

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

2011 SEP 16 } A 11: 26

Civil Action No. _____

US DISTRICT COURT
HARTFORD CT

3:11CV1433AWT

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✓Jane Doe 1, an alien;
✓Jane Doe 2, an alien;
✓Jane Doe 3, an alien;
✓Jane Doe 4, an alien;
John Doe 1, an alien;
John Doe 2, an alien;
John Doe 3, an alien;
John Doe 4, an alien;
John Doe 5, an alien; and
John Doe 6, an alien,

Plaintiffs,

JURY TRIAL DEMANDED

vs.

Ernesto Zedillo Ponce de León,
an alien resident of Connecticut,

Defendant.

COMPLAINT

Plaintiffs, Jane Doe 1, Jane Doe 2, Jane Doe 3, Jane Doe 4, John Doe 1, John Doe 2, John Doe 3, John Doe 4, John Doe 5, and John Doe 6, through undersigned counsel, sue Defendant, Ernesto Zedillo Ponce de León (“Defendant Zedillo”), and allege:

INTRODUCTION

1. This is a civil action for compensatory and punitive damages, for declaratory judgment, and for torts in violation of international and domestic law. Plaintiffs institute this action against Defendant Zedillo for his responsibility in: (a) the extrajudicial killings of decedents Richard Roe 1 and Mary Roe 1 (parents of Plaintiffs Jane Doe 1, Jane Doe 2, Jane Doe 3), and of decedent Mary Roe 2 (wife of Plaintiff John Doe 1 and mother of John Doe 2, John Doe 3 and John Doe 6) (collectively, the “Decedents”); (b) injuries caused during the attempted

extrajudicial killings of Plaintiffs Jane Doe 2, John Doe 2, and John Doe 3; and (c) the attempted extrajudicial killing of Jane Doe 1, Jane Doe 3, Jane Doe 4, John Doe 1, John Doe 4, John Doe 5, and John Doe 6.

2. Plaintiffs also bring claims against Defendant Zedillo for: (a) war crimes; (b) crimes against humanity; (c) cruel, inhuman and degrading punishment; (d) terror and violence to violate freedom of association; and (e) terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise.

3. At all times material hereto, while he was the President of the United States of Mexico (“Mexico”), Defendant Zedillo exercised command responsibility over, ordered, conspired with, acted in concert with, engaged in a joint criminal enterprise with, and/or aided and abetted, directly and/or indirectly, various members and/or agents of one or more subdivisions, instrumentalities and/or agencies of the Federal Government of Mexico (the “Mexican Government”), including, *inter alia*, paramilitary groups trained, armed or protected by members and/or personnel of the Mexican Army, or persons or groups acting in coordination with the Mexican Army or under its control and protection, to commit acts of extrajudicial killing, attempted extrajudicial killing, torture, crimes against humanity, war crimes, cruel, inhuman, or degrading treatment or punishment, terror and violence to violate freedom of association, freedom of thought, political opinion and freedom to exercise the political franchise, all for political purposes, and to cover up said acts. As such, Defendant Zedillo is liable under domestic and international law for Plaintiffs’ injuries, pain and suffering.

PARTIES

Plaintiff, Jane Doe 1

4. Plaintiff, Jane Doe 1, an individual, *sui juris*, is a Tzotzil-speaking indigenous resident of the village of Acteal, municipality of Chenalhó, State of Chiapas, Mexico (“Acteal”).

Jane Doe 1 brings this action in her individual capacity, as well as in her capacity as next-of-kin for the extrajudicial killing of Richard Roe 1 (her father) and Mary Roe 1 (her mother) during a mass execution carried out against Acteal villagers by groups armed, sponsored and trained by members and/or personnel of the Mexican Army, or persons or groups acting in coordination with the Mexican Army or under its control and protection, on December 22, 1997 (“the Acteal Massacre”). She brings claims of attempted extrajudicial killing, war crimes, crimes against humanity, cruel, inhuman and degrading punishment, terror and violence to violate freedom of association, and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise for her own mental pain and suffering in living through and witnessing the Acteal Massacre. She also brings, in her capacity as next-of-kin of her deceased relatives, claims for war crimes, crimes against humanity, cruel, inhuman and degrading punishment, terror and violence to violate freedom of association, and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise. Jane Doe 1 seeks to proceed under a pseudonym because she fears reprisals against herself or her family as a result of her participation in this lawsuit.

Plaintiff, Jane Doe 2

5. Plaintiff, Jane Doe 2, an individual, *sui juris*, is a Tzotzil-speaking indigenous resident of the village of Acteal. Jane Doe 2 brings this action in her individual capacity, as well as in her capacity as next-of-kin for the extrajudicial killing of Richard Roe 1 (her father) and Mary Roe 1 (her mother) during the Acteal Massacre. She brings claims of attempted extrajudicial killing causing injuries, war crimes, crimes against humanity, cruel, inhuman and degrading punishment, terror and violence to violate freedom of association, and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political

franchise for her own physical and mental pain and suffering in living through, witnessing, and being injured during the Acteal Massacre. She also brings, in her capacity as next-of-kin of her deceased relatives, claims of war crimes, crimes against humanity, cruel, inhuman and degrading punishment, terror and violence to violate freedom of association, and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise. Jane Doe 2 seeks to proceed under a pseudonym because she fears reprisals against herself or her family as a result of her participation in this lawsuit.

