

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

<hr/>	)	CIVIL ACTION
Estate of Husain Salih Rabea	)	
Ali Kareem Fakhri	)	
	)	NO. 1:09cv645 – TSE/IDD
Plaintiffs reside in Hilla, Iraq	)	
at addresses that cannot be disclosed	)	
for safety and security	)	CIVIL COMPLAINT
	)	JURY DEMAND
	)	
v.	)	
	)	
Prince Group LLC	)	
	)	
1650 Tysons Boulevard	)	
	)	
McLean, VA 22012	)	
	)	
	)	
Xe Services LLC	)	
	)	
(formerly EP Investments LLC	)	
	)	
dba Blackwater Worldwide)	)	
	)	
1650 Tysons Boulevard	)	
	)	
McLean, VA 22012	)	
	)	
	)	
U.S. Training Center, Inc.	)	
	)	
(formerly Blackwater Lodge and Training	)	
Center, Inc.)	)	
	)	
850 Puddin Ridge Road	)	
	)	
Moyock, NC 27958	)	
	)	
	)	
Blackwater Security Consulting LLC	)	
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850 Puddin Ridge Road	)	
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Moyock, NC 27958 )  
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 Defendants )  
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**THIRD AMENDED COMPLAINT**

1. This Third Amended Complaint is being filed pursuant to the Court’s Order dated October 21 and November 3, 2009. This action seeks compensatory damages to compensate the injured and the families of those killed or seriously injured by Defendants. This action seeks punitive damages in an amount sufficient to punish Defendants for their egregious misconduct.

2. On August 13, 2007, Defendants wantonly and recklessly fired weapons on the streets of Hilla, Iraq, killing an elderly man, Husain Salih Rabea, and narrowly missed killing a young college student, Ali Kareem Fakhri.

**JURISDICTION AND VENUE**

3. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1332 (diversity jurisdiction); 28 U.S.C. § 1350 (Alien Tort Statute); and 28 U.S.C. § 1367 (supplemental jurisdiction).

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a)(3) and § 1391(b)(2).

**PARTIES**

5. Plaintiff is the Estate of Husain Salih Rabea. On August 13, 2007, Xe-Blackwater shooters shot Mr. Rabea, a 72-year old citizen of Iraq, in the leg for no

reason, and departed without stopping to offer any medical aid. Shortly thereafter, Mr. Rabea died from the gunshot wounds, leaving behind five sons and three daughters.

6. Plaintiff Ali Kareem Fakhri is a student at the Babylon University College of Biology. On August 13, 2007, as Mr. Fakhri was driving on a public roadway in Hilla, Xe-Blackwater shooters opened fire on him for no reason. Mr. Fakhri watched in horror as the Xe-Blackwater shooters hit an elderly man in a nearby car.

### **DEFENDANTS**

7. Defendant Erik Prince is a resident of McLean, Virginia, with business offices at 1650 Tysons Boulevard, McLean, Virginia 22102. Mr. Prince personally and wholly owns the other Defendants, which act as his alter egos.

8. Defendant Erik Prince is a resident of McLean, Virginia, with business offices at 1650 Tysons Boulevard, McLean, Virginia 22102. Mr. Prince personally and wholly owns and controls the other Defendants, which act as his alter egos.

9. Defendant Prince Group LLC is a company incorporated in the United States with a principle place of business located at 1650 Tysons Boulevard, McLean, Virginia 22102. During the timeframe of the events at issue in this lawsuit, Defendant Prince wholly owned and controlled Defendant Prince Group LLC, which acted as his alter ego. Defendant Prince Group LLC did not observe the corporate formalities necessary to retain an independent legal existence.

10. Defendant Xe Services LLC, formerly known as EP Investments, LLC, and formerly doing business as Blackwater Worldwide, is company incorporated in the United States with a principle place of business located at 1650 Tysons Boulevard, McLean, Virginia 22102. During the timeframe of the events at issue in this lawsuit,

Defendant Prince wholly owned and controlled Defendant Prince Group LLC, which acted as his alter ego. Defendant Xe Services did not observe the corporate formalities necessary to retain an independent legal existence

11. Defendant U.S. Training Center, Inc., formerly known as Blackwater Lodge and Training Center, Inc., is incorporated in the United States with a principle place of business located at 850 Puddin Ridge Road, Moyock, North Carolina 27958. During the timeframe of the events at issue in this lawsuit, Defendant Prince wholly owned and controlled U.S. Training Center, Inc., which acted as his alter ego. Defendant U.S. Training Center, Inc. did not observe the corporate formalities necessary to retain an independent legal existence.

