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**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE**

SULEIMAN ABDULLAH SALIM,  
MOHAMED AHMED BEN SOUD,  
OBAID ULLAH (as personal  
representative of GUL RAHMAN),

Plaintiffs,

vs.

JAMES ELMER MITCHELL and  
JOHN "BRUCE" JESSEN,

Defendants.

NO. 2:15-CV-286-JLQ

**DEFENDANTS' ANSWER  
AND AFFIRMATIVE  
DEFENSES**

ANSWER AND AFFIRMATIVE  
DEFENSES

NO. 2:15-CV-286-JLQ

1 Defendants James Elmer Mitchell (“Mitchell”) and John “Bruce” Jessen  
2 (“Jessen”, and collectively with Mitchell, “Defendants”) for Answer and  
3 Affirmative Defenses to Plaintiffs’ Complaint (the “Complaint”), deny all  
4 allegations not expressly admitted herein and aver as follows:  
5

6 **DEFENDANTS’ PREAMBLE**

7 The United States has taken the position that Defendants possess  
8 information that the United States considers “classified” and, in addition, are  
9 bound by non-disclosure agreements which restrict Defendants’ ability to disclose  
10 classified or other information. The United States has provided Defendants with  
11 general guidance identifying those subject matters that the United States maintains  
12 remain classified. But, despite this general guidance, a level of uncertainty  
13 remains, which adversely effects Defendants’ ability to respond fully to the  
14 Complaint’s allegations. This hindrance is expressly incorporated into each of  
15 Defendants’ responses below. Additionally, Defendants deny that they committed  
16 torture, cruel, inhuman and degrading treatment, non-consensual human  
17 experimentation and/or war crimes, and will not specifically deny such allegations  
18 each time that they are alleged herein. Defendants also deny that they devised,  
19 administered and/or implemented a torture program, and will not specifically deny  
20 such allegations each time they are alleged herein.  
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25

ANSWER AND AFFIRMATIVE  
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**I. INTRODUCTION**

1  
2 1. Admitted in part; denied in part. Defendants admit that they are  
3 psychologists. The remaining allegations contained within this paragraph of  
4 Plaintiff’s Complaint are denied.  
5

6 2. Admitted in part; denied in part. Defendants admit only that the  
7 United States Central Intelligence Agency (“CIA”) sought and secured appropriate  
8 authorizations for what became known as the CIA’s Enhanced Interrogation  
9 Technique (“EIT”) Program. The remaining allegations contained within this  
10 paragraph of Plaintiffs’ Complaint are denied.  
11  
12

13 3. Admitted in part; denied in part. Defendants admit only, upon  
14 information and belief, that Gul Rahman (“Rahman”) is deceased. Defendants are  
15 unfamiliar with Plaintiffs Suleiman Abdullah Salim (“Salim”) and Mohamed  
16 Ahmed Ben Soud (“Soud”), were not involved in any activities involving these  
17 Plaintiffs and/or the alleged results of such activities, and therefore lack knowledge  
18 concerning these Plaintiffs and deny the allegations contained within this  
19 paragraph of Plaintiffs’ Complaint concerning these Plaintiffs. Defendants deny  
20 the remaining allegations contained within this paragraph concerning Rahman.  
21  
22

23 4. Denied. The allegations contained within this paragraph of Plaintiffs’  
24 Complaint constitute legal conclusions to which no response is required, and are  
25

1 therefore denied. Defendants further deny that they committed torture, cruel,  
2 inhuman and degrading treatment, non-consensual human experimentation and/or  
3 war crimes.

4  
5 **II. JURISDICTION AND VENUE**

6 5. Denied. The allegations contained within this paragraph of Plaintiffs’  
7 Complaint constitute legal conclusions to which no response is required, and are  
8 therefore denied.

9  
10 6. Admitted in part; denied in part. Defendants admit only that Jessen  
11 lives in Spokane, Washington. The remaining allegations contained within this  
12 paragraph of Plaintiffs’ Complaint constitute legal conclusions to which no  
13 response is required, and are therefore denied.

14  
15 7. Admitted in part; denied in part. Defendants admit only that at one  
16 point Mitchell had business activities in Spokane, Washington. The remaining  
17 allegations contained within this paragraph of Plaintiffs’ Complaint constitute legal  
18 conclusions to which no response is required, and are therefore denied.

