

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

KEN **WIWA**, individually and as Executor of the Estate of his deceased father KEN SARO-WIWA; and OWENS WIWA; and BLESSING KPUINEN, individually and as Administratrix of the Estate of her husband, JOHN KPUINEN,

Plaintiffs,

vs.

BRIAN **ANDERSON**

Defendant.

COMPLAINT FOR SUMMARY EXECUTION; CRIMES AGAINST HUMANITY; TORTURE; CRUEL, INHUMAN OR DEGRADING TREATMENT; ARBITRARY ARREST AND DETENTION; VIOLATION OF THE RIGHTS TO LIFE, LIBERTY AND SECURITY OF PERSON AND PEACEFUL ASSEMBLY AND ASSOCIATION; WRONGFUL DEATH; ASSAULT AND BATTERY; INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS; AND NEGLIGENCE

DEMAND FOR JURY TRIAL

Introduction

1. On November 10, 1995, internationally renowned author and human rights and environmental activist Ken Saro-Wiwa and youth leader John Kpuinen were hanged in Port Harcourt, Nigeria. Ken Saro-Wiwa was the leader of the Movement for the Survival of Ogoni People ("MOSOP") and John Kpuinen was the Deputy President of MOSOP's youth wing, the National Youth Council of Ogoni People ("NYCOP"). Saro-Wiwa and Kpuinen were among a group of activists falsely accused of murder and tried before a special tribunal in proceedings which violated international standards of due process.

2. The executions of Ken Saro-Wiwa and John Kpuinen by the Nigerian military junta and the campaign to falsely accuse them were carried out with the knowledge, consent, and/or support of Defendant Brian Anderson, then Managing Director of the Nigerian subsidiary of Royal Dutch Petroleum Company and Shell Transport and Trading Company, p.l.c., ("Royal Dutch/Shell") as part of a pattern of collaboration and/or conspiracy between Royal Dutch/Shell and the military junta of Nigeria to violently and ruthlessly suppress any opposition to Royal Dutch/Shell's conduct in its exploitation of oil and natural gas resources in Ogoni and in the Niger Delta.

3. Defendant Brian Anderson, acting on behalf of Royal Dutch/Shell, in concert with the military regime Nigeria, have, in the past and continuing through the present, used force and intimidation to silence any opposition to their activities in Nigeria which include the exploitation of the petroleum resources of the Delta and spoliation of the environment there. Defendant's conduct described herein violates state and federal law, and international law, including the prohibitions against torture, summary execution, and crimes against humanity.

4. This Court has jurisdiction over Plaintiffs' claims under 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 1350 (Alien Tort Claims Act and Torture Victim Protection Act).

5. In addition, Plaintiffs invoke the supplemental jurisdiction of this Court, 28 U.S.C. § 1367, over claims based upon laws of the State of New York.

PARTIES

6. Plaintiff Ken Wiwa brings this action individually and as executor of the estate of his father, Ken Saro-Wiwa, now deceased, who was a subject, citizen, and resident of Nigeria. Ken Wiwa presently resides in Canada.

7. Plaintiff Owens Wiwa is a resident of Canada and a citizen of Nigeria. He is the brother of Ken Saro-Wiwa.

8. Plaintiff Blessing Kpuinen brings this action individually and as administratrix of the estate of her husband, John Kpuinen, now deceased, who was a subject, citizen, and resident of Nigeria. Plaintiff Kpuinen presently resides in the United States and is a citizen of Nigeria.

9. At all time relevant to this complaint, Defendant Brian Anderson was Country Chairman of Nigeria for Royal Dutch/Shell and Managing Director of Shell Petroleum Development Co., Ltd. (SPDC). He was responsible for all of Royal Dutch/Shell's activities in Nigeria and specifically controlled and directed the actions of SPDC. He currently resides in China. Upon information and belief, Mr. Anderson was not subject to the jurisdiction of the courts of Nigeria after 1997.

10. Plaintiffs are informed and believe, and on that basis allege, that at all times herein material: (a) Defendant Brian Anderson, acting on behalf of Royal Dutch/Shell and in the name of SPDC employed and/or worked in concert with the Nigerian military regime; and (b) the Nigerian military regime was acting as the agent of, and/or working in concert with Royal Dutch/Shell through its representative Brian Anderson, and was acting within the course and scope of such agency, employment and/or concerted activity. To the extent that said conduct was perpetrated by the military regime, Brian Anderson conspired in, confirmed, and/or ratified, the same.

