

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JOSHUA FATTAL, LAURA FATTAL,)
JACOB FATTAL, AND ALEXANDER)
FATTAL,)
c/o Gilbert LLP)
700 Pennsylvania Avenue, SE)
Suite 400)
Washington, DC 20003)
Plaintiffs,)

v.)

JURY DEMAND

THE GOVERNMENT OF THE)
ISLAMIC REPUBLIC OF IRAN,)
Its Ministries, Agencies, and)
Instrumentalities,)
c/o Ministry of Foreign Affairs)
Imam Khomeini Street)
Imam Khomeini Square)
P.O. Box 1136914811)
Tehran, Iran)
Defendant.)

Case No: ____

COMPLAINT

Plaintiffs Joshua “Josh” Fattal, Laura Fattal, Jacob Fattal, and Alexander “Alex” Fattal complain of the actions of Defendant, The Government of the Islamic Republic of Iran, Its Ministries, Agencies, and Instrumentalities, and state in support thereof as follows:

PARTIES

1. Plaintiff Josh Fattal is a United States citizen and a resident of New York. At the age of 27, Josh was falsely imprisoned and tortured for 781 days (more than two years) by Defendant, The Government of the Islamic Republic of Iran, Its Ministries, Agencies, and Instrumentalities (“Iran”).

2. Plaintiff Laura Fattal is Josh’s mother and a United States citizen. She suffered severe emotional distress as a result of her son’s imprisonment and torture by Iran.

3. Plaintiff Jacob Fattal is Josh’s father and a United States citizen. He suffered severe emotional distress as a result of his son’s imprisonment and torture by Iran.

4. Plaintiff Alex Fattal is Josh’s brother and a United States citizen. He suffered severe emotional distress as a result of his brother’s imprisonment and torture by Iran.

5. Iran is a foreign sovereign that the Secretary of State of the United States designated as a state sponsor of terrorism on January 19, 1984. *See* 49 Fed. Reg. 2836-02 (Jan. 23, 1984) (citing 50 U.S.C. App. § 2405(j) (“The Export Administration Act of 1979”), *repealed and replaced* by 50 U.S.C. § 4813(c)(3) (“The Export Control Reform Act of 2018”)).¹ Its activities as complained of herein are outside the scope of immunity provided by the Foreign Sovereign Immunities Act (“FSIA”), including 28 U.S.C. § 1605A.

JURISDICTION

6. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1330 and 1331, and pursuant to the FSIA, 28 U.S.C. § 1605A.

7. Venue lies in this Court pursuant to 28 U.S.C. § 1391(f)(4).

STATEMENT OF FACTS

8. Josh was born on June 4, 1982, in Needham, Massachusetts. He is the youngest child of Laura and Jacob Fattal, and has one older brother, Alex. When Josh was young, the family moved to Philadelphia, where Josh and Alex were raised. They were – and are – a close-knit family. Jacob was born in Iraq, and raised in Israel, where much of his extended family still lives. During their childhood, Josh and Alex would travel to Israel to visit family.

¹ *See also State Sponsors of Terrorism*, United States Department of State, <https://www.state.gov/j/ct/list/c14151.htm> (last visited June 15, 2022).

9. Josh moved to California for college, where he developed a love for traveling, nature, and culture. Josh attended the University of California, Berkeley, where he majored in environmental economics and policy. After graduating, he moved to Oregon to work for an environmental education organization. After a few years, he became a teacher's assistant for one semester as part of the International Honors Program, an academically rigorous study abroad program that traveled to Switzerland, China, India, and South Africa. In the summer of 2009, his program was wrapping up for the semester. He decided to visit Damascus, Syria, to see two of his friends who were living there—Shane Bauer and Sarah Shourd.

Josh's Imprisonment in Iran

10. In mid-July 2009, Josh visited Mr. Bauer and Ms. Shourd, who had been in Damascus for almost a year, along with their friend, Shon Meckfessel. Josh's hosts showed him around the Syrian capital and suggested a trip to Iraqi Kurdistan—the nation where his father was born. Iraqi Kurdistan was a popular travel destination for Europeans, with beautiful hiking trails and cooler summers than Damascus. It was written up in *The New York Times* in October 2008 as “the other Iraq,” and was known for being friendly to United States citizens. It was far from the combat zones of the 2003 Iraq war. The group of four arrived in Iraqi Kurdistan on July 27th.

11. On July 30, 2009, Josh, Mr. Bauer, and Ms. Shourd visited Ahmad Awa, a waterfall that was a popular tourist destination in Iraqi Kurdistan, while Mr. Meckfessel stayed behind. The area around the waterfall was filled with families picnicking and vendors selling food and souvenirs. Josh, Mr. Bauer, and Ms. Shourd asked a tea vendor if there were any hiking trails nearby. The vendor pointed them up a path. They spent the night camping and, the

next morning, they planned to hike for a few hours before turning around and meeting back up with Mr. Meckfessel, and then making their return trip to Damascus.

