

The Honorable Franklin D. Burgess

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CYNTHIA CORRIE AND CRAIG CORRIE, )  
ON THEIR OWN BEHALF AND AS PERSONAL )  
REPRESENTATIVES OF THE ESTATE OF )  
RACHEL CORRIE AND HER NEXT OF KIN, )  
INCLUDING HER SIBLINGS; MAHMOUD OMAR )  
AL SHO'BI, ON HIS OWN BEHALF, ON BEHALF )  
OF HIS SURVIVING SIBLINGS MUHAMMAD )  
AL SHO'BI AND SAMIRA AL SHO'BI, AND ON )  
BEHALF OF HIS DECEASED FAMILY MEMBERS, )  
UMAR AL SHO'BI, FATIMA AL SHO'BI, ABIR AL )  
SHO'BI, SAMIR AL SHO'BI, ANAS AL SHO'BI, )  
AZZAM AL SHO'BI AND ABDALLAH )  
AL SHO'BI; FATHIYA MUHAMMAD )  
SULAYMAN FAYED, ON HER OWN BEHALF )  
AND ON BEHALF OF HER DECEASED SON, )  
JAMAL FAYED AND HIS NEXT OF KIN; )  
FAYEZ ALI MOHAMMED ABU HUSSEIN ON )  
HIS OWN BEHALF AND ON BEHALF OF HIS )  
SONS, BAHJAT FAYEZ ABU HUSSEIN, )  
AHMED FAYEZ ABU HUSSEIN, NOUR FAYEZ )  
ABU HUSSEIN AND SABAH FAYEZ )  
ABU HUSSEIN; MAJEDA RADWAN )  
ABU HUSSEIN ON HER OWN )  
BEHALF AND ON BEHALF OF HER )  
DAUGHTERS, HANAN FAYEZ ABU HUSSEIN, )  
MANAL FAYEZ ABU HUSSEIN, INSHERAH )  
FAYEZ ABU HUSSEIN, AND FADWA FAYEZ )  
ABU HUSSEIN; EIDA IBRAHIM SULEIMAN )  
KHALAFALLAH ON HER OWN BEHALF )  
AND ON BEHALF OF HER DECEASED )

Civil Action No. CV-05192-FDB

FIRST AMENDED COMPLAINT  
FOR WAR CRIMES;  
EXTRAJUDICIAL KILLING;  
CRUEL, INHUMAN, OR  
DEGRADING TREATMENT OR  
PUNISHMENT; VIOLATION OF  
THE RACKETEER INFLUENCED  
AND CORRUPT  
ORGANIZATIONS ACT;  
WRONGFUL DEATH; PUBLIC  
NUISANCE; AND NEGLIGENCE

JURY TRIAL DEMANDED

PLAINTIFFS' FIRST AMENDED COMPLAINT

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1 HUSBAND, IBRAHIM MAHMOUD MOHAMMED )  
 2 KHALAFALLAH AND NEXT OF KIN, )  
 3 )  
 4 Plaintiffs, )  
 5 )  
 6 v. )  
 7 )  
 8 CATERPILLAR, INC., a Foreign Corporation, )  
 9 )  
 10 Defendant. )  
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9 NOW COME Plaintiffs on their own behalf and as personal representatives of the estates  
 10 and/or next of kin of their deceased family members, and for minor and incapacitated relatives,  
 11 and allege as follows:

12 **I. PRELIMINARY STATEMENT**

- 13 1. On or about April 5, 2002, eight members of the family of Mahmoud Omar Al Sho'bi  
 14 were killed in the city of Nablus, in the OPT (West Bank), when his family home was  
 15 demolished with a Caterpillar bulldozer, without warning, in the middle of the night.
- 16 2. On April 9, 2002, Jamal Fayed, a severely disabled man, was killed in his house in the  
 17 Jenin Refugee Camp in the OPT (West Bank) when family members were not allowed to assist  
 18 him out of the house before it was demolished with a Caterpillar bulldozer.
- 19 3. On September 3, 2002, six of twelve members of the Abu Hussein family were physically  
 20 injured when a Caterpillar bulldozer demolished their home without warning in Rafah, OPT  
 21 (Gaza).
- 22 4. On March 16, 2003, only 50-200 meters away from the Abu Hussein home, Rachel  
 23 Corrie, a peace activist and United States citizen, was killed with a Caterpillar bulldozer while  
 24 protesting the demolition of a Palestinian home while the family was inside.
- 25 5. On July 12, 2004, in the Khan Yunis Refugee Camp in the OPT (Gaza), Ibrahim  
 26 Mahmoud Mohammed Khalafallah, who was sick and could neither walk nor hear, was killed in

1 the middle of the night without warning with a Caterpillar bulldozer in his own home, when his  
2 wife and daughter were not able to assist him out of the home or stop the bulldozer driver before  
3 the demolition.

4 6. This is a civil action for compensatory and punitive damages against Caterpillar, Inc. for  
5 violations of international and state law committed against the Al Sho'bi family, Jamal Fayed and  
6 his family, the Abu Hussein family, Rachel Corrie, and Ibrahim Mahmoud Mohammed  
7 Khalafallah and his family members. The violations of international and state law include: war  
8 crimes, and complicity in extrajudicial killing and cruel, inhuman, or degrading treatment or  
9 punishment ("CIDTP") that resulted in the deaths of Jamal Fayed, eight members of the Al Sho'bi  
10 family, Rachel Corrie and Mahmoud Mohammed Khalafallah, the Abu Hussein family, and the  
11 other injuries described herein; negligence; public nuisance; and wrongful death. Plaintiffs also  
12 allege that Caterpillar, Inc. violated the Racketeer Influenced and Corrupt Organizations Act  
13 ("RICO").

14 7. Plaintiffs allege that Caterpillar, Inc., has aided and abetted or otherwise been complicit  
15 with the Israel Defense Forces (hereinafter "IDF") in the above-mentioned human rights violations  
16 and war crimes by providing the bulldozers (and/or parts or other assistance related to the  
17 bulldozers) used to demolish homes of Palestinians in the Occupied Palestinian Territory in  
18 violation of international law when it knew, or should have known, that such bulldozers were  
19 being used to commit human rights abuses.

20 8. The IDF has destroyed at least 10,000 Palestinian homes since 1967 leaving  
21 approximately 50,000 men, women, and children homeless. Over the last four years, the IDF has  
22 destroyed at least 4,100 homes. Upon information and belief, Caterpillar, Inc. has supplied  
23 bulldozers to the IDF that have been used in such demolitions since 1967.

24 9. As a result of these demolitions, Palestinian civilians, including Plaintiffs, have been  
25 killed, injured, displaced, and/or made homeless. Home demolitions often take place without  
26 adequate warning and in violation of due process rights, such as the right to a fair hearing. The

1 IDF rarely offers compensation and redress to the victims. The IDF has also destroyed civilian  
2 roads, agricultural land, and other public and private property.

3 10. The IDF has given three broad rationales for the demolitions: 1) to create ‘buffer zones’  
4 that indiscriminately destroy entire neighborhoods of Palestinian homes and expel Palestinians  
5 simply for existing near Israeli military bases or the settlements and bypass roads or the  
6 “separation barrier” that are themselves illegal under international humanitarian law; 2) for the  
7 purposes of collective punishment, which is prohibited by the Fourth Geneva Convention  
8 Relative to the Protection of Civilian Persons in Time of War (“Fourth Geneva Convention”); and  
9 3) for the purposes of demographic engineering, *i.e.*, to limit and discourage Palestinian  
10 population growth, especially in occupied East Jerusalem but also near settlements in the OPT  
11 (West Bank). These demolitions are sometimes carried out through the discriminatory and  
12 arbitrary application of building codes and other administrative means.