11. Plaintiffs are informed and believe, and on that basis allege, that at all times herein material, that Brian Anderson conspired with the military regime by entering into an agreement to commit wrongful and tortious acts contained herein and participated in or committed a wrongful act in furtherance of said conspiracy which resulted in injury to the Plaintiffs.

STATEMENT OF FACTS

General Facts

12. Ogoni is a densely populated rural area of approximately 404 square miles in southern Nigeria.

13. Royal Dutch/Shell began oil production in the Ogoni region in or about 1958.

14. Royal Dutch/Shell appropriated land used for oil exploitation through misrepresentation and coercion and without adequate compensation to the owners.

15. Upon information and belief, approximately 76 percent of the natural gas produced during the exploration and exploitation of the crude oil in Ogoni has been permitted to flare, thereby causing persistent air and noise pollution and reduced agricultural yields in the surrounding area.

16. The oil-related pollution caused by Royal Dutch/Shell's activities has contaminated the local water supply and agricultural land and killed fish; the local economies are based largely on subsistence farming and fishing.

17. Nigeria produces approximately 1.7 to 1.8 million barrels per day of oil. Approximately 90% of this yield is produced in the area of the Niger Delta, which contains the Ogoni region.

18. Approximately 40% of Nigeria's oil production is exported to the United States.

19. With defendant's participation, Royal Dutch/Shell's operations in Ogoni and the Niger Delta negligently and with reckless disregard for its effect on the population, wildlife and land of Ogoni. For example:

a. The manner of Royal Dutch/Shell's operation leads and has led repeatedly to oil spillage and gas flares.

20. At all times relevant hereto, the Nigerian military regime was acting in conspiracy with, at the request of and/or on behalf of Defendant. In the alternative, the regime was acting at all times relevant hereto as an agent for Defendant. Upon information and belief, the acts of conspiracy include, but are not limited to, the following:

a. With defendant's participation, Royal Dutch/Shell's payments, directly or indirectly, to the military, police (including supernumerary police), intelligence, and/or other personnel assigned to Royal Dutch/Shell installations in Nigeria;

b. With defendant's participation, Royal Dutch/Shell's contracting for the purchase of weapons, directly or indirectly, from or for the Nigerian police (including supernumerary police), military, intelligence, and/or other security agencies or forces or individuals;

c. With defendant's participation, the surveillance, monitoring and exchange of intelligence between Royal Dutch/Shell and the Nigerian military, police (including supernumerary police), intelligence, and/or other security agencies or forces or individuals;

d. With defendant's participation, Royal Dutch/Shell's logistical support, directly or indirectly, to the Nigerian police (including supernumerary police), military, intelligence, and/or other security agencies or forces by the provision of transportation vehicles, patrol boats, ammunition and other materiel;

e. With defendant's participation, Royal Dutch/Shell's participation in the planning and coordination of "security operations" including raids and terror campaigns conducted in Ogoni and the Niger Delta, through regular meetings between Royal Dutch/Shell, their agents, alter-egos, co-conspirators, and officials of the local security forces;

f. With defendant's participation, the hiring by Royal Dutch/Shell of security personnel from the ranks of the Nigerian police to implement the operations referred to in subparagraph (e) above;

g. With defendant's participation, the campaign to arrest and execute Ken Saro-Wiwa and John Kpuinen on fabricated murder charges, including Shell's bribery or attempted bribery of two witnesses to give false testimony against Saro-Wiwa;

h. With defendant's participation, a coordinated media and public relations campaign by Royal Dutch/Shell and the Nigerian government to discredit MOSOP leaders, attributing to MOSOP and Saro-Wiwa airplane hijacking, kidnapping, and other acts of violence.

21. Beginning in 1990, the Ogoni engaged in peaceful protest against the operations of Royal Dutch/Shell's SPDC. On numerous occasions, these protests were met with violent repression carried out by the Nigerian military at the request of and with the support of Royal Dutch/Shell.

22. By 1993, at least 300,000 Ogonis, more than half the population of Ogoni, supported MOSOP, a human rights organization aimed at protecting the rights of the Ogoni people, including protesting the effects of the oil exploitation on the Ogoni.

