

and *

JEANMARIE KASSAMBA *

In his Official and Individual Capacity *

247/C Rue Des Mandariniers *

Kinshasa • Gombe *

Republique Democratique Du Congo *

and *

MR. JACQUES MUKALENG MAKAL *

In his Official and Individual Capacity *

Palais de la Nation Avenue *

Tshatshi, Kinshasa Gombe *

and *

MR. SERAPHIN NGWEJ *

In his Official and Individual Capacity *

Palais de la Nation Avenue *

Tshatshi, Kinshasa Gombe *

and *

RAYMOND TSHIBANDA *

In his Official and Individual Capacity *

Entre Palais de la Justice, *

Fonction Publique et Banque Centrale *

Du Congo Gombe -Kinshasa *

and *

MR. LEONARD NGOY LULU *

In his Official and Individual Capacity *

Palais de la Nation Avenue *

Tshatshi, Kinshasa Gombe *

and *

SAM MPENGO MBEY *

In his Official and Individual Capacity *

2 Marcus Court, Marcus Street, *

Stratford, UK E15 3JU *

and *

UNITED STATES SECRET SERVICE
c/o U. S. Department of Homeland Security
Serve: Donna L. Cahill, Chief Counsel
Office of the General Counsel
245 Murray Lane, Mail Stop 0485
Washington, DC 20528-0485

*
*
*
*
*
*

Also Serve:
Office of the Attorney General
United States Department of Justice
900 Pennsylvania Avenue NW
Washington, DC 20530-0001

*
*
*
*
*

and

*
*

**DISTRICT OF COLUMBIA
METROPOLITIAN POLICE DEPARTMENT**

Serve: Honorable Muriel Bowser
District of Columbia Government
1350 Pennsylvania Avenue N.W.
Washington, D.C. 20004

*
*
*
*
*
*

Also Serve:
Office of the Attorney General
For the District of Columbia
444 4th Street N.W.
6th Floor South
Washington, D.C. 20001

*
*
*
*
*
*

and

*
*

CASTLETON HOTEL PARTNERS LLC
T/A CAPELLA GEORGETOWN HOTEL
1026 31st Street, NW
Washington, D.C. 20007

*
*
*
*

Serve on Resident Agent:
C T Corporation System
1015 15th Street, NW
Suite 1000
Washington, DC 20005

*
*
*
*
*

and

*

CAPELLA HOTELS GROUP, LLC
3384 Peachtree Road, Suite 375
Atlanta, GA 30326

Serve on Resident Agent:
C T Corporation System
1015 15th Street, NW, Suite 1000
Washington, DC 20005

Defendants.

* * * * *

SECOND AMENDED COMPLAINT AND JURY DEMAND

NOW COMES, plaintiffs by and through their undersigned attorneys and sues the
aforementioned defendants and in support of their cause of action state:

I. PRELIMINARY STATEMENT

1. This action for declaratory, monetary and other appropriate relief is brought by
plaintiffs to redress intentional violations by defendants of rights secured to the plaintiffs by the
laws of the United States, including the Alien Tort Claims Act (hereinafter “ATCA”), 28 U.S.C.
Sec. 1350, Foreign Sovereign Immunities Act of 1976, Pub. L. 94-583, 90 Stat. 2891, 28 U.S.C.
Sec. 1330, 1332 (a), 1391 (f) and 1601-1611 [hereinafter the FSIA], and the Federal Tort Claims Act
(“FTCA”), 28 U.S.C. §§ 1346, 2671 et seq., and the statutory and common law of the District of
Columbia. This action arises out of an August 6, 2014, incident in front of the Capella
Georgetown Hotel in Washington, D.C., where the plaintiffs’, except Micheline Miango were
savagely attacked and brutally beaten by thugs traveling with President Joseph Kabila of the
Democratic Republic of the Congo (“DRC”) all of whom were occupying the Capella
Georgetown Hotel from August 1, 2014 through August 6, 2014. Mr. Miango was exercising his
right to free speech and legally protesting against humanitarian and human rights violations in

the DRC, when President Joseph Kabila, who was in the U.S. attending the “U.S. – Africa Leaders’ Summit”, in Washington DC, ordered the attack on Jacques Miango and the protest. Mr. Andre Ngoma was an innocent bystander’s who was attacked and beaten because President Kabila’s thugs thought he was a Congolese protestor due to his race and national origin as an African. The August 6, 2014 brutal attack on the plaintiffs took place in the presence of U.S. Secret Services (“USSS”) agents and District of Columbia Metropolitan Police Department (“DCMPD”) officers, who providing security, supervision, and control or otherwise in charge of President Joseph Kabila and this party of thugs who attacked the plaintiffs and the protest.

II. PARTIES

2. Jacques Miango (hereinafter “Plaintiff Miango” or “Mr. Miango”) a person who resides in the State of Maryland. Mr. Miango is a Congolese by national origin, who obtained refugee status to live in the U.S. through the U.N refugee program in Burkina Faso. Mr. Miango is the father of four boys ages 8, 10, 13 and 15, and is has been married to his wife Plaintiff Micheline Lompo Miango, since 1997. Mr. Miango who hails form a family within the Congolese political class, is a known opponent and activist against the DRC government human rights violations.

3. Andre Paul Ngoma, (hereinafter “Plaintiff Ngoma” or “Mr. Ngoma”) is a legal resident in the state of Maryland. Mr. Ngoma is Gabonese by national origin. At all times relevant, Mr. Ngoma was working at the Canal Inn Hotel, which was across the street from, and adjacent to the Capella Georgetown Hotel.

4. Matala Kayaya, (hereinafter “Plaintiff Kayaya” or “Mr. Kayaya”) is a legal resident in the state of Maryland. Mr. Kayaya is Congolese by national origin. At all times

relevant, Mr. Kayaya had accompanied and participated with Mr. Miango to protest against Defendant Kabila.

5. Ouwo Likutu, (hereinafter “Plaintiff Likutu” or “Mr. Likutu”) is a legal resident in the state of Maryland. Mr. Ngoma is Congolese by national origin. At all times relevant, Mr. Likutu had accompanied and participated with Mr. Miango to protest against Defendant Kabila. (Hereinafter the plaintiffs, except Micheline Miango, are collectively referred to as “the Plaintiffs”).

6. Government of the Democratic Republic of the Congo (hereinafter “DR Congo Government”) is the sovereign of the Democratic Republic of the Congo. At all times relevant DR Congo Government is led by President Joseph Kabila Kabange, and is responsible for the actions of President Joseph Kabila and other DR Congo Government officials.

7. Joseph Kabila Kabange, (hereinafter “Defendant Joseph Kabila or “Kabila”) is president of the DR Congo Government. At all times relevant, Defendant Joseph Kabila’s action and or inactions directly caused and contributed to the brutal attack and beating of Mr. Miango and Mr. Ngoma.

