

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

RAMIL AUTENCIO
#42 Mercedes Ave.
San Miguel, Pasig City
Philippines

and

DANIEL AUTENCIO
#14 Sapang Liwang
Mercedes Ave.
San Miguel, Pasig City
Philippines

Plaintiffs,

v.

**FIRST KUWAITI GENERAL TRADING
AND CONTRACTING COMPANY**

P.O. Box 480
Al Souk Al Dakhli 15255
Kuwait,

WADIH AL-ABSI
P.O. Box 480
Al Souk Al Dakhli 15255
Kuwait,

MICHEL AL-ABSI
P.O. Box 480
Al Souk Al Dakhli 15255
Kuwait,

MOHAMMED MARAFI
P.O. Box 480
Al Souk Al Dakhli 15255
Kuwait, and

JOHN DOES 1-5,

Defendants.

FILED

FEB - 2 2009

Clerk, U.S. District and
Bankruptcy Courts

JURY TRIAL DEMANDED

Case: 1:09-cv-00198
Assigned To : Roberts, Richard W.
Assign. Date: 2/2/2009
Description: General Civil

COMPLAINT

The above-named Plaintiffs bring this action against Defendants First Kuwaiti General Trading and Contracting Company, Wadih Al-Absi, Michel Al-Absi, Mohammed Marafi and John Does 1-5, and allege as follows:

INTRODUCTION

1. First Kuwaiti General Trading and Contracting Company (“First Kuwaiti”), entered into numerous contracts with the United States Government – totaling hundreds of millions of dollars and including a contract for \$592,000,000.00 to build the United States Embassy in Iraq, as well as many other contracts providing services on United States military facilities in Iraq – with the intent of employing forced labor on those contracts. Defendants First Kuwaiti, Wadih Al-Absi, Michel Al-Absi, Mohammed Marafi and John Does 1-5 (“Defendants”) trafficked third country nationals to Iraq and forced them to work there under threat of physical or psychological harm, including imprisonment. Plaintiffs, Philippine citizens, applied for and paid fees to recruiters for what they thought were skilled jobs in Kuwait. They were hired by First Kuwaiti, but it was all a ruse. There were no jobs in Kuwait. When they arrived in Kuwait, their passports were taken and they were held captive in squalid conditions. They were forced to go to Iraq to work doing menial labor, until they were able to escape at great risk with the aid of a United States serviceman. They made it back to the Philippine Embassy in Kuwait, where they took refuge. They attempted to resolve their dispute in Kuwait, but First Kuwaiti denied their claims, refused to compensate them and continued in its demand that they return to Iraq. Only with the aid of the Philippine government were they able to secure safe passage home.

2. This Complaint seeks compensatory and punitive damages from Defendants for trafficking and compelling labor from Plaintiffs by force and threat of physical and psychological

harm in violation of the law of nations, as well as other torts.

JURISDICTION AND VENUE

3. This Court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1350 (Alien Tort Statute), 18 U.S.C. § 1964(c) (Racketeer Influenced and Corrupt Organizations Act) and 28 U.S.C. § 1367 (supplemental jurisdiction).

4. The Alien Tort Statute provides subject matter jurisdiction in U.S. District Courts 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. 28 U.S.C. § 1350.

5. The principal torts committed by the Defendants – including human trafficking and forced labor – constitute violations of well-established, universally recognized norms of international law, *i.e.*, the law of nations.

6. Forced labor and human trafficking are widely recognized as amongst the handful of claims for which the Alien Tort Statute provides subject matter jurisdiction in United States district courts regardless of where they occurred.

7. Nonetheless, torts committed in furtherance of the trafficking and forced labor scheme alleged herein were committed on U.S. territory, including on U.S. military installations and within the grounds of the United States Embassy in Iraq.

8. Forced labor and human trafficking, like slavery and the slave trade before them, are torts on the short list of international law violations for which actions can be brought pursuant to the Alien Tort Statute regardless of whether state action is implicated in the commission of the tort.

9. Further, the torts alleged herein, concerning trafficking persons from the Philippines to Kuwait and on to Iraq to work on projects for the United States Government, are by their very

nature international and of concern to all nations, and in particular the United States.

10. This Court has original or supplemental jurisdiction over the remaining claims alleged herein.

11. Defendants violated norms of international law against human trafficking and forced labor and thereby, by their own actions, have subjected themselves to claims for redress for those actions in any United States district court that can exercise personal jurisdiction over them.

