, detention and torture.

21 15. Hector Ratto is a citizen and permanent resident of Argentina. On August 12,  
22 1977, Hector Ratto was detained by security forces at the MBA plant in Gonzalez Catan and  
23 brought by these forces to an army barracks in Campo de Mayo and then transferred soon  
24 thereafter to a police station where he was summarily and arbitrarily imprisoned for  
25 approximately eighteen months. During his time in captivity, Hector Ratto was subject to  
26 extreme forms of torture, including electroshocking. Hector Ratto brings this case on behalf of  
27 himself for the damages he suffered as a result of his arbitrary detention and torture.

28 16. Juan Jose Martin is a citizen and permanent resident of Argentina. Juan Jose

1 Martin was kidnapped in the Gonzalez-Catan factory of MBA on April 29, 1976, and brought  
2 to the police precinct in San Justo where he was detained and tortured for 19 days. Juan Jose  
3 Martin brings this case on behalf of himself for the damages he suffered as a result of his  
4 kidnapping, arbitrary detention and torture.

5 17. Ricardo Martin Hoffmann is a citizen and permanent resident of Argentina.  
6 Ricardo Martin Hoffman was forced to go into exile in Italy in 1977 after his house was  
7 ransacked by security forces and he discovered that these same forces were intent upon  
8 arresting him at the Gonzalez-Caton plant just as they had apprehended fellow independent  
9 unionist Alfredo Martin. Ricardo Martin Hoffman brings this case on behalf of himself for the  
10 damages he suffered as a result of his forced exile.

11 18. Eduardo Estivill is a citizen and permanent resident of Argentina. Eduardo  
12 Estivill was forced to go into exile in Europe in 1977 after his house was searched by police  
13 forces who were directed to his home by MBA and who were intent upon apprehending Mr.  
14 Estivill. Eduardo Estivill brings this case on behalf of himself for the damages he suffered as a  
15 result of his forced exile.

16 19. Jose Barreiro is a citizen and permanent resident of Argentina. Jose Barreiro  
17 went into hiding and internal exile in 1977 after his house was raided at night by police intent  
18 upon apprehending him. Jose Barreiro brings this case on behalf of himself for the damages he  
19 suffered as a result of his forced exile.

20 20. Alejandro Daer is a citizen and permanent resident of Argentina. In August of  
21 1977, Mr. Daer was forced into exile in Brazil after police searched his home, detained  
22 members of his family and attempted to kidnap him. Alejandro Daer brings this case on behalf  
23 of himself for the damages he suffered as a result of his forced exile.

24 21. Eduardo Olasiregui is a citizen and permanent resident of Argentina. Mr.  
25 Olasiregui was wrongfully arrested and imprisoned for two and a half years as a result of the  
26 false and malicious accusations of MBA. He was later pardoned. Mr. Olasiregui brings this  
27 case on behalf of himself for the damages he suffered as a result of his wrongful and arbitrary  
28 imprisonment.

Defendant

1  
2           22. Defendant DCAG is a foreign corporation with headquarters located in Stuttgart,  
3 Germany. DCAG does significant business in the United States, in the State of California, and  
4 in this District, including the importation, manufacture, marketing and sale of automobiles, as  
5 well as research for its world-wide operations, including fuel cell research. DCAG maintains  
6 one of its chief, North American offices, known as the DaimlerChrysler Research and  
7 Technology Center North America, within the jurisdiction and venue of this Court, located at  
8 1510 Page Mill Road, Palo Alto, California 94306. DCAG also operates its world-wide e-  
9 business operations from offices in Palo Alto. DCAG, the successor-in-interest of  
10 DaimlerBenz, is the parent company of DCA (the successor-in-interest of MBA) and owns 100  
11 percent of the latter. DCA is either a division of DCAG, or DCA is a wholly-owned subsidiary  
12 that DCAG utilizes as its mere instrumentality and so dominates and controls that DCA is its  
13 alter ego, based either on the complete lack of separateness between the two companies, or on  
14 the fact that DCA tightly controls the operations of all of its subsidiaries and is legally  
15 responsible for all of the companies within the DCAG “enterprise.” Among other things,  
16 DCAG maintains domination and control over the employment practices, labor relations and  
17 human rights practices of DCA. In addition, due to DCAG’s specific control over the  
18 operations of DCA, DCA is the agent of DCAG. Based on all of these relationships between  
19 DCAG and DCA, DCAG is liable for its direct role in directing or aiding and abetting the acts  
20 of DCA that resulted in harm to the Plaintiffs. Alternatively, DCAG is vicariously liable for  
21 the acts of DCA.