Plaintiff, Jane Doe 3

6. Plaintiff, Jane Doe 3, an individual, *sui juris*, is a Tzotzil-speaking indigenous resident of the village of Acteal. Jane Doe 3 brings this action in her individual capacity, as well as in her capacity as next-of-kin for the extrajudicial killing of Richard Roe 1 (her father) and Mary Roe 1 (her mother) during the Acteal Massacre. She brings claims of attempted extrajudicial killing, war crimes, crimes against humanity, cruel, inhuman and degrading punishment, terror and violence to violate freedom of association, and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise for her own mental pain and suffering in living through and witnessing the Acteal Massacre. She also brings, in her capacity as next-of-kin of her deceased relatives, claims of war crimes, crimes against humanity, cruel, inhuman and degrading punishment, terror and violence to violate freedom of association, and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise. Jane Doe 3 seeks to proceed under a pseudonym because she fears reprisals against herself or her family as a result of her participation in this lawsuit.

Plaintiff, Jane Doe 4

7. Plaintiff, Jane Doe 4, an individual, *sui juris*, is a Tzotzil-speaking indigenous resident of the village of Acteal. Jane Doe 4 brings this action in her individual capacity, for attempted extrajudicial killing, war crimes, crimes against humanity, cruel, inhuman and degrading punishment, terror and violence to violate freedom of association, and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise for her own mental pain and suffering in living through and witnessing the Acteal Massacre. Jane Doe 4 seeks to proceed under a pseudonym because she fears reprisals against herself or her family as a result of her participation in this lawsuit.

Plaintiff, John Doe 1

8. Plaintiff, John Doe 1, an individual, *sui juris*, is a Tzotzil-speaking indigenous resident of the village of Acteal. John Doe 1 brings this action in his individual capacity, as well as in his capacity as next-of-kin for the extrajudicial killing of Mary Roe 2 (his wife) during the Acteal Massacre. He brings claims of attempted extrajudicial killing, war crimes, crimes against humanity, cruel, inhuman and degrading punishment, terror and violence to violate freedom of association and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise for his own mental pain and suffering in living through and witnessing the Acteal Massacre. He also brings, in his capacity as next-of-kin of his deceased relatives, claims of war crimes, crimes against humanity, cruel, inhuman and degrading punishment, terror and violence to violate freedom of association, and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise. John Doe 1 seeks to proceed under a pseudonym because he fears reprisals against himself or his family as a result of his participation in this lawsuit.

Plaintiff, John Doe 2

9. Plaintiff, John Doe 2, an individual, *sui juris*, is a Tzotzil-speaking indigenous resident of the village of Acteal. John Doe 2 brings this action in his individual capacity as well as in his capacity as next-of-kin for the extrajudicial killing of Mary Roe 2 (his mother), for attempted extrajudicial killing causing injuries, war crimes, crimes against humanity, cruel, inhuman and degrading punishment, terror and violence to violate freedom of association, and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise for his own physical and mental pain and suffering in living through, witnessing, and being injured during the Acteal Massacre. John Doe 2 seeks to proceed under a pseudonym because he fears reprisals against himself or his family as a result of his participation in this lawsuit.

Plaintiff, John Doe 3

10. Plaintiff, John Doe 3, an individual, *sui juris*, is a Tzotzil-speaking indigenous resident of the village of Acteal. John Doe 3 brings this action in his individual capacity as well as in his capacity as next-of-kin for the extrajudicial killing of Mary Roe 2 (his mother), for attempted extrajudicial killing causing injuries, war crimes, crimes against humanity, cruel, inhuman and degrading punishment, terror and violence to violate freedom of association, and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise, for his own physical and mental pain and suffering in living through, witnessing, and being injured during the Acteal Massacre. John Doe 3 seeks to proceed under a pseudonym because he fears reprisals against himself or his family as a result of his participation in this lawsuit.

Plaintiff, John Doe 4

11. Plaintiff, John Doe 4, an individual, *sui juris*, is a Tzotzil-speaking indigenous resident of the village of Acteal. John Doe 4 brings this action in his individual capacity, for attempted extrajudicial killing, war crimes, crimes against humanity, cruel, inhuman and degrading punishment, terror and violence to violate freedom of association, and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise for his own mental pain and suffering in living through and witnessing the Acteal Massacre. John Doe 4 seeks to proceed under a pseudonym because he fears reprisals against himself or his family as a result of his participation in this lawsuit.

Plaintiff, John Doe 5

12. Plaintiff, John Doe 5, an individual, *sui juris*, is a Tzotzil-speaking indigenous resident of the village of Acteal. John Doe 5 brings this action in his individual capacity, for attempted extrajudicial killing, war crimes, crimes against humanity, cruel, inhuman and degrading punishment, terror and violence to violate freedom of association, and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise for his own mental pain and suffering in living through and witnessing the Acteal Massacre. John Doe 5 seeks to proceed under a pseudonym because he fears reprisals against himself or his family as a result of his participation in this lawsuit.

Plaintiff, John Doe 6

13. Plaintiff, John Doe 6, an individual, *sui juris*, is a Tzotzil-speaking indigenous resident of the village of Acteal. John Doe 6 brings this action in his individual capacity as well as in his capacity as next-of-kin for the extrajudicial killing of Mary Roe 2 (his mother), for attempted extrajudicial killing, war crimes, crimes against humanity, cruel, inhuman and

degrading punishment, terror and violence to violate freedom of association, and terror and violence to violate freedom of thought, political opinion and freedom to exercise the political franchise, for his own mental pain and suffering in living through, witnessing, and being injured during the Acteal Massacre. John Doe 6 seeks to proceed under a pseudonym because he fears reprisals against himself or his family as a result of his participation in this lawsuit.

