

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA

Kemal Mehinovic,	)	CIVIL ACTION No. 1 98-CV.2470
Safet Hadzialijagic,	)	
Muhamed Bicic,	)	
and Hasan Subasic,	)	FIRST AMENDED COMPLAINT FOR
Plaintiffs,	)	CIVIL CONSPIRACY; GENOCIDE; WAR
	)	CRIMES; CRIMES AGAINST HUMANITY;
	)	TORTURE; CRUEL, INHUMAN AND
	)	DEGRADING TREATMENT;
v.	)	ARBITRARY DETENTION
	)	WITHOUT TRIAL; ASSAULT
	)	AND BATTERY; FALSE ARREST AND
	)	FALSE IMPRISONMENT; AND
	)	INTENTIONAL INFLICTION OF
	)	EMOTIONAL DISTRESS
Nikola Vuckovic, a/k/a Nikola Nikolac	)	
<u>Defendant.</u>	)	JURY TRIAL DEMANDED

Plaintiff Kemal Mehinovic, seeking leave of Court, hereby amends his complaint, and Plaintiffs Safet Hadzialijagic, Muhamed Bicic, and Hasan Subasic hereby join in the action and allege as follows:

1. This is an action for compensatory and punitive damages for torts in violation of international human rights law, including civil conspiracy; genocide; war crimes; crimes against humanity; torture; cruel, inhuman and degrading treatment; arbitrary detention without trial; assault and battery; false arrest and false imprisonment; intentional infliction of emotional distress and other violations of international and domestic law. Plaintiffs institute this action against Nikola Vuckovic, also known as Nikola Nikolac. Defendant Vuckovic is a retired Bosnian Serb soldier currently living in or near Atlanta, Georgia, who was directly involved in the systematic violation of the human rights of the plaintiffs in Bosnia and Herzegovina, under

actual or apparent authority of Bosnian Serb military and political authorities.

2. Plaintiffs, Muslim citizens of Bosnia and Herzegovina, seek damages for civil conspiracy; genocide; war crimes; crimes against humanity; torture; cruel, inhuman and degrading treatment; arbitrary detention without trial; assault and battery; false arrest and false imprisonment; intentional infliction of emotional distress; and other violations of customary international law, treaty law, the laws of the United States, the laws of the State of Georgia and the laws of Bosnia and Herzegovina.

3. During 1992, the defendant in this action, Nikola Vuckovic (a/k/a Nikola Nikolac), served as a Bosnian Serb soldier during the course of the armed conflict in the former Yugoslavia, and was responsible for the arbitrary detention, torture and abuse of Bosnian Muslims and Croats from the municipality of Bosanski Samac, Bosnia and Herzegovina, and the forced relocation of Bosnian Muslim and Croat families living in the municipality, with the specific intent of destroying their ethnic-religious groups.

4. In each paragraph of this complaint charging genocide; war crimes; crimes against humanity; torture; cruel, inhuman and degrading treatment; and arbitrary detention, the acts were committed by, or at the instigation of, or with the consent or acquiescence of, an official or person acting in an official capacity, and were inflicted deliberately and intentionally. The injuries were inflicted under color of law and under official authority, for one or more of the following purposes: to obtain information or a confession from the victim or a third person; to punish the victim for an act the victim or a third person committed or was suspected of having committed; to intimidate or coerce the victim or a third person; and/or due to the status of the

plaintiffs as "non-Serbians."

*JURISDICTION AND VENUE*

5. This Court has jurisdiction under 28 U.S.C. Sections 1331 and 1350, and under the principles of pendent and ancillary jurisdiction. 28 U.S.C. Section 1350 provides federal jurisdiction for "any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States." Plaintiffs' causes of action arise under, among others, the following laws, agreements, resolutions and treaties:

- a) Customary International Law;
- b) United Nations Charter, 59 Stat. 1031, 3 Bevans 1153 (1945);
- c) Universal Declaration of Human Rights, G.A. res. 217A(iii), U.N. Doc. A/810 (1948);
- d) Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287 [Fourth Geneva Convention];
- e) Common Article 3 of the four Geneva Conventions;
- f) 1977 Protocol Additional to the Geneva Convention of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I); 1977 Protocol Additional to the Geneva Convention of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), entered into force, Dec. 7, 1978. U.N. Doc. A/32/144, Annex II (1977), reprinted in 16 I.L.M. 1442 (1977);
- g) United Nations Standard Minimum Rules for the Treatment of Prisoners, U.N. Doc. A/CONF/611, ANNEX I, ESC Res. 663(c), 24 U.N. ESCOR Supp. (No. 1) at 11, U.N. Doc E/3048 (1957), amended E.S.C. Res. 2076, 62 U.N. ESCOR Supp. (No. 1), at 35, U.N. Doc. E/5988 (1977);
- h) The Rome Statute of the International Criminal Court, U.N. Doc. A/CONF. 183/9, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998;

- i) The Charter of the International Military Tribunal, Nuremberg, of 8 August 1945 and confirmed by resolutions 3(I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations;
- j) The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, G.A. res. 2391 (XXIII), annex, 23 U.N. GAOR Supp. (No. 18) at 40, U.N. Doc. A/7218 (1968);
- k) 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);
- l) The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force January 12, 1951;
- m) 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);
- n) 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);
- o) Title 28 U.S.C. Section 1350 (1988) [The Alien Tort Claims Act];
- p) Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. Section 1350 note) [The Torture Victim Protection Act];
- q) Common law of the United States of America;
- r) Laws of the State of Georgia, including but not limited to O.C.G.A. Sections 51-1-2, 51-1-13, 51-1-14, 51-2-2, and 51-7-20;
- s) Georgia common law principles of civil conspiracy, assault and battery, intentional infliction of bodily harm and extreme emotional distress, false arrest and false imprisonment; and
- t) The laws of the country of Bosnia and Herzegovina.

6. The United States District Court for the Northern District of Georgia is the proper venue of this action pursuant to 28 U.S.C. Section 1391.