22           23. DCAG, in response to concerns raised by its own shareholders, recently  
23 investigated MBA (now known as DCA) in relation to the very allegations at the heart of the  
24 instant action and produced a detailed report of this investigation which it released publicly in  
25 December of 2003. DCAG paid the full cost of this investigation and treated the investigation  
26 as if it was an internal review of its own operations. DCAG has publicly defended the former  
27 officials of MBA alleged to have engaged in the misconduct detailed herein and has publicly  
28 treated these officials as its own officials, referring to them as “our top management” which



1 DCAG must protect. And, while the report of this investigation concluded that these MBA  
2 officials had foreseeably placed the workers at issue in this case in mortal danger by giving  
3 their identities and addresses to repressive state forces in Argentina, and by designating these  
4 workers as “subversives” to these forces, DCAG nonetheless continues to defend the conduct  
5 of these officials and of MBA. DCAG has thereby ratified this conduct, and is liable for the  
6 conduct either because it was done by its own employees or its agents.

7 24. In addition, throughout the time period at issue in this case, MBA was  
8 dominated and controlled by DaimlerBenz, the predecessor-in-interest of Defendant DCAG,  
9 through such DaimlerBenz officers as Klaus Oertel. The domination and control of MBA  
10 resulted in MBA acting as a legal or *de facto* agent for DaimlerBenz with respect to the  
11 wrongful acts alleged herein. DaimlerBenz was fully aware of the participation of the MBA  
12 officials in the human rights violations detailed in this Complaint and DaimlerBenz approved  
13 and ratified this participation at the time it took place. As a result of the above, Defendant  
14 DCAG is either directly liable for its own conduct in aiding and abetting the actions of MBA  
15 or is vicariously liable for the conduct of its agent MBA. Plaintiffs also name as Defendants  
16 Does 1-50 in the event that there are other entities not yet known, either divisions or  
17 subsidiaries of DCAG, that played a role in the wrongful acts alleged herein.

### 18 III. JURISDICTION

19 25. This Court has federal question jurisdiction under 28 U.S.C. §1331 and The  
20 Alien Tort Claims Act, 28 U.S.C. § 1350. The Alien Tort Claims Act (“ACTA”) provides  
21 federal jurisdiction for “any civil action by an alien for a tort only, committed in violation of  
22 the law of nations or a treaty of the United States.” Plaintiffs’ causes of action arise under,  
23 inter alia, customary international law, as expressed in the Universal Declaration of Human  
24 Rights; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or  
25 Punishment; the International Covenant on Civil and Political Rights; the Charter of the  
26 Organization of American States; the American Declaration of the Rights and Duties of Man;  
27 and the American Convention on Human Rights.

28 26. This Court also had federal question jurisdiction under the Torture Victims

1 Protection Act, 28 U.S.C., §1350, note. The Torture Victims Protection Act (“TVPA”)  
2 expressly provides for civil liability against any “individual,” interpreted by the Ninth Circuit  
3 to include corporation, “who, under actual or apparent authority, or color of law, of any foreign  
4 nation -- (1) subjects an individual to torture . . . or (2) subjects an individual to extra-judicial  
5 killing . . . .”

6 27. This Court has supplemental and ancillary jurisdiction over the state law claims.

7 28. This Court also has diversity jurisdiction over the federal and state claims  
8 pursuant to 28 U.S.C. Section 1332, because the matter in controversy exceeds \$75,000  
9 exclusive of interest and costs for each named Plaintiff, and there is complete diversity  
10 between all Plaintiffs and the Defendant.

11 **IV. INTRADISTRICT ASSIGNMENT**

12 29. Venue properly lies in this Court pursuant to 28 U.S.C. §1391 (b) and (c)  
13 because DCAG does business and maintains a primary place of business within the State of  
14 California and within the district of this Court. In particular, DCAG maintains a facility  
15 known as DaimlerChrysler Research and Technology Center North America at 1510 Page Mill  
16 Road, Palo Alto, California 94306, and it operates its world-wide e-business operations  
17 through offices in Palo Alto.

18 **V. FACTS**

19 30. In 1975, amidst labor strife between MBA and its workers, and amidst labor  
20 strife in general in Argentina, MBA signed an accord in which it agreed to set aside one  
21 percent of its sales for the “eradication of the negative elements of the factory.” This accord  
22 was officially approved by the national Labor Ministry of Argentina.

23 31. Shortly after Mercedes signed the above-referenced accord, a majority of  
24 workers at the MBA plant in Gonzalez-Catan elected an independent commission to represent  
25 them in discussing wages and other terms and conditions of employment with MBA. This  
26 commission came to be known as “the group of nine” or the “Internal Commission.” MBA  
27 refused to negotiate with this Internal Commission. In response, approximately 4,000 workers  
28 went out on strike in support of the demand that MBA recognize and bargain with the Internal

1 Commission. MBA discharged 117 of these striking workers whom Klaus Oertel, then an  
2 officer of DaimlerBenz and chief Director of MBA, characterized as “known activists, [and]  
3 extreme elements.” The firing of these workers was ratified by the Labor Ministry of  
4 Argentina which declared the strike illegal.