19  
20  
21 8. Denied. The allegations contained within this paragraph of Plaintiffs’  
22 Complaint constitute legal conclusions to which no response is required, and are  
23 therefore denied.

**III. PARTIES**

1  
2 9. Denied. Defendants can neither admit nor deny the allegations  
3 contained within this paragraph of Plaintiffs' Complaint, and therefore deny such  
4 allegations.  
5

6 10. Denied. Defendants can neither admit nor deny the allegations  
7 contained within this paragraph of Plaintiffs' Complaint, and therefore deny such  
8 allegations.  
9

10 11. Admitted in part. Defendants admit only, upon information and  
11 belief, that Rahman is deceased, and that Plaintiff Obaid Ullah ("Ullah") purports  
12 to be Rahman's personal representative. Defendants believe that any response to  
13 the allegations contained within this paragraph of Plaintiffs' Complaint concerning  
14 Rahman's capture, rendition and/or the location of the facility(ies) where Rahman  
15 was detained falls within information asserted by the United States to be classified  
16 and/or covered by Defendants' non-disclosure agreements with the United States,  
17 and therefore neither admit nor deny such allegations. After reasonable  
18 investigation, Defendants can neither admit nor deny the remaining allegations  
19 contained within this paragraph of Plaintiffs' Complaint, and therefore neither  
20 admit nor deny such allegations.  
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1 12. Admitted in part. Defendants believe that any response to the  
2 allegations contained within this paragraph of Plaintiffs' Complaint concerning the  
3 entity identified within this paragraph falls within information asserted by the  
4 United States to be classified and/or covered by Defendants' non-disclosure  
5 agreements with the United States, and therefore neither admit nor deny such  
6 allegations. The remaining allegations contained within this paragraph of  
7 Plaintiffs' Complaint are admitted.  
8  
9

10 13. Admitted in part. Defendants believe that any response to the  
11 allegations contained within this paragraph of Plaintiffs' Complaint concerning the  
12 entity identified within this paragraph falls within information asserted by the  
13 United States to be classified and/or covered by Defendants' non-disclosure  
14 agreements with the United States, and therefore neither admit nor deny such  
15 allegations. The remaining allegations contained within this paragraph of  
16 Plaintiffs' Complaint are admitted.  
17  
18

19 **IV. LEGAL FRAMEWORK**

20  
21 14. Denied. The allegations contained within this paragraph of Plaintiffs'  
22 Complaint constitute legal conclusions to which no response is required, and are  
23 therefore denied. To the extent that a response is required, the Alien Tort Statute,  
24 28 U.S.C. § 1350 (the "ATS") speaks for itself, and the allegations contained  
25

1 within this paragraph of Plaintiffs' Complaint, which purport to summarize and/or  
2 characterize the ATS and/or decisional law concerning the ATS are therefore  
3 denied.

4  
5 15. Denied. The allegations contained within this paragraph of Plaintiffs'  
6 Complaint constitute legal conclusions to which no response is required, and are  
7 therefore denied. To the extent that a response is required, Defendants deny that  
8 any action taken by either or both of Defendants constitutes torture, cruel, inhuman  
9 or degrading treatment, non-consensual human experimentation, war crimes and/or  
10 is actionable under the ATS.  
11

12  
13 16. Denied.

14 17. Denied.

15  
16 18. Admitted in part; denied in part. Defendants admit only that they are  
17 United States citizens and that they live within the United States. The remaining  
18 allegations contained within this paragraph of Plaintiffs' Complaint are denied.

19  
20 19. Denied. The allegations contained within this paragraph of Plaintiffs'  
21 Complaint constitute legal conclusions to which no response is required, and are  
22 therefore denied.  
23  
24  
25

**V. FACTUAL ALLEGATIONS**

**GENERAL FACTS**

20. Admitted in part; denied in part. Defendants admit that the following documents exist: (1) the CIA’s June 2013 Response to the Senate Select Committee on Intelligence’s Study on the Former Detention and Interrogation Program (the “CIA June 2013 Response”); (2) the CIA Office of Inspector General Special Review of Counterterrorism Detention and Interrogation Activities (Sept. 2001-Oct. 2003) (the “CIA OIG Report”); (3) the Senate Committee on Armed Services Inquiry into the Treatment of Detainees in U.S. Custody (the “SASC Report”); and (4) the report of the Department of Justice’s Office of Professional Responsibility Investigation into the Office of Legal Counsel’s Memoranda Concerning Issues Relating to the Central Intelligence Agency’s Use of “Enhanced Interrogation Techniques” on Suspected Terrorists. The remaining allegations contained within this paragraph of Plaintiffs’ Complaint are denied.