13 11. The world community, including the United States, has consistently condemned these  
14 demolitions.

15 12. Caterpillar, Inc. had constructive notice of such violations since at least 1989 and likely  
16 before, when human rights groups began to publicly condemn the demolitions, and beginning in  
17 at least 1999, such condemnations were widely circulated in the international press. In 2000 the  
18 U.N. Committee Against Torture condemned the policy of demolitions; and in 2001 the  
19 European Union did as well.

20 13. Caterpillar, Inc. has been on actual notice that the bulldozers it was supplying have been  
21 used to commit crimes in violation of international law since at least 2001. Beginning that year,  
22 human rights groups and concerned U.S. citizens began notifying Caterpillar that it was aiding  
23 and abetting violations of international law by providing the IDF with the bulldozers used to  
24 destroy homes. Despite this, Caterpillar continued to supply bulldozers and essential bulldozer  
25 parts to the IDF, which were used to commit the violations subject to this lawsuit, even though  
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1 the human rights violations and war crimes being committed with the bulldozers and resultant  
2 damages were foreseeable.

## 3 II. PARTIES

4 14. Plaintiff Mahmoud Al Sho'bi is a Palestinian citizen and resident of the city of Nablus in  
5 the OPT (West Bank). He brings this action on behalf of himself and his deceased family  
6 members: his father Umar, his sisters Fatima and Abir, his brother Samir, and Samir's three  
7 children, Anas, Azzam and Abdallah; and on behalf of Decedents' next of kin, and on behalf of  
8 his surviving brother Muhammed Al Sho'bi, and his surviving sister Samira Al Sho'bi.

9 15. Plaintiff Fathiya Muhammad Sulayman Fayed is a Palestinian citizen and a resident of  
10 the Jenin refugee camp, which is located in the OPT (West Bank). She brings this action on her  
11 own behalf and on behalf of her deceased son, Jamal Fayed, and his next of kin.

12 16. Plaintiff Fayeze Ali Mohammed Abu Hussein is a Palestinian citizen and a resident of the  
13 city of Rafah in the OPT (Gaza). He brings this action on his own behalf and on behalf of his  
14 injured sons, Bahjat Fayeze Abu Hussein, Ahmed Fayeze Abu Hussein, Nour Fayeze Abu Hussein,  
15 and Sabah Fayeze Abu Hussein.

16 17. Plaintiff Majeda Radwan Abu Hussein is a Palestinian citizen and a resident of the city of  
17 Rafah in the OPT (Gaza). She brings this action on her own behalf and on behalf of her injured  
18 daughters, Hanan Fayeze Abu Hussein, Manal Fayeze Abu Hussein, Insherah Fayeze Abu Hussein,  
19 and Fadwa Fayeze Abu Hussein.

20 18. Plaintiff Cynthia Corrie is the mother of decedent Rachel Corrie, who was killed by the  
21 IDF's use of one of Defendant's bulldozers. She is a U.S. citizen and resides in Olympia,  
22 Thurston County, Washington, within the Western District of Washington. She has been  
23 appointed a personal representative of the estate of Rachel Corrie.

24 19. Plaintiff Craig Corrie is the father of decedent Rachel Corrie, who was killed by the IDF's  
25 use of one of Defendant's bulldozers. He is a U.S. citizen and resides in Olympia, Thurston  
26

1 County, Washington, within the Western District of Washington. He has been appointed a  
2 personal representative of the estate of Rachel Corrie.

3 20. Plaintiff Eida Ibrahim Suleiman Khalafallah is a Palestinian citizen and a resident of the  
4 Khan Yunis Refugee Camp in the OPT (Gaza). She brings this action on her own behalf and on  
5 behalf of her deceased husband, Ibrahim Mahmoud Mohammed Khalafallah, and his next of kin.

6 21. Defendant Caterpillar, Inc., (hereinafter "Caterpillar") is incorporated in Delaware, with its  
7 primary place of business in Illinois. However, Caterpillar does sufficient business in  
8 Washington to be considered a resident of Washington. Caterpillar's actions in Washington are  
9 substantial and continuous and give rise to jurisdiction in Washington.

10 22. Plaintiffs are informed and believe, and on that basis allege, that at all times herein  
11 material, to the extent that said conduct was perpetrated by the IDF or other government  
12 officials, Defendant conspired in, confirmed, aided and abetted, and/or ratified, the same.

### 13 III. JURISDICTION AND VENUE

14 23. Plaintiffs allege that Defendant is liable for extrajudicial killing as defined by customary  
15 international law and the Torture Victim Protection Act ("TVPA"), Pub. L. No. 102-256, 106 Stat.  
16 73 (1992) (codified at 28 U.S.C. § 1350, note). Plaintiffs further allege that Defendant is liable  
17 for violations of customary international law and treaty law prohibiting the commission of  
18 human rights violations and war crimes. Accordingly, this Court has jurisdiction over this action  
19 based on 28 U.S.C. § 1350 (Alien Tort Claims Act) and 28 U.S.C. § 1331. The Court also has  
20 diversity jurisdiction over the federal claims pursuant to 28 U.S.C. § 1332. Plaintiffs further  
21 allege jurisdiction under 18 U.S.C. § 1964(c) (Racketeer Influenced and Corrupt Organizations  
22 Act). The Court has jurisdiction over the state law claims pursuant to 28 U.S.C. §1367.

23 24. Venue is proper in the United States District Court for the Western District pursuant to 28  
24 U.S.C. § 1391(b)(1) and/or (3), as this Court has personal jurisdiction over Defendant. Among  
25 other contacts, Caterpillar has a regional sales office for its engines in Bellevue, Washington  
26 (King County). Defendant has approximately 20 dealers in the State of Washington, with 12 of

1 those in the Western District of Washington, including 11 in King County. Upon information  
2 and belief, its primary dealer for the Pacific Northwest is located in Tukwila, Washington (King  
3 County). Finally, it has been registered to do business in Washington for over 20 years, and has  
4 a registered agent to accept service located in Seattle, Washington.

#### 5 IV. STATEMENT OF FACTS

##### 6 A. Background of Home Demolitions

7 25. The 1967 Six-Day War left Israel in control of the areas of the OPT known as the Gaza  
8 Strip, the West Bank, the Sinai Peninsula, and the Golan Heights. Under international law, the  
9 occupation of the OPT falls under the Geneva Convention. Since 1967, the IDF has demolished  
10 houses in the OPT. According to B'tselem, an Israeli human rights organization, over 4,100  
11 homes have been demolished in the last 4 years alone. There is consensus in the international  
12 community and among international legal bodies that these house demolitions in the OPT are  
13 illegal under international law.

14 26. Rafah, where members of the Abu Hussein family were injured and Rachel Corrie was  
15 killed, is a refugee camp and city located at the southern end of the OPT (Gaza). The border  
16 between this area of the OPT and Egypt is 12.5 kilometers long, of which 4 kilometers run  
17 alongside Rafah. Gaza is home to some 1.2 million Palestinians. According to Human Rights  
18 Watch, since approximately 2000, the IDF has demolished over 2,500 houses in the Gaza region  
19 of the OPT, 1600 of which were located in Rafah. The IDF refers to the border area alongside  
20 Rafah as the "Philadelphi" corridor or zone. In Rafah, the IDF has frequently destroyed civilian  
21 houses, roads, and agricultural land. Because of the IDF's demolitions, more than 16,000 people,  
22 over 10% of Rafah's population, have lost their homes.