5 32. Subsequently, a high-ranking official of MBA, Heinrich Metz, was kidnapped.  
6 Mr. Metz was ultimately released unharmed. In response to this kidnapping, MBA Director of  
7 Legal Affairs Ruben Cueva sent a declaration to the political police of Argentina in which he  
8 singled out four ex-workers of MBA, including Plaintiff Eduardo Olasiregui, as the potential  
9 perpetrators of this kidnapping. As Cueva explained in this October 24, 1975 letter, all of  
10 these four suspects had been workers and activists at MBA, but had been discharged no later  
11 than October of 1974. Cueva in this same letter insinuated that the kidnapping was linked to  
12 the strike in the MBA plant in 1975 in which workers demanded that MBA recognize and  
13 bargain with the Internal Commission. Cueva then went out of his way in this same letter to  
14 name all of the members of this Commission, including Plaintiffs Eduardo Estivill and Jose  
15 Barreiro and to provide the political police with their home addresses.

16 33. In 1976, shortly after the aforementioned events, the military overthrew the  
17 democratically-elected President of Argentina, Isabel Peron, and set up a military junta which  
18 governed over Argentina until 1983. During the period of this military rule, approximately  
19 30,000 individuals were kidnapped, tortured and “disappeared” by the military and police  
20 forces. A disproportionate number of these “disappeared” were blue collar workers with trade  
21 union affiliations.

22 34. The height of the military repression, including the “disappearances,” occurred  
23 in the first year following the coup, from 1976 through 1977. As indicated in a March 22,  
24 1977 memorandum of MBA, MBA approved of the methods of the military and police during  
25 this period, stating that “[i]n those days you achieved important results in the military reaction  
26 against the guerilla, among other things, one of those responsible for the kidnapping of Metz  
27 was eliminated. In general the result of the government’s methods during its first year were  
28 favorable and open good prospects for the development of the country.”

1           35.     During this period of intense repression from 1976 through 1977, MBA, fully  
2 aware of the conduct of the military and police in “disappearing” individuals they perceived as  
3 “subversive” or “extremist,” maintained close ties with high-ranking members of the military  
4 and police forces and utilized these forces to rid its plant in Gonzalez-Catan of individuals  
5 MBA itself viewed as “subversive” and as slowing production, including leaders and  
6 supporters of the independent commission. To this end, MBA, through various high-ranking  
7 employees/officials -- including Director of Human Resources Pedro de Elias, Director of  
8 Legal Affairs Ruben Pablo Cueva, and Director of Production Juan Tasselkraut -- had  
9 members of the military and police forces stationed within the Gonzalez-Catan plant, opened  
10 the plant to periodic raids by these forces and identified to these forces which workers it  
11 deemed to be “subversive.” These MBA officials did so with the full knowledge that the  
12 singling out of alleged “subversives” to these military and police forces would foreseeably  
13 result in the summary apprehension, detention, torture and “disappearance” of such  
14 individuals.

15           36.     As a recently declassified U.S. State Department document noted, as a general  
16 matter, management of corporations in Argentina collaborated with the state security forces in  
17 this repression in order to rid the corporations of labor agitators. As this document, a wire  
18 from the U.S. Embassy in Buenos Aires to the U.S. Secretary of State written in June of 1978,  
19 explained: “WE BELIEVE THERE IS A GREAT DEAL OF COOPERATION GENERALLY  
20 BETWEEN MANAGEMENT REPRESENTATIVES AND THE SECURITY AGENCIES  
21 AIMED AT ELIMINATING TERRORIST INFILTRATORS FROM THE INDUSTRIAL  
22 WORK PLACES AND AT MINIMIZING THE RISK OF INDUSTRIAL STRIFE.” This  
23 same document noted the disturbing trend, particularly in the first years of the military coup, of  
24 “DENUNCIATIONS FROM MANAGEMENT OF ALLEGED TERRORIST ACTIVITIES  
25 IN THE PLANTS WHICH MAY BE LITTLE MORE THAN LIEGITIMATE [sic.](ALBEIT  
26 ILLEGAL) LABOR UNREST.” MBA’s collaboration with the security forces in dealing with  
27 its labor unrest was typical of the period.

28           37.     This collaboration between Argentine authorities and corporations generally,

1 and MBA in particular, emanated from their shared aim of ridding industry of labor union  
2 activity. This aim is set forth in the following statement by the Minister of Labor on  
3 November 12, 1977: “. . . the Government and the Armed Forces have committed their  
4 resources and maximum effort to guaranteeing the freedom to work, and family and individual  
5 security for management and workers, and the annihilation of that public enemy. But it is  
6 worth remembering that those who deviate from the course taken by the 'Process' in search of  
7 individual or group benefit become accomplices of that subversion which must be destroyed,  
8 as do those who lack the courage to assume the responsibilities imposed by this situation.”