8. United States Secret Service (hereinafter “USSS”) is a division within the U.S. Department of Homeland Security, an agency of the federal government. USSS provides protection for “heads of foreign states or governments and their spouses traveling with them, [and] other distinguished foreign visitors to the United States” At all times relevant to the lawsuit, USSS employees, agents, representatives, policies, procedures, actions and or inactions, directly and or indirectly caused, resulted in or contributed to the brutal attack, assault and battery of the Plaintiff’s on August 6, 2014.

9. Defendant District of Columbia Metropolitan Police Department (hereinafter “DCMPD”) is an agency of the District of Columbia municipality which oversees and is responsible for DCMPD, is a municipality which is overseas and is responsible for DCMPD. The officers of DCMPD are responsible for protecting the physical safety of persons and property in the District of Columbia. At all times relevant to the lawsuit, DCMPD officers, employees, agents, representatives, policies, procedures, actions and or inactions, directly and or indirectly caused, resulted in, and/or contributed to the brutal attack, assault and battery of Plaintiff on August 6, 2014.

10. Castleton Hotel Partners, LLC, (hereinafter “Defendant Castleton Hotel”) is a District of Columbia limited liability corporation. Defendant Castleton Hotel owns and or operates Capella Georgetown Hotel. At all times relevant to the lawsuit, Defendant Castleton Hotel, through its guest, customers, clients, policies, procedures, actions and or inactions, directly and or indirectly caused, resulted in, and/or contributed to the brutal attack, assault and battery of Plaintiffs on August 6, 2014.

11. Capella Hotel Group, LLC, (hereinafter “Defendant Capella Hotel”) is a Delaware limited liability company, operating in the District of Columbia under the trade name “Capella Georgetown Hotel”. Defendant Capella Hotel operates the Capella Georgetown Hotel. At all times relevant to the lawsuit, Defendant Capella Hotel guest, customers, clients, policies, procedures, actions and or inactions, directly and or indirectly caused, resulted in, and/or contributed to the brutal attack, assault and battery of Plaintiffs on August 6, 2014.

12. Defendants Mr. Jeanmarie Kassamba, Mr. Jacques Mukaleng Makal, Mr. Sam Mpenko Mbey, Mr. Seraphin Ngwej, Mr. Raymond Tshibanda and Mr. Leonard Ngoy Lulu who are sued in their individual and official capacities, (hereinafter “referred to collectively as

“Individual/Official Capacity Defendants” are DRC nationals, officials, agents, representatives, friends, and/or officers of DR Congo Government and or Defendant Joseph Kabila. At all-time relevant, the Individual/Official Capacity Defendants, Individual and Official Capacity Defendants who brutally attacked and beat Mr. Miango and Mr. Ngoma, were staying at the Capella Georgetown Hotel with Defendant Joseph Kabila. At all times relevant, the Individual/Official Capacity Defendants, specifically including Jeanmarie Kassamba and Sam Mpenko Mbey, were the actual attackers who assaulted and battered the Plaintiffs. The Individual/ Official Capacity Defendants were occupying the Capella Georgetown Hotel with Defendant Joseph Kabila at the time of the August 6, 2014 incident.

III. JURISDICTION

13. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1350 28 U.S.C. § 1331, 42 U.S.C. § 12117, and 29 U.S.C. § 1132(e), all of which provide for original jurisdiction of plaintiff's claims arising under the laws of the United States and over actions to secure equitable and other relief. Additional Jurisdiction is derived pursuant to 28 U.S.C. §1337, 1343(a), and 1367(a); 42 U.S.C. § § 1983, 1985, 1986, and 1988; and 18 U.S.C. 1961-1968.

14. Jurisdiction is further conferred pursuant to the Foreign Sovereign Immunities Act of 1976, Pub. L. 94-583, 90 Stat. 2891, 28 U.S.C. Sec. 1330, 1332(a), 1391(f) and 1601-1611 [hereinafter the FSIA], (see, §1605(a)(5) - money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortious act or omission of that foreign state)

15. The court has supplemental jurisdiction under 28 U.S.C. §1367 over plaintiff's claims under the statutory and common laws of the District of Columbia because plaintiff's

claims are so related to the claims within the court's original jurisdiction that they form part of the same case or controversy under article 3 of the U.S. Constitution.

16. On January 3, 2015, Plaintiff Miango issued the DC Government Office of Risk Management and a written notice regarding his claims against the DCMPD pursuant to DC Tort Claims Section 12-309, DC Official Code (2001) as required by law. On February 10, 2015, the DC Office of Risk Management issued Mr. Miango notice of determination the District Columbia was not liable for his loss.

17. On January 5, 2015, Mr. Miango issued written notice of his claims against the United States of America and the USSS to the U.S. Department of Justice. On January 29, 2015, the Department of Justice forwarded Mr. Miango's written notice of claims to the Donna Cahill, General Counsel Communications Center, USSS. On April 29, 2015, the USSS requested Mr. Miango to submit a SF 95. On August 26, 2015, Mr. Miango submitted a SF 95 pursuant to the FTCA.

IV. VENUE

18. Venue is proper in this district under 28 U.S.C. §1391(a) (2), and §1391(b) (2) because Defendants are located in this district and the events or omissions giving rise to this claim occurred in this district. Venue is further conferred pursuant to 28 U.S.C. §§ 1391(f) and 1441(d).

V. FACTUAL ALLEGATIONS

19. For decades, the DRC has been a quagmire of political repression, grave human rights abuses, and atrocities committed against dissidents and political activists. Such abuse of political freedoms has been pervasive under the regime of Defendant Kabila, who has clung onto presidential power from 2001 through the present. As part of its annual report on the

state of human rights in the DRC in 2014, the Bureau of Democracy, Labor, and Human Rights in the U.S. State Department determined that “[w]idespread impunity and corruption throughout the government, as well as abuse and obstruction of and threats against journalists, human rights advocates, and members of the political opposition by State Security Forces (SFF) members continued.” The State Department found that “[t]he law [in the DRC] prohibits insulting the head of state, malicious and public slander and language presumed to threaten national security. Government authorities sometimes detained journalists, activists, and politicians when they publicly criticized the government or the SFF. Plainclothes security agents allegedly monitored political events and rallies.”

20. By practice, SFF members beat and detain individuals who participate in demonstrations and protests in the DRC. For instance, from January 19 - 22, 2015, in 22 demonstrations by Congolese youth advocating for peaceful democratic change pursuant to their Constitution, the government of Joseph Kabila unleashed its security forces resulting in the deaths of at least 42 Congolese citizens with hundreds of others brutalized and arrested. And then on March 15, 2015, Congolese youth activists while conducting a press conference flowing from their civic engagement activities were arrested by the repressive security forces of the Kabila regime along with other conference attendees including journalists. Some Congolese youth who were arrested during the demonstrations remain in custody to date as political prisoners.