## *PARTIES*

### *Defendant*

7. Upon information and belief, Defendant Vuckovic is a Serbian-born citizen of the former Yugoslavia who later moved to Bosanski Samac, Bosnia-Herzegovina. When armed conflict arose in the region in 1992, he served as a Bosnian Serb soldier stationed in the municipality of Bosanski Samac, near the Sava River in what was then referred to as northern Bosnia-Herzegovina, next to the Croatian border. From May through November 1992, he detained, tortured and otherwise abused the plaintiffs, at the *Sekreterijat Unutrasnjih Poslova (SUP)* police station, the *Territorial Odbrana (TO)* warehouse, and the *Osnovna Skola (OS)* primary school building in the town of Bosanski Samac.

8. Defendant Vuckovic came to the United States after committing the acts described herein, and currently resides within the jurisdiction of the United States District Court for the Northern District of Georgia.

### *Plaintiffs*

9. Plaintiff Kemal Mehinovic, age 42, was born in the municipality of Bosanski Samac, and is a citizen of Bosnia and Herzegovina. He is currently residing in the United States.

10. Plaintiff Safet Hadzialijagic, age 50, was born in the municipality of Bosanski Samac, and is a citizen of Bosnia and Herzegovina. He currently resides in Belgium.

11. Plaintiff Muhamed Bicic, age 42, was born in the municipality of Bosanski Samac, and is a citizen of Bosnia and Herzegovina. He is currently residing in Germany.

12. Plaintiff Hasan Subasic, age 29, was born in Odzak, Bosnia and is a citizen of Bosnia and Herzegovina. He currently resides in the United States.

*STATEMENT OF FACTS*

13. According to indictments prepared by the International Criminal Tribunal for the Former Yugoslavia at The Hague, prior to the break up of the former Yugoslavia in 1991, almost 17,000 Bosnian Croats (Catholics) and Bosnian Muslims, of a total population of about 33,000, lived in the municipality of Bosanski Samac near the Sava River in the northern part of the Republic of Bosnia-Herzegovina. By May 1995, as a result of the armed conflict in the area and the genocidal "ethnic cleansing" campaign engaged in by the Bosnian Serb military, fewer than 300 Bosnian Croat and Muslim residents remained in the municipality.

14. On 17 April 1992, Serb military forces from Bosnia-Herzegovina and elsewhere in the former Yugoslavia seized control of the town of Bosanski Samac.

15. Due to its location at the northwestern edge of the "Posavina Corridor," control of Bosanski Samac was important to Serb military strategy, which aimed to create a Serb-controlled land bridge between Serbia and the Krajina Serbs in Croatia and western Bosnia-Herzegovina.

16. After seizing control in the military takeover, Serb military authorities from Bosnia-Herzegovina and elsewhere in the former Yugoslavia, including the defendant and other soldiers in the 5th Battalion of the 2nd Posavina Brigade, undertook a series of actions which have come to be known as "ethnic cleansing," with the goal of creating a Serbian-only territory with contiguous borders and an uncompromised geographic link with Serbia and Montenegro. That goal required the subjugation, if not the disappearance of, the non-Serbian populations from the

area. This genocidal strategy included the wholesale detention of non-Serbian adult males in the municipality and the unlawful deportation and forcible transfer of hundreds of other Bosnian Croat and Muslim residents -- women, children and the elderly -- to other countries or to other parts of Bosnia and Herzegovina not controlled by Serb forces.

*DEFENDANT*

*Nikola Vuckovic a.k.a. "Nikola Nikolac"*

17. Defendant Vuckovic participated directly in activities related to this "ethnic cleansing" -- serving as a guard at the municipal headquarters used by Serb military and political leaders in the town of Bosanski Samac; subjecting plaintiffs and others detained at the *TO* and *SUP* to torture and cruel, inhuman and degrading treatment, including sexual assault and beatings; terrorizing those attempting to visit prisoners at the camps; forcing non-Serbs into unpaid work; and taking over and/or ransacking the homes of Muslims and Croats in the area, stealing their possessions and vehicles and forcing them to relocate to concentration camps or other "non-Serb" communities. The plaintiffs, their family members, and their neighbors were the victims and/or witnesses to these actions.

18. Beginning on or about 17 April 1992, the defendant carried out the following actions, in coordination with Serb military and political figures in the municipality of Bosanski Samac:

- a) he participated in the arrest and detention of Bosnian Croat and Muslim males over the age of 18 in the municipality of Bosanski Samac;
- b) he worked as a guard at Serb-held municipal facilities in the town of Bosanski Samac;
- c) he repeatedly entered the *SUP*, *TO*, and *OS* detention facilities to torture detainees, subjecting them to cruel, inhuman and degrading treatment, including

beatings, sexual assault, and other abuse;

- d) he compelled Bosnian Croat and Muslim residents of the municipality to leave their homes, and -- along with other Serbs -- moved into the vacated homes;
- e) he forced Bosnian Croat and Muslim adults to perform compulsory labor; and
- f) he ransacked homes and businesses of Bosnian Croat and Muslim residents, stealing their vehicles, cash and valuables.

The plaintiffs, their family members, and their neighbors were the victims and/or witnesses to these actions by the defendant.

19. The defendant was a soldier in the Fourth Detachment (5th Battalion) of the 2nd Posavina Brigade of the Bosnian Serb Army, commanded by Simo Zaric. The defendant coordinated his actions against the plaintiffs and other members of their community through regular contact with Stevan Todorovic (the Bosnian Serb Chief of Police) and Simo Zaric (the defendant's Bosnian Serb military commander). Todorovic and Zaric have been indicted (along with several others) by the United Nations International Criminal Tribunal for the Former Yugoslavia at The Hague for their involvement in this campaign of terror in Bosanski Samac.

20. On several different occasions between May and November 1992, the defendant and several other soldiers entered detention facilities established by Bosnian Serb officials in Bosanski Samac in order to interrogate and torture Croat and Muslim detainees who were confined there, including the plaintiffs. The defendant and others severely abused the detainees, including the plaintiffs, by kicking them and hitting them with many different implements (including police batons, baseball bats, and metal pipes), causing them physical injury and fear of imminent death.

