

I.

NATURE OF THE CASE

1.1 THAT this is an action in tort against the UNITED STATES of AMERICA pursuant to the Federal Tort Claims Act for causes of action arising out of the failed raid by the Bureau of Alcohol, Tobacco, and Firearms (BATF) and the assault by the Hostage Rescue Team of the Federal Bureau of Investigation (FBI) at Mount Carmel Center near Waco, Texas.

1.2 THAT Plaintiffs allege causes of action for Wrongful Death, Assault, False Imprisonment, Negligent Investigation and Supervision, Abuse of Process, Invasion of Privacy, Pain and Suffering, and Intentional Infliction of Emotional Distress.

II.

PARTIES

2.1 THAT OLIVER GYARFAS, Sr. is a native of Romania and a citizen of the Commonwealth of Australia and is the natural father of AISHA GYARFAS SUMMERS, deceased, and maternal grandfather of STARTLE SUMMERS, deceased, and may be served with process by serving the undersigned attorney.

2.2 THAT ELIZABETH GYARFAS is a natural born citizen of the Commonwealth of Australia and is the natural mother of AISHA GYARFAS SUMMERS, deceased, and the maternal grandmother of STARTLE SUMMERS, deceased, and may be served with process by serving the undersigned attorney.

5.12 THAT it was an overt act of the conspiracy for FBI to deploy a professional death squad of assassins misnamed as the "Hostage Rescue Team (HRT)," such team which was commanded by Richard ROGERS and employed a professional assassin in the person of Lon T. HORIUCHI.

5.13 THAT six months prior to the raid by BATF, FBI, ROGERS and HORIUCHI were involved in another standoff with a religious separatist group.

5.14 THAT this particular standoff occurred in Bonner County, ID, and resulted from a shootout with United States Marshals wherein a 14-year old boy and a US deputy marshal were killed.

5.15 THAT, as part of its affirmative custom and policy to disrupt and summarily punish religious separatist groups, FBI deployed the HRT, along with ROGERS and HORIUCHI, to Bonner County, ID.

5.16 THAT ROGERS set up an illegal set of rules of engagement wherein the HRT could kill members of the religious group.

5.17 THAT pursuant to these illegal rules of engagement, and as part of the FBI affirmative custom or policy, HORIUCHI deliberately and with malice, shot and killed an unarmed woman while holding a baby in her arms.

5.18 THAT it was an overt act of the conspiracy for ROGERS and the HRT to deprive the BRANCH DAVIDIANS, including Plaintiffs' decedents, AISHA GYARFAS SUMMERS and STARTLE SUMMERS, of the comforts of heat, light, warmth, electricity, food, water, shelter, and medical attention.

Center, by the indiscriminate use of armored vehicles to destroy the personal property of the BRANCH DAVIDIANS, and by making lewd and obscene gestures.

5.22 THAT during the siege and as an overt act of the conspiracy, FBI, and BATF, ordered that none of the BRANCH DAVIDIANS be allowed to leave the Mount Carmel Center and such persons who did come outside were assaulted with lethal explosive devices hurled at them by ROGERS, HORIUCHI, and others of the HRT death squad.

5.23 THAT the above action by FBI and BATF was executed in such a manner to prevent Plaintiffs' decedents from leaving the Mount Carmel Center, when, all the time, defendants were posturing that they wanted anyone who could come out to leave.

5.24 THAT BATF and FBI had no probable cause and no warrant to arrest Plaintiffs' decedents or for the physical restraint of Plaintiffs' decedents AISHA GYARFAS SUMMERS and STARTLE SUMMERS.

5.25 THAT Plaintiffs' decedents had engaged in no criminal conduct and the attempted entry and search of their home and the siege and restraint of Plaintiffs' decedents was in violation of the Fourth Amendment's guarantee against searches and seizures without probable cause and without a warrant, and Plaintiffs' decedents were deprived of liberty by such state of de facto martial law and the siege by defendants without due process of law was in violation of the Fifth and Fourteenth Amendments to the United States Constitution.

continually crashed into the flimsy wooden building, spraying in chemical irritants, and caused various structural failures which injured or killed some members of the BRANCH DAVIDIAN church.

6.10 THAT it was an overt act of the conspiracy for ROGERS and HORIUCHI, and other members of the HRT death squad, to continue to assault the Mount Carmel Center with armored vehicles for more than six hours, and to continuously use a noxious and poisonous gas, when it was apparent to defendants that the assault would not cause any members of the BRANCH DAVIDIAN church to surrender to defendants.

6.11 THAT it was an overt act of the conspiracy for ROGERS and HORIUCHI, and other members of the HRT death squad, to continue to assault the Mount Carmel Center with armored vehicles for more than six hours, and to continuously use noxious and poisonous gas, when it was apparent to ROGERS and HORIUCHI that the assault was causing serious structural failure and was causing, or was likely to cause, serious bodily injury and death to innocent members of the BRANCH DAVIDIAN church, including, but not limited to, Plaintiffs' decedents.

6.12 THAT ROGERS and HORIUCHI caused hundreds of rounds of a noxious and dangerous gas to be fired into the Mount Carmel Center.

6.13 THAT it was an overt act of the conspiracy for ROGERS and HORIUCHI to abandon the plan as approved by RENO, and instead, engage on a malicious and egregious deadly attack on Plaintiffs' decedents.

6.14 THAT FBI and RENO knew or should have known of the propensity for lawless violence evidenced by ROGERS and HORIUCHI because of their previous lawless taking of life which occurred on 24 August 1992 in Bonner County, Idaho.

6.15 THAT during this attack by armored vehicles, Defendant UNITED STATES of AMERICA, acting through its agents, and upon the orders of RENO, her deputy or others, defendants' agents willfully, maliciously, and intentionally, without legal justification, caused a fire to consume the building wherein Plaintiffs' decedents were trapped because of the actions of defendants.