23 27. Most of the demolitions in Gaza have been aimed at depopulating Palestinian areas near  
24 Israeli settlements, bypass roads, military bases, as well as the border. In Rafah, the IDF has  
25 used various pretexts to destroy swathes of housing to create a 'buffer zone' along the border,  
26

1 emptied of Palestinians, in order to facilitate its long-term control over the OPT (Gaza),  
2 including in the event of an Israeli “disengagement” from the territory.

3 28. The IDF has also demolished thousands of homes in the OPT (West Bank) for various  
4 ‘administrative’ purposes that are in reality demographically motivated. In addition, houses have  
5 been demolished to make way for the ‘separation barrier’ that is being built to annex Israeli  
6 settlements in the OPT (West Bank) while encircling Palestinian communities. Discriminatory  
7 and arbitrary application of building codes in occupied east Jerusalem have resulted in house  
8 demolitions in an attempt to control and limit the growth of the Palestinian population there.

9 29. From April 3-15, 2002, the IDF conducted a major offensive in the Jenin Refugee Camp  
10 in the OPT (West Bank). The IDF used bulldozers to demolish residents’ homes and, according  
11 to Amnesty International, the purpose was to clear paths for the IDF’s tanks and other heavy  
12 weaponry. At least 140 buildings, most of them family dwellings, were completely destroyed  
13 and severe damage was caused to more than 200 others, rendering them uninhabitable or unsafe.  
14 An estimated 4,000 people, more than a quarter of the population of the camp, were rendered  
15 homeless because of the destruction. Serious damage was also done to the water, sewage and  
16 electrical infrastructure of the camp.

17 30. Also in April 2002, the IDF attack on the city of Nablus in the OPT (West Bank)  
18 included housing demolitions which led to at least ten deaths.

19 31. In general, the IDF has also demolished the homes of families or communities alleged to  
20 be connected to those thought to have participated in armed attacks against Israeli civilians or  
21 soldiers, even though such “collective punishment” is forbidden by the Fourth Geneva Convention.  
22 In many such cases, adjacent homes are also destroyed or damaged. Under international law,  
23 demolitions conducted as punitive measures are not military operations. At all times, the welfare  
24 of the local civilian population must be a primary consideration.

25 32. The IDF’s security measures are clearly subject to requirements under international  
26 humanitarian law, which balances the interests of an occupying power against the interests of a



1 civilian population. Under the Fourth Geneva Convention and other international humanitarian  
2 law, property can only be destroyed if it is “absolutely necessary” in preparation for or conduct of  
3 fighting; it cannot justify the preemptive and indiscriminate destruction of entire neighborhoods  
4 based solely on their location. Even in instances where military operations are used to justify  
5 other demolitions, intentional attacks on civilians and civilian property are strictly prohibited  
6 under international law.

7 33. As recognized by both the United Nations and international human rights organizations,  
8 most people in the Occupied Palestinian Territory who have lost their homes due to demolitions  
9 are civilians. Further, rarely is compensation paid to the families who lose their homes.

10 34. In the Occupied Palestinian Territory, when demolishing houses, not only does the IDF  
11 often fail to give warning they are about to demolish the homes, in most instances residents are  
12 not even given a few minutes to save their personal possessions. The IDF has demolished  
13 houses, roads, and large fields without evidence that the destruction was absolutely necessary for  
14 military operations. The IDF has demolished blocks of houses and has indiscriminately torn up  
15 roads, destroying water and sewage networks.

16 35. The loss suffered by Palestinians whose houses have been demolished is extensive and  
17 long-term. The resulting trauma is only the first stage that the families face in coping with the  
18 new reality imposed on them. In addition to the material damage inherent in the loss of the  
19 house and its contents, their forced displacement and total disruption in their lives and the  
20 accompanying psychological effects also serve as a punitive measure. The destruction has a  
21 particularly negative impact on children.

22 36. IDF house demolitions are arbitrary and disproportionate and in violation of international  
23 law. Numerous Palestinians have been killed, injured, and have been made homeless due to the  
24 demolitions.

25 37. The world community, including the United States, has consistently condemned these  
26 demolitions of homes.

1 38. The IDF has admitted that house demolitions have not always occurred because of  
2 military necessity. Senior IDF officers have admitted that not all house demolitions have been  
3 authorized or justified and that destruction caused by demolitions has been excessive.

4 39. According to Article 53 of the Fourth Geneva Convention, "Any destruction by the  
5 Occupying Power of real or personal property belonging individually or collectively to private  
6 persons or to the State, or to other public authorities, or to social or cooperative organizations, is  
7 prohibited, except where such destruction is rendered absolutely necessary by military  
8 operations." This adapts the earlier Hague Regulations, which forbid destruction or seizure of  
9 property unless "imperatively demanded by the necessities of war."

10 40. The IDF has recently recognized that their policy of demolition of homes of suspected  
11 terrorists--a form of collective punishment as it affects family members not believed to be  
12 associated with violence--has not worked to deter violence against it. Recently, senior IDF  
13 officers concluded that the policy has caused more harm than good, and officially ended this  
14 policy of demolitions for this purpose in February of 2005. However, home demolitions for  
15 other reasons have not been suspended.

16 **B. The Role of Defendant Caterpillar, Inc.**

17 41. Caterpillar is the world's leading manufacturer of construction and mining equipment, and  
18 the United States' industry leader in heavy equipment manufacturing. It produces bulldozers of  
19 various types, including two called the D9 and D10. In 2004, Caterpillar had over \$30 billion in  
20 sales and revenue.

21 42. Upon information and belief, since 1967, the IDF has used Caterpillar equipment,  
22 including D9 and D10 type bulldozers, to destroy approximately 10,000 buildings in the West  
23 Bank and Gaza areas of the OPT, leaving over 50,000 people homeless. The IDF has also used  
24 the same equipment to uproot hundreds of thousands of olive trees, as well as orchards of dates,  
25 prunes, lemons, and oranges causing widespread economic hardship and environmental  
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1 degradation in rural areas. The IDF has used, and continues to use, armored Caterpillar D9  
2 bulldozers to raze blocks of homes throughout the OPT, in both Gaza and the West Bank.

3 43. On its website, Caterpillar advertises that it can alter its D9 bulldozers for military use.  
4 *Inter alia*, it states, “Caterpillar<sup>®</sup> provides the flexibility to respond to the specialized, unique  
5 needs of U.S. military and government agencies along with foreign militaries . . . . We are also  
6 well staffed to design and manufacture high priority military modifications for our standard  
7 products, such as armor kits . . . .” The Caterpillar D9 is a large track-type tractor with 354 kW  
8 (474 hp) of gross power. The D9 is at least four meters tall (13.1 feet) and eight meters in width  
9 (26.2 feet), including the ripper and front blade. With armored plates, the D9 has an operating  
10 weight of over 60 tons.

11 **C. Notice to Caterpillar Inc.**

12 44. Upon information and belief, Caterpillar had constructive notice of such illegal acts as  
13 early as 1967, when the United Nations began its condemnations of home demolitions as illegal  
14 under international law. Since that time, the United Nations has persistently called for the end to  
15 the demolitions of Palestinian homes.

16 45. At least since 1989, Israeli human rights organizations issued reports condemning home  
17 demolitions as illegal methods of collective punishment in the OPT.

18 46. In 1999 international human rights groups began widely reporting the human rights  
19 violations associated with demolitions. Beginning at least in 2000, the United Nations issued a  
20 statement that Israel’s policy of demolitions may amount to cruel, inhuman or degrading  
21 treatment or punishment, as well as a breach of Article 16 of the UN Convention against Torture  
22 and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Israel ratified in 1991.  
23 Beginning at least in 2002, the U.S. government through the State Department began criticizing  
24 Israel for such home demolitions.