*PLAINTIFFS*

*Plaintiff Kemal Mehinovic*

21. Plaintiff Kemal Mehinovic was born on May 6, 1956 in Bosanski Samac, Bosnia-Herzegovina, in the former Yugoslavia, a community in which he lived his entire life until prior to the outbreak of war in the region in 1992. When the war began, he lived with his wife and two children in a comfortable home in Bosanski Samac, and was the co-owner of two restaurants and a bakery. During the time that he was imprisoned by the Bosnian Serbs, all of the money which he had deposited in multiple accounts in the Sarajevo bank (*BBS*) and the Yugobank (*Vihkovci*) was frozen by the Bosnian Serbs in control of the area.

22. On or about May 27, 1992, while Plaintiff Mehinovic was taking an afternoon nap, two Bosnian Serb policemen came to his home and demanded that he accompany them to the *SUP* (police headquarters) for questioning. These men were dressed in police uniforms with the characteristic “4S” insignia of the Bosnian Serb forces controlled by Radovan Karadzic. They did not present an arrest warrant, and they beat Plaintiff Mehinovic with police batons in front of his family upon his arrest. He was taken to the *SUP*, where he was held until mid-July 1992. He was then transferred to the nearby *TO* (territorial defense military headquarters), where he was held until November 1992, when he was taken to *Batkovic* concentration camp (BCC). This detention, like that of hundreds of other Muslim and Croat men from the municipality of Bosanski Samac, was imposed without any formal charges or judicial proceedings.

23. During the approximately six months of his detention at the *SUP* and the *TO* in Bosanski Samac, Plaintiff Mehinovic had frequent contact with the defendant. During the first days of his detention at the *SUP*, Plaintiff Mehinovic was kept in isolation and was interrogated and tortured by Stevan Todorovic (the Bosnian Serb appointed Chief of Police after the April 1992 takeover) and other members of his police force. Subsequently, the defendant appeared at the *SUP* on a nearly daily basis, and he repeatedly tortured Plaintiff Mehinovic (first in a separate room by himself and later in the presence of other detainees). The plaintiff had known the defendant prior to the war, because the defendant's brother-in-law, Hrvoje Kovacevic, had worked at the plaintiff's bakery for many years.

24. Over a period of several weeks, the defendant repeatedly tortured and beat plaintiff Mehinovic at the *SUP*. The defendant normally arrived at the *SUP* with other soldiers, who went into other rooms to interrogate and torture other detainees. The defendant would frequently get drunk with the other soldiers and tell them to "help themselves" to the detainees. Plaintiff Mehinovic was sometimes forced to face the corner of the room while the defendant and others took turns torturing him. During various torture sessions, the defendant made genocidal comments such as "*Muslimani se vise netrebaju radat... Udrite ih u muda*" ("No more Muslims should be born... Hit him in the balls") and "*Sue cemo vas pobit*" ("We will kill all of you"), and cursed Bosnian Muslims as an "*Izmisljena nacija*" ("invented nationality"). The defendant also demanded that the plaintiff respond to questions which the plaintiff could not answer, such as "where is your president" (apparently referring to the Bosnian Muslim President Alija Izetbegovic, with whom the plaintiff had no contact), and uttered: "*Jebo mi Alija mater*" ("Alija

fuck my mother”). According to the plaintiff, the questions seemed to be repeated only to give the defendant additional cause to beat and torture him.

25. During one torture session, the defendant forced the plaintiff's legs apart and beat him in the genitals with a wooden baton, asserting: "you won't be needing this anymore."

26. The defendant beat the plaintiff with wooden batons, metal pipes, his fists and heavy boots. The plaintiff was frequently and repeatedly hit on the head; he repeatedly lost consciousness as a result of these beatings, which normally lasted for approximately an hour.

27. The plaintiff was never allowed to receive medical attention for his wounds during his detention. He suffered repeated head injuries, and his cheekbone, nose, ribs, and fingers were severely injured during these torturous beatings. He continues to suffer headaches and pain as a result of the injuries.

28. In addition to the repeated beatings described above, the plaintiff was subjected to extreme psychological torture. On five or six occasions while detained at the *SUP*, the defendant and Stevan Todorovic gathered Plaintiff Mehinovic and 25 to 30 other detainees together in a large room at the *SUP* that previously had been partitioned office space. During these assemblies, Todorovic and Defendant Vuckovic performed “mock executions” by repeatedly and deliberately shooting their weapons in the direction of selected detainees, for the purpose of causing them to fear their own imminent death and/or the imminent death of their fellow detainees. On one occasion, Todorovic aimed deliberately toward Plaintiff Mehinovic personally; when he missed, he commented: "Look at him, he's lucky. Not even the bullets want him." At the same time, the defendant had aimed and shot at others in the room with the

plaintiff. Although none of the detainees present during these occasions incurred gun shot wounds, they were all in fear of great bodily harm and/or imminent death.

29. While detained at the *SUP*, Plaintiff Mehinovic and other detainees were periodically taken out into a back yard area where female family members would gather behind adjacent metal gates with small windows in attempt to see their family members and bring them food. On repeated occasions, the plaintiff saw the defendant shoot his gun at the unarmed women, demanding that they leave the area. Although no one was ever wounded on these occasions, the plaintiff believed that the women (including his wife) could be killed and/or seriously injured as a result of the defendant's actions.

30. In addition to the torturous beatings and psychological abuse described above, Plaintiff Mehinovic and the other detainees at the *SUP* and the *TO* were forced to live in squalid, crowded conditions. For example, at the *TO*, Plaintiff Mehinovic was detained with 300 other men in a dark storage room approximately 5 meters by 5 meters, with only a concrete floor on which to sleep. They were denied drinking water, given inedible food (including pork, which is forbidden by Muslim religious practice) and allowed access to the toilet only once a day. They were also forced to perform oral sex on other prisoners for the amusement of the guards.