9 38. The individuals MBA singled out to the authorities as “subversives” included all  
10 of the Plaintiffs in this case: Oscar Alberto Alvarez Bauman, Miguel Grieco, Diego Nuñez,  
11 Esteban Reimer, Alberto Francisco Arenas, Alberto Gigena, Fernando Omar del Connte,  
12 Hector Belmonte, Jorge Leichner, Hector Ratto, Eduardo Olasiregui, Ricardo Martin Hoffman,  
13 Eduardo Estivill, Alfredo Manuel Martin, Juan Jose Martin, Jose Barreiro and Alejandro Daer.  
14 All of these individuals were activists in the Internal Commission.

15 39. The first Plaintiff to fall victim to MBA’s campaign against independent  
16 activists was Juan Jose Martin. On April 29, 1976, Plaintiff Juan Jose Martin was kidnapped  
17 by military and police forces directly from his post at work at the MBA plant in Gonzalez-  
18 Catan. The forces engaged in this kidnapping were directed by MBA officials, including  
19 Director of Human Resources Pedro de Elias and Director of Production Juan Tasselkraut, to  
20 Juan Jose Martin and were told by these same MBA officials that he was a “subversive.” Juan  
21 Jose Martin was held in the custody of the military in the police station of San Justo without  
22 warrant or charges for 19 days, during which time he was physically and mentally tortured by  
23 the military. This torture included electroshocks to Mr. Martin’s person. Ruben Lavallen, the  
24 Chief of this police station at the time, oversaw the torture and interrogation of Mr. Martin and  
25 did so with the knowledge and approval of Director of Human Resources Pedro de Elias.

26 40. On May 5, 1976, during this period of captivity, Pedro de Elias wrote a  
27 memorandum in which he stated that Juan Jose Martin was being detained by military  
28 authorities. As Pedro de Elias wrote in referring to Martin, “the military authorities detained a

1 worker inside the plant in the search of his home prohibited Marxist books were found.” Juan  
2 Jose Martin was finally released alive after his 19 days of captivity as a result of the protest of  
3 fellow workers and union activists.

4 41. On December 14, 1976, Plaintiff Alfredo Martin, a union leader, was kidnapped  
5 from his home by police forces, including station Chief Ruben Lavallen, and brought to the  
6 police headquarters in San Justo where he was held for hours without warrant or charges.  
7 During his period of captivity, Alfredo Martin was physically and mentally tortured by both  
8 military forces and Ruben Lavallen who, *inter alia*, submitted his body to electroshocks.  
9 Again, the kidnapping and torture of Martin were carried out by the police forces with the  
10 knowledge and approval of MBA officials, including Pedro de Elias. When Martin returned to  
11 the MBA plant in Gonzalez-Catan after being held and tortured, Director of Production Juan  
12 Tasselkraut was waiting for him and acknowledged that he knew exactly what had happened  
13 with Martin.

14 42. Also on the night of December 14, 1976, union activist Miguel Grieco, a worker  
15 at the MBA plant in Gonzalez-Catan was forcibly kidnapped from his home by police forces at  
16 the direction of MBA officials, including Director of Human Resources Pedro de Elias.  
17 Miguel Grieco was never seen or heard from again after this night. Mr. Grieco is presumed  
18 murdered and is officially listed as one of Argentina’s “disappeared.”

19 43. On January 5, 1977, Esteban A. Reimer, an active leader of the Internal  
20 Commission and one of the chief spokesmen for the workers at the MBA plant in Gonzalez-  
21 Caton, was seized at his home by members of the First Army Command in front of his family  
22 and taken away. These military forces carried with them a list upon which Reimer’s name  
23 appeared. Before withdrawing from Reimer’s home with Mr. Reimer in their custody, they  
24 crossed Mr. Reimer’s name from this list. Reimer’s family members searched for him at local  
25 police stations but no officials at these stations would acknowledge that Mr. Reimer had been  
26 apprehended. After his disappearance, he was seen only once again. Specifically, he was seen  
27 with fellow union leader and MBA employee Victor Hugo Ventura, who was also kidnapped  
28 on the night of January 5, 1977, at the police station of Ruben Lavallen. After that, neither

1 Reimer nor Ventura were ever seen again. Both Reimer and Ventura are presumed murdered  
2 and are officially listed among Argentina's "disappeared."

3 44. The security forces who captured Mr. Reimer on the night of January 5, 1977  
4 were acting upon intelligence given to them by MBA officials. Specifically, they were acting  
5 upon copies of personnel files which MBA gave to the military forces at the end of 1976 in  
6 which MBA accused him of distributing pamphlets endorsed by the Internal Commission and  
7 referring to him as an "agitator" who would "integrate the Workers Movement of the  
8 Company." According to DCAG's own internal report of the events at issue in this lawsuit, a  
9 report just released in December of 2003, MBA's release of this information to the state  
10 security forces had foreseeably "fatal consequences" for Mr. Reimer.