25 47. Caterpillar has been on actual notice about illegal house demolitions in the OPT since at  
26 least 2001, and likely before. Beginning at least in 2001, Caterpillar was specifically notified

1 that it was aiding and abetting crimes against humanity by providing IDF with the bulldozers  
2 used to destroy homes. Upon information and belief, in 2001, Caterpillar Spokesman Benjamin  
3 Cordani stated, among other things, “We do not base sales on customer’s intended use for our  
4 product.”

5 48. A significant number of letters and communications were sent to Caterpillar in 2002,  
6 including a letter sent in January of 2002 requesting that Caterpillar condemn the illegal use of  
7 its product, and noted that one “campaign” of home demolitions left 700 Palestinians, including  
8 women, children, and elderly people, homeless and without personal possessions.

9 49. In June of 2002, a U.S. based organization wrote a letter to Caterpillar executives  
10 informing Caterpillar that its equipment was being used to commit war crimes.

11 50. In early August 2002, a coalition of human rights and non-profit organizations began a  
12 campaign to educate Caterpillar about the illegal use of its bulldozers, and asked that Caterpillar  
13 stop selling or otherwise providing its bulldozers to Israel. Because of this campaign, over  
14 50,000 letters were sent to Caterpillar informing them that their bulldozers were used to destroy  
15 homes of innocent Palestinians, and were being used to carry out human rights abuses.

16 51. Numerous protests against Caterpillar were staged in 2002, including an International  
17 Day of Action against Caterpillar that was held throughout the world in August of 2002. Protests  
18 included a mock arrest of Caterpillar executives for war crimes in September of 2002. All of  
19 these events were widely reported by International Press.

20 52. Moreover, such protests and letter writing campaigns similar to those described above  
21 continued into 2003 and continue to occur. In April of 2004, a shareholder resolution proposed  
22 by Caterpillar shareholders stated Caterpillar acknowledged that it was aware of IDF’s use of  
23 Caterpillar equipment to destroy homes and agricultural lands, but refuses to condemn or take  
24 actions necessary to halt the sale or transfer of Caterpillar equipment to the IDF. That same  
25 month, Plaintiffs Cynthia and Craig Corrie wrote a letter to Caterpillar’s CEO regarding IDF’s use  
26

1 of the Caterpillar bulldozers, and requested a meeting with Caterpillar. Caterpillar refused such a  
2 meeting.

3 53. In May of 2004, Jean Ziegler, a Special Rapporteur for the United Nations, delivered a  
4 letter to Caterpillar criticizing it for supplying the bulldozers to the IDF that it knows are used to  
5 commit human rights violations, and stated that by supplying the bulldozers to the IDF,  
6 Caterpillar was potentially an accomplice to human rights violations.

7 **D. Sales/Delivery of Bulldozers to IDF by Caterpillar**

8 54. Upon information and belief, 1) Caterpillar bulldozers were provided to, sold, and/or  
9 entrusted to IDF by Caterpillar after Caterpillar was on actual or constructive notice that its  
10 bulldozers were being used to commit human rights violations, the injuries from which were  
11 foreseeable; or 2) bulldozers were leased to the IDF by Caterpillar, and Caterpillar renewed such  
12 leases after Caterpillar was on actual or constructive notice that its bulldozers were being used to  
13 commit human rights violations, the injuries from which were foreseeable; or 3) significant parts  
14 for the bulldozers, or repairs made to the bulldozers, or training, manuals, specialized  
15 knowledge, and/or instructions regarding the bulldozers used to commit abuses were provided to  
16 IDF by Caterpillar after Caterpillar was on actual or constructive notice that its bulldozers were  
17 being used to commit human rights violations, the injuries from which were foreseeable; or 4)  
18 Caterpillar had the right to recall, redesign, cancel or suspend the lease and/or sales of the  
19 bulldozers to the IDF and/or failed to retrain users of its equipment even though legally entitled  
20 to do so, but failed to do so, all of which occurred after Caterpillar was on actual or constructive  
21 notice that its bulldozers were being used to commit human rights violations, the injuries from  
22 which were foreseeable. These acts allowed IDF to use Caterpillar bulldozers to commit the  
23 human rights abuses that, along with the resultant injuries, are the subject of this lawsuit.

24 55. Caterpillar has stated to the press that its bulldozers are sold through the Foreign Military  
25 Sales Program ("FMSP"). However, upon information and belief, the sales from Caterpillar to  
26 the IDF and/or Israel are not through the FMSP, but are direct sales to IDF and/or Israel.

1 **E. Plaintiffs' Specific Allegations**

2 **1. Demolitions in Nablus Resulting in Deaths and Injuries to Plaintiffs**

3 56. On March 29, 2002, the Israel Defense Forces launched attacks on Palestinian residential  
4 areas. The city of Nablus was one major area targeted. Numerous historical buildings built  
5 centuries ago were destroyed in the old city of Nablus, including the Nablus Plaintiffs' homes.

6 57. On or about April 5, 2002, the home of Plaintiff Mahmoud Al Sho'bi who lived in Nablus  
7 in the OPT (West Bank) was demolished by upon information and belief, a Caterpillar bulldozer.  
8 Mahmoud's 85 year old father Umar, 2 sisters--Fatima and Abir ages 57 and 38 respectively,  
9 brother Samir, age 48, his pregnant sister-in-law Nabila, age 40, along with Samir and Nabila's  
10 three children Anas, Azzam and Abdallah ages 4, 7, and 9 respectively, were killed by a  
11 Caterpillar bulldozer when the family home was demolished and they were not given sufficient  
12 time to leave. After the Al Sho'bi family home was demolished, the IDF kept the area under  
13 strict curfew for days, denying access to rescue workers, and it was not until a week later, on  
14 April 12, 2002, that the families' bodies were found under the rubble of the house by relatives and  
15 neighbors.

16 58. The Al Sho'bi family's neighbors who were able to flee in time were also never warned to  
17 evacuate their houses.

18 **2. Demolitions in Jenin Resulting in Deaths and Injuries to Plaintiffs**

19 59. On April 9, 2002, the family home of Plaintiff Fathiya Muhammad Sulayman Fayed in  
20 the Jenin Refugee Camp was demolished by, upon information and belief, a Caterpillar  
21 bulldozer. During that demolition, her son, Jamal Fayed, a 38 year old man who was paralyzed  
22 and disabled, was killed because he was not given sufficient time to leave the Fayed family home  
23 before it was demolished. Mr. Fayed was unable to move on his own and was killed when the  
24 bulldozing of his home caused his house to collapse on him. Before the home was bulldozed,  
25 Jamal's mother and sister informed the IDF that Jamal was in the house, was paralyzed, and  
26 needed assistance to leave. Jamal's mother and sister and other women were permitted to enter

1 the home to remove Jamal. The bulldozer then resumed demolishing the house while they were  
2 inside. The women were able to escape the house, but did not have time to save Jamal. The  
3 women ran outside and yelled at the driver of the bulldozer to stop. The Caterpillar bulldozer  
4 continued moving forward, demolished the home, and killed Jamal.

5 60. At the time of his killing, Mr. Fayed was living in the home along with 15 family  
6 members, including his parents, his siblings, his sisters-in law, one of whom was pregnant, and  
7 his six young nieces and nephews. Mr. Fayed's family had lived in their home for approximately  
8 40 years, and owned a store in the front of the house, which was also demolished and everything  
9 in it destroyed.