12. This Court has personal jurisdiction over Defendants because they have substantial, continuous and systematic business contacts with the United States. Further, because Plaintiffs' claims arise out of Defendants' activities with the United States and Defendants have purposely availed themselves of the privileges of conducting activities in the United States, the exercise of personal jurisdiction over them is reasonable.

13. Alternatively, this Court has personal jurisdiction over the Defendants pursuant to Federal Rule of Civil Procedure 4(k)(2). Rule 4(k)(2) provides that:

If the exercise of jurisdiction is consistent with the Constitution and laws of the United States, serving a summons or filing a waiver of service is also effective, with respect to claims arising under federal law, to establish personal jurisdiction over the person of any defendant who is not subject to the jurisdiction of the courts of general jurisdiction of any state.

14. Rule 4(k)(2) provides for the exercise of jurisdiction over Defendants sued under the Alien Tort Statute, as is the case here, so long as they are properly served and so long as jurisdiction over them does not offend Due Process.

15. This Court's exercise of jurisdiction over Defendants does not offend Due Process.

16. There is no other forum outside of the United States where Plaintiffs could bring this action against Defendants. There is no analogous statute to the Alien Tort Statute that would allow for an action alleging trafficking from the Philippines to Kuwait to Iraq, or for the claim of forced

labor within Iraq. Further, only the United States provides a forum for the entire scheme of trafficking persons from the Philippines through Kuwait and into Iraq and for forcing them to work in Iraq. Further, Plaintiffs were forced to take refuge in the Philippine Embassy while in Kuwait, and only escaped with the aid of the Philippine government. Plaintiffs fear returning to Kuwait, where they were lured in the first place under false pretenses as part of the trafficking scheme alleged herein. Plaintiffs would suffer extreme psychological harm if forced to return to Iraq. Plaintiffs only entered Iraq under threat of arms and imprisonment. The Philippines is not a possible forum. The Defendants are not subject to personal jurisdiction in the Philippines, and the claims asserted herein are not cognizable in the Philippines.

17. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(d).

PARTIES

Plaintiffs

18. Plaintiffs Ramil and Daniel Autencio are brothers who were trafficked from the Philippines to Iraq and forced to work there.

Defendants

19. Defendant First Kuwaiti is a corporation organized under the laws of Kuwait and doing business in Kuwait, Iraq and the United States. Defendant First Kuwaiti has entered into a number of contracts with the United States for the provision of services at the United States Embassy in Iraq and at U.S. military installations, including Camp Anaconda and military installations in Tikrit, Iraq. According to a search performed on the Federal Procurement Data System, Defendant First Kuwaiti lobbied for and won 148 contracts with the United States Government between January 2003 and April 2008, which includes the relevant time period. A forty page list of those contracts from the “www.fpds.gov” website is attached hereto as Exhibit A. These contracts value

in the hundreds of millions of dollars. In entering into these 148 contracts, each of which, on information and belief, has a clause requiring submission to a United States forum, Defendant First Kuwaiti agreed to submit to the jurisdiction of United States courts and sought the protection of United States law 148 times between January 2003 and April 2008.

20. On information and belief, Defendant Wadih Al-Absi is the General Manager of First Kuwaiti and the head of the trafficking and forced labor scheme described herein. He is a Lebanese and/or Kuwaiti citizen. He frequents the United States and the District of Columbia conducting continuous and systematic business with the United States Government and with companies in the United States. On information and belief, he maintains a residence in the District of Columbia.

21. Defendant Michel Al-Absi's nationality and residence are unknown.

22. Defendant Mohammed Marafi is the Chairman of First Kuwaiti. His nationality and residence are unknown.

23. Defendants John Does 1-5 are unknown co-conspirators in the trafficking and forced labor scheme alleged herein.

24. Defendants took actions in the United States to obtain U.S. Government contracts with the intent of supplying forced labor; took actions in the United States to administer those contracts; made false reports and claims to the United States Government in the United States in order to hide illegal activity and profit from the trafficking and forced labor scheme alleged herein; and took actions in the United States to cover-up and thwart any investigation of the matter.

25. Defendants continually avail themselves of the protections and laws of the United States as they carry out and defend the performance on their many contracts with the United States Government.

26. Defendants have made countless contacts with individuals in the United States in

carrying out contracts with the United States Government and in defending the performance of those contracts.

27. Defendant First Kuwaiti maintains an agency in the United States for the purpose of obtaining and servicing its extensive contracts with the United States Government, including the contract to build the United States Embassy in Iraq.