31. One day in late 1992, Plaintiff Mehinovic was blindfolded and told by the guards: “we don’t need you anymore; we’re going to kill all of you.” He was not killed, however; he was taken to the *Batkovic* concentration camp (BCC). Using BCC as a base, Plaintiff Mehinovic and other detainees held with him were transported to other locations (to factories, farms or houses) where they were required to perform forced and compulsory labor on behalf of the Serbs.

32. In early 1993, Plaintiff Mehinovic was sent to *Bijeljina* military base, and was later put on trial with other non-Serbs with whom he was detained by Bosnian Serb military officials.

Although the plaintiff was told that he was accused of "killing Serb children," he and the others on trial were not informed of the charges against them in any meaningful way. The charges were unfounded, and although defense counsel was "appointed" by the Bosnian Serb captors, the plaintiff was not allowed to confer with this counsel or given a fair opportunity to defend himself. A military court subsequently convicted him of these crimes, and sentenced him to death.

33. In mid-1993, prior to a proposed prisoner exchange, Plaintiff Mehinovic was transferred (along with others the Serbs did not want to release) to two additional detention facilities located in former high schools -- first to *Vlasenica* and later to *Han Pjesak*, both in eastern Bosnia. Again, the plaintiff was forced at gunpoint to work for the Serbs -- undertaking agricultural work, loading supply trucks and building bunkers. After *Han Pjesak*, Plaintiff Mehinovic was taken to *Janja*, in northeastern Bosnia where the Sava and Drina rivers meet, near the Serbian border.

34. Plaintiff Mehinovic was released from Serb military detention in a "civilian exchange" which took place in late 1994 near Sarajevo. He did not know why he was being moved; he had been in *Janja* but was taken to *Batkovic* concentration camp, put on a bus, then taken to a detention facility in Pale, outside Sarajevo. Many older people and children were already at the Pale camp when he arrived. From there, he and the others being released were taken to UNPROFOR headquarters in a UN transport vehicle, driven to a bridge in Sarajevo and released on foot. After many days, he succeeded in reuniting with his family, which had been in

Domanjevak.

35. The plaintiff and his family subsequently were able to leave Bosnia and immigrated to the United States in July, 1995. He is now a permanent resident of the United States.

36. As a result of the treatment he endured during his detention at the *SUP* and the *TO*, Plaintiff Mehinovic suffered permanent injuries and continues to suffer extreme mental anguish and emotional distress.

37. In early 1998, the plaintiff received a phone call from a friend who notified him that the defendant was living in the Atlanta area. After receiving this information, Plaintiff Mehinovic began suffering from intensified nightmares related to his detention, interrogation, beatings and other abuses at the hands of the defendant.

38. On information and belief, the genocide; war crimes; crimes against humanity; torture; cruel, inhuman or degrading treatment; arbitrary detention; assault and battery; false arrest and false imprisonment inflicted upon Plaintiff Mehinovic were the responsibility of the defendant, in conspiracy with others (including Stevan Todorovic and Simo Zaric).

*Plaintiff Safet Hadzialijagic*

39. Plaintiff Safet Hadzialijagic, age 50, was born in Bosanski Samac on March 24, 1948, and is a citizen of Bosnia and Herzegovina. He currently resides in Belgium.

40. On or about the 20<sup>th</sup> of April, 1992, Plaintiff Hadzialijagic was arrested at his apartment and detained without a warrant by Serb police in Bosanski Samac dressed in camouflaged uniforms. Upon his arrest, he was forcibly escorted out of his apartment by armed police and taken in a police vehicle to Vodovod, the site of a public works facility (a hydraulic dam) where

he worked. He was later returned to his home by the police escort, but was told that he could not leave his home without authorization.

41. Upon hearing from a Serb neighbor that he had to go to the police station to be “registered” to obtain permission to be out in public, Plaintiff Hadzialijagic voluntarily went to the police station (the *SUP*) to do so. Upon his arrival, he was immediately put into a cell at the *SUP* by the newly-appointed Bosnian Serb police chief, Stevan Todorovic.

42. For the next several hours of his detention at the *SUP*, Plaintiff Hadzialijagic was tortured and beaten -- by Todorovic and others. During that night, at around midnight, Hadzialijagic was transferred from the *SUP* to the *TO* across the street, and was held at the *TO* for approximately 15 days, after which he was transferred to other detention facilities, including Brcko and Bijeljina.

43. Toward the end of May or beginning of June 1992, Plaintiff Hadzialijagic was transferred back to Bosnian Serb detention facilities in Bosanski Samac, where he was first detained at the secondary school gymnasium and later at the *Osnovna Skola* (elementary school) gymnasium.

44. At the *Osnovna Skola*, Bosnian Serb soldiers involved in the now-full scale war in the area often entered the detention facility at night, drunk and full of rage against the non-Serb detainees at the facility. Plaintiff Hadzialijagic first saw the defendant present at the *Osnovna Skola* facility through a window; the defendant arrived at the school by motorcycle, and was seen performing odd jobs at the facility (such as reinforcing the doors). During the defendant's daytime work at the facility, the defendant was able to see who was being detained there, and he later would return at night and beat them.

45. Plaintiff Hadzialijagic had known the defendant (through his sister and her husband) before the war, and the defendant selected him for particularly harsh treatment, causing Plaintiff Hadzialijagic to fear his imminent death as the defendant subjected him to “Russian Roulette” and other humiliating acts. On one occasion, which took place in late May or early June 1992, Vuckovic forced Plaintiff Hadzialijagic to get down on the floor on all fours, and mounted him like a horse, pistol-whipping the plaintiff on the head with his gun and the handle of a knife and yelling at him. The defendant later took his knife and cut Plaintiff Hadzialijagic’s forehead, “branding” the plaintiff and riding him around the gymnasium in front of the other detainees. While continuing to beat the plaintiff’s head, he cursed at him and made profane comments about the plaintiff’s mother.

46. When the plaintiff asked Defendant Vuckovic and the guard present how long he was going to continue this treatment, the defendant responded by dunking his head into a container kept in the gymnasium for use as a toilet by the detainees.