Defendant Ernesto Zedillo Ponce de Leon

14. Defendant Zedillo, an individual, *sui juris*, is a native and citizen of Mexico. Defendant Zedillo currently resides in Connecticut, and has resided in the U.S. for the last 11 years. From December 1, 1994 to November 30, 2000, Defendant Zedillo served as the President of Mexico.

JURISDICTION AND VENUE

15. This Court has jurisdiction over this action based on 28 U.S.C. § 1350 (the Alien Tort Claims Act as well as the Torture Victim Protection Act codified in the note of said code), 28 U.S.C. § 1331, and 28 U.S.C. §§ 2201 and 2202.

16. On information and belief, Defendant Zedillo resides in Connecticut. Therefore venue is proper in the United States District Court for the District of Connecticut pursuant to 28 U.S.C. § 1391 (b) and/or (d).

17. Defendant Zedillo's actions set forth herein violate, and Plaintiffs' causes of action arise from, the law of nations and/or laws or treaties of the United States, including, *inter alia*, the following laws, agreements, conventions, resolutions, and treaties, which constitute specific examples of the applicable law of nations or customary international law:

- a. Alien Tort Claims Act, 28 U.S.C. § 1350;
- b. Torture Victim Protection Act, 28 U.S.C. § 1350;

- c. Common law of the United States of America;
- d. United Nations Charter, 59 Stat. 1031, 3 Bevans 1153 (1945);
- e. Universal Declaration of Human Rights, G.A. Res. 217A(iii), U.N. Doc. A/810 (1948);
- f. International Covenant on Civil and Political Rights, G.A. Res. 2220(A)(xxi), 21 U.N. Doc., GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966);
- g. International Covenant Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, 39 U.N. Doc., GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984) (ratified 10/28/1998);
- h. Declaration on the Protection of All Persons From being Subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 3452, 30 U.N. Doc., GAOR Supp. (No. 34) at 91, U.N. Doc. A/10034 (1976);
- i. Vienna Declaration and Programme of Action (World Conference on Human Rights, 1993);
- j. Article 3 of the Geneva Conventions (Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, *entered into force* Oct. 21, 1950, *for the United States* Feb. 2, 1956, 6 U.S.T. 3114, T.I.A.S. 3362, 75 U.N.T.S. 31; Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, *entered into force* Oct. 21, 1950, *for the United States* Feb. 2, 1956, 6 U.S.T. 3217, T.I.A.S. 3363, 75 U.N.T.S. 85; Convention Relative to the Treatment of Prisoners of War, *entered into force* Oct. 21, 1950, *for the United States* Feb. 2, 1956, 6 U.S.T. 3316, T.I.A.S. 3364, 75 U.N.T.S. 135; Convention Relative to the Protection of

Civilian Persons in Time of War, entered into force Oct. 21, 1950, for the United States Feb. 2, 1956, 6 U.S.T. 3516, T.I.A.S. 3365, 75 U.N.T.S. 287.) (the “Four Geneva Conventions”); and

- k. Statutes and common law of Mexico.

STATEMENT OF FACTS

Background

18. The State of Chiapas, Mexico (“Chiapas”) is a mountainous region located in the south-central area of Mexico, bordering Guatemala. Historically, the economic advances and modernity of other regions of Mexico, including Mexico City, have not benefitted the residents of Chiapas. Chiapas has been among the most underdeveloped states in the country. Most of the residents of Chiapas live in extreme poverty and have had little access to the most basic services, including electricity, sanitation, medical care, education, and dependable transportation. Prior to 1994, Chiapas was fairly isolated from the government power center in Mexico City, and there was little investment in the region. Roads to many of the villages and towns were nonexistent or in precarious condition, resulting in their isolation.

19. This situation was exacerbated by persistent racist attitudes toward many of the inhabitants of Chiapas. Most people in those areas are of indigenous descent, unlike the white or mestizo populations of the developed areas of Mexico, including Mexico City. Many speak a variety of languages, including Tzotzil, as their first language, rather than Spanish. These ethnic and cultural differences played significant roles in the mistreatment endured by Chiapas residents from Mexican governmental entities and the wealthy landowners of the region.

20. On January 1, 1994, the Ejército Zapatista de Liberación Nacional, or Zapatista Army of National Liberation (“EZLN”), an indigenous, separatist movement in Chiapas, announced its existence and promptly declared war against the Mexican Government.

21. The EZLN advocates a socialist ideology that demands social and economic justice for indigenous populations. The EZLN attempted to promote its social policies by means of armed conflict against the Mexican Government.

22. Several organizations, known as civil societies, which were not associated with any federal or state government, were formed in Chiapas at that time, including, *inter alia*, the civil society known as “Las Abejas” (“The Bees”).

23. Las Abejas was, and remained at all relevant times, a pacifist organization not affiliated with the Mexican Government. Due to its pacifist nature, Las Abejas was also opposed to the EZLN, which advocated violence as a means to its ends.

24. A large majority of the residents of Acteal, including the Decedents and the Plaintiffs, were members of Las Abejas and fully ascribed to its non-violent, pacifist practices.

25. On or about January 2, 1994, regular Mexican Army units moved into Chiapas and engaged in armed confrontation with EZLN forces.