28. Defendants are defending themselves in the United States from Congressional investigation into whether they engaged in human trafficking and forced labor in carrying out First Kuwaiti's contracts including its contract to build the U.S. Embassy in Iraq. On information and belief, the Department of Justice is also investigating Defendants for criminal violations of human trafficking.

29. Defendants are also defending themselves in the United States from allegations that they conspired to pay kickbacks to a manager of Kellogg, Brown & Root concerning a \$4.6 million contract award. In fact, the Kellogg, Brown & Root manager has plead guilty to receiving the kickback. Defendants are defending a Congressional investigation into this issue.

FACTUAL ALLEGATIONS

Trafficking in Persons – Modern Day Slavery

30. In a series of annual reports beginning in 2001, the United States Department of State chronicled the growing problem of human trafficking throughout the world. Human traffickers typically trick, coerce, or win the confidence of their victims through promises of a better life.¹ Victims are often lured with false promises of good jobs and better lives, only to find themselves trapped in brutal or dangerous conditions.² The sheer viciousness of human trafficking has led to its

¹ United States Department of State, Trafficking in Persons Report (June 2007) [hereinafter "TIP 2007"].

² Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons, Fiscal Year 2006 (May 2007) at 1.

condemnation as “a modern-day form of slavery.”³

31. Trafficking is a transnational criminal enterprise, generating billions of dollars each year.⁴ Trafficking is the fastest growing source of profits for organized criminal enterprises worldwide.⁵

32. In order to combat trafficking, the United States became a party to the United Nations’ Protocol to Prevent, Suppress and Punish Trafficking in Persons, along with 113 other nations. In addition, Congress enacted the Trafficking Victims Protection Act to combat the use of forced and bonded labor.

33. Congress has stated that “[t]he involvement of employees and contractors of the United States Government and members of the Armed Forces in trafficking in persons, or exploiting the victims of trafficking in persons is inconsistent with the United States laws and policies and undermines the credibility and mission of United States Government programs in post-conflict regions.”

Iraq as a Destination for Trafficked Labor

34. Iraq is a destination country for trafficked labor.⁶ The United States Government has found that Iraq is a destination for men trafficked from South and Southeast Asia for work as construction workers, and in other menial jobs: “some of these workers are offered fraudulent jobs in safe environments in Kuwait or Jordan, but are then forced into involuntary servitude in Iraq instead; others go to Iraq voluntarily, but are subjected to conditions of involuntary servitude after arrival.”⁷

35. In 2006, the top United States Commander in Iraq confirmed that contractors on

³ Introductory Letter to TIP 2007.

⁴ United States Department of State, Trafficking in Persons Report (June 2005) at 14 [hereinafter “TIP 2005”] (“According to the U.S. Federal Bureau of Investigation, human trafficking generates an estimated \$9.5 billion in annual revenue”).

⁵ Findings, Public Law 106-386 at Sec. 102 (b)(8).

⁶ TIP 2007 at 217.

⁷ *Id.* at 217.

American military bases had violated human-trafficking laws and committed other abuses, including circumvention of Iraqi immigration procedures by contractors/subcontractors, and other violations. General Casey ordered that contractors be required to return passports that had been illegally confiscated from laborers on U.S. bases and to end other abuses.⁸

36. The United States described these abuses as “indicative of trafficking in persons” in a report on the Department of Defense response to labor trafficking in Iraq.⁹

Defendants’ Human Trafficking and Forced Labor Scheme

37. Defendants engaged in the practice of luring third country nationals from poor nations to Kuwait under the pretense that it had skilled jobs for them in Kuwait, only to then force them, through various means including threats of physical and psychological harm to go to war-torn Iraq to work in desperate circumstances performing menial labor without paying them what it had promised.

38. As stated, Defendant First Kuwaiti is the holder of hundreds of millions of dollars worth of contracts with the United States Government.

39. In an effort to fulfill their contractual obligations, Defendants and the co-conspirators willfully and purposefully formed an enterprise with the goal of procuring forced labor. In order to achieve the illegal purpose of this enterprise, Defendants established, engaged and/or contracted with a network of suppliers, agents, and/or partners in order to procure laborers from third world countries. The common scheme of this enterprise was to traffic in forced laborers and to profit from the provision of this labor. Each member of the enterprise, including Defendants, served a role in furthering the enterprise’s common purpose.

The Trafficking and Forced Labor of Plaintiffs

40. Plaintiffs were recruited by agents of First Kuwait in or around November or

⁸ MNF-I FRAGO 06-188 [Trafficking in Persons], Order issued by General Casey.
⁹ United States Department of State, Trafficking in Persons Report, June 2006 at 19.