12. Defendant Erik Prince created various corporate entities (collectively referred to as “Defendant Companies”) to serve as his alter egos. Mr. Prince created these corporate alter egos to obscure and hide his wrongdoing. He personally controls all actions by the corporate entities. These corporate entities do not abide by the corporate formalities. Funds are intermingled among the companies. Mr. Prince adds or subtracts funds from any given company to suit his own purposes without regard to any corporate formalities.

13. Each and every company within Mr. Prince’s empire is subject to any judgment entered in this action because Mr. Prince wholly controls the distribution of funds. These entities include, but are not limited to, the corporate defendants as well as companies doing business under the following nomenclature: Xe, Blackwater, Total Intelligence, Greystone, Paravante, Raven, Presidential Airlines, Prince Group, EP

Investments, and various others that reasonable discovery will establish are wholly owned and controlled by Mr. Prince.

### **JURISDICTION AND VENUE**

14. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1332 (diversity jurisdiction); 28 U.S.C. § 1350 (Alien Tort Statute); 28 U.S.C. § 1367 (supplemental jurisdiction); and 18 U.S.C. § 1964 (Racketeer Influenced and Corrupt Organizations).

15. Venue is proper pursuant to 28 U.S.C. § 1391(a)(3), § 1391(b)(2) and 18 U.S.C. § 1965(a).

### **BACKGROUND FACTS**

16. Defendant Erik Prince became an extremely wealthy man when his father died. Public sources report Defendant Prince inherited approximately \$1.35 billion.

17. In 1997, Defendant Prince formed a company then known as Blackwater. He subsequently hired his close friends, Gary Jackson and Bill Matthews, to assist him as the top executives running what became the Defendant Companies.

18. Defendant Companies initially made money offering training to law enforcement and military personnel on weapons safety and other topics. Defendant Prince and his executive management team (Jackson and Matthews), however, began to envision a future in which they made money by forming a private army and selling its services. Towards that end, beginning at least by 2003, they formed “Army of Blackwater” or “AOB” within the existing company.

19. Employees were invited to join AOB if they demonstrated excellent skills in shooting or fighting, and were capable of obtaining a security clearance and a passport.

These hand-selected persons attended frequent training sessions designed to maintain and elevate their physical skills.

20. Reasonable discovery will show that persons joining the AOB included Brian Berry, Max Grumiaux, Ken Cashwell, Thalia Ellis, as well as others whose identities are not yet known. Members of AOB attended training sessions during the regular work day. The AOB training persisted throughout 2003.

21. By the end of 2003 and the beginning of 2004, Defendant Erik Prince moved beyond just training his AOB.

22. At that time, Defendant Prince began to conspire with his management team Gary Jackson and Bill Matthews to deploy a private army to Iraq to kill innocent Iraqis. The three men repeatedly met and conferred on how to implement their scheme to kill innocent Iraqis. They met in what was known as the USA Building in Moyock, North Carolina, and they met in Prince Group's offices in Tysons Corner, Virginia.

### **FORMATION OF A CONSPIRACY TO KILL INNOCENT IRAQIS**

23. This conspiracy to kill Iraqis was motivated by greed and religious beliefs. Gary Jackson and Bill Matthews repeatedly referred to "laying Hajiis out on cardboard" and used racist and derogatory terms for Iraqis and other Arabs, such as "ragheads" or "hajiis." Defendant Prince, in addition to being fully aware of these statements, openly referred to the conspiratorial efforts as a "Crusade," and directly encouraged certain employees to participate in killing Iraqis.

24. The "Crusade" mentality was overt within Defendant Companies, with the teams being assigned names with religious significance such as "Templar 21." A

substantial number of Defendant Companies' employees selected or were assigned "call signs" associated with the Crusades.

25. Defendant Prince, working with his management team of Jackson and Matthews, was emboldened by the fact that Mr. Prince's wholly-owned companies had been retained by the United States government. They began to consider themselves as leading a private army that was empowered to act as the equivalent to a duly-constituted armed force of the United States.

26. Defendant Prince, working through and with Jackson and Matthews, and working through the Defendant Companies, repeatedly and flagrantly violated the laws of the United States.

27. Defendant Prince and the Defendant Companies ignored the law to form and deploy this private Blackwater army.

28. Defendant Prince and the Defendant Companies hired persons who were known (or should have been known) to use steroids and other judgment-altering drugs.