21. Admitted in part; denied in part. Defendants admit that the Executive Summary of the Senate Select Committee on Intelligence Study of the CIA’s Detention and Interrogation Program (the “SSCI Report”) exists and was publicly released on or about December 9, 2014, and that the Report refers to Plaintiffs Salim and Soud, and Rahman. The remaining allegations contained within this



1 paragraph of Plaintiffs' Complaint constitute legal conclusions to which no  
2 response is required, and are therefore denied. Moreover, the SSCI Report is a  
3 written document, and the allegations contained within this paragraph of Plaintiffs'  
4 Complaint, which purport to summarize and/or characterize the SSCI Report, are  
5 therefore denied.  
6

7 **The Contention that Defendants Devised a Torture Program for the**  
8 **CIA.**  
9

10 22. Admitted in part; denied in part. Defendants admit only that there  
11 exists a document referred to as the Manchester Manual, and that Defendants have  
12 seen the Manchester Manual. Defendants believe that any response to the  
13 allegations contained within this paragraph of Plaintiffs' Complaint concerning  
14 how the Manchester Manual was found and/or by whom, or Defendants' alleged  
15 review of the Manchester Manual, falls within information asserted by the United  
16 States to be classified and/or covered by Defendants' non-disclosure agreements  
17 with the United States, and therefore neither admit nor deny such allegations. The  
18 remaining allegations contained within this paragraph of Plaintiffs' Complaint  
19 constitute legal conclusions to which no response is required, and are therefore  
20 denied. By way of further response, Defendants have no knowledge concerning  
21 what the CIA believed the Manchester Manual to represent.  
22  
23  
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25

ANSWER AND AFFIRMATIVE  
DEFENSES

- 8 -

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1 23. Admitted in part; denied in part. Defendants admit that the CIA  
2 requested that Mitchell review the Manchester Manual and that Jessen assisted  
3 with that review. The remaining allegations contained within this paragraph of  
4 Plaintiffs' Complaint are denied. By way of further response, Defendants have no  
5 knowledge concerning what the CIA believed or did.  
6

7 24. Admitted in part. Defendants admit that they produced a document  
8 for the CIA entitled "Recognizing and Developing Countermeasures to Al-Qa'ida  
9 Resistance to Interrogation Techniques: A Resistance Training Perspective."  
10 Defendants believe that any response to the remaining allegations contained within  
11 this paragraph of Plaintiffs' Complaint falls within information asserted by the  
12 United States to be classified and/or covered by Defendants' non-disclosure  
13 agreements with the United States, and therefore neither admit nor deny such  
14 allegations.  
15  
16  
17

18 25. Defendants interpret the allegations contained within this paragraph of  
19 Plaintiffs' Complaint to refer to the document referenced in paragraph 24 of  
20 Plaintiffs' Complaint. As such, Defendants believe that any response to the  
21 allegations contained within this paragraph of Plaintiffs' Complaint falls within  
22 information asserted by the United States to be classified and/or covered by  
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1 Defendants' non-disclosure agreements with the United States, and therefore  
2 neither admit nor deny such allegations.

3         26. Defendants interpret the allegations contained within this paragraph of  
4 Plaintiffs' Complaint to refer to the document referenced in paragraph 24 of  
5 Plaintiffs' Complaint. As such, Defendants believe that any response to the  
6 allegations contained within this paragraph of Plaintiffs' Complaint falls within  
7 information asserted by the United States to be classified and/or covered by  
8 Defendants' non-disclosure agreements with the United States, and therefore  
9 neither admit nor deny such allegations.  
10

11  
12         27. Admitted in part; denied in part. Defendants admit that Jessen has  
13 been an instructor in the Survival, Evasion, Resistance and Escape ("SERE")  
14 programs and that the SERE programs help train military personnel to resist  
15 interrogation. They also admit that Mitchell has provided specialized SERE  
16 instruction. The remaining allegations contained within this paragraph of  
17 Plaintiffs' Complaint are denied.  
18  
19

20         28. Admitted in part; denied in part. Defendants admit, upon information  
21 and belief, that a declassified version of the SERE training manual contains  
22 phraseology similar, if not identical, to that contained in this paragraph of  
23  
24  
25

1 Plaintiffs' Complaint. The remaining allegations contained within this paragraph  
2 of Plaintiffs' Complaint are denied.