December 2003. Plaintiffs saw an advertisement, such as the one attached in Exhibit B, for workers in Kuwait.

41. In or around early December 2003, Plaintiffs were offered skilled, technical jobs in Kuwait by agents of First Kuwaiti. They were told that they would be working as air conditioning technicians for First Kuwaiti in Kuwait.

42. Plaintiffs accepted the job offers.

43. Defendants arranged for authorizations to be issued for foreign employment by the Republic of the Philippines Department of Overseas Employment showing that their country of destination was Kuwait. A copy of Plaintiff Daniel Autencio's authorization is attached hereto as Exhibit C.

44. Plaintiffs flew to Kuwait on airline flights arranged by Defendants. Plaintiff Ramil Autencio traveled on or around December 20, 2003. Plaintiff Daniel Autencio traveled on or around December 21, 2003.

45. When Plaintiffs arrived in Kuwait, they were met by agents of Defendants, who took their passports.

46. Defendants took Plaintiffs to a place called "Geelib Sioukh" and held them there along with other foreign laborers in a complex of buildings.

47. Once in Kuwait, Plaintiffs were captives of Defendants. As laborers from poor nations, they brought with them little or no money. Defendants had taken their passports from them. Plaintiffs were racially distinct from the citizens of Kuwait. If Plaintiffs had strayed far from the compound where they were housed, they would have been arrested. Plaintiffs could not travel internationally without their passports.

48. The Plaintiffs were in desperate circumstances. Defendants housed Plaintiffs and

others in substandard conditions. Plaintiffs had to stay on the rooftop of a building. When it rained, Plaintiffs and their co-workers huddled in a stairwell. There were no beds or blankets.

49. Plaintiffs were given only a small amount of food to eat daily. They relied for their sustenance on Filipinos who worked in Kuwait.

50. After approximately five days, an employee of First Kuwaiti informed Plaintiffs that they would be sent to Iraq.

51. Plaintiffs protested and refused to board the bus for Iraq. They informed Defendants that they had never agreed to go to Iraq.

52. Defendants posted memoranda seeking to coerce Plaintiffs to board the buses for Iraq, telling Plaintiffs that they had been fined, or that they would be forced to work for six months without pay. One memorandum stated as follows:

FIRST KUWAITI
OFFICIAN MEMORANDUM

The following people received \$100 USD salary deductions for failure to go on the buses. Furthermore, their daily deductions will be made for their salary until they reach Iraq, and their salaries will not be paid until the end of the month! If your name is on the list below and you wish to go back to the Philippines, you will still have to work until you can pay for ticket expenses equivalent to USD \$1,000.

Jay Alquero
Janold Alquero
Daniel Autencio
Ramil Autencio
Raul Cuestas
Luis Alcantara
Ronnie Peneda
Noel Ramirez
Ruel Cuestas

These people failed to meet their departure dates to Iraq, which means they also delayed many of your departures. Delayed departures also mean that you might receive your salary late because no more salaries will be paid in Kuwait. All salaries will be paid in Iraq!!! If everyone wishes to receive their salary on time, you must make sure that you do not miss your departure date, and make sure no one else fails to go!!!!

Michel Al-Absi

A copy of this notice is attached hereto as Exhibit D.

53. The Plaintiffs did not have \$1000 to pay for their tickets. Plaintiffs were being unlawfully fined \$100 per day by Defendants, were not being paid, and were effectively held captive by the Defendants. Defendants thereby forced upon Plaintiffs a situation in which Plaintiffs would never be able to buy their way out of bondage, thereby leaving traveling to Iraq as their only option.

54. Through these communications to Plaintiffs, Defendants expressed that they had the unfettered power to force Plaintiffs to work without pay, and the unfettered power to traffic Plaintiffs to Iraq. Plaintiffs were powerless to escape their bondage to them, because Defendants had placed Plaintiffs in a desperate and dependent position, in a nation where they did not have proper visas, or even their passports, which Defendants held.

55. Despite this coercion, Plaintiffs still refused to go to Iraq.

56. Defendants increased the pressure on Plaintiffs, threatening Plaintiffs that if they did not do as they were told, they would be arrested.

57. In a show of force that implied Defendants were making good on this threat, three armed Kuwaiti policemen working at the behest of Defendants arrived at the building where Plaintiffs stayed. Defendants ordered Plaintiffs to board the bus that would take them to Iraq. Faced with no choice, Plaintiffs boarded the bus.

58. On or around January 4, 2004, Plaintiffs were trafficked from Kuwait to Iraq against their will and under threat of physical and psychological harm, including being shot, imprisoned or detained indefinitely.