23. In April 1994, Nigerian security forces supported attacks on eight Ogoni villages and burned down the villages of Ledor on April 16 and Tumble on April 18, 1994.

24. On or about April 21, 1994, Lieutenant Colonel Komo, the Head of Rivers State sent a memo to the head of the Internal Security Task Force detailing an extensive military presence and policy of military intervention in Ogoni, in order to ensure that those "carrying out business ventures...within Ogoniland are not molested."

25. On or about May 12, 1994, the Rivers State Internal Security Task Force, a military unit headed by Major Paul Okuntimo, reported that "Shell operations still impossible unless ruthless military operations are undertaken for smooth economic activities to commence," and proposed that the Nigerian Police exert pressure on Shell for regular payments from Royal Dutch/Shell to support the operations.

26. On May 21, 1994, four Ogoni tribal leaders were killed.

27. Between May and August 1994, the Rivers State Internal Security Task Force mounted several months of nightly raids through at least sixty towns and villages in Ogoni, to punish entire communities for their support for MOSOP. During these raids, the military broke into homes, beating anyone in their path, including the elderly, women and children, raping, forcing villagers to pay "settlement fees," bribes and ransoms to secure their release, forcing the Ogonis to flee and abandon their homes, and burning, destroying or looting property. At least fifty Ogonis were killed.

28. Between May 1994 and August 1994, several hundred young Ogoni men were arrested, detained and flogged on a daily basis because of their real or imagined affiliation with MOSOP. 29. On or about May 22, 1994, Ken Saro-Wiwa was arrested and detained without charges by the Nigerian military and the arrest of the entire MOSOP leadership was ordered by the Rivers State military administrator.

30. Ken Saro-Wiwa, John Kpuinen and others were arrested because of their non-violent opposition to the activities of Royal Dutch/Shell and the Nigerian military regime.

31. No charges were filed against them for eight months after their arrest and detention.

32. In November, 1994, a three-man tribunal ("Civil Disturbances Special Tribunal") was created and specially appointed by the Nigerian military regime to try Ken Saro-Wiwa, John Kpuinen, and other Ogoni leaders for the May 21, 1994 murder of four Ogoni tribal leaders.

33. On or about March 16, 1995, on information and belief, top Royal Dutch/Shell executives met in London with the Nigerian High Commissioner, and top Nigerian military officers to discuss common strategy regarding Ken Saro-Wiwa and the Ogoni campaign, including a joint media campaign and other action.

34. On March 18, 1995, the Civil Disturbances Special Tribunal assumed jurisdiction over the cases of ten additional Ogoni leaders who were formally charged with murder on April 7, 1995.
35. The creation of the Civil Disturbances Special Tribunal and the conduct of the ensuing trial violated customary international law because, inter alia:
- a. An edict creating the Civil Disturbances Special Tribunal and providing the death penalty was given retroactive effect;
 - b. the Civil Disturbances Special Tribunal's judgment was not subject to review by a higher court;
 - c. the accused met with their counsel only with the permission of and in the presence of a military officer.
36. Defense counsel for the accused were subjected to threats of beatings and Ken Saro-Wiwa's 74-year-old mother, as well as other family members, were beaten when attending the Civil Disturbances Special Tribunal hearing.
37. The accused were denied adequate food and medical care, beaten and subjected to other torture.
38. Royal Dutch/Shell promised bribes to at least two key witnesses to give false testimony against Saro-Wiwa.
39. On January 4, 1995, soldiers dispersed peaceful demonstrations protesting Royal Dutch/Shell's operation and the arrest of Saro-Wiwa, Kpuinen and the others with shootings, beatings and arrests, extorting money from those whom they released.
40. Those incarcerated as a result of the January 4, 1995 protest were subjected to floggings and other torture.
41. In June 1995, the team of defense lawyers representing Saro-Wiwa and Kpuinen withdrew from the proceedings as a protest against the flagrant violations of international standards of due process in the two concurrent trials.
42. Upon information and belief, Royal Dutch/Shell held meetings with the Nigerian military regime to discuss strategies concerning the unlawful execution of Saro-Wiwa.
43. Defendant Brian Anderson met with Plaintiff Owens Wiwa and offered to trade Ken Saro-Wiwa's freedom for an end to the international protests against Royal Dutch/Shell.
44. On or about October 30 and 31, 1995, Ken Saro-Wiwa, John Kpuinen, and seven other Ogoni activists were condemned to death by the military-appointed special tribunal, in violation of international law and the laws of Nigeria.