3 29. Denied.

4  
5 30. Defendants believe that any response to the allegations contained  
6 within this paragraph of Plaintiffs' Complaint falls within information asserted by  
7 the United States to be classified and/or covered by Defendants' non-disclosure  
8 agreements with the United States, and therefore neither admit nor deny such  
9 allegations.  
10

11 **The Contention that Defendants test, apply, and refine torture.**

12  
13 31. Denied. Defendants believe that any response to the allegations  
14 contained within this paragraph of Plaintiffs' Complaint concerning how Abu  
15 Zubaydah ("Zubaydah") was captured or rendered, or the involvement, if any, of  
16 any foreign government operatives falls within information asserted by the United  
17 States to be classified and/or covered by Defendants' non-disclosure agreements  
18 with the United States, and therefore neither admit nor deny such allegations. By  
19 way of further response, Defendants lack knowledge of the remaining allegations  
20 contained within this paragraph of Plaintiffs' Complaint, and therefore deny them.  
21  
22

23 32. Admitted in part; denied in part. Defendants admit that on or about  
24 April 1, 2002, the CIA contracted with Mitchell to provide real-time  
25

1 recommendations to overcome Zubaydah's resistance to interrogation. The  
2 remaining allegations contained within this paragraph of Plaintiffs' Complaint are  
3 denied.

4  
5 33. Admitted in part; denied in part. Defendants admit, upon information  
6 and belief, that FBI agents interrogated Zubaydah while he was hospitalized, that  
7 Zubaydah confirmed his identity to the FBI agents and that Zubaydah advised the  
8 FBI agents that he wanted to cooperate. Defendants lack knowledge as to the  
9 medical care, if any, FBI agents provided Zubaydah and/or those FBI agent's  
10 proximity to Zubaydah while he was hospitalized, and therefore deny these  
11 allegations contained within this paragraph of Plaintiffs' Complaint. The  
12 remaining allegations contained within this paragraph of Plaintiffs' Complaint are  
13 denied.  
14  
15

16  
17 34. Admitted in part; denied in part. Defendants admit that Mitchell was  
18 advised that Zubaydah was withholding information, and that Mitchell  
19 recommended that Zubaydah not be provided with any amenities, his sleep be  
20 disrupted and that noise be fed into Zubaydah's cell. They also admit that in early  
21 April 2002, CIA Headquarters sent Mitchell to Green to consult with regard to the  
22 psychological aspects of Zubaydah's interrogation. The remaining allegations  
23 contained within this paragraph of Plaintiffs' Complaint are denied.  
24  
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ANSWER AND AFFIRMATIVE  
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1 35. Admitted in part; denied in part. Defendants admit only that the  
2 White House transferred full responsibility of Zubaydah's interrogation to the CIA.  
3 Defendants lack knowledge concerning the message attributed to an FBI special  
4 agent within this paragraph of Plaintiffs' Complaint, and therefore deny such  
5 allegation. The remaining allegations contained within this paragraph of Plaintiffs'  
6 Complaint are denied.  
7

8 36. Denied.  
9

10 *Phase I: Claimed "Setting the conditions" for "learned helplessness"*  
11

12 37. Denied.  
13

14 38. Admitted in part; denied in part. Defendants admit that Zubaydah was  
15 stripped naked, confined and that his cell was lit by halogen lamps 24 hours/day  
16 for a period of time. They admit that Zubaydah's cell was subjected to rock music  
17 or other noise that was also present outside his cell. They also admit that  
18 Zubaydah was repeatedly interrogated for a period of time. Defendants do not  
19 believe that they have any knowledge of the source document purportedly quoted  
20 within this paragraph of Plaintiffs' Complaint, and therefore deny such allegations.  
21 The remaining allegations contained within this paragraph of Plaintiffs' Complaint  
22 are denied.  
23  
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1 39. Denied. Defendants lack knowledge as to why the CIA did what it  
2 did, and therefore deny such allegations contained within this paragraph of  
3 Plaintiffs' Complaint. The remaining allegations contained within this paragraph  
4 of Plaintiffs' Complaint are denied.  
5

6 40. Denied.