10 **3. OPT (Gaza): The Injuries of the Abu Hussein Family, and the Deaths of Rachel**  
11 **Corrie and Ibrahim Mahmoud Mohammad Khalafallah**

12 **a. Abu Hussein Family**

13 61. On September 3, 2002, upon information and belief, a Caterpillar bulldozer demolished  
14 the home of Abu Hussein in the al-Salam neighborhood of Rafah, less than 200 meters from the  
15 site of Rachel Corrie's killing. The destruction began without warning at approximately 5:00 in  
16 the morning. The falling ceiling and walls injured members of their family. After being warned  
17 of those inside, IDF soldiers operating and/or assisting the bulldozer halted active demolition,  
18 but fired on neighbors or relatives trying to evacuate those who remained in the demolished  
19 house. Eventually, the entire Abu Hussein family was rescued from the building and transported  
20 to receive medical treatment for their injuries.

21 62. Six members of the family suffered physical injuries: Majeda Radwan Abu Hussein,  
22 Bahjat Fayez Abu Hussein, then age 20, Ahmed Fayez Abu Hussein, then age 17, Nour Fayez  
23 Abu Hussein, then age 11, Hanan Fayez Abu Hussein, then age 3, and Manal Fayez Abu  
24 Hussein, then age 2.

1 63. Three members of the family were treated for mental and emotional trauma: Insherah  
2 Fayeze Abu Hussein, then age 13, Fadwa Fayeze Abu Hussein, then age 15, and Sabah Fayeze Abu  
3 Hussein, then age 12.

4 64. The house was rendered uninhabitable in the attack and nothing inside was salvageable.  
5 Months later it was leveled along with 4 neighboring homes.

6 **b. Rachel Corrie**

7 65. In January 2003, Rachel Corrie, then a 23 year old senior at the Evergreen State College  
8 in Olympia Washington, was involved in a local group called Olympians for Peace in the Middle  
9 East. Before her trip to the OPT (Gaza), Rachel Corrie had been organizing events for Olympia's  
10 peace movement and on the Evergreen campus. One of Rachel's main missions in traveling to  
11 this area was to create a sister-city relationship between Olympia and Rafah.

12 66. For many years, various groups have organized non-violent action, medical assistance,  
13 and humanitarian relief in the OPT. In the months preceding Rachel Corrie's death, efforts  
14 focusing on non-violent action had increased because of escalating violence, including growing  
15 numbers of house demolitions. International human rights groups such as Amnesty International  
16 and Human Rights Watch, as well as the well-recognized Israeli human rights organization  
17 B'tselem, support the efforts of international volunteers as a means to confront and monitor  
18 persistent human rights violations.

19 67. In the OPT (Gaza), Rachel joined a group of volunteers from around the world dedicated  
20 to using non-violent methods to work for Palestinian human rights and as peacemakers in the  
21 region. One of Rachel's most basic jobs entailed walking with Palestinian children to and from  
22 school to protect them from gunfire. In addition, Rachel regularly protected municipal water  
23 supplies, participated in youth education, and stood in front of Caterpillar bulldozers as a way to  
24 protect homes, farms, trees, and wells from demolitions that were in violation of international  
25 law.



1 68. On March 16, 2003, Rachel was in the OPT (Gaza) to protest the demolition of homes  
2 and property of Palestinian civilians. The IDF had been demolishing homes and property in the  
3 area for an extended period of time, including several days prior to March 16, 2003. These  
4 demolitions were part of the IDF's larger plan to clear the way for a buffer zone and separation  
5 wall near the Egyptian-Gaza border. The IDF built the wall and buffer zone inside the  
6 demolished Palestinian area, rather than along the border; some two hundred meters of  
7 demolished houses separate the metal wall from the last rows of remaining houses. The wall  
8 runs approximately 100-150 meters from where the Nasrallah and Abu Hussein homes once  
9 stood.

10 69. There were two Caterpillar bulldozers involved in demolitions in that area on March 16,  
11 2003. The two Caterpillar machines were accompanied by one Armored Personnel Carrier  
12 ("APC"), sometimes referred to as a "tank." Moreover, each bulldozer contained two IDF soldiers.  
13 The Caterpillar bulldozer driver and accompanying soldier remained in communication with  
14 those in the APCs via radio.

15 70. In the afternoon on March 16, 2003, the group of volunteers Rachel was with received a  
16 call indicating that IDF forces were approaching the home of a Palestinian pharmacist, Dr. Samir  
17 Nasrallah, and that it was believed the IDF was going to destroy the home. The group knew Dr.  
18 Nasrallah, and Rachel Corrie had stayed in his home several times, including recently. The  
19 group of volunteers, including Rachel, proceeded to that location.

20 71. Rachel stood in front of the Nasrallah home in order to protect it from demolition. There  
21 were no other structures between Rachel and the home. Rachel was wearing a bright orange  
22 florescent vest or jacket. She began waving her arms as the bulldozer approached in an attempt  
23 to protect the home from demolition. The bulldozer, which contained two soldiers—one driver  
24 and the other Commander, also used for "spotting"—continued to approach the home,  
25 notwithstanding the presence of Rachel. As the bulldozer moved forward, it was pushing a pile  
26 of dirt and debris. The bulldozer did not stop as it reached Rachel; it pushed the pile of debris

1 onto her legs and she could not escape. The bulldozer then ran over Rachel with its blade down,  
2 burying her and crushing her beneath its blade. Upon information and belief, the bulldozer  
3 driver knew Rachel was in front of the bulldozer and intentionally ran her over.

4 72. During this entire incident, other non-violent protesters, all of whom were within meters  
5 of the bulldozer, were running, jumping, and waiving their arms at the driver, yelling at the  
6 driver and the Commander that Rachel was on the pile and about to be run over. The bulldozer  
7 never stopped until Rachel Corrie was beneath it. It then backed up, with its blade remaining  
8 down, again driving over Rachel. Rachel was taken to a hospital where she was later  
9 pronounced dead.

10 73. Even though there was a “spotter” in the bulldozer, and even though there was an APC  
11 within close proximity to the bulldozer who was in contact with the bulldozer by radio, the  
12 bulldozer driver did not stop when approaching Rachel, and intentionally ran her over, crushing  
13 her.

14 74. Just prior to this incident, the bulldozer drivers and/or the soldiers in the APCs had been  
15 aggressively shouting at the protestors.

16 75. Earlier that same day, one of the bulldozer drivers was particularly aggressive, pinning  
17 one other protestor under rubble and another against a fence.

18 76. Upon information and belief, just minutes before running over Rachel Corrie, the  
19 bulldozer driver who ran her over had received orders to continue with the demolitions, even  
20 with the protestors present. Upon information and belief, the IDF was going to demolish the  
21 home Rachel tried to protect. Months later, the Nasrallah home was demolished by the IDF.

22 **c. Khalafallah Family**

23 77. Just after midnight on July 12, 2004, upon information and belief, a Caterpillar bulldozer,  
24 without warning, demolished the home of Plaintiff Ibrahim Mahmoud Mohammed Khalafallah,  
25 killing him and forcing his family to flee. Mr. Khalafallah lived in Khan Yunis Refugee Camp,  
26 located in the southern part of the OPT (Gaza), northeast of Ra fah. Mr. Khalafallah shared a

1 home with twelve other family members: his wife, Eida Ibrahim Sulayman Khalafallah; their  
2 three daughters; their two sons and their wives, and four grandchildren. In his seventies, Mr.  
3 Khalafallah was very sick; he could not walk or hear and needed assistance to get dressed each  
4 day.