29. Defendant Prince and the Defendant Companies hired former military officials known to have been involved in human rights abuses in Chile, and an extensive number of foreign nationals who are forbidden by the laws of their own country from serving as mercenaries.

30. Certain evidence regarding the formation and implementation of this conspiracy is on the public record. In 2003, Gary Jackson stated publicly "I would like to have the largest, most professional private army in the world."

31. In March 2006, during a conference held in Amman, Jordan, another Defendant Companies' executive, Cofer Black, publicly declared that Blackwater was

able to deploy a private brigade-sized force to any conflict or crisis zone, and commented that Blackwater just needed invitations to deploy.

32. In 2006, Defendant Prince personally participated in a series of high-level meetings in which he tried to persuade various governmental officials that they should use this private Blackwater army for offensive missions around the globe, including, reasonable discovery will show, in Africa.

33. Defendant Prince recruited persons away from the military, telling military personnel to “go get your Trident” and then come back to Blackwater for employment.

34. Additional evidence regarding the formation of this conspiracy will be obtained through reasonable discovery. For example, at a point in time not yet known to Plaintiffs, Defendants began to record all telephonic conversations occurring on the premises. Certain employees have had their tape-recorded conversations played back to them. As a result, reasonable discovery likely will yield tape recorded information regarding the formation of the conspiracy to kill innocent Iraqis. In addition, there is at least one and likely substantially more email exchanges with Gary Jackson in which he is questioned about why the company continues to employ persons known to kill without provocation. This email exchange and others of like kind should be obtainable through reasonable discovery.

### **INTENT TO MURDER AND INJURE INNOCENT IRAQIS**

35. After forming an intent to deploy a private army to kill and injure innocent Iraqis, Defendant Prince and his co-conspirators began to implement this conspiracy in two ways: First, Defendant Prince, Jackson and Matthews directly and expressly authorized Blackwater personnel to kill and seriously injure innocent Iraqis. These direct



authorizations to kill Iraqis were given to employees working within the Blackwater structure known as “SELECT.”

36. This SELECT program operated alongside the Department of State program known as WPPS. Under the “SELECT” nomenclature, Prince, Jackson and Matthews implemented their conspiracy to kill Iraqis. Prince, Jackson and Matthews encouraged and directed SELECT personnel to go out “night hunting” and kill any Iraqis found outside after the curfew.

37. Blackwater men participating in the “night hunting” went out in Blackwater’s Little Bird helicopters at night. These persons shot and killed scores of innocent Iraqis by reasoning that any Iraqi outside after curfew must be a “combatant” who deserved to be killed by Blackwater’s private army.

38. These men who engaged in the night hunting trips as well as daytime excursions to murder Iraqis included Rich Garner, Phil Abdow, Steve Babylon, Gregory LaRue, and many others whose identities are not yet known but are capable of being discovered.

39. On rare occasions, persons from WPPS program were asked to join the ongoing SELECT operations and participate in the “night hunting” murder sprees.

40. Defendant Prince personally authorized the use of the Little Bird helicopters for this “night hunting” of Iraqis. Defendant Prince and Gary Jackson personally traveled repeatedly to Iraq to oversee these murders of innocent Iraqis.

41. Defendant Prince, on one of his many trips to Iraq, personally congratulated a relatively large group of men for increasing the number of Iraqis killed by Blackwater men. He openly talked about the need to “win the war” and in all respects

acted as if Blackwater was an authorized military force free to operate with impunity within Iraq.

42. Persons who managed or participated in the SELECT program included Paul Mullis, Kurt Smith, Randy Leonard and a woman named Syd Beem. These persons participated to varying degrees in the ongoing conspiracy to use SELECT personnel as method to kill scores of innocent Iraqis.

43. Others within Mr. Prince's empire, such as Mike Rush, Martin Strong, J.D. Stratton, and Brian Bonfiglio, were well aware of the use of the SELECT personnel as a private Blackwater army intent on killing Iraqis. These men, and likely others, voluntarily joined the ongoing conspiracy.

44. Although the murders occurred in Iraq, Defendants Prince, Jackson, and Matthews controlled events from their offices in North Carolina and Virginia. Such control occurred via the use of highly-sophisticated technology housed in a "war room" in Moyock. Indeed, Defendant Prince bragged on national television that Blackwater had such sophisticated technology that he always was able to ascertain the location of his men in Iraq.

45. Defendant Prince, along with Jackson and Matthews, oversaw the murders and other Iraqi activities from a "war room" in Moyock equipped with sophisticated communications and monitoring capabilities.