7 *Phase II: Claimed "Aggressive Phase" of torture and cruel, inhuman, and*  
8 *degrading treatment.*  
9

10 41. Admitted in part; denied in part. Defendants admit that in July 2002  
11 Mitchell and the CIA assessed Zubaydah as uncooperative. The remaining  
12 allegations contained within this paragraph of Plaintiffs' Complaint are denied.  
13

14 42. Admitted in part; denied in part. Defendants admit that in July 2002  
15 the CIA contracted with Jessen based upon Mitchell's recommendation. The  
16 remaining allegations contained within this paragraph of Plaintiffs' Complaint are  
17 denied.  
18

19 43. Admitted in part; denied in part. Defendants admit that those items  
20 delineated by (1)-(9) within this paragraph of Plaintiffs' Complaint were contained  
21 within a list provided by Defendants to the CIA. Defendants lack knowledge as to  
22 what the CIA agreed to propose, and therefore deny these allegations contained  
23  
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1 within this paragraph of Plaintiffs' Complaint. The remaining allegations  
2 contained within this paragraph of Plaintiffs' Complaint are denied.

3 44. Denied. Defendants have no knowledge of the verbal approvals  
4 identified within this paragraph of Plaintiffs' Complaint, and therefore deny these  
5 allegations. The remaining allegations contained within this paragraph of  
6 Plaintiffs' Complaint are denied.  
7

8 45. Denied. The August 1, 2002 OLC Memorandum speaks for itself, and  
9 Plaintiffs' characterization of that document within this paragraph of Plaintiffs'  
10 Complaint is denied. The remaining allegations contained within this paragraph of  
11 Plaintiffs' Complaint are denied.  
12

13 46. Denied.  
14

15 47. Admitted in part; denied in part. Defendants admit that on an occasion  
16 security personnel entered Zubaydah's cell and shackled and hooded him. They  
17 also admit that Jessen placed a rolled up towel behind Zubaydah's neck and  
18 "walled" him three or four times. The remaining allegations contained within this  
19 paragraph of Plaintiffs' Complaint are denied.  
20

21 48. Admitted in part; denied in part. Defendants admit that they placed  
22 Zubaydah in boxes of the variety described in this paragraph of Plaintiffs'  
23



1 Complaint. The remaining allegations contained within this paragraph of  
2 Plaintiffs' Complaint are denied.

3 49. Admitted in part; denied in part. The first two sentences of this  
4 paragraph of Plaintiffs' Complaint are admitted, except that the referenced action  
5 is referred to as "walling". Defendants also admit that they used facial slaps,  
6 abdominal slaps and facial grabs on Zubaydah in connection with asking Zubaydah  
7 about information about terrorist operations planned against the United States. The  
8 remaining allegations contained within this paragraph of Plaintiffs' Complaint are  
9 denied.

10 50. Admitted in part; denied in part. Defendants admit that they  
11 administered the waterboard to Zubaydah, but do not recall specifically when this  
12 technique was first administered. The remaining allegations contained within this  
13 paragraph of Plaintiffs' Complaint are denied.

14 51. Admitted in part; denied in part. Defendants admit that over a period  
15 of time, they administered to Zubaydah walling, facial and abdominal slaps, facial  
16 holds, sleep deprivation and waterboarding, and placed Zubaydah in cramped  
17 confinement. The remaining allegations contained within this paragraph of  
18 Plaintiffs' Complaint are denied.