11 45. Shortly thereafter, military forces came searching for and ransacked the homes  
12 of MBA workers and union activists Ricardo Martin Hoffman, Eduardo Estivill and Jose  
13 Barreiro. The military forces came looking for these individuals with the intent to kidnap and  
14 "disappear" them, as they had the others, based upon MBA's assertion to these forces that they  
15 were "subversives." In response to these activities of the military and in light of their  
16 knowledge of the kidnapping and disappearance of their co-workers as described above,  
17 Plaintiffs Hoffman, Estivill and Barreiro were forced into hiding and exile in fear for their very  
18 lives. Specifically, Hoffman and Estivill were forced to go into exile in Europe.

19 46. In August of 1977, tensions between MBA and the supporters of the Internal  
20 Commission became increasingly tense over a work slowdown initiated by the independent  
21 union activists. In early August of 1977, MBA Director of Human Resources Pedro de Elias  
22 wrote in a memorandum that "the factory finds itself in a critical situation . . . with serious  
23 consequences for the production." Shortly after this was written, union activists were  
24 systematically kidnapped and disappeared by police and military forces acting at the behest of  
25 MBA officials, including MBA Director of Production Juan Tasselkraut and MBA Director of  
26 Human Resources Pedro de Elias.

27 47. Specifically, between August 12 and August 19, 1977, MBA workers and  
28 independent union activists Oscar Alberto Alvarez Bauman (Aug. 4), Hector Ratto (Aug. 12),

1 Fernando Omar Del Connte (Aug. 12), Alberto Gigena (Aug. 13), Hector Belmonte (Aug. 13),  
2 Diego Nuñez (Aug. 13), Jorge Alberto Leichner (Aug. 14) and Alberto Francisco Arenas (Aug.  
3 19) were forcibly apprehended and kidnapped by military forces. Of these individuals, only  
4 Hector Ratto survived. All of these other individuals were never seen or heard from again.  
5 They are presumed murdered and are officially listed as Argentina's "disappeared." In the  
6 case of disappeared Alberto Gigena, his wife Plaintiff Graciela Beatriz Velazquez de Gigena  
7 witnessed his violent kidnapping from their home on the night of August 13. This kidnapping  
8 was carried out, as she witnessed, by police forces including station Chief Ruben Lavallen.

9 48. As for Hector Ratto, he was kidnapped directly from the MBA plant in  
10 Gonzalez-Catan by military forces acting at the direction of MBA Director of Production Juan  
11 Tasselkraut. Hector Ratto was held in a secret detention center for one and a half years, during  
12 which time he was regularly tortured by the police and military forces through, *inter alia*, the  
13 electroshocking of his person. This electroshock torture resulted in Mr. Ratto's arms being  
14 paralyzed for over 2 months.

15 49. Other MBA workers and independent union activists, not represented in this  
16 lawsuit, were also "disappeared" during this period in August of 1977, including Juan Jose  
17 Mosquera and Charles del Carmen Grossi.

18 50. In addition, during this same period in August of 1977, military forces came  
19 searching for and ransacked the homes of MBA worker and union activist Alejandro Daer.  
20 The military forces detained some family members of Alejandro Daer in an attempt to coerce  
21 them into telling them of Daer's whereabouts. The military forces came looking for Daer with  
22 the intent to kidnap and "disappear" him as they had the others based upon MBA's assertion to  
23 these forces that Daer was a "subversive." In response to these activities of the military and in  
24 light of their knowledge of the kidnapping and disappearance of their co-workers as described  
25 above, Plaintiff Alejandro Daer was forced into hiding and exile in fear for his life.  
26 Specifically, Daer was forced into exile in Brazil.

27 51. After this period in August of 1977 in which the aforesaid workers were  
28 detained, "disappeared" or forced into exile, MBA Director of Human Resources Pedro de



1 Elias wrote in an MBA memorandum that the actions of the military in ridding MBA of these  
2 workers had, as anticipated, ended the production slowdown and were welcome by MBA. As  
3 he wrote, “the workers of MBA detained by the security forces were still not freed. In the  
4 factory they calmed the situation but they have not normalized it. The strike ended on Friday  
5 and without it the production has returned to its maximum performance.”

6 52. MBA, with full knowledge and approval of police station Chief Ruben  
7 Lavallen’s participation in the crimes as described above, hired Mr. Lavallen as Chief of  
8 Security for MBA in 1978. In addition, MBA and DCAG provided legal representation to  
9 Ruben Lavallen in criminal proceedings related to Mr. Lavallen’s human rights abuses. In so  
10 hiring Lavallen and providing legal defense to him, MBA and DCAG formalized the agency  
11 relationship which it maintained with Lavallen throughout the period described above when  
12 the independent union activists were kidnapped, tortured and disappeared and ratified  
13 Lavallen’s conduct in participating in these crimes.

14 53. Plaintiff Eduardo Olasiregui, who had been accused by MBA Director of Legal  
15 Affairs Ruben Cueva as one of the suspected kidnapers of MBA official Metz, was arrested  
16 by official police forces and imprisoned for two and a half years as a result of this charge. This  
17 charge had been maliciously leveled by Cueva as retaliation for Olasiregui’s union activities.  
18 Olasiregui was later exonerated and pardoned for the kidnapping of Metz, but not before he  
19 lost years of his life to imprisonment.