59. Once in Iraq, Plaintiffs were held in captivity and forced to work. They worked 12 hours a day, 7 days a week. They lived in trailers that had no heat, electricity or water. They were

not sufficiently fed. Defendants' agents and employees assaulted and threatened Plaintiffs during their time in Iraq, reinforcing Defendants' authority over them.

Plaintiffs' Escape

60. Plaintiffs escaped their bondage with the help of a sympathetic American soldier of Philippine descent stationed in Tikrit. This American soldier arranged transport from them in a truck bound for Kuwait. Along with a number of their compatriots, Plaintiffs boarded the truck on or around February 3, 2004, between 1:00 a.m. and 2:00 a.m.

61. Plaintiffs made their way to the Philippine Embassy in Kuwait and were let into the Philippine Embassy grounds.

Plaintiffs' Attempts to Resolve this Dispute, First Kuwaiti's Refusal to Pay Plaintiffs or Hear Their Complaints, and the Credible Threat Against Plaintiffs in Kuwait

62. A few hours after Plaintiffs' arrival at the Philippine Embassy, representatives of First Kuwaiti, along with Kuwaiti police, came to the Embassy. A negotiation ensued with the participation of representatives of the Philippine Embassy. From the safety of the Embassy grounds, Plaintiffs demanded compensation for what they had been through, as well as pay for the work they had been forced to perform.

63. The representatives from First Kuwaiti refused to hear any claims from them, and/or denied their claims, and demanded that Plaintiffs return with them to Iraq. Plaintiffs of course feared returning to Iraq, where they had only been taken by force by the Defendants, and where they had been held captive and forced to work by the Defendants. Plaintiffs also feared leaving the grounds of the Philippine Embassy in Kuwait because of the ordeal they had been through. They had been lured to Kuwait under false pretenses, and the government obviously allowed Defendants' practice of taking Filipinos' passports and warehousing them in order to break their will and get them to submit to being trafficked to Iraq. Kuwaiti police had already once participated in Plaintiffs'

trafficking to Iraq. First Kuwaiti continued to argue that Plaintiffs must return with it to Iraq. Plaintiffs reasonably believed that First Kuwaiti would have the power to have them imprisoned or to forcibly traffic them to Iraq. Plaintiffs had particular reason to fear because they had been personally identified as leaders of the group of Filipinos who had refused to travel to Iraq and the group of Filipinos who had escaped.

64. The Philippine Embassy officials did not give up Plaintiffs, who remained in the Embassy under the implicit and explicit threat that they would be imprisoned or trafficked back to Iraq if they left Philippine Embassy grounds.

65. Finally, Embassy officials negotiated the return of the passports from First Kuwaiti and negotiated safe passage for their citizens to leave the country. The Philippine government provided airline tickets for Plaintiffs to fly back to the Philippines on or around February 18, 2004.

66. Plaintiffs were never paid for their servitude or compensated for the ordeal that Defendants put them through. Plaintiffs never waived nor compromised their right to claim compensation.

GENERAL ALLEGATIONS

67. Defendants conspired to traffic and extract labor from the Plaintiffs under threat of physical and/or psychological harm.

68. Acts described herein were inflicted deliberately and intentionally.

69. All of the Defendants acted as co-conspirators and agents, each of the other.

70. Defendants were aware of the conditions of Plaintiffs' bondage and the fact that they were being forcibly detained, trafficked and forced to work.

71. Defendants participated in, directed and/or authorized the tortious conduct resulting from the unlawful conspiracy to perpetrate the crimes of human trafficking and forced labor.

72. The Defendants' actions violated international law and were outside the legitimate scope of any duties as any official of any government.

73. At all times relevant to this Complaint, forced labor was illegal according to treaty, customary international law and/or the laws of Kuwait, the provisional authority or nascent government of Iraq, and the United States.

74. The acts described herein were inflicted deliberately and intentionally.

75. In the alternative, Defendants aided and abetted, intentionally facilitated, and/or recklessly disregarded a violation of international law, to wit, human trafficking and forced labor, by directly or indirectly providing support to others with the intention or knowledge that they would carry out an offense in violation of international law.

76. The acts of aiding and abetting described herein included giving knowing practical assistance or encouragement that had a substantial effect on the perpetration of the torts alleged herein.

77. Further, Defendants had knowledge that their actions would assist in the commission of the offences alleged herein.

78. The acts and injuries to Plaintiffs described herein were part of a pattern and practice of systematic human rights violations designed, ordered, implemented and/or directed by Defendants and their co-conspirators or agents.