47. When the defendant released the plaintiff, other detainees attempted to help him by applying compresses to his forehead, which was bleeding profusely. Shortly thereafter, the defendant resumed the torture of the plaintiff, jumping on him, kicking him, and rubbing the sole of his boot in the cut on the plaintiff’s forehead prior to leaving the facility.

48. During this torture, Defendant Vuckovic asserted that Muslims were “enemies of the Serbian people,” and stated that they (Muslims) were “going to be eliminated.” He also claimed that “Muslims were not human beings,” and that they were “an invented people.”

49. After the events described above, the plaintiff did not see the defendant again. In late

October or early November 1992, Plaintiff Hadzialijagic was transferred back to the *TO* warehouse from the elementary school, held for about 15 to 20 days, and then sent to *Batkovic* concentration camp. At *Batkovic*, he was registered by the International Committee of the Red Cross (ICRC), and then sent to *Vlasenica*, where he was held for approximately two months before being returned to *Batkovic*.

50. Plaintiff Hadzialijagic was later released from *Batkovic* in a civilian exchange and was taken to *Gasnice* in Croatia, where he found his brother. After searching for the following year and a half, he discovered the whereabouts of his wife and children, subsequently reunited with them and obtained refugee status in Belgium.

51. As a result of the treatment he endured during his detention, Plaintiff Hadzialijagic suffered and continues to suffer physical and mental injuries and emotional distress.

52. During early 1998, after Plaintiff Mehinovic learned of the whereabouts of the defendant in Atlanta, Mehinovic began attempting to contact Plaintiff Hadzialijagic through relatives to inform him of his intention to file a lawsuit against Defendant Vuckovic. After carefully considering the matter and after having received photos of the defendant in Georgia which were sent to Plaintiff Hadzialijagic by Plaintiff Mehinovic, Plaintiff Hadzialijagic also decided to sue the defendant.

53. On information and belief, the acts described herein constituting civil conspiracy; genocide; war crimes; crimes against humanity; torture; cruel, inhuman and degrading treatment; arbitrary detention; assault and battery; false arrest; false imprisonment; and intentional infliction of emotional distress upon Plaintiff Hadzialijagic were the responsibility of the defendant, in

conspiracy with others (including Stevan Todorovic and Simo Zanic).

*Plaintiff Muhamed Bicic*

54. Plaintiff Muhamed Bicic, age 42, was born on January 8, 1956 in Bosanski Samac, Bosnia-Herzegovina, in the former Yugoslavia. He was in the restaurant business in Bosanski Samac before the Bosnian Serb takeover of the town in April 1992.

55. On or about April 18, 1992, Plaintiff Bicic was arrested at his home by masked men with machine guns who beat him and took him -- along with his brother -- to the *SUP* (police station), and then to the *TO* warehouse. He was later taken to Brcko (for approximately seven or eight days), then to Bijeljina, where he was held for about ten additional days until approximately May 13, 1992. Plaintiff Bicic was then returned to Bosanski Samac, where he was held for approximately two days in the high school gymnasium, and then transferred to the Bosanski Samac elementary school gymnasium, where he was detained for approximately five additional months.

56. While Plaintiff Bicic was detained at the Bosanski Samac elementary school, the defendant, Nikola Vuckovic (whom Plaintiff Bicic had known prior to the war), repeatedly came to the facility to beat and torture the detainees, including Plaintiff Bicic.

57. The defendant beat Plaintiff Bicic and other detainees with a variety of implements, including metal pipes, a rifle butt, a wooden bat, a two-by-four, a chair leg, his boots and his fists.

58. During these beatings, the defendant demanded that Plaintiff Bicic tell him where his money was kept, where his family was, and where he had left his car.

59. According to information and belief, the defendant had moved into Plaintiff Bicic's home in Bosanski Samac after the plaintiff was detained but prior to his transfer to the detention facilities established at the Bosanski Samac elementary school gymnasium.

60. In October or November 1992, Plaintiff Bicic was returned to the *TO* warehouse, where he was detained for approximately twenty additional days, after which he was released as part of an exchange.

61. Subsequent to his release from detention in Bosanski Samac, Plaintiff Bicic was sent to Croatia, and eventually was able to obtain refugee status in Belgium.

62. Plaintiff Bicic suffered repeated injuries to his head, back and hands during these torturous beatings, and continues to suffer headaches and back pain as a result of the injuries.

63. As a result of the treatment he endured at the hands of the defendant, Plaintiff Bicic suffered and continues to suffer extreme mental anguish and emotional distress.

64. After Plaintiff Mehinovic filed this lawsuit in August 1998, Plaintiff Bicic learned of the whereabouts of the defendant and decided to join in the lawsuit against him.

65. On information and belief, the acts described herein constituting civil conspiracy; genocide; war crimes; crimes against humanity; torture; cruel, inhuman and degrading treatment; arbitrary detention; conversion; assault and battery; false arrest; false imprisonment and intentional infliction of emotional distress upon Plaintiff Bicic were the responsibility of the defendant, in conspiracy with others (including Stevan Todorovic and Simo Zaric).

*Plaintiff Hasan Subasic*

66. Plaintiff Hasan Subasic, age 29, was born in Odzak, Bosnia, on November 4, 1969, and

moved to Bosanski Samac, Bosnia-Herzegovina, when he was three years old. Prior to the outbreak of hostilities in Bosnia in April 1992, he made his living as a welder, and lived with his wife and infant daughter in Bosanski Samac.

67. On or about April 24, 1992, eight members of the newly-established Bosnian Serb police force came to Subasic's home and told him he was wanted for questioning at the police headquarters in Bosanski Samac. He was taken to the *SUP* and interrogated for approximately three hours, then transferred across the street to the *TO* warehouse. After two or three days at the *TO*, he was transferred to Brcko army barracks with other Muslim and Croat men from Samac and surrounding villages. On or about May 1, 1992, he was transferred to Bijeljina to another army barracks being used as a detention facility. In mid-May, he was transferred back to his hometown, first to a detention facility set up at the Bosanski Samac High School (where he was kept only overnight), then to the *Osnova Scola* primary school (*OS*). He was kept at the *OS* for approximately three months (until approximately August 1992), and then was transferred back to the *TO*. On or about November 27, 1992, Plaintiff Subasic was again transferred out of Bosanski Samac to Batkovic concentration camp, where he was forced to engage in slave labor.