20 54. Defendant DCAG and its alter ego and/or agent, MBA (now known as “DCA”)  
21 are vicariously liable for all of the aforementioned tortious actions as they were committed in  
22 furtherance of MBA’s business interests and activities and with the advance knowledge,  
23 acquiescence and subsequent ratification of MBA and DaimlerBenz, the predecessor-in-  
24 interest of DCAG. Defendant DCAG itself has recently ratified these tortious acts through its  
25 actions as detailed above in paragraph 23. Further, all of the wrongful acts alleged herein were  
26 committed by individuals retained as employees or agents of MBA, making DCAG, through  
27 the agents of its alter ego or agent, MBA, directly or vicariously liable for all of the wrongful  
28 acts.

1           55. Plaintiffs do not have an adequate forum in Argentina in which to bring the  
2 instant action. This is so because, despite very recent changes in the central government of  
3 Argentina, the Argentine courts are still filled with corrupt judges from the period of the  
4 repression. Moreover, the judiciary of Argentina is not independent, but rather, is greatly  
5 susceptible to political influence, particularly by large multinational interests such as  
6 Defendant DCAG. In addition, Plaintiffs have a legitimate fear of reprisal if they bring this  
7 action in Argentina because the police and military forces are also filled with officials left over  
8 from the repression and because people continue to be threatened for speaking out against the  
9 injustices which occurred during the time of the military dictatorship. Indeed, Alfredo Martin  
10 was recently the subject of a kidnap attempt, and he was threatened that if he continued to  
11 speak out about his treatment during the military dictatorship, he would be kidnapped. Civil  
12 cases in Argentina routinely take over 10 years to reach decision, and the remedy provided in  
13 analogous civil cases is inadequate. Plaintiffs in civil cases in Argentina do not have a right to  
14 a jury, nor are punitive damages available.

15           56. While the events at issue in this case took place some time ago, the statute of  
16 limitations in this case should be tolled because MBA, and the police and military forces it  
17 conspired with, actively attempted (many times successfully) to hide their crimes by  
18 “disappearing” the bodies of the victims. The bodies of all the “disappeared” at issue in this  
19 case have never been found. The destruction of evidence by the “disappearance” of the  
20 individuals in this case have also severely hampered and delayed the attempts of the surviving  
21 Plaintiffs in this case to ascertain the facts surrounding their victimization and to ascertain the  
22 identity of those responsible for their victimization. In addition, after the military dictatorship,  
23 the government of Argentina passed immunity laws which protected those guilty of the crimes  
24 committed during the dictatorship and thereby assured that the facts surrounding these crimes  
25 would not come to light. These immunity laws remain on the books to this day. As a result,  
26 the facts of this case have only recently emerged in the past few years.

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VI. DEFENDANT’S VIOLATIONS OF LAW

57. Defendant’s actions as hereinabove alleged violate, and Plaintiffs’ causes of action arise from, the following laws, agreements, conventions, resolutions and treaties, which constitute specific examples of the applicable law of nations or customary international law:

- a. Alien Tort Claims Act, 28 U.S.C. § 1350;
- b. Torture Victims Protection Act, 28 U.S.C. § 1350;
- c. Common law of the United States of America;
- d. United Nations Charter, 59 Stat. 1031, 3 Bevans 1153 (1945);
- e. Universal Declaration of Human Rights, G.A. Res. 217A(iii), U.N. Doc. A/810 (1948);
- f. International Covenant on Civil and Political Rights, G.A. Res. 2220A(XXI), 21 U.N. Doc., GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966);
- g. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, 39 U.N. Doc., GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984)(ratified 10/28/98);
- h. Declaration on the Protection of All Persons From Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 3452, 30 U.N. Doc., GAOR Supp. (No. 34) at 91, U.N. Doc. A/10034 (1976);
- i. Vienna Declaration and Programme of Action (World Conference on Human Rights, 1993);
- j. Article 3 of the Geneva Conventions; and
- k. Statutes and common law of the State of California, including but not limited to, wrongful death, negligence, and recklessness.

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VII. CLAIMS FOR RELIEF

First Cause of Action  
(For Extrajudicial Killing  
On Behalf of Category I Plaintiffs Against Defendant)

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4 58. Plaintiffs incorporate by reference paragraphs 1 through 57 of this Complaint as  
5 is set forth herein.