45. Ken Saro-Wiwa, John Kpuinen and the others scheduled for execution were beaten, denied food, water or bedding for a period of days prior to their execution.

46. On November 10, 1995, Plaintiffs Ken Saro-Wiwa and John Kpuinen were hanged.

47. On November 13, 1995, Plaintiff Owens Wiwa, who had previously been arrested and detained without charges, fled Nigeria because he feared arbitrary arrest, torture and death.

48. Plaintiff Owens Wiwa was forced to leave his medical clinic and his work as a doctor.

49. On December 15, 1995, Royal Dutch/Shell signed an agreement to invest \$4 billion in a natural gas project in Nigeria.

50. Other Ogonis were also detained and charged with murder in connection with the same allegations and before the same Civil Disturbances Special Tribunal that convicted Saro-Wiwa and Kpuinen.

51. Eighteen Ogonis, most held without trial since mid-1994, were charged in May 1995 on a "holding charge" of murder. Of those eighteen, one died in detention and two were released.

52. Four others were charged with murder in the magistrate's court on October 27, 1995.

53. Upon information and belief, Brian Anderson acting on behalf of Royal Dutch/Shell directed and/or conspired in or participated with Shell's private police in the arrests, beatings and torture of some of the nineteen arrested.

54. The nineteen Ogonis continued to be detained without trial under conditions violative of minimum international standards until 1998.

55. Oil revenues provide 80% of Nigeria's federal government budget.

56. Oil from Nigeria accounts for approximately 14% of Royal Dutch/Shell's global oil production.

57. At all times relevant herein, Brian Anderson knew or should have known that the Nigerian regime, its army and police committed human rights abuses, including summary executions, in connection with the exploitation of oil in Ogoni and the Niger Delta.

General Allegations

58. The acts described herein were inflicted under color of law and under color of official authority, and/or in conspiracy with or on behalf of those acting under color of official authority.

59. The acts and injuries to Plaintiffs and their next-of-kin described herein were part of a pattern and practice of systematic human rights violations directed, ordered, confirmed, and/or ratified by Defendant and his agents and/or committed in conspiracy with the Nigerian military regime.

60. As a direct and proximate result of Defendant's unlawful conduct, Plaintiffs have suffered and will continue to suffer harm including pain and suffering, and extreme and severe mental anguish and emotional distress. Plaintiffs are thereby entitled to general and compensatory damages in amounts to be proven at trial.

61. Plaintiffs' causes of action arise under and violate the following laws, agreements, conventions, resolutions and treaties:

(a) Alien Tort Claims Act and Torture Victim Protection Act, 28 U.S.C. § 1350;

(b) Customary international law;

(c) United Nations Charter, 59 Stat. 1031, 3 Bevans 1153 (1945);

(d) Universal Declaration of Human Rights, G.A. Res. 217A(iii), U.N. Doc. A/810 (1948);

(e) International Covenant on Civil and Political Rights, G.A. Res. 2220A(xxi), 21 U.N. Doc., GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966);

(f) Convention 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 1100, U.N. Doc. A/39/51 (1984);

(g) 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);

(h) Common law of the United States of America;

(i) Statutes and common law of the State of New York, including but not limited to wrongful death, assault and battery, intentional infliction of emotional distress, negligent infliction of emotional distress, and negligence; and the

(j) Laws of Nigeria.

**FIRST CLAIM FOR RELIEF
(Summary execution)**

62. The allegations set forth in paragraphs 1 through 61 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

63. The deliberate killings, under color of law, of Ken Saro-Wiwa and John Kpuinen were not authorized by a lawful judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

64. The acts described herein constitute summary execution in violation of the Alien Tort Claims Act, the Torture Victim Protection Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 61 herein.

65. Defendant is liable for the killings in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the deaths of Ken Saro-Wiwa and John Kpuinen.