68. While Plaintiff Subasic was detained at the *OS* in Bosanski Samac, he and those held with him were brutally beaten and tortured by Bosnian Serb soldiers and police. Plaintiff Subasic was kicked and beaten in the ribs during these beatings and four of his teeth were pulled out during torture. Defendant Vuckovic was present during these beatings on at least five occasions at the *OS*, always in the company of other soldiers or police. Each time, they appeared to have been drinking prior to their arrival at the *OS*.

69. On at least two occasions, Defendant Vuckovic beat Plaintiff Subasic; on other occasions, Plaintiff Subasic saw the Defendant beating and torturing other detainees, including Safet Hadzialigiac and Muhamed Bicic.

70. The defendant beat Plaintiff Subasic by kicking him with his boots and hitting him with his fists; these beatings lasted approximately 10 minutes. The defendant also forced Plaintiff Subasic and others to watch him as he engaged in humiliating acts of torture against other detainees, including “Russian Roulette” and “horse.”

71. On or about June 9, 1994, Plaintiff Subasic was released from detention in an exchange from Sotorovic near Brcko. By the time he reunited with his family, he had been detained for 27 months. From June 1994 to September 1995, Plaintiff Subasic lived in Croatia with his wife’s family.

72. Plaintiff Subasic arrived in the United States on or about the 29 September 1995 from Zagreb, Croatia. He is now a permanent resident of the United States.

73. As a result of the treatment he endured during his detention and beatings at the hands of the Defendant and others, Plaintiff Subasic suffered and continues to suffer extreme mental anguish and emotional distress.

74. On information and belief, the acts described herein constituting genocide; war crimes; crimes against humanity; torture; cruel, inhuman and degrading treatment; arbitrary detention; assault and battery; false arrest; false imprisonment and intentional infliction of emotional distress upon Plaintiff Subasic were the responsibility of the defendant, in conspiracy with others (including Stevan Todorovic and Simo Zaric).

### *General Allegations*

75. Unless otherwise set forth below, all acts and omissions alleged by the plaintiffs took place between April and November 1992 in the municipality of Bosanski Samac. Bosanski Samac was located in what was then the Republic of Bosnia-Herzegovina in the territory of the former Yugoslavia. Subsequent to the Dayton Peace Accord, this area became part of the newly established country of Bosnia and Herzegovina, which is composed of two entities: the Federation of Bosnia and Herzegovina, and the *Republika Srpska*. Bosanski Samac falls within the boundaries of the *Republika Srpska*.

76. At all times relevant to this complaint, a state of armed conflict and partial occupation existed in the former Republic of Bosnia-Herzegovina. The plaintiffs herein were at all times protected by -- and the defendant was required to abide by -- a variety of treaties, including the Geneva Conventions of 1949 and the Protocols Additional of 1977, as well as customary international law.

77. At all times relevant to this complaint, the defendant was acting either as a soldier for the self-proclaimed Bosnian Serb republic within Bosnia-Herzegovina referred to as the "*Republika Srpska*," or in collaboration with the government of the recognized nation of the former Yugoslavia and its dominant constituent republic, Serbia. His actions in violation of local, national and international laws were his responsibility as an individual, however, and exceeded the scope of his authority as a soldier in the Bosnian Serb military or as a guard for Bosnian Serb municipal authorities.

78. The acts described herein were committed by, or at the instigation of, or with the consent

or acquiescence of, or in conspiracy with, an official or person acting in an official capacity, and were inflicted deliberately and intentionally. The injuries were inflicted under color of law and under official authority, for one or more of the following purposes: to obtain information or a confession from the victim or a third person; to punish the victim for an act the victim or a third person committed or was suspected of having committed; to intimidate or coerce the victim or a third person; and/or due to the status of the plaintiffs as "non-Serbians."

79. The acts and injuries to plaintiffs described herein were part of a widespread, systematic or large-scale attack designed, ordered, implemented and directed by the defendant against Bosnian Croat and Muslim residents of the municipality of Bosanski Samac during armed conflict, constituting a pattern and practice of systematic human rights violations carried out by military and political authorities in the municipality.

80. As a direct and proximate result of defendant's unlawful conduct, plaintiffs have suffered and will continue to suffer physical injuries, pain and suffering, and extreme and severe mental anguish and emotional distress; plaintiffs have incurred and will continue to incur medical expenses; and plaintiffs have suffered and will continue to suffer a loss of their means of economic support. Plaintiffs are thereby entitled to general and compensatory damages in amounts to be proven at trial.

81. The conduct of the defendant, as described herein, was malicious, fraudulent and/or oppressive and done with willful and conscious disregard for plaintiff's rights and of the deleterious consequences of his actions. Consequently, plaintiffs are entitled to punitive damages.

82. This proceeding could not have been previously filed in the United States as the whereabouts of the defendant was unconfirmed until mid-1998. Any attempt to bring suit against the defendant in Bosnia-Herzegovina prior to the plaintiffs' departure from the country would have been futile.

*FIRST CLAIM FOR RELIEF*  
*(Conspiracy)*

83. Plaintiffs Kemal Mehinovic, Safet Hadzialijagic, Muhamed Bicic, and Hasan Subasic reallege and incorporate by reference the allegations set forth in paragraphs 1 through 82 as if fully set forth herein.

84. The acts described herein were committed in furtherance of a conspiracy among Bosnian Serb military and political figures in Bosanski Samac, who coordinated actions which have come to be known as “ethnic cleansing” and which involved a common design to destroy, in whole or in part, a national, ethnic, racial and/or religious group as such.

85. The acts described herein constitute a conspiracy to violate the human rights of the plaintiffs herein, in violation of customary international law, 28 U.S.C. Section 1350, the common law of the United States, the laws of the country of Bosnia and Herzegovina, and international treaties, agreements, conventions and resolutions described in paragraph 5 herein.