79. As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have suffered and will continue to suffer extreme and severe mental anguish and emotional distress. The conduct of Defendants was malicious, fraudulent and/or oppressive and done with a willful and conscious disregard for Plaintiffs' rights and for the deleterious consequences of Defendants' actions. Consequently, Plaintiffs are entitled to punitive damages from Defendants.

COUNT I
Trafficking and Forced Labor in Violation of International Law
28 U.S.C. § 1350

80. The allegations set forth in all prior paragraphs of this complaint are realleged and incorporated by reference as if fully set forth herein.

81. Defendants trafficked and forced Plaintiffs to provide their labor to them for their private benefit under menace of the penalties of actual and threatened physical and psychological harm, *inter alia*, the penalties of false fines, open-ended bondage, or imprisonment in Kuwait, as well as the threat of being shot. Defendants caused Plaintiff to be trafficked from the country of their residence to Kuwait and then from Kuwait to Iraq.

82. Defendants' perpetration of such trafficking and forced labor constitutes a crime in violation of the law of nations.

83. The crime of forced labor rests on a clear and definite norm of international law that is universally accepted. The prohibition of forced labor is defined with a degree of specificity sufficiently comparable to international law violations that were familiar when the Alien Tort Statute was enacted.

84. Various international instruments reflect the prohibition of forced labor.

85. The Universal Declaration of Human Rights, G.A. Res. 217(A)III (1948) banned forced labor.

86. The Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, and Charter of the International Military Tribunal, Aug. 8, 1945, art. 6, U.N.T.S. 280 made forced labor a war crime.

87. In the Forced Labour Convention, 1930 (No. 29), Article 4, the member states agreed that they "shall not permit the imposition of forced or compulsory labour for the benefit of private

individuals, companies or associations.”

88. Defendants’ compulsion of labor from Plaintiffs does not fall under any of the exceptions to the prohibition of forced labor in the Forced Labour Convention, 1930 (no. 29), Article 2 or any other exception to the prohibition.

89. Defendants’ compulsion of labor from Plaintiffs was particularly egregious because it involved international trafficking of persons from their home countries to Iraq, often in contravention to the laws of their home countries. Further, Iraq at the time was a war-torn and dangerous place where the Plaintiffs were put in great danger and rightly feared for their lives.

90. Defendants’ compulsion of labor from Plaintiffs was particularly egregious because the United States Government had agreed to pay Defendant First Kuwaiti handsomely for its work, including an agreement to pay over \$592,000,000.00 to build the United States Embassy in Iraq.

91. For this same reason, Defendants’ compulsion of labor is of particular concern to the United States.

92. Defendants’ compulsion of labor from Plaintiffs is also of particular concern to the United States because the United States was in the midst of a very sensitive situation concerning the Iraq War effort. The United States was trying to win over opinion, both in the region and the world, for its war and rebuilding efforts in Iraq. Defendants’ actions hampered the efforts and hindered the goals of the United States. The United States has declared that actions such as Defendants’ undermine the credibility and mission of United States Government programs in post-conflict regions.

93. Trafficking in persons is a modern variant on the slave trade and is likewise proscribed by international norms.

94. The particular methods employed by Defendants in its trafficking of workers,

including engaging in international kidnapping and extended false imprisonment likewise constitute violations of international norms.

95. Defendants directly perpetrated or aided and abetted, intentionally facilitated, and/or recklessly disregarded violations of international law, to wit, forced labor, trafficking, international kidnapping and extended false imprisonment.

96. Forced labor is a modern variant of slavery for which the law of nations attributes individual liability such that state action is not required to give rise to liability and thereby permit an action under the Alien Tort Statute.

97. Likewise, human trafficking is a modern variant of the international slave trade for which the law of nations attributes individual liability such that state action is not required to give rise to liability and thereby permit an action under the Alien Tort Statute.

98. The combination of international human trafficking and forced labor of foreign nationals trafficked to third countries is a modern variant of the international slave trade and slavery for which the law of nations attributes individual liability such that state action is not required to give rise to liability and thereby permit an action under the Alien Tort Statute.

99. The constituent crime of international kidnapping is a modern variant of piracy for which the law of nations attributes individual liability such that state action is not required to give rise to liability and thereby permit an action under the Alien Tort Statute.

100. Extended false imprisonment is also a violation of the law of nations.

101. While state action is not required in order to give rise to ATS liability for some or all of the international law violations alleged herein, First Kuwaiti had as joint venturer, co-conspirator or agent, and/or worked as agent for, the government of Kuwait in carrying out its forced labor scheme.