21. Mr. Miango is a long-time activist and dissident against the Kabila regime’s deplorable record of atrocities, human rights abuses, repression, and wanton corruption. When living in the DRC, Mr. Miango engaged in peaceful protest and advocacy promoting political reform, democracy, and human rights. Because Mr. Miango hailed from the political

class of the DRC, several members of the Kabila regime, such as Defendant Kassamba, knew Mr. Miango by sight and were familiar with his history of protest against the Kabila regime. Mr. Miango had to flee the DRC out of a well-founded fear of persecution; the U.S. eventually granted Mr. Miango refugee status, and Mr. Miango remains a refugee in the U.S. to this day. Dedicated to his county and to the empowerment of his people, as a refugee in the U.S., Mr. Miango has continued his peaceful human rights and political advocacy against the abuses of the Kabila regime.

22. From August 1 through August 6, 2014, delegates from numerous African countries attended the “U.S. – Africa Leaders’ Summit” that was being held in Washington, D.C. The delegation from the DRC occupied the Capella Georgetown Hotel during the Summit. Upon information and belief, Kabila’s security forces who occupied the Capella Georgetown Hotel during the Summit comprised of SFF agents who had previously intimidated, harassed, threatened, beaten, unlawfully detained, murdered, and tortured dissidents against the Kabila regime.

23. On August 5, 2014 and August 6, 2014, peaceful protesters gathered in front of the Hays Adams Hotel in Washington, D.C. in which the delegation from The Gambia was staying. On both dates, security forces of the regime of the Gambian president, Yahya Jammeh, attacked and viciously beat several of the protesters and Gambian journalists in the presence of USSS agents and DCMPD officers. Numerous media outlets reported the attacks on both dates. Like the Kabila regime, the regime of President Jammeh has a deplorable record of violently suppressing peaceful demonstrations and attacking opponents of the regime.

24. On August 6, 2014, Mr. Miango, Mr. Kayaya and Mr. Likutu staged a peaceful

protest in front of the Capella hotel against human rights violations in DR Congo. The protest targeted Defendant Joseph Kabila who was staying at the Capella Georgetown Hotel during his visit to Washington DC for the “U.S. – Africa Leaders’ Summit”, from August 1, 2014 through August 6, 2014.

25. Before staging the protest, Mr. Miango sought to obtain a permit from the District of Columbia Metropolitan Police Department (DCMPD) for the planned protest. However, DCMPD informed Mr. Miango that if the protest group was less than twenty (20) people, and the protest did not include planned marches or plans to be arrested, then a permit was not needed.

26. On August 6, 2014, at about 4 p.m., Mr. Miango, accompanied by Mr. Kayaya and Mr. Likutu, drove to 31st Street NW, Washington DC, (“31st NW”) and parked nearby the Capella Georgetown Hotel to stage a protest against President Joseph Kabila and the Kabila regime because of human rights abuses and violations in the DR Congo. Upon arrival at the Capella Georgetown Hotel, Mr. Miango observed DCMPD police officers and U.S. Secret Service (USSS) agents present in front of the Capella Georgetown Hotel and on 31st NW in the area of the Capella Georgetown Hotel.

27. Shortly after arriving at 31st NW, Mr. Miango saw Individual/Official Capacity Defendant Jeanmarie Kassamba coming out of a car on 31st Street NW near the Capella Georgetown Hotel. Mr. Miango recognized Mr. Kassamba as press official for President Joseph Kabila. Mr. Miango called out to Mr. Kassamba and began the protest. The protest consisted of Mr. Miango and one other person holding up posters or signs condemning rape, corruption, genocide, dictatorship, and human rights violations in the DRC. At the same time, Mr. Miango was making statements or verbalizing the protest message, including information

on the posters or flyers. Mr. Miango did this while walking beside Mr. Kassamba, about twenty (20) feet to the east of Mr. Kassamba, who was walking south on 31st NW, toward the front entrance of the Capella Georgetown Hotel. When Mr. Kassamba reached the Capella Georgetown Hotel, Mr. Miango and the other protestor shifted onto the sidewalk directly across the street in front of the Capella Georgetown Hotel, and continue with the protest. Mr. Miango, Mr. Kayaya and Mr. Likutu, conducted the protest in a peaceful and civil manner. All of this was observed by USSS agents or officers who were present in front of the Capella Georgetown Hotel.

28. Mr. Kassamba recognized Mr. Miango, who Defendant Kassamba knew as Congolese national with a history of political protest and dissent against the Kabila regime. Shortly after Defendant Kassamba entered the Capella Georgetown Hotel, he returned with a group from the Individual/Official Capacity Defendants, apparent security enforcers of the Kabila regime, who angrily approached Mr. Miango and the student protester. Defendant Kassamba had an iPod and other electronic device that he appeared to be using to record and or communicate about Mr. Miango and the protest, while the Individual/Official Capacity Defendants in the group began belittling, threatening, intimidating and disrupting Mr. Miango and the student protestor.

29. However, Mr. Miango and the student held their ground and continued to vocalize the protest message and hold up the protest posters or flyers. Except for the commotion from Defendant Kassamba and his group of Individual/Official Capacity Defendants, Mr. Miango and the student protestor remained peaceful and civil in their protest actions.

30. The actions of Defendant Kassamba and his group of Individual/Official Capacity Defendants, were observed by USSS agents and DCMPD officers, who took no action

to stop Defendant Kassamba and his group of Individual/Official Capacity Defendants from approaching Mr. Miango and the student protestor, or their actions to disrupt, intimidate and threaten Mr. Miango, Mr. Kayaya and Mr. Likutu.

31. While Defendant Kassamba and his group of Individual/Official Capacity Defendants continued to disrupt, intimidate and threaten Mr. Miango, Mr. Kayaya and Mr. Likutu. Defendant Joseph Kabila and his entourage arrived on 31st NW, approaching the Capella Georgetown Hotel from the south of 31st NW. When Mr. Miango saw Defendant Joseph Kabila, he called out to him using the alias “Hypolite Kanambe” (“Commandant Hyppo”), and began verbalizing the protest message against rape, corruption, genocide, dictatorship, and other human rights violations committed by the Kabila regime. As Defendant Joseph Kabila approached the entrance of the Capella Georgetown Hotel, he looked across the street and made eye contact with Mr. Miango as Plaintiff Miango continued to verbalize the protest message. Upon information and belief, Mr. Kabila recognized Mr. Miango, and was aware of his history as a dissident against the Kabila regime.