86. As a result of the conspiracy described herein, plaintiffs have been damaged in an amount to be determined at trial.

87. Defendant's acts were deliberate, willful, intentional, wanton, malicious and oppressive and should be punished by an award of punitive damages in an amount to be determined at trial.

*SECOND CLAIM FOR RELIEF*  
*(Genocide)*

88. Plaintiffs Kemal Mehinovic, Safet Hadzialijagic, Muhamed Bicic, and Hasan Subasic reallege and incorporate by reference the allegations set forth in paragraphs 1 through 82 as if fully set forth herein.

89. The acts described herein were committed with the intent to destroy, in whole or in part, a national, ethnic, racial and/or religious group as such.

90. The acts described herein constitute genocide in violation of customary international law, 28 U.S.C. Section 1350, the common law of the United States, the laws of the country of Bosnia and Herzegovina, and international treaties, agreements, conventions and resolutions described in paragraph 5 herein.

91. As a result of the genocidal acts described herein, plaintiffs have been damaged in an amount to be determined at trial.

92. Defendant's acts were deliberate, willful, intentional, wanton, malicious and oppressive and should be punished by an award of punitive damages in an amount to be determined at trial.

*THIRD CLAIM FOR RELIEF*  
*(War Crimes)*

93. Plaintiffs Kemal Mehinovic, Safet Hadzialijagic, Muhamed Bicic, and Hasan Subasic reallege and incorporate by reference the allegations set forth in paragraphs 1 through 82 as if fully set forth herein.

94. The acts described herein placed plaintiffs in great fear for their lives and caused them great suffering and serious injury to body and health.

95. The acts described herein were willfully inflicted, and constituted violence to life and person, cruel treatment, torture and "outrages on personal dignity" against the plaintiffs, members of the civilian population of Bosanski Samac during armed conflict.

96. The acts described herein constitute war crimes in violation of customary international law, the laws of the country of Bosnia and Herzegovina, and international treaties, agreements, conventions and resolutions described in paragraph 5 herein, in particular:

- a) said acts violated Common Article 3 of the Geneva Conventions, and/or
- b) said acts violated the Additional Protocol II of the Geneva Conventions, and/or
- c) said acts violated the Fourth Geneva Convention and Additional Protocol I of the Geneva Conventions.

Leaders, organizers, instigators and accomplices participating in the formulation or implementation of a common plan to commit these war crimes are responsible for all acts performed by any person in execution of such a plan. In addition to being personally liable for personally committing war crimes, the defendant is liable for the war crimes committed by his subordinates and co-conspirators.

96. As a result of the war crimes described above, the plaintiffs have been damaged in an amount to be determined at trial.

97. Defendant's acts were deliberate, willful, intentional, wanton, malicious and oppressive and should be punished by an award of punitive damages in an amount to be determined at trial.

*FOURTH CLAIM FOR RELIEF*

*(Crimes Against Humanity)*

98. Plaintiffs Kemal Mehinovic, Safet Hadzialijagic, Muhamed Bicic, and Hasan Subasic reallege and incorporate by reference the allegations set forth in paragraphs 1 through 82 as if fully set forth herein.

99. The acts described herein placed plaintiffs in great fear for their lives and caused them great suffering and serious injury to body and health.

100. The inhumane acts described herein were willfully inflicted as part of a widespread or systematic attack against the civilian population of Bosanski Samac, and constituted severe deprivation of physical liberty, torture, persecution on political, racial or religious grounds, enslavement, forced exile and other inhumane acts of a similar character.

101. The acts described herein constitute crimes against humanity, in violation of customary international law, the laws of the country of Bosnia and Herzegovina, and international treaties, agreements, conventions and resolutions described in paragraph 5 herein, in particular:

- a) Article 7 of the Rome Statute of the International Criminal Court, A/CONF. 183/9, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998;
- b) The Charter of the International Military Tribunal, Nuremberg, of 8 August 1945 and confirmed by resolutions 3(I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations; and
- c) The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, G.A. res. 2391 (XXIII), annex, 23 U.N. GAOR Supp. (No. 18) at 40, U.N. Doc. A/7218 (1968).

Leaders, organizers, instigators and accomplices participating in the formulation or implementation of a common plan to commit these crimes against humanity are responsible for

all acts performed by any person in execution of such a plan. In addition to being personally liable for personally committing crimes against humanity, the defendant is liable for the war crimes committed by his subordinates and co-conspirators.

102. As a result of the crimes against humanity described above, the plaintiffs have been damaged in an amount to be determined at trial.

103. Defendant's acts were deliberate, willful, intentional, wanton, malicious and oppressive and should be punished by an award of punitive damages in an amount to be determined at trial.

*FIFTH CLAIM FOR RELIEF*  
*(Torture)*

104. Plaintiffs Kemal Mehinovic, Safet Hadzialijagic, Muhamed Bivic, and Hasan Subasic reallege and incorporate by reference the allegations set forth in paragraphs 1 through 82 as if fully set forth herein.

105. The acts described herein placed plaintiffs in great fear for their lives and caused them to suffer severe physical and mental pain and suffering.

106. The acts described herein were inflicted deliberately and intentionally for purposes which included, among others, obtaining information or a confession, punishing the victim, or intimidating the victim or a third person.

107. The acts described herein constitute torture in violation of customary international law, 28 U.S.C. Section 1350, the common law of the United States, the statutes and common law of Georgia, the laws of the country of Bosnia and Herzegovina, and international treaties, agreements, conventions and resolutions described in paragraph 5 herein.

108. As a result of the torture described above, the plaintiffs have been damaged in an amount

to be determined at trial.

109. Defendant's acts were deliberate, willful, intentional, wanton, malicious and oppressive and should be punished by an award of punitive damages in an amount to be determined at trial.

*SIXTH CLAIM FOR RELIEF*  
*(Cruel, Inhuman and Degrading Treatment)*

110. Plaintiffs Kemal Mehinovic, Safet Hadzialijagic, Muhamed Bicic, and Hasan Subasic reallege and incorporate by reference the allegations set forth in paragraphs 1 through 82 as if fully set forth herein.