102. Defendants' trafficking and compulsion of labor is of particular interest to the United States because U.S. taxpayer monies were paid to Defendants to perform tasks in the Iraq War theatre. Defendants' actions contravene U.S. interests and policy by tainting the rebuilding effort in Iraq.

COUNT II
Racketeer Influenced and Corrupt Organizations Act (RICO)
18 U.S.C. § 1964

103. The allegations set forth in all prior paragraphs of this complaint are realleged and incorporated by reference as if fully set forth herein.

104. The Defendants are part of an enterprise engaged in foreign commerce.

105. Defendants are engaged in interstate acts of commerce and the acts alleged herein have a potential effect on commerce.

106. Over a period of years, beginning in or about 2003 and continuing to at least March, 2005, Defendants, with their joint venturers or co-conspirators or agents, in violation of 18 U.S.C. § 1962(b), through a pattern of racketeering activity, acquired or maintained an interest in or control of what is herein deemed the "Iraq Trafficking and Forced Labor Scheme", which is engaged in or affects interstate commerce.

107. Over a period of years, beginning in or about 2003 and continuing to at least March, 2005, Defendants, with their joint venturers or co-conspirators or agents, in violation of 18 U.S.C. §§ 1962(c) and (d), conspired to and did conduct the affairs of the Iraq Trafficking and Forced Labor Scheme through a pattern of racketeering activities.

108. Over a period of years, beginning in or about 2003 and continuing to at least March, 2005, Defendants, with their joint venturers or co-conspirators or agents, conducted or participated

directly or indirectly in the conduct of the partnership joint venture through a pattern of racketeering activity within the meaning of 18 U.S.C. § 1961(5) in violation of 18 U.S.C. § 1962(c).

109. In particular, the conduct of Defendants, with their joint venturers or co-conspirators or agents, in trafficking and forcing labor from Plaintiffs, constitutes a violation of 18 U.S.C. § 1589, which constitutes racketeering activity according to 18 U.S.C. § 1961 (1)(B) and specifically its reference to acts prohibited by 18 U.S.C. §§ 1581-1591 (relating to peonage, slavery and trafficking in persons). 18 U.S.C. § 1589 states:

Whoever knowingly provides or obtains the labor or services of a person—
(1) by threats of serious harm to, or physical restraint against, that person or another person;
(2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
(3) by means of the abuse or threatened abuse of law or the legal process,
shall be fined under this title or imprisoned not more than 20 years, or both.

110. Further, the conduct of Defendants, with their joint venturers or co-conspirators or agents, in trafficking Plaintiffs from Iraq to provide forced labor constitutes a violation of 18 U.S.C. § 1590, which constitutes racketeering activity according to 18 U.S.C. § 1961 (1)(B) and specifically its reference to acts prohibited by 18 U.S.C. §§ 1581-1591 (relating to peonage, slavery and trafficking in persons). 18 U.S.C. § 1590 states:

Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

111. Further, the conduct of Defendants, with their joint venturers or co-conspirators or agents, in threatening Plaintiffs with the deadly force of armed Kuwaiti policemen constitutes racketeering activity as defined in 18 U.S.C. § 1961(1)(A).

112. Further, the conduct of Defendants, with their joint venturers or co-conspirators or agents, in forcing Plaintiffs through fear, intimidation, and threat of imprisonment to be trafficked and surrender their labor, constitutes a pattern of extortion, which is enumerated as one of the racketeering activities in both 18 U.S.C. § 1961(1)(A) and 18 U.S.C. § 1961(1)(B) and specifically in reference to 18 U.S.C. § 1951, otherwise known as the Hobbs Act.

113. Further, the conduct of Defendants, with their joint venturers or co-conspirators or agents, in paying bribes to obtain contract work with the U.S. government in furtherance of the Iraq Trafficking and Forced Labor Scheme, committed one of the enumerated racketeering activities in both 18 U.S.C. § 1961(1)(A) and 18 U.S.C. § 1961(1)(B).

114. Defendants, with their joint venturers or co-conspirators or agents, engaged in such conduct in order to obtain profits for the enterprise through a considered disregard for Plaintiffs.

115. Plaintiffs were injured by the loss of income as a result of Defendants' unlawful activity. They did not receive income for their work.

116. Defendants, with their joint venturers or co-conspirators or agents, through their unlawful participation in the Iraq Trafficking and Forced Labor Scheme, caused a substantial effect on the United States by gaining an unfair advantage over competitors. Specifically, American contractors lost business due to their inability to compete with the Defendants' prices because the Defendant used forced, trafficked labor.