26. Shortly thereafter, the Mexican Government under then-President Carlos Salinas de Gortari (“Salinas”) entered into peace negotiations with the EZLN. Salinas declared a unilateral cease-fire and offered amnesty to those EZLN members who chose to reintegrate into society. The peace negotiations between the Mexican Government, under Salinas, and the EZLN resulted in the Mexican Government passing an Amnesty Law that became effective on January, 22 1994.

Defendant Zedillo Becomes President of Mexico

27. On August 21, 1994, Defendant Zedillo, was elected President of Mexico.

28. The transition period between the Salinas administration and Defendant Zedillo's incoming administration was August 21, 1994 to December 1, 1994.

29. On December 1, 1994, Defendant Zedillo was sworn into office as the President of Mexico.

Plan de Campaña Chiapas '94

30. In or about December 1994, soon after Defendant Zedillo was sworn in, a military campaign plan was adopted with the aim of suppressing the EZLN, as well as all political and military support for that organization in Chiapas (hereinafter, "Plan de Campaña Chiapas '94"). A certified translation as well as an apostilled and certified copy of a document outlining the Plan de Campaña Chiapas '94, along with excerpts of the Mexican Senate Record incorporating same, as introduced in the Senate of the United States of Mexico on or about December 14, 2010, is attached hereto and incorporated herein by reference as **Composite Exhibit "1"** (the "Senate Record").

31. The Chiapas campaign contemplated in the Plan de Campaña Chiapas '94 was divided into four designated phases: Preparation Phase, Offense Phase, Development Phase, and Final Phase. See Plan de Campaña Chiapas '94 incorporated as part of Senate Record at 22658-59 (the page numbers are located on the top right hand corner of that document).

32. The Preparation Phase focused on the organization, training and deployment of both military and civilian forces that would participate in the Chiapas campaign. Detailed operational plans for the campaign were to be prepared during this phase. *Id.* at 22658.

33. The Offense Phase focused on the eradication, dispersal and expulsion of EZLN military forces from Chiapas, as well as the subsequent occupation of Chiapas by military and police forces. *Id.*

34. The Offense Phase contemplated the application of the principle of war involving concentration of military forces in areas of Chiapas under EZLN control. *Id.* at 22667.

35. In applying this philosophy, certain operational aspects of the Offense Phase included the suspension of civil rights in Chiapas, including:

- a. Forced displacement of civilian populations in EZLN-controlled areas to areas under Mexican Government control;
- b. Neutralization of the organization and activities of the diocese of San Cristobal de las Casas;
- c. Capture and detention of “Mexican [nationals] identified with the EZLN;”
- d. Capture and expulsion of “pernicious foreigners;”
- e. Prohibition of commercial flights into EZLN-controlled areas;
- f. Censorship of mass media;
- g. Destruction or control of equine and/or bovine herds;
- h. Destruction of crops and harvests;
- i. Deployment of paramilitary and civilian self-defense forces; and
- j. Suspension of communications in EZLN-controlled areas, including mail, telephone and telegraph service. *Id.* at 22667-68.

36. The Development Phase focused on the elimination of remaining EZLN operational nuclei, as well as the prevention of the return of EZLN forces that had been previously expelled from Chiapas. *Id.* at 22658.

37. Part of the Plan de Campaña Chiapas '94 encompassed efforts to create, train, and support self-defense forces and other paramilitary entities which would assist in military operations during both the Offense and Development Phases. *Id.* at 22663, 22668.

38. The Final Phase focused on continued support to local organizations and authorities to enable them to carry out self-defense operations against the EZLN. *Id.* at 22659.

39. When applied, the Plan de Campaña Chiapas '94 violated the Mexican Constitution, the laws of Mexico, international treaties and accords, and customary international law.

40. On or about January 4, 1998, the weekly publication *Proceso* first revealed the existence of the Plan de Campaña Chiapas '94 (the "*Proceso* Article"). Excerpts of a certified and apostilled copy as well as a certified translation of the *Proceso* Article is attached hereto and incorporated herein by reference as **Exhibit "2"**.

41. On or about January 6, 1998, the Secretariat of National Defense (the Mexican Department of Defense) issued a statement denying the existence of the Plan de Campaña Chiapas '94 referred to in the *Proceso* Article. A copy and a certified translation of an article in *La Jornada* periodical dated January 6, 1998 reflecting same is attached hereto and incorporated herein by reference as **Exhibit "3"**.

Defendant Zedillo Terminates the Chiapas Peace Process

42. Due to mismanagement of the economy during the last year of the Salinas Administration, on December 20, 1994, Treasury Secretary Jaime Serra Puche announced the devaluation of the peso, driving the Mexican economy into crisis. The Mexican Government promptly commenced efforts to obtain bail-out funds from the United States of America and the International Monetary Fund.

43. Defendant Zedillo decided to terminate the peace process before he even took office. In May 1994, when only a candidate for the office of the presidency, Zedillo censured Manuel Camacho, the Peace Commissioner for Chiapas. Camacho was the Federal Government's representative for the peace negotiation between the Mexican Government and the EZLN. Faced with Zedillo's censure, Camacho had no choice but to resign his post, doing so on or about June 16, 1994. Afterwards, in a public letter, Camacho stated that his resignation was the product of Zedillo's decision to denounce the peace process, characterizing it as a failure. Camacho indicated that "[there exist] two different political paths to achieve peace in Chiapas." One path, that of negotiation, "consists in creating those conditions that avoid the dynamics of war." The other path, Zedillo's choice, "involves wearing down the rebel movement, misleading public opinion and renouncing time and again its offers and public compromises." An apostilled original and certified translation of Camacho's letter is attached hereto and incorporated herein as **Composite Exhibit "4."**

44. On or about January 13, 1995, Riordan Roett, at the time Chase Manhattan Bank's consultant on Latin America's emerging markets, authored an internal memorandum entitled "Political Update on Mexico" (the "Roett Memo"). A copy of the Roett Memo is attached hereto and incorporated herein by reference as **Exhibit "5"**.