32. Shortly after Defendant Joseph Kabila entered the Capella Georgetown Hotel, another group of Individual/Official Capacity Defendants, apparent security enforcers, who accompanied Defendant Joseph Kabila into the Capella Georgetown Hotel, rushed out of the Capella Georgetown Hotel and joined up with Defendant Kassamba and the other group of Individual/Official Capacity Defendants. They all immediately began physically attacking the student protester and Mr. Miango. They overpowered Mr. Miango as Mr. Miango ordered Mr. Kayaya to run for his life. Mr. Miango was then knocked down to the ground, beaten, kicked, choked, and stomped on by the Defendant Kabila’s security enforcers, who are among the Individual/Official Capacity Defendants, including Defendant Kassamba and Defendant Sam

Mpengo Mbey. Defendant Joseph Kabila's security enforcers beat and stomped on Mr. Miango so mercilessly that they knocked out several of Mr. Miango's teeth and caused him to suffer a concussion and severe spinal and neck pain. Upon information and belief, Defendant Kabila ordered his security enforcers to attack Mr. Miango and the student protester.

33. USSS agents and DCMPD officers observed the Individual/Official Capacity Defendants who arrived with President Joseph Kabila, and observed them rushing out of the Capella Georgetown Hotel and brutally attacking Mr. Miango, Mr. Kayaya and Mr. Likutu, and did nothing to stop them. USSS agents and DCMPD officers observed Mr. Miango being knocked to the ground, beaten, kicked and stomped on, and USSS agents took no action to arrest the Individual/Official Capacity Defendants or prevent the attack and brutal assault on Mr. Miango, Mr. Kayaya and Mr. Likutu. In fact, a video of the incident showed USSS agents and DC MPD officers ushering away the attackers. After the attackers left, Mr. Miango was so disoriented that he could barely stand, and nearly stumbled or stagger into traffic.

34. After the brutal attack, some of the Individual/Official Capacity Defendants raided Mr. Miango's parked car, ransacked the car and took away Mr. Miango's possessions, including protest materials, a computer, iPod, a camera and other items. The computer, iPod, and camera contained pictures and information of Congolese dissidents and refugees living in the U.S. These items were taken into the Capella Georgetown Hotel by the attackers. Mr. Miango observed this theft from his car, and called the USSS agents and DCMPD officers' attention to the theft in progress; however, they did nothing to stop the theft and trespass.

35. At the time of the protest, Plaintiff Ngoma was working at the Canal Inn Hotel, which was located across the street adjacent to the Capella Georgetown Hotel. Mr. Ngoma heard the protest by Plaintiff Miango and the student protester. Plaintiff Ngoma then came

outside and observed the protest when it initially started focusing on Individual/Official Capacity Defendant Kassamba. When the Individual/Official Capacity Defendants, apparent security enforcers for Defendant Kabila, who arrived at the Capella Georgetown Hotel with Defendant Joseph Kabila, rushed out and began attacking Mr. Miango and the protest, they rushed towards Mr. Ngoma and demanded that he move from in from of the Canal Inn Hotel where Mr. Ngoma was standing. When Mr. Ngoma refused to leave and denied that he was a part of the protest, they brutally attacked and savagely beat Mr. Ngoma.

36. The attack and beating of Plaintiff Ngoma was observed by USSS agents and DCMPD officer who took no action to stop the attack on Plaintiff Ngoma or arrest the Individual/Official Capacity Defendants who carried out the attack.

37. After the August 2014 attack on Plaintiffs, the US State Department requested the DRC Government to waive diplomatic immunity of the individuals involved in the attack on Plaintiffs to allow for criminal prosecution, stating that it was “totally unacceptable” to assault peaceful protesters on U.S. soil. However, the DRC government refused to waive immunity for any of the named individuals. On August 9, 2014, the DRC ushered the individuals involved in the attack back to the DRC.

38. Shortly after returning to the DRC, Mr. Kassamba issued a death threat against Mr. Miango and other Congolese refugees. Since the attack, Mr. Miango and members of his family has received numerous death threats against Mr. Miango and his family, stating that if he ever challenges the Kabila regime or returns to the DRC, he will be killed. Upon information and belief, a number of the attackers on August 6, 2014, have since made death threats against Mr. Miango and his family.

VI. CLAIMS

Count One

Crimes Against Humanity In Violation of the Law of Nations and/or Treaty of the U.S.

(Against Individual/Official Capacity Defendants, the DRC, and Joseph Kabila)

39. Plaintiffs Miango and Ngoma incorporates all paragraphs hereto, as though fully set forth herein and further alleges that at all times relevant hereto Defendants committed crimes against humanity against Plaintiff Miango.

40. ATCA confers original jurisdiction over this claim to the Court.

41. Mr. Miango have standing under ATCA because each Plaintiff is an alien to the U.S.

42. Commission of crimes against humanity are violations of the law of nations, as embodied in customary international law, covenants, treaties, and domestic laws and constitutional liberties of nations worldwide.

43. Customary international law, covenants, and treaties prohibiting the commission of crimes against humanity are *jus cogens* norms of international law and are therefore non-derogable.

44. Individual and official capacity defendants, acting under the color of state authority, and/or actual or apparent state authority, perpetrated crimes against humanity against Plaintiff Miango by viciously beating and mutilating Mr. Miango, and subsequently issuing death threats against Mr. Miango, as part of a systematic and widespread persecution of Congolese dissidents against the Kabila regime and/or Congolese refugees living the U.S. and/or abroad.

45. Said defendants perpetrated crimes against humanity against Plaintiff Ngoma by viciously beating him, believing Mr. Ngoma to be associated with Mr. Miango's political activity, as part of a systematic and widespread persecution of Congolese dissidents against the Kabila regime and/or Congolese refugees living in the U.S. and/or abroad.

46. Plaintiffs' claim satisfies the presumption against extraterritoriality of ATCA because the attack took place on U.S. soil while Defendants were conducting business in the U.S., at the invitation of the U.S. government, against a refugee whom the U.S. had an obligation to protect from persecution by Defendants. Furthermore, Defendants actions were intended to intimidate and threaten Congolese refugees living in the U.S. Accordingly, Plaintiffs' claim touches and concerns the U.S.

47. Defendants DRC, and Kabila are liable for the actions of the Individual/Official Capacity Defendants via direct command and/or command responsibility and/or respondeat superior.

48. As a direct and proximate cause of Defendants' actions, Plaintiff Miango and Ngoma suffered severe and permanent bodily harm, loss of liberty, emotional and mental pain and suffering, and medical and other expenses.

49. Defendants DRC, and Kabila are not immune under the FSIA to this claim because this claim is for personal injury and damage to and/or loss of property, occurring in the United States and caused by the tortious act or omission by the DRC and/or DRC officials and/or employees acting within the scope of their official duties and/or employment, and this claim is not based on the exercise of a discretionary function, pursuant to 28 U.S.C. Section 1605(a) (5).

50. WHEREFORE, each Plaintiff demands judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

Count Two
Cruel and Degrading Treatment In Violation of the Law
of Nations and/or Treaty of the U.S.

(Against Defendant DRC, Defendant Kabila, Individual/Official Capacity Defendants)

51. Plaintiffs incorporates all paragraphs hereto, as though fully set forth herein and further alleges that at all times relevant hereto Defendants inflicted cruel and degrading treatment against Plaintiffs.