117. Defendants, with their joint venturers or co-conspirators or agents, through their unlawful participation in the Iraq Trafficking and Forced Labor Scheme, also caused a substantial effect on the United States by tainting the rebuilding effort in Iraq and thereby undermining U.S. efforts to win hearts and minds in the region and throughout the world.

118. Defendants, with their joint venturers or co-conspirators or agents, through their

unlawful participation in the Iraq Trafficking and Forced Labor Scheme, also committed conduct in the United States in furtherance of the Iraq Trafficking and Forced Labor Scheme, including but not limited to: obtaining U.S. Government contracts with the intent of supplying forced labor; administering those contracts in the United States; making false reports and claims to the United States Government in order to hide illegal activity and profit from the Iraq Trafficking and Forced Labor Scheme; and acts to cover-up and thwart any investigation of the matter.

COUNT III
Violation of the Trafficking Victims Protection Reauthorization Act (“TVPRA”),
18 U.S.C. § 1595

119. The allegations set forth in all prior paragraphs of this complaint are realleged and incorporated by reference as if fully set forth herein.

120. Defendants, along with their co-conspirators and agents, developed a scheme, plan or pattern in order to knowingly provide the labor and services of persons, including the Filipino laborers such as Plaintiffs, for menial work on the United States Embassy in Iraq, at Camp Anaconda and at U.S. military installations in Tikrit, Iraq, as well as other U.S facilities.

121. Defendants knowingly obtained the Plaintiffs’ labors or services by means of such scheme, plan or pattern. Defendants and/or their co-conspirators and/or agents intended to cause the Plaintiffs to believe that if they did not perform such labor or services, they would suffer serious harm or physical restraint, in violation of 28 U.S.C. § 1589. In addition, Defendants and/or their co-conspirators and/or agents physically restrained the Plaintiffs, including isolating and holding them in Kuwait, transporting them against their will to Iraq, withholding their passports and preventing them from freely leaving, in violation of 28 U.S.C. § 1589.

122. As part of their scheme, plan or pattern, Defendants and/or their co-conspirators and agents filed false papers with the Republic of the Philippines, and confiscated and retained the passports of Plaintiffs in violation of 28 U.S.C. § 1589.

123. Defendants and their co-conspirators and/or agents knowingly recruited, harbored, transported, provided, and obtained the Plaintiffs for labor or services.

124. Defendants' actions violated 18 U.S.C. § 1589 and 18 U.S.C. § 1590, provisions of the TVPRA.

125. As a result of the conduct of Defendants' and their agents and/or co-conspirators, Plaintiffs have suffered damages in an amount to be determined at trial.

126. Plaintiffs are entitled to recover damages and reasonable attorneys' fees for the wrongful conduct of Defendants and their agents and/or co-conspirators.

COUNT IV
False Imprisonment

127. The allegations set forth in all prior paragraphs of this complaint are realleged and incorporated by reference as if fully set forth herein.

128. Defendants falsely imprisoned Plaintiffs in furtherance of forcibly trafficking them internationally and forcing them to provide labor.

129. Defendants intentionally and unlawfully exercised force or the express or implied threat of force to restrain, detain or confine the Plaintiffs. The restraint, detention or confinement compelled the Plaintiffs to stay or go somewhere against their will for some appreciable time. The Plaintiffs did not consent to this restraint, detention or confinement.

130. Defendants' actions constituted false imprisonment, actionable under the laws of the United States and the laws of Iraq and Kuwait.

PRAYER FOR RELIEF

WHEREFORE, each and every Plaintiff prays for judgment against Defendant

- (a) for compensatory damages;
- (b) for punitive damages;
- (c) for treble damages for claims brought under RICO; and
- (d) for costs of suit, attorneys' fees and such other declaratory and injunctive relief as the

Court deems just and proper.

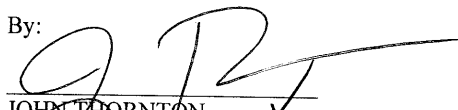
JURY TRIAL DEMANDED

Plaintiffs hereby demand a jury trial on all issues so triable.

Respectfully submitted,

DO CAMPO & THORNTON, P.A.
Attorneys for Plaintiff
Bank of America Tower
100 S.E. Second St., Ste. 2700
Miami, Florida 33131
Telephone: (305) 358-6600
Facsimile: (305) 358-6601

By:



JOHN THORNTON
District of Columbia Bar No.: 980680
jt@dandtlaw.com