45. The Roett Memo stated, *inter alia*:

Until the administration of President Ernesto Zedillo identifies the appropriate policies to stabilize the peso and avoid uncontrolled inflation, it will be almost impossible to address issues such as Chiapas and judicial and electoral reform.

There are three areas in which the current monetary crisis can undermine political stability in Mexico. *The first is Chiapas*; the second in [*sic*] the upcoming state elections; and the third is the role of the labor unions, their relationship to the government and the governing PRI [Partido Revolucionario Institucional ("PRI")],

one of Mexico's two largest political parties, which dominated Mexican national politics for approximately 70 years up to 1994. Zedillo was a member of PRI].

Moreover, to the degree that the monetary crisis limits the resources available to the government for social and economic reforms, it may prove difficult to win popular support for the Zedillo administration's plans for Chiapas. More relevant, [Sub-commander] Marcos and his supporters may decide to embarrass the government with an increase in local violence and force the administration to cede to Zapatista [EZLN] demands and accept an embarrassing political defeat. *The alternative is a military offensive to defeat the insurgency which would create an international outcry over the use of violence and the suppression of indigenous rights.*

While Chiapas, in our opinion, does not pose a fundamental threat to Mexican political stability, it is perceived to be so by many in the investment community. The government will need to eliminate the Zapatistas to demonstrate their effective control of the national territory and of security policy.

The Mexican monetary crisis has overshadowed the commitment of the Zedillo administration to a new wave of political reforms that include political negotiations to resolve the Chiapas crisis and to guarantee fair elections at the state and municipal levels.

(Emphasis added.)

46. On or about February 1, 1995, the Roett Memo was leaked to the press. A copy of an article of that same date in the periodical *Counterpunch* first disclosing the existence and contents of the Roett Memo and a copy of a March 24, 1995 article in the *National Catholic Reporter* regarding the Roett Memo are attached hereto and incorporated herein by reference as **Composite Exhibit "6"**.

47. Within days of the issuance of the Roett Memo, Defendant Zedillo terminated peace negotiations between the EZLN and the Mexican Government, begun under the previous Salinas administration, and unsuccessfully attempted to arrest EZLN leader Marcos, referring to

him as a seditious traitor. These steps *were viewed as a betrayal by* the government, creating further conflict in the region and markedly increasing the distrust between the parties.

48. Thereafter, in or about February 1995, the Mexican Government, using police and military forces, implemented the Plan de Campaña Chiapas '94 and commenced a military campaign, including the eradication, dispersal and expulsion of EZLN military forces from Chiapas, as well as the suppression of all political and civilian entities perceived to be sympathetic to the EZLN.

49. In or about February of 1995, Chiapas was declared a military zone, and Mexican Army troops were deployed into its territory.

50. As a consequence of mismanagement of the economy during 1994 and of the 1995 economic crisis and the devaluation of the Mexican peso, the armed conflict in Chiapas intensified. The social infrastructure of Chiapas was also weakened as a result of mass migration. The Mexican Senate found that the political and economic policies of Defendant Zedillo's administration drove over 15 million Mexicans into extreme poverty and caused over five million Mexicans to emigrate to the United States.

51. In or about 1996, a special federal cabinet was formed to address the conflict in Chiapas (the "Special Chiapas Cabinet").

52. The Special Chiapas Cabinet included Defendant Zedillo; the Secretary of Defense; the Governor of the State of Chiapas; the Director General of the Center for Research and National Security ("CISEN"); the Commissioner for the Peace Dialogue; the Secretary of Interior, Emilio Chuayffet ("Chuayffet"); and the Federal Solicitor General and Attorney General, Jorge Madrazo Cuellar.

Defendant Zedillo's Administration Arms and Supports Anti-EZLN Villagers In Chiapas

53. As part of the Plan de Campaña Chiapas '94, Defendant Zedillo's administration pursued a policy whereby members of villages in Chiapas opposed to the EZLN (the "Anti-EZLN Villagers") were allowed to obtain military-caliber automatic and semi-automatic weapons (the "Assault Rifles") directly or indirectly from members of the Mexican Army or other persons or groups acting in concert with the Mexican Army.

54. Anti-EZLN Villagers also received training and support from members of the Mexican Army stationed in Chiapas. Anti-EZLN Villagers were allowed to openly carry the Assault Rifles.

55. Mexican law prohibits civilians from owning or possessing Assault Rifles. The arming of Anti-EZLN Villagers with Assault Rifles and training them to use those weapons violated Mexican law.

56. Although many Anti-EZLN Villagers openly displayed Assault Rifles in public, law enforcement authorities oftentimes took no action, despite these clear violations of Mexican law. When police officers did occasionally seize Assault Rifles from Anti-EZLN Villagers, those weapons were eventually returned to the same Anti-EZLN Villagers.

57. The goal of allowing Anti-EZLN Villagers to engage in such conduct with impunity was to suppress and intimidate villages purportedly sympathetic to the EZLN, and to coerce those villages to oppose the EZLN.