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1 52. Admitted in part; denied in part. Defendants admit that Zubaydah  
2 cried, and that as time progressed Zubaydah became compliant. They also admit  
3 that on at least one occasion Zubaydah walked to the water table and sat down  
4 when one of the interrogators raised an eyebrow. The remaining allegations  
5 contained within this paragraph of Plaintiffs' Complaint are denied.  
6

7 53. Denied.  
8

9 54. Admitted in part; denied in part. Defendants admit that some of the  
10 interrogation team were affected by the interrogation and the techniques used  
11 therein. They also admit, upon information and belief, that the CIA destroyed the  
12 videotapes of the interrogations. Defendants lack knowledge of the mindset of the  
13 CIA observers as alleged in this paragraph of Plaintiffs' Complaint, and therefore  
14 deny such allegations. The remaining allegations contained within this paragraph  
15 of Plaintiffs' Complaint are denied.  
16  
17

18 55. Denied. Defendants have no access to the document purportedly  
19 quoted within this Paragraph of Plaintiffs' Complaint, and therefore deny such  
20 allegations for lack of knowledge. The remaining allegations contained within this  
21 paragraph of Plaintiffs' Complaint are denied.  
22

23 56. Denied. Defendants have no access to the source document  
24 purportedly quoted within this Paragraph of Plaintiffs' Complaint, and therefore  
25

1 deny such allegations for lack of knowledge. The remaining allegations contained  
2 within this paragraph of Plaintiffs' Complaint are denied.

3 57. Denied.

4  
5 58. Denied.

6 59. Denied. Defendants believe that any response to the allegations  
7 contained within this paragraph of Plaintiffs' Complaint falls within information  
8 asserted by the United States to be classified and/or covered by Defendants' non-  
9 disclosure agreements with the United States, and therefore neither admit nor deny  
10 such allegations. By way of further response, the December 30, 2004,  
11 Memorandum referenced within this paragraph of Plaintiffs' Complaint is a written  
12 document, and Plaintiffs' characterization of this document within their Complaint  
13 is denied.  
14  
15

16  
17 60. Denied. Defendants lack sufficient knowledge to respond to the  
18 allegations contained within this paragraph of Plaintiffs' Complaint, and therefore  
19 such allegations are denied.  
20

21 61. Denied.

22 62. Denied.

23 63. Denied.  
24  
25

1 64. Admitted in part; denied in part. Defendants admit that they received  
2 taxable compensation of \$1,800/day from the CIA. The June 2013 CIA Response  
3 referenced within this paragraph of Plaintiffs' Complaint is a written document,  
4 and Plaintiffs' characterization of this document within their Complaint is denied.  
5 The remaining allegations contained within this paragraph of Plaintiffs' Complaint  
6 are denied.  
7

8  
9 65. Admitted in part; denied in part. It is admitted that, to Defendants'  
10 knowledge, an independent researcher was never hired. The remaining allegations  
11 contained within this paragraph of Plaintiffs' Complaint are denied.  
12

13 66. Admitted in part; denied in part. It is admitted that Defendants  
14 received taxable compensation of \$1,800/day from the CIA. The remaining  
15 allegations contained within this paragraph of Plaintiffs' Complaint are denied.  
16

17 67. Admitted in part. Defendants admit, upon information and belief, that  
18 the number of detainees in CIA custody increased for a period of time. Defendants  
19 believe that any response to the remaining allegations contained within this  
20 paragraph of Plaintiffs' Complaint falls within information asserted by the United  
21 States to be classified and/or covered by Defendants' non-disclosure agreements  
22 with the United States, and therefore neither admit nor deny such allegations.  
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1 68. Admitted in part. Defendants admit, upon information and belief, that  
2 through 2010 an entity owned, in part, by Defendants was paid approximately \$81  
3 million by the CIA. Defendants believe that any response to the remaining  
4 allegations contained within this paragraph of Plaintiffs' Complaint falls within  
5 information asserted by the United States to be classified and/or covered by  
6 Defendants' non-disclosure agreements with the United States, and therefore  
7 neither admit nor deny such allegations.  
8  
9

10 69. Denied. Defendants lack knowledge concerning the number of  
11 individuals interrogated by the CIA, and therefore deny such allegations contained  
12 within this paragraph of Plaintiffs' Complaint. The remaining allegations  
13 contained within this paragraph of Plaintiffs' Complaint are denied.  
14

15 70. Admitted in part; denied in part. Defendants admit that Rahman was  
16 interrogated by the CIA. Defendants possess no knowledge concerning Salim or  
17 Soud, and therefore deny the allegations contained within this paragraph of  
18 Plaintiffs' Complaint concerning these individuals. The remaining allegations  
19 contained within this paragraph of Plaintiffs' Complaint are denied.  
20  
21

## 22 **SPECIFIC ALLEGATIONS BY PLAINTIFFS**

### 23 **Suleiman Abdullah Salim**

24 71.-116. Denied. Defendants have no knowledge of, and played no role  
25

1 in any interrogation of Salim, and therefore deny the allegations of paragraphs 71-  
2 116 of Plaintiffs' Complaint for lack of knowledge.