46. Reasonable discovery likely will show that Defendant Prince and his co-conspirators developed a second "war room" in either the Tysons Corner offices or the Prince family house.

47. Defendants Prince, Jackson and Matthews conspired to continue to implement their private war plan during meetings held in North Carolina and Virginia. These conspirators ensured that persons such as Rich Garner who participated in the killing of Iraqis quickly moved up the corporate ladder. All three conspirators openly referred to Blackwater operations as being akin to military operations on numerous occasions.

48. Defendants Prince, Jackson and Matthews repeatedly made statements and engaged in overt acts in Iraq, North Carolina and Virginia in front of numerous Blackwater employees. They clearly conveyed their view that Blackwater was above the law. Statements were made to the effect that “the law stops at Blackwater’s gate.”

49. These statements were not mere braggadocio. For example, when federal authorities raided the Moyock compound to search for illegal weapons, the guard tending the front gate, acting under instructions, refused to permit the federal authorities to enter the compound until the armory had been tipped off that a raid was occurring.

50. Defendants Prince, Jackson and Matthews also openly encouraged a disdain for the laws of the United States and Iraq. Their example was followed throughout the company. For example, when one Blackwater employee questioned executive Mike Rush about the illegalities involved in smuggling the weapons (discussed below), Rush responded “you fucking idiot, we are at war and we are going to do whatever it takes. If it means moving weapons in there outside of some of these stupid laws, do it.”

51. The fact that the owner Defendants Prince, and his top executives, Jackson and Matthews, endorsed the murder of innocent Iraqis had a profound impact on the conduct of the Blackwater men working on the WPPS program.

52. Many of the Blackwater men assigned to WPPS contract viewed acting with extreme aggressiveness towards Iraqis, up to and including killing them, as a way to obtain a promotion to a corporate position or to the SELECT program.

53. In 2003 and 2004, personnel working on the WPPS contract began to undertake their own version of the night hunting, going out on “familiarization” runs. These “fam” runs, ostensibly done to familiarize the teams with Baghdad, turned into shooting sprees, as the men shot anyone on a bridge or anyone who “looked suspicious.” In late 2004 or early 2005, the Department of State finally learned of this egregious misconduct, and directed Defendant Prince and the Defendant Companies to stop letting the WPPS personnel go on “fam” runs.

54. The majority of persons promoted to corporate positions were all persons who were willing to participate in the night hunting, fam runs, or other forms of Blackwater’s ongoing “Crusade” against Iraqis. Those who questioned the wisdom and legality of Defendant Prince’s decision to use the Defendant Companies to engage in a private war against the Iraqis often were terminated.

55. Defendants Prince and the Defendant Companies repeatedly refused to reprimand or discipline WPPS personnel who used excessive and unnecessary force to kill unarmed and innocent Iraqi civilians.

56. For example, on two different occasions, Blackwater employees named Brad Elmer and Beau Phillips fired without cause, seriously injuring or killing innocent Iraqis.

57. The Defendant Companies failed to report the shootings to the State Department. Blackwater management destroyed the video and audio evidence related to the shootings. This pattern of failing to report and destroying evidence was commonplace.

58. On yet another occasion, Defendant Prince, and his executives Gary Jackson and Bill Matthews overrode a recommendation from Blackwater management in Iraq to place an unstable individual on the “do not use” list. A man named Luke Doak (nicknamed “peanut”) murdered an Iraqi, and bragged about his “kill.” Given his homicidal conduct, his manager, George Angerer, recommended that Doan be placed on the “do not use” list. His recommendation was not accepted by Defendant Prince.

59. In addition to knowingly employing men who killed innocent Iraqis and then bragged about such kills, Defendants Prince knowingly sent to Iraq a substantial number of men who had tested positive for steroids. These facts are set forth in medical records kept in Moyock, North Carolina.

60. Certain Defendant Companies’ employees located overseas refused to deploy unfit men and instead sent them back to the United States, advising that they were unfit to deploy for various reasons. These reasons included (a) making statements about wanting to deploy to “kill ragheads” or achieve “kills” or “body counts,” (b) excessive drinking, (c) steroid use, and (d) failure to follow safety and other instructions regarding lethal weaponry. When these demonstrably unfit men were returned to the United States,

Defendant Prince would send them back to be deployed in Iraq with an express instruction to “stop costing the company money.”