58. The increase in paramilitary activities of Anti-EZLN Villagers in a particular area coincided with the arrival and embedding of Mexican Army units in that area, as well as the training of Anti-EZLN Villagers by those Mexican Army units, pursuant to the Plan de Campaña Chiapas '94. A copy of a report reflecting same that was directed to the U.S. Defense

Intelligence Agency (“DIA”), dated May 5, 1999 (the “May 1999 DIA Report”) and declassified in February 2008 pursuant to Freedom of Information Act (“FOIA”) Request No. 38,435, is attached hereto and incorporated herein by reference as **Exhibit “7”**.

59. In or about mid-1997, armed Anti-EZLN Villagers commenced a terror campaign, including a series of kidnappings and homicides, many in towns throughout about one-fourth of Chiapas, including within the municipality of Chenalhó.

60. Many residents in the affected villages supported neither the policies of Defendant Zedillo’s administration nor the armed conflict espoused by the EZLN. As a result of the kidnappings and murders orchestrated by Anti-EZLN Villagers, many residents of these affected villages fled to Acteal and other villages.

61. Between approximately May and December 1997, many villagers from towns and communities around Acteal were displaced due to the conflict in Chiapas. Many of these displaced villagers were members of or were affiliated with Las Abejas, and fled to Acteal.

62. On September 30, 1997, the inhabitants of Chenalhó delivered a letter to Defendant Zedillo, Chiapas State Governor Julio Cesar Ruiz Ferro, and other members of the Mexican Government (the “September 30 Demand”). A certified translation as well as a certified copy of the September 30 Demand is attached hereto and incorporated herein by reference as **Composite Exhibit “8”**.

63. In the September 30 Demand, the inhabitants of Chenalhó reported a string of attacks and kidnappings, specifically complaining that Anti-EZLN Villagers were being allowed to possess and openly carry Assault Rifles in violation of Mexican law. The inhabitants of Chenalhó demanded that the law be enforced.

64. On October 18, 1997, Msgr. Raul Vera-López, Coadjutor Bishop of the diocese of San Cristobal de las Casas, drafted a letter directed to Interior Secretary Chuayffet informing him of the incidents of violence and the fact that Anti-EZLN Villagers and other paramilitary groups were being trained and provided with weapons (the “Vera Letter”). In the Vera Letter, Bishop Vera-López also warned Defendant Zedillo that “a bloodbath” was imminent. A certified translation as well as an apostilled and certified copy of the Vera Letter is attached hereto and incorporated herein by reference as **Composite Exhibit “9”**.

65. Bishop Vera-López delivered the Vera Letter to Chuayffet, who personally hand-delivered that letter to Defendant Zedillo, before the Acteal Massacre.

66. On or about December 7, 1997, Televisa nationally televised a special news report prepared by Ricardo Rocha regarding the condition of displaced civilians around Acteal, caused by violence attributed to counter-insurgency activities of Anti-EZLN Villagers.

67. On December 21, 1997, a group of displaced villagers who had sought refuge in Acteal called for the aid of Mexican legislators who were visiting the nearby town of Polhó. The displaced villagers advised the legislators that members of their communities were being held against their will by Anti-EZLN Villagers and other paramilitary groups. These villagers further advised the legislators that they were under imminent threat of death or serious bodily harm.

The Acteal Massacre

68. News regarding increasing violence fomented by Anti-EZLN Villagers and other paramilitary groups in Chiapas, brought by displaced persons seeking refuge in Acteal, caused grave concern to the residents of Acteal.

69. As a result of this news, on or about December 20, 1997, most of the residents of Acteal, who were also members of Las Abejas, held a retreat in and around the small chapel located within Acteal proper (the "Acteal Chapel") to pray and fast as a community.

70. The retreat in the Acteal Chapel was held in the name of peace and the hope for an end to the violence in Chiapas. Over 350 people attended the retreat.

71. On December 22, 1997, Anti-EZLN Villagers from surrounding villages, armed with Assault Rifles, arrived at Acteal. Many of the Anti-EZLN Villagers wore red bandanas to identify themselves to each other.

72. Accompanying the Anti-EZLN Villagers arriving at Acteal were individuals who spoke only Spanish, had crew-cut style haircuts, and wore uniforms of the local police and/or the Mexican Army. These persons appeared to be directing, coordinating, acting in concert with, and/or aiding and abetting the activities of the Anti-EZLN Villagers. At that time, there were no peace-keeping operations being conducted in the area around Acteal.

73. At approximately 10:30 a.m. on December 22, 1997, the Anti-EZLN Villagers encircled the perimeter of Acteal and began firing on its residents.

74. As the Anti-EZLN Villagers shrank the perimeter, they concentrated their fire on the residents of Acteal, who were praying and fasting at their retreat in the Acteal Chapel.

75. Fearing for their lives, many of the residents of Acteal were able to escape through the perimeter and flee into the countryside.

76. Anti-EZLN Villagers pursued the escaping Acteal residents and continued firing upon the villagers, killing or injuring many of them.

77. Although both Mexican Army and local police units were in the vicinity of Acteal and could hear the gunshots fired by the Anti-EZLN Villagers throughout the Acteal Massacre,

local police units did not enter Acteal, to recover the bodies of the dead or dying, until approximately 12:30 a.m. on December 23, 1997, some 14 hours after the massacre had begun.