3 **Mohamed Ahmed Ben Soud (formerly Mohamed Shoroeyia, Abd al-  
4 Karim)**

5  
6 117.-154. Denied. Defendants have no knowledge of, and played no role  
7 in any interrogation of Soud, and therefore deny the allegations of paragraphs 117-  
8 154 of Plaintiffs' Complaint for lack of knowledge.  
9

10 **Gul Rahman**

11 155. Denied. Defendants lack knowledge concerning the allegations  
12 contained within this paragraph of Plaintiffs' Complaint, and therefore deny such  
13 allegations.  
14

15 156. Denied. Defendants lack knowledge concerning the allegations  
16 contained within this paragraph of Plaintiffs' Complaint, and therefore deny such  
17 allegations.  
18

19 157. Defendants believe that any response to the allegations contained  
20 within this paragraph of Plaintiffs' Complaint concerning Rahman's capture,  
21 rendition, the involvement of foreign governments, if any, in Rahman's capture  
22 and/or rendition, and/or the location of the facility(ies) where Rahman was  
23 detained falls within information asserted by the United States to be classified  
24  
25

1 and/or covered by Defendants' non-disclosure agreements with the United States,  
2 and therefore neither admit nor deny such allegations.

3 158. Defendants believe that any response to the allegations contained  
4 within this paragraph of Plaintiffs' Complaint falls within information asserted by  
5 the United States to be classified and/or covered by Defendants' non-disclosure  
6 agreements with the United States, and therefore neither admit nor deny such  
7 allegations.  
8  
9

10 159. Denied. The allegations contained within this paragraph of Plaintiffs'  
11 Complaint constitute legal conclusions to which no response is required. To the  
12 extent that a response is required, the allegations contained within this paragraph of  
13 Plaintiffs' Complaint are denied.  
14

15 160. Admitted in part; denied in part. Defendants admit that in November  
16 2002 Jessen was asked to evaluate Rahman, that Jessen administered a facial slap  
17 to Rahman and that Jessen determined that he was resistant. The remaining  
18 allegations contained within this paragraph of Plaintiffs' Complaint constitute legal  
19 conclusions to which no response is required. To the extent that a response is  
20 required, the remaining allegations contained within this paragraph of Plaintiffs'  
21 Complaint are denied.  
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1 161. Admitted in part; denied in part. Defendants admit that Jessen  
2 observed Rahman being dragged down a hallway on one occasion and that such  
3 dragging appeared to result in abrasions to Rahman's legs. It is also believed that  
4 Jessen may have described the rough takedown that he observed as planned and  
5 rehearsed, and may have suggested that an interrogator speak with a detainee after  
6 a rough takedown is performed. Defendants have no access to the source  
7 documents cited within this paragraph of Plaintiffs' Complaint. The remaining  
8 allegations contained within this paragraph of Plaintiffs' Complaint constitute legal  
9 conclusions to which no response is required. To the extent that a response is  
10 required, the remaining allegations contained within this paragraph of Plaintiffs'  
11 Complaint are denied.  
12

13  
14  
15 162. Denied. The allegations contained within this paragraph of Plaintiffs'  
16 Complaint constitute legal conclusions to which no response is required. To the  
17 extent that a response is required, Defendants lack knowledge as to what occurred  
18 vis-à-vis Rahman after Jessen's departure, and therefore deny such allegations  
19 contained in this paragraph of Plaintiffs' Complaint. The remaining allegations  
20 contained within this paragraph of Plaintiffs' Complaint are denied.  
21  
22

23 163. Denied. Defendants lack knowledge as to what occurred vis-à-vis  
24 Rahman after Jessen ceased to have any involvement with Rahman, and therefore  
25



1 deny such allegations contained in this paragraph of Plaintiffs' Complaint. The  
2 remaining allegations contained within this paragraph of Plaintiffs' Complaint are  
3 denied.