6 59. Defendant, or Defendant's employees or agents, engaged in acts of intentionally  
7 and tortiously causing the apprehension, torture, deaths and disappearances of worker activists  
8 Oscar Alberto Alvarez Bauman, Miguel Grieco, Diego Nuñez, Esteban A. Reimer, Alberto  
9 Francisco Arenas, Alberto Gigena, Fernando Omar Del Connte, Jorge Leichner and Hector  
10 Belmonte. Specifically, as is alleged above, Defendant, operating under color of law,  
11 conspired and acted jointly with the Argentina military and police to have these workers  
12 kidnapped, tortured and murdered. Defendant's employees and/or agents, including high-  
13 ranking officials Pedro de Elias and Juan Tasselkraut, acting in the furtherance of Defendant's  
14 business interests, carried forth this conspiracy to disappear these workers. In addition,  
15 Defendant aided and abetted the Argentina military and police by providing significant moral  
16 and logistical support, supplies, intelligence and other substantial assistance that contributed to  
17 the ability of the Argentine police and military to carry out the murder and disappearances of  
18 Oscar Alberto Alvarez Bauman, Miguel Grieco, Diego Nuñez, Esteban A. Reimer, Alberto  
19 Francisco Arenas, Alberto Gigena, Fernando Omar Del Connte, Hector Belmonte and Jorge  
20 Leichner. Defendant furthermore ratified the participation of police station chief Ruben  
21 Lavallen in a number of these crimes when, with full knowledge of this participation, it hired  
22 him as its Chief of Security after the crimes were committed. These acts violate the law of  
23 nations, customary international law, and worldwide industry standards and practices,  
24 including, but not limited to, the specific laws, agreements, conventions, resolutions and  
25 treaties listed in paragraph 57, *supra*. The acts described herein are actionable under the  
26 ATCA and the TVPA, and, if such a showing is required, were done jointly with the official  
27 armed forces of Argentina.

28 60. Defendant's conduct in violation of the law of nations, customary international

1 law, and worldwide industry standards and practices, including, but not limited to, the specific  
2 laws, agreements, conventions, resolutions and treaties listed in paragraph 57, supra, resulted  
3 in the deaths of Plaintiffs' family members. Defendant is directly liable for these violations of  
4 the law of nations, customary international law, and worldwide industry standards and  
5 practices, including, but not limited to, the specific laws, agreements, conventions, resolutions  
6 and treaties listed in paragraph 57, supra. Defendant is also vicariously liable for any  
7 violations of its employees or agents of the law of nations, customary international law, and  
8 worldwide industry standards and practices, including, but not limited to, the specific laws,  
9 agreements, conventions, resolutions and treaties listed in paragraph 57, supra.

10 61. Plaintiffs seek compensatory and punitive damages, in amounts to be ascertained  
11 at trial, for the losses and suffering they endured as a result of the murder of their loved ones  
12 named herein. Plaintiffs' losses and suffering are particularly acute in light of the fact that  
13 their loved ones were "disappeared" and their bodies never found, preventing them from ever  
14 obtaining closure over their deaths. Indeed, the lives of the Plaintiffs have been invariably  
15 shattered as a result of these disappearances. Plaintiffs, as the heirs of these disappeared  
16 workers, also seek compensatory and punitive damages, amounts to be ascertained at trial, for  
17 the losses and suffering endured by these individuals as a result of the wrongful actions of the  
18 Defendant herein.

19 Wherefore, Plaintiffs pray for relief as set forth below.

20 Second Cause of Action  
21 (For Torture  
22 On Behalf of Category II Plaintiffs Against Defendant)

23 62. Plaintiffs incorporate by reference paragraphs 1 through 61 of this Complaint as  
24 if set forth herein.

25 63. The acts described herein placed Plaintiffs in great fear for their lives and caused  
26 them to suffer severe physical and mental pain and suffering. Defendant is responsible for  
27 these acts based on the relationships alleged herein, particularly with reference to paragraphs  
28 60-61 above. Plaintiffs have been subjected to acute and continuing emotional and physical  
trauma as a result of their being kidnapped, arbitrarily imprisoned, electroshocked and/or

1 forced into exile. This continuing emotional and physical trauma of the Plaintiffs includes  
2 severe depression, headaches, nightmares, lack of concentration and suicidal urges. The severe  
3 suffering of Plaintiffs was a foreseeable and intended consequence of Defendant's actions  
4 described herein. Defendant acted with knowing disregard for the life and well-being of the  
5 Plaintiffs. The acts of Defendant amounted to the torture of Plaintiffs and violate the law of  
6 nations, customary international law, and worldwide industry standards and practices,  
7 including, but not limited to, the specific laws, agreements, conventions, resolutions and  
8 treaties listed in paragraph 57, supra.

9 64. The acts described herein were inflicted deliberately and intentionally for  
10 purposes which include, among others, punishing the victim or third persons, and constitute  
11 torture in violation of the laws of nations as described above in paragraph 57, supra, and are  
12 therefore actionable under both the ATCA and the TVPA.

13 Wherefore, Plaintiffs pray for relief as set forth below.

14 Third Cause of Action  
15 (For Crimes Against Humanity  
16 On Behalf of All Plaintiffs Against Defendant)

17 65. Plaintiffs incorporate by reference paragraphs 1 through 64 of this Complaint as  
18 if set forth herein.