52. ATCA confers original jurisdiction over this claim to the Court.

53. Plaintiffs have standing to bring this claim because each Plaintiff is an alien to the U.S.

54. Cruel and degrading treatment by state actors and/or agents is a violation of the law of nations, as embodied by customary international law, treaties, covenants, and domestic laws and constitutional liberties of nations worldwide. Cruel and degrading treatment by state actors is prohibited under the Universal Declaration of Human Rights (hereafter “UDHR”) and the International Covenant on Civil and Political Rights (hereafter “ICCPR”), both of which the U.S. has signed and ratified.

55. Prohibition against cruel and degrading treatment by state actors and/or agents is based on *jus cogens* norms of international law and is therefore non-derogable.

56. Individual/Official Capacity Defendants, acting under actual or apparent state authority and/or the color of state authority, inflicted cruel and degrading treatment against the

Defendants by imprisoning, viciously beating, assaulting, and/or threatening the Defendants, without due process, because the Defendant protested against Defendant Joseph Kabila.

57. Defendants DRC and Kabila are liable for Plaintiff's damages via direct orders and/or command responsibility and/or respondeat superior.

58. Plaintiffs' claim satisfies the presumption against extraterritoriality of ATCA for the reasons stated in Count One of this Second Amended Complaint and Jury Demand.

59. As a direct and proximate cause of Defendants' actions, Plaintiffs suffered severe and permanent bodily harm, loss of liberty, emotional and mental pain and suffering, and medical and other expenses.

60. Defendants DRC and Kabila are not immune to this claim under the FSIA for the reasons set forth in Count One of this Second Amended Complaint and Jury Demand.

WHEREFORE, each Plaintiff demands judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

Count Three
Deprivation of Constitutional and Civil Rights in Violation of 42 U.S.C. §§ 1983,
1988 (First Amendment Freedom of Speech And Assembly)
(Against all Defendants)

61. Plaintiff incorporates all paragraphs hereto, as though fully set forth herein and further alleges that at all times relevant hereto Defendants deprived Plaintiffs of liberty and security.

62. ATCA confers original jurisdiction over this claim to the Court.

63. Plaintiffs have standing to bring this claim because each Plaintiff is an alien to the U.S.

64. Arbitrary deprivation of liberty and security by a state without due process is a violation of the law of nations, as embodied by customary international law, covenants, treaties, and domestic laws and constitutional liberties of nations worldwide. Arbitrary deprivation of liberty and security without due process is prohibited under the UNDHR and the ICCPR, both of which the U.S. has signed and ratified.

65. Prohibition against such deprivation is based on *jus cogen* norms of international law and is therefore non-derogable.

66. Individual/Official Capacity Defendants, acting under the color of state authority and/or actual or apparent state authority, committed such deprivation by surrounding Plaintiff Miango, ensuring that he could not escape, viciously beating and stumping Mr. Miango, and subsequently issuing death threats against him and his family. Said defendants also committed such deprivation against Mr. Ngoma while acting under the color of state authority and/or actual or apparent state authority by confining him and viciously beating him.

67. Defendants DRC and Kabila are liable for damages via direct order and/or command responsibility and/or respondeat superior.

68. Plaintiffs' claim satisfies the presumption against extraterritoriality of ATCA claims for the reasons stated in Count One of this Amended Complaint and Jury Demand.

69. As a direct and proximate cause of Defendants' actions, Plaintiffs Miango suffered severe and permanent bodily harm, loss of liberty and security, emotional and mental pain and suffering, and medical and other expenses.

70. Defendants DRC and Kabila are not immune to this claim under the FSIA for the reasons set forth in Count One of this Second Amended Complaint and Jury Demand.

71. WHEREFORE, each Plaintiff demands judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

Count Four
Deprivation of Right to Enter One's Own Country in Violation
of the Law of Nations and/or Treaty of the U.S.
(Against Individual/Official Capacity Defendants, Defendants DRC and Kabila)

72. Plaintiff Miango incorporates all paragraphs hereto, as though fully set forth herein and further alleges that at all times relevant hereto Defendants subjected Mr. Miango to arbitrary deprivation to ability to enter his country of origin, the DRC.

73. ATCA confers original jurisdiction over this claim to claim because the Court.

74. Plaintiff Miango has standing to bring this he is an alien to the U.S.

75. Arbitrary deprivation to enter one's country by state actors and/or agents for punitive and/or politically-motivated reasons, when that person poses no threat to the security or stability of that country, is a violation of the law of nations, as embodied by customary international law, covenants, treaties, and domestic laws and constitutional liberties of nations worldwide. Arbitrary deprivation of an individual's right to enter his or her own country is prohibited under the UNDHR and the ICCPR, both of which the U.S. has signed and ratified.

76. Prohibition against such deprivation is based on *jus cogen* norms of international law and is therefore non-derogable.

77. In the immediate aftermath of the attack on Mr. Miango, Individual/Official Capacity Defendants, under the color of state authority, committed such deprivation by telling Mr. Miango and his family that Mr. Miango could never return to the DRC, and threatened to kill him if he returned.

78. Defendants DRC and Kabila are liable for damages via direct order and/or command responsibility and/or respondeat superior.

79. Plaintiff Miango's claim satisfies the presumption against extraterritoriality of ATCA for the reasons stated in Count One of this Amended Complaint and Jury Demand.

80. As a direct and proximate cause of Defendants' actions, Plaintiff Miango suffered loss of liberty and security, emotional and mental pain and suffering, and medical and other expenses.

81. Defendants DRC and Kabila are not immune to this claim under the FSIA for the reasons set forth in Count One of this Second Amended Complaint and Jury Demand.

82. WHEREFORE, Plaintiff Miango demands judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

Count Five
Infringement Upon Rights to Free Expression, Assembly, Thought, and Association,
in Violation of the Law of Nations and/or Treaty of the U.S.
(Against Individual/Official Capacity Defendants, Defendant DRC, Defendant Kabila)

83. Plaintiffs incorporates all paragraphs hereto, as though fully set forth herein and further alleges that at all times relevant hereto Defendants unlawfully and arbitrarily suppressed Miango's, Mr. Kayaya's and Mr. Likutu's rights to free expression, assembly, thought, and conscience.

84. ATCA confers original jurisdiction over this claim to the Court.

85. Mr. Miango, Mr. Kayaya and Mr. Likutu, have standing to bring this claim because each Plaintiff is an alien to the U.S.

86. Arbitrary repression of free speech, conscience, thought, and assembly is a violation of the law of nations, as embodied by customary international law, covenants, treaties, and domestic laws and constitutional liberties of nations worldwide. Such arbitrary repression is prohibited under the UDHR and the ICCPR, both of which the U.S. has signed and ratified

87. Prohibition against such arbitrary repression is based on *jus cogen* norms of international law and is therefore non-derogable.