5 78. When the bulldozer hit the house, only Ibrahim, his wife, Eida, and their daughter Muna  
6 were home. Unable to move Mr. Khalafallah themselves, Muna tried to call an ambulance.  
7 Muna also attempted to tell the driver of the bulldozer to stop because her father was still in the  
8 house and unable to leave. The driver did not heed her warnings and continued to demolish the  
9 home. Eida and Muna were forced to flee from the house for safety and were unable to remove  
10 Mr. Khalafallah, who was killed.

11 79. When the bulldozers finally left the Khalafallah home around 4:30 a.m., Eida and Muna  
12 returned to the home to search for Mr. Khalafallah. The two women found Mr. Khalafallah's  
13 body around 4:30 a.m., roughly twenty meters from where he had been lying prior to the  
14 bulldozing. Mr. Khalafallah's body was completely broken and destroyed. Only his head was left  
15 intact, and rocks filled his eyes.

16 80. The bulldozer that destroyed the Khalafallah home was a large military bulldozer, and  
17 was, upon information and belief, a Caterpillar bulldozer. The house was demolished during a  
18 large scale Israeli military incursion into the Khan Yunis Refugee camp during which the IDF  
19 tanks and helicopter gunships intensely shelled the camp. By the end of the incursion, the IDF  
20 had completely demolished 31 houses, in which 255 people (41 families) lived, and partially  
21 demolished 3 others in which 20 people (3 families) lived. In a similar Israeli military operation  
22 in the same camp on July 8, 2004, 40 Palestinian houses had been demolished. Thus, the number  
23 of houses destroyed in the Khan Yunis Refugee camp by Israeli troops in less than five days  
24 totaled 74.

1  
2 **V. CLAIMS FOR RELIEF**

3 81. Plaintiffs' causes of action arise under and violate domestic and international law,  
4 agreements, declarations, conventions, resolutions and treaties, including but not limited to the  
5 following:

- 6 a) Customary international law and treaties of the United States;  
7 b) Statutes and common law of the United States of America;  
8 c) Statutes and common law of the State of Washington;  
9 d) Statutes and common law of the State of Illinois; and  
10 e) Any other applicable laws, domestic, foreign, or international.

11 **VI. FIRST CLAIM FOR RELIEF**

12 *(War Crimes)*

13 82. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1  
14 through 81 of this Complaint as if fully set forth herein.

15 83. The abuses committed against Plaintiffs and Decedents described herein were acts  
16 against a civilian population, in violation of the Fourth Geneva Convention, including but not  
17 limited to, Articles 27, 32, 33, and 53. Intentional acts on the civilian population are strictly  
18 prohibited.

19 84. The home demolition and attack on Plaintiffs and Decedents also constitute grave  
20 breaches of the Fourth Geneva Convention, found at Article 147, which includes as grave  
21 breaches: willful killing, torture or inhumane treatment, including willfully causing great  
22 suffering or serious injury to body or health, extensive destruction and appropriation of property  
23 carried out unlawfully and wantonly.

24 85. Caterpillar knew or should have known that the bulldozers it was supplying to IDF would  
25 be used to commit violations of the Geneva Convention, and that injuries complained of herein  
26 were a foreseeable result of such activity. Even with this knowledge, Caterpillar continued to

1 supply bulldozers to the IDF knowing they would be used for such illegal purposes, and they  
2 were.

3 86. Moreover, by 1) supplying, selling, and/or entrusting bulldozers used to destroy their  
4 homes and inflict severe emotional distress; 2) renewing the lease of such equipment; 3) making  
5 repairs and/or supplying necessary parts and/or training, support, manuals, specialized  
6 knowledge, or other important information for the bulldozers; and/or 4) failing to provide a  
7 warning regarding the use of the bulldozers, or to recall the bulldozers, cancel, or suspend the  
8 lease and/or sales of the bulldozers to the IDF even though legally entitled to do so, after it was  
9 foreseeable that acting or failing to act could lead to such abuses, and even after it knew or  
10 should have known through actual or constructive notice that the bulldozers were being used to  
11 commit war crimes, Caterpillar is directly responsible for war crimes.

12 87. Alternatively, and/or in addition to committing a war crime against Plaintiffs and  
13 decedents, IDF's actions described above constituted war crimes against the Palestinian civilian  
14 population, and by knowingly supplying the bulldozers to IDF when it knew or should have  
15 known that the bulldozers were being used to commit war crimes against the Palestinian civilian  
16 population, Caterpillar aided and abetted, conspired in, confirmed, and/or ratified IDF's war  
17 crimes. Plaintiffs and decedents were foreseeable victims of such crimes, and such crimes  
18 proximately caused the injuries complained of herein.

19 88. Defendant's acts and omissions constitute "tort[s] ..committed in violation of the law of  
20 nations or a treaty of the United States" under 28 U.S.C. §1350 and also violate 28 U.S.C. § 1331  
21 in that the acts and omissions against Plaintiffs violated customary international law prohibiting  
22 war crimes as reflected, expressed, and defined in multilateral treaties and other international  
23 instruments, international and domestic judicial decisions, and other authorities.

24 89. Violations of these provisions of the Geneva Conventions are direct and enforceable  
25 treaty violations as well as violations of customary international law.

1 90. The acts and omissions constituting war crimes caused Plaintiffs to suffer damages,  
2 including severe physical and mental pain and suffering, in amounts to be determined at trial.

3 91. Defendant's acts and omissions were deliberate, willful, intentional, wanton, malicious  
4 and oppressive, and should be punished by an award of punitive damages in an amount to be  
5 determined at trial.

## 6 **VII. SECOND CLAIM FOR RELIEF**

### 7 *(Extrajudicial Killing)*

8 92. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1  
9 through 91 of this Complaint as if fully set forth herein.

10 93. The bulldozer drivers who caused the deaths of Rachel Corrie; Umar, Fatima, Abir,  
11 Samir, Anas, Azzam and Abdallah Al Sho'bi; Jamal Fayed; and Ibrahim Mahmoud Mohammed  
12 Khalafallah ("Decedents") acted under the actual or apparent authority and/or color of law of the  
13 IDF.

14 94. The killings of Decedents were deliberate and not authorized by a previous judgment  
15 pronounced by a regularly constituted court affording all the judicial guarantees that are  
16 recognized as indispensable by civilized peoples. The killings were not lawfully carried out  
17 under the authority of any country or court.

18 95. The killings of Decedents constitute extrajudicial killings as defined by the Torture  
19 Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350  
20 (note)). Additionally, the killings also constitute torts committed in violation of the law of  
21 nations, and thus of the United States, as reflected in federal common law which incorporates  
22 extrajudicial killing, pursuant to 28 U.S.C. §§ 1331 and 1350. Thus, the conduct constitutes  
23 violations of the law of nations and customary international law prohibiting extrajudicial killing,  
24 reflected, expressed, defined and codified in multilateral treaties and other international  
25 instruments, international and domestic judicial decisions, and other authorities, and is thus  
26 actionable.

1 96. Caterpillar knew or should have known that the bulldozers it was supplying to the IDF  
2 would be used to commit extrajudicial killings, and/or that the bulldozers it was supplying would  
3 be used to commit other human rights abuses, and that extrajudicial killings were a foreseeable  
4 result of such activity. Even with this knowledge, Caterpillar continued to supply bulldozers,  
5 and/or repairs, and/or parts, and/or training to the IDF.