61. During 2004 through 2007, Defendant Prince, at times using the corporate forms and at other times acting as an individual, purchased a significant number of weapons. After purchasing the weapons, Defendant Prince directed that employees working in the armory alter the weapons, which is illegal. One or more employees followed this direction, and illegally altered weapons.

62. Defendant Prince routinely took weapons, including sniper rifles, from the armory back to his home and offices in McLean, Virginia. The armory is unable to account for all the weaponry personally taken by Defendant Prince.

63. Defendants smuggled the illegally altered and outfitted weapons into Iraq by polywrapping them and hiding them in dogfood. An employee named Ana Bundy oversaw the smuggling of the weapons under the direction of Defendants Prince, Jackson and Matthews.

64. John B., a young man who worked in the armory in North Carolina, photographed these weapons smuggling activities. He photographed Ana Bundy personally polywrapping the illegal weapons. He showed the photographs to another Blackwater employee, who commented “you better be careful, this is the type of thing that can get you killed.” John also showed the photographs to Gary Jackson. Upon seeing the photographs, Gary Jackson lost his temper. John is now dead.

65. Two members of the original AOB, Max Grumiaux and Ken Cashwell, were arrested as a result of their complicity in this ongoing weapons smuggling.

66. Gary Jackson has admitted that he is the target of an ongoing federal investigation.

67. In addition to smuggling weapons into Iraq, Defendants undertook the shipment of substantial quantities of ammunition, quantities well in excess of any defensive needs related to serving as security for the Department of State.

68. Reasonable discovery will show Defendants procured and shipped to Iraq night vision goggles without obtaining the regulatory approvals needed for such shipments.

69. Defendants procured in Iraq and elsewhere, and other weaponry such as hand grenades and handheld rocket launchers.

70. Reasonable discovery may show that Defendants purchased hollow-point bullets unlawfully designed to inflict maximum damages to Iraq. These bullets were distributed by a company then known as LeMas Ltd. This company was run by John Hamilton, and located at 1818 North Taylor, Suite 213, Little Rock, Arkansas, 72207. These bullets were repeatedly used by men employed by Defendant Prince.

71. Reasonable discovery will show Defendant Prince was aware of the use of the LeMas bullets by their men because it came to his attention that one Blackwater employee, Ben Thomas, circulated videos in which he used the LeMas bullets to murder innocent Iraqis. These grisly videos were essentially promotional materials used to increase desire for these illegal bullets amongst the Blackwater men. It is not yet known, but should be ascertainable through reasonable discovery, whether Defendant Prince and the Defendant Companies financially profited from the distribution of this illegal LeMas ammunition.

72. The ongoing killing of Iraqis and the illegal altering and smuggling of weapons and ammunition was not hidden from in-house attorney Steve Capace. Reasonable discovery will show Capace worked directly and closely with Defendant Prince, Jackson, Matthews, and others in the Defendant Companies, and knew about, but failed to stop, the ongoing illegal conduct.

73. The illegal weaponry and ammunition kept Blackwater's private army of men fully armed and able to kill innocent Iraqis. This weaponry was not needed to fulfill Defendant Companies' obligations to provide protective services to the Department of States.

74. Mr. Prince and his co-conspirators paid a series of bribes to Iraqi officials. This bribery violates the Foreign Corrupt Practices Act.

#### **AUGUST 13, 2007 SHOOTING**

75. The August 13, 2007, shooting at issue in this lawsuit occurred in the context of and in association with the armed conflict in Iraq.

76. Defendants and their employees were cloaked in the apparent authority of the United States, a party to the armed conflict.

77. This apparent authority permitted the men to avoid being stopped by military force at checkpoints, and otherwise worked to permit these men to travel in heavily-armed vehicles outside the Green Zone.

78. This apparent authority bestowed by the United States elevated their status above an ordinary American, and created an association with the armed conflict in Iraq. Without such status bestowed by a party to the conflict (the United States), Defendants



would not have been permitted to be in the streets of Baghdad, and would not have been heavily armed.

79. Reasonable discovery will show that, but for this quasi-official status of being associated with a party to the conflict, Defendants' employees would not have been permitted to carry the weaponry that killed and injured Plaintiffs.

#### **COUNT ONE AS TO ALL PLAINTIFFS - WAR CRIMES**

80. All preceding paragraphs are hereby incorporated by reference as if fully set forth herein.

81. Plaintiffs are all citizens of Iraq. Defendants are all citizens of the United States.

82. Defendant Prince intended that the Defendant Companies employees intentional kill and inflicted serious bodily harm on Plaintiffs and other innocent Iraqi civilians.