4  
5 164. Admitted in part; denied in part. Defendants admit, upon information  
6 and belief, that Rahman is dead. Defendants lack knowledge as to what occurred  
7 vis-à-vis Rahman after Jessen ceased to have any involvement with Rahman, and  
8 therefore deny such allegations contained in this paragraph of Plaintiffs'  
9 Complaint. The remaining allegations contained within this paragraph of  
10 Plaintiffs' Complaint are denied.

11  
12  
13 165. Denied. Defendants have no knowledge concerning the allegations  
14 contained in this paragraph of Plaintiffs' Complaint which purport to summarize  
15 written reports, the contents of which speak for themselves and, as such, are  
16 denied. Further, to the extent that the allegations contained within this paragraph  
17 of Plaintiffs' Complaint constitute legal conclusions, no response is required and,  
18 in any event, such allegations are denied.

19  
20  
21 166. Denied. Defendants lack knowledge concerning the allegations  
22 contained within this paragraph of Plaintiffs' Complaint, and such allegations are  
23 therefore denied.

1 167. Denied. Defendants lack knowledge concerning the allegations  
2 contained within this paragraph of Plaintiffs' Complaint, and such allegations are  
3 therefore denied.

4  
5 **VI. CAUSES OF ACTION**

6 **First Claim for Relief**

7 **Alien Tort Statute: Torture and Other Cruel, Inhuman, and Degrading**  
8 **Treatment**

9  
10 168.-173. Denied.

11 **Second Claim for Relief**

12 **Alien Tort Statute: Non-Consensual Human Experimentation**

13  
14 174.-179. Denied.

15 **Third Claim for Relief**

16 **Alien Tort Statute: War Crimes**

17  
18 180.-185. Denied.

19 **VII. REQUEST FOR RELIEF**

20 WHEREFORE, Defendants respectfully request that the Court dismiss  
21 Plaintiffs' Complaint in its entirety and enter judgment in Defendants' favor,  
22 award Defendants their costs incurred in connection with this action, and grant  
23 Defendants all such other and further relief as the Court deems appropriate.  
24  
25

**AFFIRMATIVE DEFENSES**

1  
2 1. Plaintiffs' claims are barred, in whole or in part, by application of the  
3 Political Question Doctrine.

4  
5 2. Plaintiffs' claims are barred, in whole or in part, by application of  
6 Derivative Sovereign Immunity, the doctrine of justification and/or the doctrine of  
7 privilege.

8  
9 3. Plaintiffs' claims are barred, in whole or in part, as they do not satisfy  
10 one or more of the elements of the ATS.

11  
12 4. Plaintiffs' have failed to state a claim upon which relief may be  
13 granted.

14  
15 5. Plaintiffs' claims are barred, in whole or in part, by application of the  
16 Detainee Treatment Act.

17  
18 6. Plaintiffs' claims are barred, in whole or in part, because all of the  
19 actions taken by Defendants were legal and authorized.

20  
21 7. Plaintiffs' claims are barred, in whole or in part, because all of the  
22 actions taken by Defendants were believed by Defendants to be legal and  
23 authorized.

24  
25 8. Plaintiffs' claims are barred, in whole or in part, by the applicable  
statute of limitations.

1 9. Plaintiffs' claims are barred, in whole or in part, because the United  
2 States is an indispensable party to this action.

3 10. Plaintiffs' claims are barred, in whole or in part, by virtue of the  
4 United States' classification of certain information and/or documentation as  
5 classified, and Defendants' resulting inability to secure such information and/or  
6 documentation for purposes of mounting a defense.  
7

8 11. Plaintiffs' injuries and damages, if any, were caused by parties other  
9 than Defendants, over whom Defendants had no control.  
10

11 12. Plaintiffs' claims are barred, in whole or in part, because Defendants'  
12 actions were not the proximate cause of any damage to Plaintiffs.  
13

14 13. The conduct complained of by Plaintiffs is not susceptible to an award  
15 of punitive damages and/or is otherwise limited based upon constitutional  
16 protections impacting the award of such damages.  
17

18 14. If discovery should disclose that Plaintiffs have failed to mitigate  
19 damages in any way, Defendants reserve the right to advance this failure as an  
20 affirmative defense.  
21

1 DATED this 21st day of June, 2016.

2 BETTS, PATTERSON & MINES P.S.

3  
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23  
24  
25

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of June, 2016, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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