6 97. Caterpillar gave substantial assistance to the IDF either by 1) supplying, selling, and/or  
7 entrusting bulldozers used to destroy their homes and inflict severe emotional distress; 2)  
8 renewing the lease of such equipment; 3) making repairs and/or supplying necessary parts and/or  
9 training, support, specialized knowledge, manuals, or other important information for the  
10 bulldozers; and/or 4) failing to provide a warning regarding the use of the bulldozers or to recall  
11 the bulldozers, cancel, or suspend the lease and/or sales of the bulldozers to the IDF even though  
12 legally entitled to do so, after it was foreseeable that acting or failing to act could lead to such  
13 abuses, and even after it knew or should have known through actual or constructive notice that  
14 the bulldozers were being used to commit extrajudicial killings. Thus, Caterpillar aided and  
15 abetted, conspired in, confirmed, and/or ratified this extrajudicial killing, and this was a  
16 proximate cause of the extrajudicial killing. Decedents were foreseeable victims of these acts.

17 98. Upon information and belief, because the conduct giving rise to the claim occurred in the  
18 United States—*i.e.*, the contracting and/or aiding and abetting and/or ratification—Plaintiffs are  
19 exhausting their remedies by bringing this action domestically.

20 99. In the alternative, no adequate remedies against Caterpillar are available to Plaintiffs  
21 under the laws or in the courts of the State of Israel and/or the Palestinian Authority.

22 100. Defendant's acts and omissions described caused Plaintiffs and Decedents' next of kin to  
23 suffer damages, including severe mental and emotional pain and suffering in an amount to be  
24 proven at trial.

1 101. Defendant's acts and omissions were deliberate, willful, intentional, wanton, malicious  
2 and oppressive, and should be punished by an award of punitive damages in an amount to be  
3 determined at trial.

4 **VIII. THIRD CLAIM FOR RELIEF**

5 *(Cruel, Inhuman or Degrading Treatment or Punishment)*

6 102. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1  
7 through 101 of this Complaint as if fully set forth herein.

8 103. The abuses committed against Plaintiffs and Decedents described herein each separately  
9 constitutes cruel, inhuman, or degrading treatment or punishment ("CIDTP"). These acts  
10 include, but are not limited to: the illegal destruction of homes resulting in severe physical and  
11 psychological abuse and agony, humiliation, fear and debasement; the injury of family members  
12 during such destruction, resulting in profound fear and anguish.

13 104. Caterpillar knew or should have known that the bulldozers it was supplying to Israel were  
14 being and would be used to commit CIDTP. Moreover, by 1) supplying, selling, and/or  
15 entrusting bulldozers to IDF used to destroy homes and inflict severe emotional distress; 2)  
16 renewing the leases of such; 3) making repairs and/or supplying necessary parts and/or training,  
17 support, manuals, specialized knowledge, or other important information for the bulldozers;  
18 and/or 4) failing to provide a warning regarding the use of the bulldozers or to recall the  
19 bulldozers, cancel, or suspend the lease and/or sales of the bulldozers to the IDF even though  
20 legally entitled to do so, after it was foreseeable that acting or failing to do so could lead to such  
21 abuses, and after it knew or should have known through actual or constructive notice that the  
22 bulldozers were being used to commit CIDTP.

23 105. Caterpillar aided and abetted, conspired in, confirmed, and/or ratified this CIDTP, and  
24 this aiding and abetting proximately caused the abuses described herein.

25 106. Such acts were a proximate cause of the injuries complained of in this Complaint.  
26 Decedents were foreseeable victims of such acts.



1 107. Defendant's acts and omissions constitute aiding and abetting, conspiracy in, confirmation  
2 and/or ratification of torts committed in violation of the law of nations, and thus of the United  
3 States, as reflected in federal common law, or a treaty of the United States, pursuant to 28 U.S.C.  
4 §§ 1331 and 1350, in that the acts and omissions against Plaintiffs violated customary  
5 international law prohibiting CIDTP as reflected, expressed, and defined in multilateral treaties  
6 and other international instruments, international and domestic judicial decisions, and other  
7 authorities.

8 108. Defendant's acts and omissions described caused Plaintiffs to suffer damages, including  
9 severe mental and emotional pain and suffering in an amount to be proven at trial.

10 109. Defendant's acts and omissions were deliberate, willful, intentional, wanton, malicious  
11 and oppressive, and should be punished by an award of punitive damages in an amount to be  
12 determined at trial.

13 110. Defendant's acts and omissions were deliberate, willful, intentional, wanton, malicious  
14 and oppressive, and should be punished by an award of punitive damages in an amount to be  
15 determined at trial.

16 **IX. FOURTH CLAIM FOR RELIEF**

17 *(Violations of the Racketeer Influenced and*  
18 *Corrupt Organizations Act)*

19 111. The allegations set forth in paragraphs 1 through 110 of this Complaint are realleged  
20 and incorporated by reference as if fully set forth herein.

21 112. From not later than 1999 to the present, Defendant Caterpillar, Inc. and its agents  
22 and/or co-conspirators, including the IDF, formed a RICO "enterprise" within the meaning of 18  
23 U.S.C. § 1961(4) engaged in foreign and interstate commerce.

24 113. Alternatively, Defendant and its agents and/or co-conspirators, including the IDF,  
25 constituted an association in fact for a common purpose with a continuous existence separate and  
26

1 apart from the pattern of racketeering activity in which they engaged. This association in fact  
2 constituted an enterprise within the meaning of 18 U.S.C. § 1961(4).

3 114. Defendant is an "individual or entity capable of holding a legal or beneficial interest  
4 in property" and, as such, constitutes a "person" within the meaning of 18 U.S.C. § 1961(3).

5 115. Defendant is engaged in interstate acts of commerce and the acts alleged herein have  
6 a potential effect on commerce.

7 116. At all times relevant to this Complaint, the Defendant, and its agents and co-  
8 conspirators conducted, or participated directly or indirectly in the conduct of the affairs of the  
9 enterprise through a pattern of racketeering activity, within the meaning of 18 U.S.C. § 1961 (1)  
10 (5), in violation of 18 U.S.C. § 1962 (c).

11 117. At all times relevant to this Complaint, the Defendant, in violation of 18 U.S.C. §  
12 1962(d) combined and conspired together and with its agents and co-conspirators, including the  
13 IDF, to conduct the affairs of the enterprise through a pattern of racketeering activity.

14 118. In furtherance of the conspiracy, and to affect the objects thereof, the Defendant  
15 committed overt acts as set forth more fully in paragraphs 1 through 110.

16 119. Beginning not later than 1999 and continuing to the present, in violation of 18 U.S.C  
17 §§ 1962(c) and (d), Defendant, with its agents and co-conspirators, including the IDF, conspired  
18 to and did conduct the affairs of the enterprise through a pattern of racketeering activity.

19 120. The pattern of racketeering activity alleged in paragraphs 1 through 110 above  
20 included the following specific acts, all of which constituted and are defined as racketeering  
21 activity by 18 U.S.C. § 1961(1) and all of which are set forth in the specific numbered  
22 paragraphs herein which are realleged and incorporated here by reference as if fully set forth, as  
23 follows:

- 24 a) murder, 18 U.S.C. § 1111 and RCW § 9A.32;
- 25 b) robbery, 18 U.S.C. § 1951 and RCW § 9A.56.190;
- 26 c) extortion, 18 U.S.C. § 1951 and RCW § 9A.56.110;

1 d) physical violence resulting in serious bodily injury to a national of the United States,  
2 18 U.S.C. 2332(c)(2).

3 121. In violation of the Hobbs Act, it was the object of the extortion to force Plaintiffs to  
4 surrender their property.