19 66. The apprehension, kidnapping, detention, torture and disappearance of the  
20 individuals named in this action were neither random nor occasional but widespread and  
21 systematic. These acts occurred under the direction, encouragement and acquiescence of  
22 Defendant and in furtherance of Defendant's business. Defendant is responsible for these acts  
23 based on the relationships alleged herein, particularly with reference to paragraphs 60-61  
24 above. As a result of these acts, all of the Plaintiffs have been subjected to acute and  
25 continuing emotional and physical trauma, including severe depression, headaches,  
26 nightmares, lack of concentration and suicidal urges.

27 67. The acts described herein constitute crimes against humanity, in violation of the  
28 laws described in paragraph 57 above, and are therefore actionable under the ATCA.  
Customary international law prohibits inhumane acts of a very serious nature such as

1 kidnapping, willful killing, torture, arbitrary detention, forced exile and other inhumane acts  
2 committed as part of a widespread or systematic attack against any civilian population.  
3 Leaders, organizers, instigators and accomplices participating in the formulation of these acts,  
4 such as Defendant here, are responsible for all acts performed by any person in execution of  
5 such plan.

6 Wherefore, plaintiffs pray for relief as set forth below.

7 Fourth Cause of Action  
8 (For Cruel, Inhuman and Degrading Treatment  
9 On Behalf of All Plaintiffs Against Defendant)

9 68. Plaintiffs incorporate by reference paragraphs 1 through 67 of this Complaint as  
10 if set forth herein.

11 69. The acts described herein had the intent and the effect of grossly humiliating and  
12 debasing Plaintiffs, inciting fear and anguish and breaking their will and physical and moral  
13 resistance. As a result of these acts, all of the Plaintiffs have been subjected to acute and  
14 continuing emotional and physical trauma, including severe depression, headaches,  
15 nightmares, lack of concentration and suicidal urges. Defendant is responsible for these acts  
16 based on the relationships alleged herein, particularly with reference to paragraphs 60-61  
17 above.

18 70. Plaintiffs were placed in great fear for their lives and the lives of their loved  
19 ones and were forced to suffer severe physical and psychological abuse and agony.

20 71. The acts described herein constitute cruel, inhuman and degrading treatment in  
21 violation of the laws described in paragraph 57 and are therefore actionable under the ATCA.

22 Wherefore, Plaintiffs pray for relief as set forth below.

23 Fifth Cause of Action  
24 (For Wrongful Death  
25 On Behalf of Category I Plaintiffs Against Defendant)

25 72. Plaintiffs incorporate by reference paragraphs 1 through 71 of this Complaint as  
26 if set forth herein.

27 73. Defendant, or Defendant's employees or agents, acted in concert with Argentine  
28

1 military and police to commit acts that constitute wrongful death under the laws of the State of  
2 California and that caused the deaths of Oscar Alberto Alvarez Bauman, Miguel Grieco, Diego  
3 Nuñez, Esteban A. Reimer, Alberto Francisco Arenas, Alberto Gigena, Fernando Omar Del  
4 Connte, Hector Belmonte and Jorge Leichner. Plaintiffs, relatives and representatives of the  
5 estates of these deceased, seek damages herein for pecuniary loss resulting from loss of  
6 society, comfort, attention, services and support and for the losses suffered by these murdered  
7 and “disappeared” individuals.

8 74. Defendant’s actions were a direct and substantial cause of the deaths of Oscar  
9 Alberto Alvarez Bauman, Miguel Grieco, Diego Nuñez, Esteban A. Reimer, Alberto Francisco  
10 Arenas, Alberto Gigena, Fernando Omar Del Connte, Hector Belmonte and Jorge Leichner.  
11 Defendant failed to use due care to protect them from injury and harm, thereby proximately  
12 causing their wrongful deaths. Plaintiffs are entitled to recover compensatory and punitive  
13 damages in amounts to be ascertained at trial.

14 Wherefore, Plaintiffs pray for relief as set forth below.

15 Sixth Cause of Action  
16 (For Intentional Infliction of Emotional Distress  
17 By All Plaintiffs Against Defendant)

17 75. Plaintiffs incorporate by reference paragraphs 1 through 74 of this Complaint as  
18 if set forth herein.

19 76. The conduct alleged herein on the part of Defendant constitutes extreme and  
20 outrageous conduct against the Plaintiffs.

21 77. Defendant intended to cause Plaintiffs to suffer severe emotional distress, or, in  
22 the alternative, Defendant engaged in the conduct with reckless disregard of the probability of  
23 causing these individuals to suffer severe and ongoing emotional distress.

24 78. Plaintiffs suffered and continue to suffer severe emotional distress and the  
25 outrageous conduct of Defendant was a cause of the emotional distress suffered by them.

26 79. Defendant’s outrageous conduct constitutes the intentional infliction of  
27 emotional distress and is actionable under the laws of California, the United States and  
28 Argentina.