78. By that time, the Anti-EZLN Villagers and supporting personnel had left Acteal.

79. The Acteal Massacre crime scene was not maintained for investigation.

80. All told, the Anti-EZLN Villagers slaughtered 45 residents of Acteal, including seven adult males, twenty adult females (four of whom, on information and belief, were pregnant), and eighteen minors, one of them a toddler. A copy of a report directed to the DIA and summarizing the Acteal Massacre, prepared soon thereafter (the "December 1997 DIA Report"), declassified in February 2008 pursuant to FOIA Request No. 38,435, is attached hereto and incorporated herein by reference as **Exhibit "10"**.

81. Additionally, 17 other Acteal residents were wounded as a result of the massacre.

82. Among those slain by the Anti-EZLN Villagers and/or supporting personnel were Decedents Richard Roe 1, Mary Roe 1 and Mary Roe 2.

83. Among those wounded by the Anti-EZLN Villagers and/or supporting personnel were Jane Doe 2, John Doe 2, and John Doe 3. Specifically:

a. Plaintiff Jane Doe 2 [was physically injured as a result of the Acteal Massacre];

b. Plaintiff John Doe 2 [was physically injured as a result of the Acteal Massacre]; and

c. Plaintiff John Doe 3 [was physically injured as a result of the Acteal Massacre].

84. Among those fired upon by the Anti-EZLN Villagers and/or their supporting personnel, but who escaped immediate physical injury, were Plaintiffs Jane Doe 1, Jane Doe 3, Jane Doe 4, John Doe 1, John Doe 4, John Doe 5, and John Doe 6.

Zedillo's Conduct During the Acteal Massacre

85. On December 22, 1997, the Director General of CISEN (the Center for Research and National Security) and, thereafter, Chuayffet personally notified Defendant Zedillo of the Acteal Massacre while it was in progress.

86. Defendant Zedillo was taping a Christmas message to the nation at the time when he was notified of the Acteal Massacre, causing him to interrupt taping for a period of time.

87. Notwithstanding, the Acteal Massacre continued unabated for hours.

88. After finishing taping his Christmas message, Defendant Zedillo met with Felipe Calderón, then the leader of the opposition party, Partido de Action Nacional (the "PAN"), and currently the President of Mexico. A certified translation as well as an apostilled and certified copy of Defendant Zedillo's agenda for December 22, 1997, is attached hereto and incorporated herein by reference as **Composite Exhibit "11"**.

The Cover-Up

89. In order to hide his complicity and liability for the Acteal Massacre, Defendant Zedillo, along with Jorge Madrazo Cuellar, the Solicitor General and Attorney General of Mexico ("Madrazo"), and other individuals known and unknown to Plaintiffs, and other members of the Mexican Government including, *inter alia*, individual members and/or agents of one or more subdivisions, instrumentalities and/or agencies of Zedillo's government, orchestrated and participated in a conspiracy to cover up any connection to, responsibility for, involvement with, or participation in the Acteal Massacre (the "Cover-Up").

90. Following the Acteal Massacre, both national and international media arrived at Acteal to cover the scene. Defendant Zedillo and Madrazo initially represented to the press that the Acteal Massacre was nothing more than a local, inter-community dispute.

91. In furtherance of the Cover-Up, 128 persons from the area surrounding Acteal were arrested at the direction of the PGR (Procuraduria General de la Republica), the Attorney General's Office for the Republic of Mexico, the agency that led the investigation and prosecutions relating to the Acteal Massacre. Madrazo was director of PGR at the time.

92. In or about 1998, the PGR issued the *Libro Blanco Sobre Acteal (White Book on Acteal*, or the "White Book"), a publication which set forth the position of the Mexican Government purporting to finally resolve, settle, and put to rest all issues relating to the Acteal Massacre. (The White Book is too voluminous to file as an exhibit at this time. Plaintiffs possess a copy and will produce and/or file it upon request.)

93. In the White Book, the PGR attributed the causes of the Acteal Massacre to, *inter alia*, (a) local, inter-community disputes; (b) the continued existence and operations of the EZLN; and (c) a lack of competent local judicial, administrative and law enforcement infrastructure in Chiapas. *See* White Book at 99.

The Plan de Campaña Chiapas '94 is Disclosed to the Public

94. Although the existence of the Plan de Campaña Chiapas '94 had been the subject of news articles since 1998, its existence was denied for years by the Secretariat of National Defense.

95. In February 2008, both the December 1997 DIA Report and the May 1999 DIA Report, previously classified as secret documents, were declassified under FOIA Request No. 38,435. The DIA reports are attached to and incorporated by reference in the April 7, 2011

report submitted by the Chiapas Special Prosecutor's Office for the Acteal Case, entitled *Balance de Situación* ("Summary of the Situation"). (This report is too voluminous to file as an exhibit at this time. Plaintiffs possess a copy and will file and/or produce it upon request.)

96. The declassification of the December 1997 DIA Report and the May 1999 DIA Report confirmed the *de facto* involvement of members and/or personnel of the Mexican Army, and/or persons or groups acting in coordination with or under the control and protection of the Mexican Army, in the training and arming of Anti-EZLN Villagers.

97. On or about December 14, 2010, the contents of the Plan de Campaña Chiapas '94 became part of the Mexican Senate Record, when incorporated into a legislative resolution stipulating that further investigation into the Acteal Massacre was required. *See* Exhibit 1.

98. On information and belief, the Secretariat of National Defense has, to date, not commented on the introduction into the Senate Record of the Plan de Campaña Chiapas '94.