5 122. The losses resulting from the pattern of racketeering activity were directly and  
6 substantially caused by Defendant's conduct in the United States. Specifically, it is alleged, upon  
7 information and belief, that:

8 a) Defendant manufactured the bulldozers in the United States;

9 b) Defendant conducted research, design and development on the bulldozers in the  
10 United States. Given the nature of the use of the bulldozers by the Israel Defense Forces, such  
11 Research and Development, upon information and belief, required significant collaboration and  
12 technology sharing with the Israel Defense Forces;

13 c) Defendant undertook all manner of financing, sales and servicing efforts in the  
14 United States, including, but not limited to, general marketing, direct sales, contract negotiations,  
15 financing and leasing arrangements, project management, after-sales support and other technical  
16 support;

17 d) Defendant undertook training of the Israel Defense Forces regarding the operation  
18 and maintenance of the bulldozers, and either that training took place in the United States, or was  
19 developed in the United States;

20 e) Defendant transported the bulldozers, related technology and spare parts in the  
21 United States for ultimate delivery to the Israel Defense Forces.

22 123. As a direct and proximate result of the Defendant's violations of 18 U.S.C. §§ 1962  
23 (b), (c) and (d) Plaintiffs Fayed, Al Sho'bi, Abu Hussein, and Khalafallah have suffered injuries  
24 to their business or property.

25 124. The injuries suffered by each Plaintiff were reasonably foreseeable or anticipated by  
26 the Defendant as the natural consequence of Defendant's acts.

1 **X. FIFTH CLAIM FOR RELIEF**

2 *(Wrongful Death)*

3 125. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1  
4 through 124 of this Complaint as if fully set forth herein.

5 126. Defendant owed a duty to Decedents because they were foreseeable victims of IDF's  
6 illegal use of the bulldozers, based on the previous notice it had received.

7 127. Defendant breached that duty either by 1) supplying, selling, and/or entrusting to the IDF  
8 bulldozers; 2) renewing the lease of such bulldozers; 3) making repairs and/or supplying  
9 necessary parts and/or training, support, manuals, or other important information for the  
10 bulldozers; and/or 4) failing to recall the bulldozers, re-design, cancel or suspend the lease and/or  
11 sales of the bulldozers to the IDF and/or failing to retrain users of its equipment even though  
12 legally entitled to do so, when it was reasonably foreseeable that those bulldozers were being  
13 misused to destroy homes and other civilian property and to commit such abuses including the  
14 killing of civilians and causing severe emotional distress.

15 128. As a direct and proximate cause of Defendant's breach of duty, Decedents were killed. It  
16 was reasonably foreseeable that use of Defendant's bulldozers would cause such deaths.

17 129. Cynthia Corrie and/or Craig Corrie are the personal representative(s) of Rachel Corrie's  
18 estate and bring this claim on behalf of all of Rachel's next of kin, including themselves and her  
19 siblings.

20 130. Plaintiff Mahmoud Al Sho'bi is entitled to bring a claim of wrongful death on behalf of  
21 his deceased family members and their next of kin, including his surviving siblings.

22 131. Plaintiff Fathiya Muhammad Sulayman Fayed is entitled to bring a claim of wrongful  
23 death on behalf of her son, Jamal Fayed, and all of his next of kin.

24 132. Plaintiff Eida Ibrahim Suleiman Khalafallah is entitled to bring a claim of wrongful death  
25 on behalf of her husband, Ibrahim Mahmoud Mohammed Khalafallah, and all of his next of kin.  
26

1 133. Defendant's acts and omissions described herein caused Plaintiffs and all of Decedents'  
2 next of kin, including their siblings, parents, and children, to suffer damages, including pecuniary  
3 damages, in an amount to be proven at trial.

4 134. Defendant's acts and omissions were deliberate, willful, intentional, wanton, malicious  
5 and oppressive, and should be punished by an award of punitive damages in an amount to be  
6 determined at trial.

7 **XI. SIXTH CLAIM FOR RELIEF**

8 *(Public Nuisance)*

9 135. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1  
10 through 134 of this Complaint as if fully set forth herein.

11 136. The Palestinian public and non-Palestinian civilians in the area, such as Rachel Corrie,  
12 had and have a right to health, the public safety, the public peace, the public comfort, and/or the  
13 public convenience.

14 137. The IDF has interfered with the aforementioned rights by committing the abuses  
15 described herein. The Defendant has also interfered with these rights by 1) supplying, selling,  
16 and/or entrusting bulldozers used to destroy homes and inflict severe emotional distress; 2)  
17 renewing the lease of such equipment; 3) making repairs and/or supplying necessary parts and/or  
18 training, support, manuals, specialized knowledge, or other important information for the  
19 bulldozers; and/or 4) failing to recall the bulldozers, re-design, cancel or suspend the lease and/or  
20 sales of the bulldozers to the IDF and/or failing to retrain users of its equipment even though  
21 legally entitled to do so, after it was foreseeable and/or after it knew or should have known that  
22 IDF would use those bulldozers to intentionally interfere with the aforementioned rights. By so  
23 doing, Defendant has created a public nuisance.

24 138. Defendant's acts and omissions described caused Plaintiffs to suffer damages, including  
25 severe mental and emotional pain and suffering in an amount to be proven at trial.

1 139. Defendant's acts and omissions were deliberate, willful, intentional, wanton, malicious  
2 and oppressive, and should be punished by an award of punitive damages in an amount to be  
3 determined at trial.

## 4 **XII. SEVENTH CLAIM FOR RELIEF**

### 5 *(Negligence)*

6 140. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1  
7 through 139 of this Complaint as if fully set forth herein.

8 141. Defendant owed a duty to Plaintiffs and Decedents because they were foreseeable victims  
9 of IDF's illegal use of Defendant's bulldozers.

10 142. Defendant breached that duty by 1) supplying, selling, and/or entrusting bulldozers used  
11 to destroy homes and inflict severe emotional distress; 2) renewing the lease of such equipment;  
12 3) making repairs and/or supplying necessary parts and/or training, support, manuals, or other  
13 important information for the bulldozers; and/or 4) failing to recall the bulldozers, re-design,  
14 cancel or suspend the lease and/or sales of the bulldozers to the IDF and/or failing to retrain  
15 users of its equipment even though legally entitled to do so, after it was foreseeable and/or after  
16 it knew or should have known that IDF would use those bulldozers to engage in illegal activity.  
17 By so doing, Defendant has committed negligence.

18 143. As a direct and proximate cause of Defendant's breach of duty, Plaintiffs and decedents  
19 were harmed. It was reasonably foreseeable that use of Defendant's bulldozers would cause this  
20 harm.

21 144. Defendant's acts and omissions described caused Plaintiffs and Decedents to suffer  
22 damages in an amount to be proven at trial.

23 145. Defendant's acts and omissions were deliberate, willful, intentional, wanton, malicious  
24 and oppressive, and should be punished by an award of punitive damages in an amount to be  
25 determined at trial.

1  
2 **XIII. PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiffs pray for judgment against the Defendant as follows:

- 4 a. For compensatory damages in an amount to be proven at trial, but in an amount over  
5 \$75,000;
- 6 b. For punitive and exemplary damages in an amount to be proven at trial;
- 7 c. For treble damages;
- 8 d. For reasonable attorneys' fees and costs of suit;
- 9 e. For injunctive and declaratory relief, including, but not limited to, an order directing  
10 Defendant to cease its participation in the provision of equipment and services to the Israel  
11 Defense Forces until the resulting human rights violations and war crimes, including the above-  
12 described policies of home demolitions cease, and such other injunctive relief as this Court  
13 deems appropriate;
- 14 f. For such other and further relief as the Court may deem just and proper.

15 A jury trial is demanded on all issues.

16  
17 DATED this 2nd of May, 2005.

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