88. Individual/Official Capacity defendants, acting under the color of state authority and/or actual or apparent state authority, viciously beat, stomped, assaulted and/or threatened to kill the Defendants for peacefully and lawfully protesting against the abuses of the Kabila regime.

89. Said defendants, acting under the color of state authority and/or actual or apparent state authority, viciously beat Mr. Ngoma, believing he was part of the protest, thereby curtailing Mr. Ngoma's freedom to engage in free speech, assembly, thought, and conscience.

90. Defendants DRC and, and Kabila are liable for damages via direct order and/or command responsibility and/or respondeat superior.

91. Plaintiffs' claim satisfies the presumption against extraterritoriality of ATCA for the reasons stated in Count One of this Amended Complaint and Jury Demand.

92. As a direct and proximate cause of Defendants' actions, each of the Plaintiffs suffered severe bodily harm, loss of liberty and security, emotional and mental pain and suffering, and medical and other expenses.

93. Defendants DRC and Kabila are not immune to this claim under the FSIA for the reasons set forth in Count One of this Second Amended Complaint and Jury Demand.

94. WHEREFORE, each Plaintiff demands judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

Count Six
Deprivation of Equal Protection Under the Law in Violation
of the Law of Nations and/or Treaty of the U.S.

(Against Defendant DRC, Defendant Kabila, Individual/Official Capacity Defendants)

95. Plaintiffs incorporates all paragraphs hereto, as though fully set forth herein and further alleges those at all times relevant hereto Defendants unlawfully and arbitrarily deprived Plaintiffs of equal protection under the law.

96. ATCA confers original jurisdiction over this claim to the Court.

97. Plaintiffs have standing to bring this claim because each of the Plaintiffs is an alien to the U.S.

98. Arbitrary deprivation of equal protection under the law due to political beliefs and speech is a violation of the law of nations, as embodied by customary international law, covenants, treaties, and domestic laws and constitutional liberties of nations worldwide. Such deprivation is prohibited under the UDHR and the ICCPR, both of which the U.S. has signed and ratified

99. Prohibition against such deprivation is based on *jus cogen* norms of international law and is therefore non-derogable.

100. Individual/Official Capacity defendants, acting under the color of state authority and/or actual or apparent state authority, viciously beat, stomped, assaulted and threatened to kill The Plaintiff's for peacefully and lawfully protesting against the abuses of the Kabila regime.

Said Defendants viciously beat Mr. Ngoma, believing that he was peacefully and lawfully protesting against the abuses of the Kabila regime.

101. Defendants DRC and Kabila are liable for damages via direct order and/or command responsibility and/or respondeat superior.

102. Plaintiffs' claim satisfies the presumption against extraterritoriality of ATCA for the reasons stated in Count One of this Amended Complaint and Jury Demand.

103. As a direct and proximate cause of Defendants' actions, Plaintiffs suffered severe bodily harm, loss of liberty and security, emotional and mental pain and suffering, and medical and other expenses.

104. Defendants DRC and Kabila are not immune to this claim under the FSIA for the reasons set forth in Count One of this Second Amended Complaint and Jury Demand.

105. WHEREFORE, Plaintiffs demand judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

Count Seven
Aiding and Abetting Acts in Violation of
the Law of Nations and/or Treaty of the U.S.
(Against Individual/Official Capacity Defendants, Defendants DRC and Joseph Kabila)

106. Plaintiffs incorporates all paragraphs hereto, as though fully set forth herein and further alleges that at all times relevant hereto Defendants unlawfully aided and abetted the commission of acts in violation of the law of nations and/or treaty of the U.S., which were pleaded in Counts One through six of this Second Amended Complaint and Jury Demand.

107. ATCA confers original jurisdiction over this claim to the Court.

108. Plaintiffs have standing to bring this claim because each Plaintiff is an alien to the U.S.

109. Aiding and abetting the commission of a violation of the law of nations is a violation of the law of nations, as embodied by customary international law, covenants, treaties, and domestic laws and constitutional liberties of nations worldwide.

110. Prohibition against such acts is based on *jus cogen* norms of international law and is therefore non-derogable.

111. Each of the Individual/Official Capacity defendants aided and abetted the violent attacks and threats against Plaintiffs by assisting, planning coordinating, concealing, and/or executing such acts and/or facilitating the departure of the attackers from the U.S. to avoid legal action. Defendants DRC, and Kabila aided and abetted such acts by assisting, ordering, planning, concealing, and/or executing such acts and/or facilitating the departure of the attackers from the U.S. to avoid legal action.

112. Defendants DRC and Kabila are liable for acts of aiding and abetting by Individual/Official Capacity Defendants via direct order and/or command responsibility and/or respondeat superior.

113. Plaintiffs' claim satisfies the presumption against extraterritoriality of ATCA for the reasons stated in Count One of this Second Amended Complaint and Jury Demand.

114. As a direct and proximate cause of Defendants' actions, Plaintiffs each suffered severe bodily harm, loss of liberty and security, emotional and mental pain and suffering, and medical and other expenses.

115. Defendants DRC and Kabila are not immune to this claim under the FSIA for the reasons set forth in Count One of this Second Amended Complaint and Jury Demand.

116. WHEREFORE, each of the Plaintiffs demands judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

Count Eight
Battery

(Against Individual/Official Capacity Defendants, and Defendants DRC and Kabila)

117. Plaintiffs incorporates all paragraphs hereto, as though fully set forth herein, and further alleges that at all times relevant hereto Defendants battered the Plaintiffs.

118. On August 6, 2014, Individual/Official Capacity Defendants brutally attacked and beat Plaintiffs because Plaintiffs were protesting against human rights violations in the DRC, and because Defendants believed that Mr. Ngoma was a part of the protest. Defendant Miango was legally staging a protest at against Defendant Kabila went Plaintiff was violently and savagely attacked by the Individual/Official Capacity Defendants.

119. The Individual/Official Capacity Defendants were acting under the color of state authority and/or the actual and/or apparent authority of Defendants DRC and Kabila. Defendant DRC and Kabila are liable for the Individual/Official Capacity Defendants' actions via direct orders, and/or command responsibility, and/or respondeat superior.

120. Defendants Capella Hotel and Castleton Hotels are liable for the actions of the DRC defendants under the doctrine of respondeat superior because the DRC defendants acted as agents of the Capella Georgetown Hotel.

121. Defendants intended to cause and did cause a harmful contact with Plaintiffs' person.

122. Plaintiffs did not consent to Defendants' violent and savage attack on Plaintiffs.

123. As a direct and proximate cause of Defendants' actions, Plaintiffs each suffered severe bodily harm, loss of liberty and security, emotional and mental pain and suffering, and medical and other expenses.