**SECOND CLAIM FOR RELIEF
(Torture)**

66. The allegations set forth in paragraphs 1 through 65 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

67. The tortures of Ken Saro-Wiwa and John Kpuinen as described herein were inflicted deliberately and intentionally for purposes which included, among others, punishing the victim or intimidating the victim or third persons.

68. The acts described herein constitute torture in violation of the Alien Tort Claims Act, the Torture Victim Protection Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 61 herein.

69. Defendant is liable for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the Nigerian military regime in bringing about the torture of Ken Saro-Wiwa and John Kpuinen.

**THIRD CLAIM FOR RELIEF
(Cruel, Inhuman, or Degrading Treatment)**

70. The allegations set forth in paragraphs 1 through 69 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

71. The acts described herein had the intent and the effect of grossly humiliating and debasing the Plaintiffs, forcing them to act against their will and conscience, inciting fear and anguish, breaking physical or moral resistance, and forcing them to leave their home and country and flee into exile.

72. The acts described herein constitute cruel, inhuman or degrading treatment in violation of the Alien Tort Claims Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 61 herein.

73. All Plaintiffs were placed in great fear for their lives and forced to suffer severe physical and psychological abuse and agony.

74. Defendant is liable for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime to cause the cruel, inhuman or degrading treatment of Ken Saro-Wiwa, John Kpuinen, Owens Wiwa, and Blessing Kpuinen.

FOURTH CLAIM FOR RELIEF (Arbitrary Arrest and Detention)

75. The allegations set forth in paragraphs 1 through 74 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

76. The arbitrary arrests and detention of Ken Saro-Wiwa, John Kpuinen and Owens Wiwa were illegal and unjust, and in violation of customary international law.

77. Plaintiffs Ken Saro-Wiwa, John Kpuinen and Owens Wiwa were placed in fear for their lives, were deprived of their freedom, separated from their families and forced to suffer severe physical and mental abuse.

78. The acts described herein constitute arbitrary arrest and detention in violation of the Alien Tort Claims Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 61 herein.

79. Defendant is liable for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the arbitrary arrests and detention of Ken Saro-Wiwa, John Kpuinen and Owens Wiwa.

FIFTH CLAIM FOR RELIEF (Violation of the Rights to Life, Liberty and Security of Person and Peaceful Assembly and Association)

80. The allegations set forth in paragraphs 1 through 79 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

81. The arrest, detention, and executions of Ken Saro-Wiwa and John Kpuinen were violations of their rights to life, liberty and security of person and peaceful assembly and association for which Defendant is liable.

82. The arrest and detention of Owens Wiwa were violations of his rights to liberty and security of person and peaceful assembly and association for which Defendant is liable.

83. The acts described herein constitute violations of Plaintiffs' rights to life, liberty and security of person, and to peaceful assembly and association, in violation of the Alien Tort Claims Act, the Torture Victim Protection Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 61 herein.

84. Defendant is liable for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the violations of the rights to life, liberty and security of person and peaceful assembly and association.

SIXTH CLAIM FOR RELIEF (Crimes Against Humanity)

85. The allegations set forth in paragraphs 1 through 84 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

86. The acts described herein against Plaintiffs constitute crimes against humanity, in violation of customary international law which prohibits inhumane acts of a very serious nature such as willful killing, torture and arbitrary arrest and detention and other inhumane acts committed as part of a widespread or systematic attack against any civilian population or persecutions on political, racial or religious grounds. Leaders, organizers, instigators and accomplices participating in the formulation of these acts are responsible for all acts performed by any person in execution of such plan.

87. The acts described herein constitute crimes against humanity in violation of the Alien Tort Claims Act, the Torture Victim Protection Act, customary international law, the common law of the United States, the statutes and common law of New York, the laws of Nigeria, and the international treaties, agreements, conventions and resolutions described in paragraph 61 herein.

88. Defendant is liable to Plaintiffs for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the crimes against humanity committed against Plaintiffs.

**SEVENTH CLAIM FOR RELIEF
(Wrongful Death)**

89. Plaintiffs Ken Wiwa and Blessing Kpuinen on behalf of their deceased relatives, Ken Saro-Wiwa and John Kpuinen, reallege and incorporate by reference the allegations set forth in paragraphs 1 through 88 as if fully set forth herein.