Investigation of the Acteal Massacre by the Chiapas Special Prosecutor

99. On or about December 22, 2007, Attorney Noe Maza was nominated by the state government of Chiapas as special prosecutor for the purpose of investigating the Acteal Massacre (the "Chiapas Special Prosecutor").

100. Shortly after his appointment as Chiapas Special Prosecutor, Mr. Maza was ordered by Amador Rodriguez, the Chiapas Minister of Justice, to not take the testimony of Defendant Zedillo, Chuayffett, or Liebano Saenz, Defendant Zedillo's chief of staff at the time of the Acteal Massacre ("Saenz").

101. On information and belief, notwithstanding the order to the contrary, Mr. Maza continued in his efforts to take the testimony of Defendant Zedillo, Chuayffett, and Saenz. Mr. Maza was unsuccessful in this regard.

102. In or about July 2008, Mr. Maza held a press conference announcing that it was possible that some of the alleged perpetrators of the Acteal Massacre could be innocent of the crimes for which they were charged and ultimately convicted.

103. Shortly after this press conference, Mr. Maza was relieved of his duties as Chiapas Special Prosecutor. A certified translation as well as an apostilled and certified copy of a September 7, 2008 article in *La Jornada* reflecting this fact is attached hereto and incorporated herein by reference as **Composite Exhibit “12”**.

The Decision of The Supreme Judicial Court of Mexico

104. On October 4, 2007, over 34 persons were convicted of various crimes arising from the Acteal massacre, including culpable homicide, aggravated battery, possession or carrying of weapons of restricted and/or military use, and other violations of Mexican law relating to weapons and explosives, and were sentenced to 26 years' incarceration. Not less than 20 of those convicted were innocent of any wrongdoing in connection with the Acteal Massacre.

105. On or about August 12, 2009, the Supreme Judicial Court of Mexico (the “Supreme Court”) entered a decision determining that the arrests and convictions of 20 individuals resulting from the PGR’s prosecution of the Acteal Massacre had violated Mexican criminal procedure, criminal law and constitutional due process, and were released from prison (the “Supreme Court Decision”). Another six were granted new trials due to those violations.

106. In the Supreme Court Decision, the Supreme Court found, *inter alia*, that:

a. There were materially significant discrepancies in testimony between and among victims regarding both the appearance and clothing of the alleged perpetrators of the Acteal Massacre, Supreme Court Decision, Juicio de Amparo Directo No. 39/2008 Folio 280.

b. There were material retractions of testimony which could have exonerated one or more defendants in the prosecution of the Acteal Massacre. *Id.*

c. Prosecution witnesses, who could not identify many of the alleged perpetrators of the Acteal Massacre during their initial declarations, later confessed that the Federal Judicial Police provided them with a list of the names and villages of residence of those alleged perpetrators after those witnesses had provided their initial declarations. It was then that these prosecution witnesses supplemented their initial declarations with additional details including the names and communities of those alleged perpetrators, within 12 hours of the initial declarations in many instances. Acteal Massacre, Supreme Court Decision, Juicio de Amparo Directo No. 9/2008 Folio 237, *al reverso, hasta 239.*

d. The Federal Judicial Police obtained a book of photographs used for identification of the accused, prior to the arrest of those individuals and prior to any victim identifying the persons whose photographs were contained in that book. That photographic evidence was obtained for the intentional purpose of altering the testimony of witnesses to identify and implicate the persons in the photographs as the alleged perpetrators of the Acteal Massacre. Acteal Massacre, Supreme Court Decision, Juicio de Amparo Directo No. 10/2008 Folio 278.

e. The PGR illegally obtained and formulated evidence for the purpose of convicting the alleged perpetrators of the Acteal Massacre. Acteal Massacre, Supreme Court Decision, Juicio de Amparo Directo No. 10/2008 Folio 275.

f. Defendants in the prosecution of the Acteal Massacre were denied their constitutional right to a live face-to-face confrontation of those prosecution witnesses

who had previously given declarations implicating those defendants. Acteal Massacre, Supreme Court Decision, Juicio de Amparo Directo No. 10/2008 Folio 280.

g. The PGR misrepresented the dates and proceedings corresponding to various witness declarations used as substantive evidence, in order to obtain guilty verdicts, in direct violation of Mexican criminal procedure. Acteal Massacre, Supreme Court Decision, Juicio de Amparo Directo No. 10/2008 Folio 255.

107. As a result of the Supreme Court Decision, the convictions of 20 defendants were reversed and those defendants were released from prison after 11 years of incarceration.

***Conduct of the Elements of the Mexican Army Stationed In Chiapas
Since the Acteal Massacre***

108. Despite the Acteal Massacre on December 22, 1997, elements of the Mexican Army stationed in Chiapas have continued to arm and support Anti-EZLN Villagers as part of the Plan de Campaña Chiapas '94.

109. On information and belief, between 1997 and the present, Anti-EZLN Villagers, elements of the Mexican Army, and the police have continued to engage in summary executions, detentions, and forced displacement of members of indigenous communities in Chiapas, notwithstanding the subsequent changes in administrations and the Supreme Court Decision.

GENERAL ALLEGATIONS

110. The acts described herein were carried out under actual or apparent authority or color of law of the Mexican Government. Defendant Zedillo bears responsibility for exercising command responsibility over, ordering, engaging in a joint criminal enterprise with, conspiring with, and/or aiding and abetting other members of the Mexican Government including, *inter alia*, individual members and/or agents of one or more subdivisions, instrumentalities and/or agencies