124. These injuries have caused plaintiff to suffer general damages in an amount to be determined by proof at trial.

125. WHEREFORE, each of the Plaintiffs demands judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

Count Nine

Assault

**(Against Individual/Official Capacity Defendants, Defendant Kabila, Defendant DRC,
Defendant Capella Hotel and Castleton Hotel)**

126. Plaintiffs incorporates all paragraphs hereto, as though fully set forth herein, and further alleges that at all times relevant hereto Defendants assaulted Plaintiffs.

127. Plaintiffs are reasonable persons.

128. Defendant intended to cause and did cause the Plaintiffs to suffer apprehension of immediate physical harm by rushing out of the Capella Georgetown Hotel towards Plaintiffs and attacking the Plaintiffs for staging the protest against Defendant Kabila.

129. Any reasonable person would also become apprehensive in the face of defendants' threatening conduct.

130. Defendants DR Congo and Kabila are liable under the doctrine of respondeat superior and/or via direct order and/or via command responsibility.

131. Defendants Capella Hotel and Castleton Hotels are liable for the actions of the DRC defendants under the doctrine of respondeat superior because the DRC defendants acted as agents of the Capella Georgetown Hotel.

132 WHEREFORE, each of the Plaintiffs demands judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, and any and all awards considered to be just, equitable, and appropriate.

Count Ten

Deprivation of Constitutional and Civil Rights in Violation of 42 U.S.C. §§ 1983, 1988 (First Amendment Freedom of Speech And Assembly Clause, Fourth Amendment Due Process and Search and Seizure Clauses, Fifth Amendment Cruel and Unusual Punishment Clause, Fifth Amendment Takings Clause, and Fourteenth Amendment Equal Protection Clause)

(Against Defendants DRC, Kabila, USSS and DCMPD)

133. Plaintiffs incorporates all paragraphs hereto, as though fully set forth herein, and further alleges that at all times relevant hereto Defendants deprived Plaintiffs of their constitutional and civil rights to free speech and assembly, due process, prohibition against cruel and unusual punishment, prohibition against seizure without just compensation, and equal protection of the law.

134. Plaintiffs' protest and assembly to protest against human rights violations in DR Congo was speech and assembly protected by the First Amendment to the U.S. Constitution. Plaintiffs' right to due process and protection against unlawful search and seizure are protected under the Fourth Amendment to the U.S. Constitution. Plaintiffs' rights against cruel and unusual punishment and unlawful takings are protected under the Fifth Amendment of the U.S. Constitution. Plaintiffs' right due to equal protection under the law is protected under the Fourteenth Amendment to the U.S. Constitution. Pursuant to the Fourteenth Amendment,

Defendant DCMPD and USSS was required to protect Plaintiffs' rights pursuant to the aforementioned amendments of the U.S. Constitution.

135. Plaintiffs were protesting peacefully, without causing any disruption to movement or normal activities.

136. Plaintiff's protest and speech about human rights violations in DR Congo was speech of a private U.S. resident on a matter of public concern.

137. Plaintiff's free speech right to demonstrate and protest against human rights violations in DR Congo outweighed any interest of the Defendants in suppressing that speech.

138. The Individual/Official Capacity Defendants violated Plaintiffs' rights to free speech, due process, and freedom from cruel and unusual punishment by battering and assaulting Plaintiffs for staging the protest and demonstration against Defendant Joseph Kabila, and by brutally attacking Plaintiff Ngoma out of belief that he was part of the protest. Defendants violated Plaintiff's right against unlawful search and seizure unlawful takings by searching his vehicle and seizing his personal belongings

139. Defendant DRC and Kabila are liable for these actions via direct command and/or command responsibility and/or respondeat superior.

140. Defendants acted intentionally and with callous disregard for Plaintiffs' clearly established constitutional rights.

141. Defendants USSS and DCMPD's polices and/or protocol and/or practice of protecting foreign government dignitaries and their entourage, provided a cover for the assault and battery against Plaintiffs, and directly and proximately caused the violation of Plaintiff Miango's and Ngoma's constitutional rights.

142. Defendants USSS and DCMPD's failure to train their agents and/or officers in preventing and/or mitigating acts of violence committed by foreign government personnel against civilians is an unconstitutional policy and/or protocol and/or practice that amounts to deliberate indifference by defendants, thus causing infringement upon Plaintiffs' aforementioned constitutional rights

143. As a direct and proximate result of the Defendants violations of Plaintiffs' constitutional rights, Plaintiffs have suffered severe and substantial damages, including but not limited to: permanent physical disfigurement, inhumane and cruel treatment, pain and suffering, loss wages, humiliation, loss of reputation, embarrassment, inconvenience, mental and emotional anguish and distress, litigation expenses including attorney fees, and other compensatory damages, in an amount to be determined by a jury and the Court.

144. WHEREFORE, each of the Plaintiffs demands judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate

Count Eleven

Intentional Infliction of Emotional Distress (IIED)

(Against Individual/Official Capacity Defendants, Defendant DRC and Defendant Kabila)

145. Plaintiffs incorporates all paragraphs hereto, as though fully set forth herein, and further alleges that at all times relevant hereto Defendants cause intentionally caused extreme emotional distress to Plaintiffs.

146. Individual/Official Capacity Defendants engaged in, instigated, and directed a course of extreme and outrageous conduct with the intention of causing, or reckless disregard of the probability of causing, emotional distress to Plaintiffs.

147. Individual/Official Capacity Defendants' conduct was extreme and outrageous, beyond all possible bounds of decency and utterly intolerable in a civilized community.

148. Defendants DRC and Kabila are liable for such acts via direct command and/or command responsibility and/or respondeat superior.

149. As a proximate result of the Defendants' extreme and outrageous conduct, Plaintiff has suffered and will continue to suffer mental pain and anguish, severe or extreme emotional distress, embarrassment, and humiliation

150. WHEREFORE, each of the Plaintiffs demands judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

Count Twelve

False imprisonment

(Against Individual/Official Capacity Defendants, DR Congo Government, Defendant Joseph Kabila, DR Congo Embassy)

151. Plaintiffs incorporates all paragraphs hereto, as though fully set forth herein and further alleges that at all times relevant hereto Defendants falsely imprisoned Plaintiffs Miango and Ngoma.

152. Through actions described herein on August 6, 2014, Defendants intentionally confined Plaintiffs Miango and Ngoma without lawful justification, and brutally beat up Plaintiffs for staging a protest against human rights violations in the DR Congo.

153. Plaintiffs did not consent to such confinement.

154. Defendants DRC and Kabila are liable for such acts via direct command and/or command responsibility and/or respondeat superior.

155. As a proximate result of the acts alleged herein Plaintiffs are entitled to damages in an amount to be proven at trial.

156. WHEREFORE, Plaintiffs demand judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

Count Thirteen
Negligence
(Against Capella Hotel and Castleton Hotel)

157. Plaintiffs incorporates all paragraphs hereto, as though fully set forth herein and further alleges those at all times relevant hereto Defendants were negligent in breaching the duty of care owed to Plaintiffs.