111. The acts described herein had the intent and the effect of grossly humiliating and debasing the plaintiffs, forcing them to act against their will and conscience, inciting fear and anguish, breaking physical or moral resistance, and/or forcing them to leave their homes and country and flee into exile, in violation of customary international law, 28 U.S.C. Section 1350, the common law of the United States, the statutes and common law of Georgia, the laws of Bosnia and Herzegovina, and the international treaties, agreements, conventions and resolutions described in paragraph 5 herein.

112. As an intended result of defendant's acts, plaintiffs were placed in great fear of their lives, suffered severe physical and psychological abuse and agony, and were forced to leave their homes and country and flee into exile. As a result of the cruel, inhuman and degrading treatment described above, the plaintiffs have been damaged in an amount to be determined at trial.

113. Defendant's acts were deliberate, willful, intentional, wanton, malicious and oppressive and should be punished by an award of punitive damages in an amount to be determined at trial.

*SEVENTH CLAIM FOR RELIEF*

*(Arbitrary Detention)*

114. Plaintiffs Kemal Mehinovic, Safet Hadzialijagic, Muhamed Bicic, and Hasan Subasic reallege and incorporate by reference the allegations set forth in paragraphs 1 through 82 as if fully set forth herein.

115. Defendant's involvement in the arbitrary detention of plaintiffs was illegal and unjust. Defendant and those acting with him detained the plaintiffs without warrant, probable cause, articulable suspicion or notice of charges and failed to accord them due process in fair trials.

116. Defendant's acts constitute arbitrary detention in violation of customary international law, 28 U.S.C. Section 1350, the common law of the United States, the statutes and common law of Georgia, the laws of Bosnia and Herzegovina and the international treaties, agreements, conventions and resolutions described in paragraph 5 herein.

117. As a result of the defendant's acts, plaintiffs were placed in great fear for their lives, were deprived of their freedom, were separated from their families and experienced severe physical and psychological abuse and agony. In addition, plaintiffs suffered great mental anguish as a result of defendant's acts. As a result of their arbitrary detention, each plaintiff has been damaged in an amount to be determined at trial.

118. Defendant's acts were deliberate, willful, intentional, wanton, malicious and oppressive and should be punished by an award of punitive damages in an amount to be determined at trial.

*EIGHTH CLAIM FOR RELIEF*  
*(Assault and Battery/Violent Injury or Attempt to Commit Injury)*

119. Plaintiffs Kemal Mehinovic, Safet Hadzialijagic, Muhamed Bicic, and Hasan Subasic reallege and incorporate by reference the allegations set forth in paragraphs 1 through 82 as if

fully set forth herein.

120. Defendant's involvement in the torture of plaintiffs constitutes assault and battery (violent injury or attempt to commit injury), actionable under the laws of Georgia, the laws of the United States and the laws of Bosnia and Herzegovina.

121. As a result of the defendant's acts, the plaintiffs were placed in great fear for their lives and suffered severe physical or psychological abuse and agony. As a result of the assault and battery (violent injury or attempt to commit injury) described above, each plaintiff has been damaged in an amount to be determined at trial.

122. Defendant's acts were deliberate, willful, intentional, wanton, malicious and oppressive and should be punished by an award of punitive damages in an amount to be determined at trial.

*NINTH CLAIM FOR RELIEF*  
*(False Arrest and False Imprisonment)*

123. Plaintiffs Kemal Mehinovic, Safet Hadzialijagic, Muhamed Bivic, and Hasan Subasic reallege and incorporate by reference the allegations set forth in paragraphs 1 through 82 as if fully set forth herein.

124. Defendant's wrongful restraint, confinement and detention of plaintiffs against their will and without lawful privileges or reasonable cause constituted false arrest and false imprisonment, actionable under the laws of Georgia, the laws of the United States and the laws of Bosnia and Herzegovina.

125. As a result of defendant's actions, plaintiffs were placed in great fear for their lives, were deprived of their freedom, were separated from their families and were forced to suffer severe physical and psychological abuse and agony. As a result of their false arrest described above, each plaintiff has been damaged in an amount to be determined at trial.

126. Defendant's acts were deliberate, willful, intentional, wanton, malicious and oppressive and should be punished by an award of punitive damages in an amount to be determined at trial.

*TENTH CLAIM FOR RELIEF*  
*(Intentional Infliction of Emotional Distress)*

127. All plaintiffs reallege and incorporate by reference the allegations set forth in paragraphs 1 through 82 as if fully set forth herein.

128. Defendant's torture, arbitrary detention and other acts of cruel, inhuman and degrading treatment against the plaintiffs constituted outrageous conduct in violation of all normal standards of decency and were without privilege or justification.

129. Defendant's outrageous conduct was intentional and malicious and done for the purposes of causing the plaintiffs to suffer humiliation, mental anguish and extreme emotional and physical distress.

130. Defendant's outrageous conduct constitutes intentional infliction of emotional distress and is actionable under the laws of Georgia, the United States and the country of Bosnia and Herzegovina.

131. As a result of defendant's acts, plaintiffs were placed in great fear for their lives, were deprived of their freedom, were separated from their families, suffered severe physical and psychological abuse and agony, and/or were forced to leave their homes and country and flee into exile. As a result of the intentional infliction of emotional distress described above, each plaintiff has been damaged in an amount to be determined at trial.

132. Defendant's acts were deliberate, willful, intentional, wanton, malicious and oppressive and should be punished by an award of punitive damages in an amount to be determined at trial.

*PRAYER FOR RELIEF*

WHEREFORE, each plaintiff prays for judgment against the defendant as follows:

- a) For compensatory damages according to proof;
- b) For punitive and exemplary damages according to proof;
- c) For reasonable attorneys fees and costs of suit, according to proof;
- d) For injunctive relief necessary to avoid liquidation or transfer of assets; and
- e) For such other and further relief as the court may deem just and proper.

A jury trial is demanded on all issues.

Dated: December 14, 1998  
San Francisco, California

Respectfully submitted,

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