83. Defendant Prince conspired with others to cause the intentional killings and infliction of serious bodily harm.

84. As set forth in Paragraphs 75-79, the harms inflicted by Defendants occurred during an armed conflict in Iraq, and occurred in the context of and in association with the armed conflict in Iraq.

#### **COUNT TWO AS TO ALL PLAINTIFFS – ASSAULT AND BATTERY**

85. All preceding paragraphs are hereby incorporated by reference as if fully set forth herein.

86. Defendants unlawfully intended to and did inflict immediate injury upon Plaintiffs.

87. Defendants intentionally assaulted, battered, and made other offensive contacts; and aided and abetted the assaulting, battering and offensively contacting of the Plaintiffs.

88. Plaintiffs did not consent to the offensive contacts. Plaintiffs feared for his personal safety and felt threatened by Defendants' actions.

89. Defendants committed the assaults and batteries.

90. Defendants' acts caused grave and foreseeable damages to Plaintiffs.

**COUNT THREE AS TO THE ESTATE OF RABEA  
– WRONGFUL DEATH**

91. All preceding paragraphs are hereby incorporated by reference as if fully set forth herein.

92. Defendants' wrongful acts and omissions caused the death of Husain Salih Rabea.

93. Defendants set the conditions, directly and/or indirectly facilitated, ordered, acquiesced, confirmed, ratified and/or conspired with others to act in the manner that led to the wrongful death.

94. The death of Mr. Rabea was a foreseeable result of Defendants' wrongful acts and omissions.

**COUNT FOUR AS TO ALI KAREEM FAKHRI –  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

95. All preceding paragraphs are hereby incorporated by reference as if fully set forth herein.

96. Defendants intentionally inflicted severe emotional distress by way of extreme and outrageous conduct on Plaintiff Ali Kareem Fakhri.

97. Defendants set the conditions, directly and/or indirectly facilitated, ordered, acquiesced, confirmed, ratified and/or conspired with others to inflict emotional distress on Plaintiff.

98. Defendants' acts caused grave and foreseeable injuries to Plaintiff.

**COUNT FIVE AS TO ALI KAREEM FAKHRI -  
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

99. All preceding paragraphs are hereby incorporated by reference as if fully set forth herein.

100. Defendants negligently inflicted severe emotional distress on Plaintiff Ali Kareem Fakhri.

101. Defendants breached a duty to Plaintiff and others present at the scene of the killings and infliction of bodily injury.

102. Defendants' negligence directly and foreseeably harmed Plaintiff.

**COUNT SIX AS TO ALL PLAINTIFFS -  
NEGLIGENT HIRING, TRAINING AND SUPERVISION**

103. All preceding paragraphs are hereby incorporated by reference as if fully set forth here.

104. Defendants acted negligently and directly harmed Plaintiffs by:

- (a) failing to take the appropriate steps in hiring proper personnel to perform services;
- (b) failing to properly screen personnel before their hiring;
- (c) failing to train personnel properly;

- (d) failing to investigate allegations of wrongdoing;
- (e) failing to reprimand for wrongful actions;
- (f) failing to adequately monitor for and stop illegal substance abuse;

and

- (g) negligently permitting repeated lawlessness by employees.

105. Defendants' negligence directly and foreseeably harmed Plaintiffs.

#### **COUNT SEVEN AS TO ALL PLAINTIFFS – TORTIOUS SPOILATION OF EVIDENCE**

106. All preceding paragraphs are hereby incorporated by reference as if fully set forth herein.

107. Defendants had a legal duty to preserve evidence relating to unauthorized and excessive use of force.

108. Defendants intentionally destroyed that evidence to prevent detection of its wrongdoing.

109. Defendants' destruction of evidence significantly impaired Plaintiffs' ability to prove certain facts in this action.

110. Defendants' intent in destroying the evidence was to lessen the risk that they would be found liable by a jury hearing this action.

111. Defendants' intentional destruction of evidence harmed and continues to harm the Plaintiffs.

#### **PRAYERS AND DAMAGES**

112. Defendants are liable for killing Mr. Rabea and assaulting Mr. Fakhri. Defendants seek compensation to the full extent permitted by law, including compensation for sorrow, mental anguish, and solace, including but not limited to



## CERTIFICATE OF SERVICE

I hereby certify that on the 7<sup>th</sup> day of November, 2009, I caused a copy of the Third Amended Complaint to be served via ecf on the following:

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