90. Plaintiff Ken Wiwa is the natural son of Ken Saro-Wiwa and his heir at law.

91. Plaintiff Blessing Kpuinen is the widow of John Kpuinen and his heir at law.

92. As a direct result of the Defendant's acts and omissions and as a result of the death of his father, Plaintiff Ken Wiwa has sustained pecuniary loss resulting from loss of society, comfort, attention, services and support of decedent Ken Saro-Wiwa.

93. As a direct result of the Defendant's acts and omissions and as a result of the death of her husband, Plaintiff Blessing Kpuinen has sustained pecuniary loss resulting from loss of society, comfort, attention, services and support of decedent John Kpuinen.

94. Defendant is liable for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the wrongful deaths of Ken Saro-Wiwa and John Kpuinen.

95. The acts described herein constitute wrongful death, actionable under the laws of New York, the United States and Nigeria.

**EIGHTH CLAIM FOR RELIEF
(Assault and Battery)**

96. The allegations set forth in paragraphs 1 through 95 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

97. As a result of these acts, Plaintiffs were placed in great fear for their lives and suffered severe physical and psychological abuse and agony.

98. Defendant's acts were willful, intentional, wanton, malicious and oppressive.

99. Defendant is liable for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the assault and battery of Ken Saro-Wiwa, Owens Wiwa, John Kpuinen, and Blessing Kpuinen.

100. The acts described herein constitute assault and battery, actionable under the laws of New York, the United States and Nigeria.

**NINTH CLAIM FOR RELIEF
(Intentional Infliction of Emotional Distress)**

101. The allegations set forth in paragraphs 1 through 100 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

102. The acts described herein constitute outrageous conduct in violation of all normal standards of decency and were without privilege or justification.

103. These outrageous acts were intentional and malicious and done for the purposes of causing Plaintiffs to suffer humiliation, mental anguish and extreme emotional and physical distress.

104. As a result of Defendant's acts, Plaintiffs were placed in great fear for their lives and were forced to suffer severe physical and psychological abuse and agony.

105. Defendant is liable for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the intentional infliction of emotional distress of Ken Saro-Wiwa, John Kpuinen, Owens Wiwa, and Blessing Kpuinen.

106. Defendant's outrageous conduct constitutes the intentional infliction of emotional distress and is actionable under the laws of New York, the United States and Nigeria.

**TENTH CLAIM FOR RELIEF
(Negligent Infliction of Emotional Distress)**

107. The allegations set forth in paragraphs 1 through 106 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

108. The actions of Defendant constituted a negligent infliction of emotional distress upon said Plaintiffs.

109. Defendant carelessly and negligently inflicted said emotional distress through a wanton and reckless campaign of harassment and intimidation.

110. Defendant is liable for said conduct in that Defendant directed, ordered, confirmed, ratified, and/or conspired with the military regime in bringing about the negligent infliction of emotional distress of Ken Saro-Wiwa, John Kpuinen, Owens Wiwa and Blessing Kpuinen.

111. As a direct and legal result of Defendant's wrongful acts, Plaintiffs have suffered and will continue to suffer significant physical injury, pain and suffering and extreme and severe mental anguish and emotional distress.

112. Defendant's conduct constitutes the negligent infliction of emotional distress and is actionable under the laws of New York, the United States and Nigeria.

**ELEVENTH CLAIM FOR RELIEF
(Negligence)**

113. The allegations set forth in paragraphs 1 through 112 of this Complaint are realleged and incorporated by reference as if fully set forth herein.

114. Defendant failed to use ordinary or reasonable care in order to avoid injury to Plaintiffs. Defendant's negligence was a cause of injury, damage, loss or harm to Plaintiffs and their next of kin.

115. Defendant's conduct constitutes negligence and is actionable under the laws of New York, the United States, and Nigeria.

PRAYER FOR RELIEF

WHEREFORE, each and every Plaintiff prays for judgment against Brian Anderson, in excess of \$75,000, as follows:

(a) for compensatory damages;

(b) for punitive damages;

(c) for treble damages;

(d) for costs of suit, attorneys fees and such other relief as the Court deems just and proper.

JURY TRIAL DEMAND

Plaintiffs hereby demand a jury trial on all issues so triable.

Dated: March 5, 2001 Respectfully submitted,
New York, NY

CENTER FOR CONSTITUTIONAL RIGHTS

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