6.16 THAT Defendants, by their continuous armored assault on the Mount Carmel Center, illegally seized the persons of Plaintiffs' decedent by the creation of a death trap in violation of the Fourth, Fifth, and Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

6.17 THAT the fire which started in the Mount Carmel Center originated in areas occupied or solely controlled by agents of Defendant UNITED STATES of AMERICA.

6.18 THAT, in the alternative, without waiving any of the foregoing, defendants herein created a special relationship between themselves and Plaintiffs' decedents when BATF conducted the raid and when FBI laid siege and assaulted the Mount Carmel Center.

6.19 THAT, in the alternative, without waiving any of the foregoing, defendants herein created a danger to Plaintiffs' decedents when BATF conducted the raid and when FBI laid siege and then assaulted the Mount Carmel Center.

6.20 THAT, in the alternative, without waiving any of the foregoing, agents of Defendant UNITED STATES of AMERICA, the Attorney General of the United States, Janet RENO, as chief law enforcement officer for Defendant UNITED STATES of AMERICA, her deputy or others knew, or should have known that other persons were about to start a fire, but defendants continued to assault and otherwise provoke such persons into starting a fire, when defendants knew, or should have known, that such fire would be fatal to Plaintiffs' decedents, in violation of the duty owed to Plaintiffs' decedents to protect them from harm when defendants created their special relationship, or in the alternative, when defendants created a danger to Plaintiffs' decedents when they began the assault.

6.21 THAT, in the alternative, without waiving any of the foregoing, defendants engaged in a negligent rescue of Plaintiffs' decedents when they knew, or should have known, that the actions of defendants or other persons would be fatal to Plaintiffs' decedents, in violation of the duty owed to Plaintiffs' decedents by virtue of the special relationship between defendants and Plaintiffs' decedents, or in the alternative, by the danger to Plaintiffs' decedents created by defendants.

6.22 THAT, in the alternative, without waiving any of the foregoing, defendants knew, or should have known, that some person or persons would or were about to set fire to Mount Carmel Center, that Plaintiffs' decedents would be injured or killed by the acts of these persons, and that defendants continued their

assault when it was evident that such person or persons were endangering their own lives and those of Plaintiffs' decedents.

6.23 THAT during this attack by armored vehicles, severe structural failure caused by defendants actions created a death trap which seized the persons of Plaintiffs' decedents and prevented their escape from the inferno caused by defendants.

6.24 THAT, during the inferno caused by agents of Defendant UNITED STATES of AMERICA, and unable to escape from the death trap created by defendants and the slow, hideous and painful death which she was then undergoing, Plaintiffs' decedent AISHA GYARFAS SUMMERS was forced to take her own life or had her own life taken by a person unknown to end her hideous suffering from heat, fire, smoke, and noxious gas and poisonous gasses.

6.25 THAT, during the inferno caused by agents of Defendant UNITED STATES of AMERICA, and unable to escape from the death trap created by defendants, Plaintiffs decedent STARTLE SUMMERS died a hideous, slow, and painful death from heat, fire, smoke, and noxious and poisonous gasses.

6.26 THAT during this attack by armored vehicles, defendants knew or should have known that the structure of the Mount Carmel Center was lit and heated by flammable substances and appliances because of defendants' deprivations of electricity and water, and that such flammable substances contributed to the rapid spread of fire.

6.27 THAT during this attack by armored vehicles, a wind in excess of 40 miles per hour existed and defendants continued their malicious attack on Plaintiffs' decedents when they knew or should have known that a fire in such structure would be fatal.

6.28 THAT it was an overt act of the conspiracy to refrain from having fire suppression apparatus and personnel at the Mount Carmel Center church prior to the assault by armored vehicles.

6.29 THAT defendants purposely or negligently failed to have fire suppression apparatus and personnel present during the time of the assault despite the hazards of fire.

6.30 THAT it was an overt act of the conspiracy to refrain from summoning fire suppression apparatus and personnel to the Mount Carmel Church, when, in fact, defendants knew that the building was on fire and that serious bodily injury or death was likely to occur to innocent members of the BRANCH DAVIDIAN church, including, but not limited to, Plaintiffs' decedents AISHA GYARFAS SUMMERS and STARTLE SUMMERS.

6.31 THAT it was an overt act of the conspiracy to detain fire suppression apparatus and personnel once they arrived at the Mount Carmel Center when, in fact, defendants knew that the building was on fire and that serious bodily injury or death was likely to occur to innocent members of the BRANCH DAVIDIAN church, including, but not limited to, Plaintiffs' decedents AISHA GYARFAS SUMMERS and STARTLE SUMMERS.

WHEREFORE, PREMISES CONSIDERED, the overt acts of defendants constitute conspiracy, deprivation of rights, privileges, immunities, and equal protection, malicious prosecution, wrongful death, false imprisonment, intentional infliction of emotional distress, intentional infliction of pain and suffering, outrageous and egregious conduct, invasion of privacy, negligence and gross negligence under the laws of the United States and the State of Texas and this Court has pendent jurisdiction to hear and adjudicate said claims, and your Plaintiffs demand trial by jury and seek a judgement, both jointly and severally, against all the defendants:

1. Compensatory damages for Plaintiffs OLIVER GYARFAS, SR. and ELIZABETH GYARFAS in the amount of \$20,000,000.00;
2. Compensatory damages for OLIVER GYARFAS, JR. in the amount of \$10,000,000.00;
3. For reasonable attorneys fees, costs, and expenses;
4. For all other relief at law or in equity to which they may show themselves justly entitled.

Respectfully submitted,

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