158. Capella Georgetown Hotel owed a duty to act to provide security and monitor its guests to prevent its guests from causing harm to the public and peaceful protestors.

159. President Kabila along with his security enforcers who attacked Plaintiffs, were occupying the Capella Georgetown Hotel when they attacked Plaintiffs, and Plaintiffs were in close proximity to the hotel when they were attacked.

160. Capella Georgetown Hotel breached its duty by failing to act to protect the public, failing to provide security at the Hotel, failing to monitor, supervise and control its guests, and failing to provide adequate warning to the demonstrators outside of the hotel of a reasonably known danger to their physical safety.

161. Capella Georgetown Hotel should have reasonably known that a protest against the Kabila regime would occur near the hotel because of numerous human rights reports of protests against the Kabila regime, and because protests occurred for the past two days outside the hotel where the delegation of the Gambia was staying, which security forces of President

Gemmah violently suppressed. As with the Gemmah regime, numerous human rights organization had reported of the Kabila regime's practice of violently suppressing peaceful protests and assemblies.

162. As a result of those breaches, which were the direct and proximate causes of Plaintiff's injury, Plaintiff suffered harm and damages.

163. WHEREFORE, Plaintiffs demand judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

Count Fourteen
(Negligence)
(Against USSS and DCMPD)

164. Plaintiffs incorporates all paragraphs hereto, as though fully set forth herein and further alleges that at all times relevant hereto Defendants breached a duty of care owed to Plaintiffs, thus directly and proximately causing their injuries.

165. USSS agents and DCMPD officer's observed the group who arrived with President Joseph Kabila, and observed that members of the group rushed out of the Capella Georgetown Hotel and brutally attacked Mr. Miango and the protest and did nothing to stop them. The USSS agents and DCMPD officers observed Mr. Miango been knocked to the ground, beaten, kicked and stomped on, and USSS agents took no action to arrest the attackers or prevent the attack and brutal assault on Mr. Miango. In fact, video of the incident showed USSS agents and DCMPD officers ushering away the attackers.

166. Defendants USSS and DCMPD owed a duty to act to provide security to the public, and prevent Individual/Official Capacity Defendants from attacking members of the public.

167. President Kabila along with his entourage who he ordered to attack Plaintiffs, were under the supervision, protection, and/or control of the USSS and DCMPD when they attacked Plaintiffs.

168. The policies, practices, and/or protocols of USSS and DCMPD of allowed foreign dignitaries and/or personnel to attack members of the public and led to Defendants' actions against the Plaintiff.

169. Defendants USSS and DCMPD owed members of the public a duty of care to adequately train, maintain, and control their personnel. Defendants breached such duty of care by failing to providing adequate training, maintenance, and control of their personnel, thus directly and proximately causing injuries to Plaintiffs.

170. Defendant USSS have waived sovereign immunity to this claim pursuant to the Federal Tort Claims Act. The Secret Service agents present at the scene of the attack did not exercise a discretionary function of their duties in deciding not to protect lawfully-protesting civilians from attack by foreign government personnel.

171. Defendants DCMPD have waived sovereign immunity to this claim pursuant to the DC Tort Claims Act. The DCMPD officers present at the scene of the attack did not exercise a discretionary function of their duties in deciding not to protect lawfully-protesting civilians from attack by foreign government personnel

172. As a result of those breaches of duty, which were the direct and proximate causes of Plaintiffs' injury, Plaintiff suffered harm and damages.

WHEREFORE, Plaintiffs demand judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

Count Fifteen

Trespassing, Conversion and Theft

**(Against Individual/Official Capacity Defendants, DR Congo Government,
Defendant Joseph Kabila, Capella Hotel and Castleton Hotel)**

173. Plaintiffs incorporates all paragraphs hereto, as though fully set forth herein and further alleges that at all times relevant hereto Defendants committed trespass, conversion and theft of Plaintiff Miango and Matala's property.

174. After the brutal attack some of the Individual/Official Capacity Defendants raided the Plaintiffs' parked car, ransacked the car and took away, Mr. Miango's and Mr. Matala's possessions, including protest materials, a computer, iPod, a camera and other items. These items were taken into the Capella Georgetown Hotel by the attackers. Mr. Miango observed this theft from his car, and called USSS agents and DCMPD attention to the theft in progress, however they did nothing to stop the theft and trespass.

175. Defendants DRC and DRC Embassy, and Kabila are liable for such acts via direct command and/or command responsibility and/or respondeat superior.

176. Defendants Castleton Hotels and Capella Hotel are liable via respondeat superior.

177. WHEREFORE, each of the Plaintiffs demands judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

Count Sixteen

Loss Of Consortium

(Against All Defendants)

178. Plaintiffs Jacques Miango and Micheline Miango incorporate all paragraphs hereto, as though fully set forth herein, and further alleges that at all times relevant hereto Plaintiff Miango and Plaintiff Micheline Miango suffered loss of consortium with each other.

179. Plaintiffs were married to each other on May 3, 1997 and were married at the time of the events giving rise to this action. As a result of the physical attacks and death threats that Plaintiff Miango suffered, Plaintiffs suffered a loss of intimate marital relations between each other.

180. The intentional violations of the law of nations, U.S. statutory law, and common law, as alleged above, by the DRC Defendants, Castleton Hotels, and Capella Hotel, directly and proximately caused the loss of consortium between the Plaintiffs.

181. The negligent breach of duties by all defendants, as alleged above, directly and proximately caused a loss of intimate marital relations between Plaintiffs.

182. WHEREFORE, Plaintiffs demand judgment against Defendants in the form of compensatory damages, punitive damages, lost wages, costs of this action, specific performance, and any and all awards considered to be just, equitable, and appropriate.

VII. PRAYER

183. Plaintiffs prays that this Court enter judgment for Plaintiff and against the Defendants, and that this Court award Plaintiffs such relief needed to make the Plaintiffs whole and remedy the violations; hold the Defendants joint and several liable, and to award all legal and equitable relief the law may allow; such as but not limited to:

a) Declaratory relief that declare the August 6, 2014 actions of the Defendants' unconstitutional and illegal;

b) Compensatory damages to compensate for the actual harm sustained

c) Pain and Suffering;

d) Consequential damages for the natural consequential damages flowing from the harm;

- e) Punitive damages, but not against the USSS and/or DCMPD;
- f) Nominal damages;
- g) An award of reasonable attorney fees and litigation cost; and,
- h) Such other and further relief as may be deemed just and proper.

Respectfully Submitted,

/s/ George A. Rose

George A. Rose, Esq. # 26086
THE ROSE LAW FIRM, LLC
200 E. Lexington Street, Suite 1305
Baltimore, Maryland 21202
Phone: 410-727-7555
Fax: 443-320-0962
Email: grose@roselawfirm.net