12. Josh, Mr. Bauer, and Ms. Shourd hiked for several hours, until they had left the populated waterfall far behind. Suddenly, Ms. Shourd spotted a uniformed soldier ahead. He had a gun. Josh could not see the markings on the soldier's uniform, but assumed he must be Iraqi. The soldier motioned for the three Americans to approach him, and they felt that they had no choice but to comply.

13. As they walked uphill towards the soldier, Josh grew nervous. He saw more soldiers with green uniforms and rifles appear alongside the first. As they drew closer, he noticed the pin on the soldier's uniform was the Iranian flag. Josh looked around at the mountains and nearby surroundings. There was no flag, border crossing, marked building, or any other identifying markers to indicate that the Americans had at some point crossed from Iraq into Iranian territory. Yet they were now surrounded by Iranian soldiers.

14. Josh's heart began beating furiously. He felt extremely conscious of his identity as a Jewish American with Israeli family—Josh was aware of the hostile and ongoing mutual antagonism between Iran and Israel. The soldiers took his, Mr. Bauer's, and Ms. Shourd's belongings, including their United States passports.

15. Mr. Bauer asked for permission to use his cell phone, and the soldiers surprisingly permitted him to do so. Mr. Bauer stepped aside to call Mr. Meckfessel, and told him that the three Americans were in Iranian custody. When he returned, the three gathered together and hurriedly discussed their options. What if the soldiers tried to move them to another location? They could not fight back: they were outnumbered, and the soldiers had weapons. They decided that they would go limp if the soldiers tried to move them. The soldiers soon directed them into

a Jeep. Josh and Mr. Bauer became limp, and the soldiers dragged them into the vehicle. They barked at Ms. Shourd to follow, and she reluctantly joined her companions.

16. The next few days passed in a blur of being blindfolded, hustled from car to car, being surrounded by men shouting in a foreign and unintelligible language, and directing them to walk, sit, eat, and sleep at their direction. Josh, Mr. Bauer, and Ms. Shourd were detained in several different locations in western Iran, all without explanation. Sometimes, the soldiers would say that they were heading back to Iraq. Josh tried to be optimistic, but a part of him knew they were lying.

17. The soldiers guarding Josh, Mr. Bauer and Ms. Shourd seemed not to know what to do with them. They were held overnight in a jail. In one town, the soldiers found a teacher who spoke English and interpreted for them. The soldiers interrogated them, wanting to know why they had entered Iran. Josh noticed that the interpreter looked scared, and Josh's fear increased when the interrogator asked him what his religion was. Josh, afraid of the consequences of admitting he was Jewish, lied and said that he was Christian.

18. At one point, the soldiers drove Josh, Mr. Bauer, and Ms. Shourd into the desert. Josh noticed that the soldier in the passenger seat held a gun in his lap. Josh pointed the gun out to Mr. Bauer and Ms. Shourd in a low, calm voice, as waves of fear washed over him. The soldier cocked the gun several times, and Josh tried to reassure himself that he only meant to scare them. But he envisioned himself being forced out of the car and walked slowly into the desert with Mr. Bauer and Ms. Shourd, holding hands as they were executed at gunpoint. The soldiers parked at a large, empty building in the desert, and forced the Americans out of the car. They were held in the building—a jailhouse—overnight.

19. Three days after they had crossed into Iran, Josh, Mr. Bauer, and Ms. Shourd were brought to the Iranian capital of Tehran. On the side of a bustling city street, the three were forced out of the car that had driven them six hours across the country and into a van, where they were handcuffed, blindfolded, and driven to Evin Prison in the northern edge of Tehran. Evin Prison, though Josh did not know it at the time, is a notoriously brutal prison, infamous for holding Iran's political prisoners.

20. Josh, Mr. Bauer, and Ms. Shourd were brought out of the vehicle. Once inside, Josh was dragged away from Mr. Bauer and Ms. Shourd, even as they pleaded for all three of them to remain together.

21. The guards led Josh to a small cell, about eight feet by twelve feet. There was an adjoining bathroom and three wool blankets, but no bed or mattress to sleep on. The cell had a small, barred window about ten feet off of the ground, and an overhead light that remained on at all times. Steel doors barred the entrance to the cell, with a small slot for the guards to slide food through to him at the bottom.

22. Josh remained in this cell, completely isolated, for thirty days. The guards refused to talk to him. They refused to let Josh see them. They led him to the prison's padded interrogation rooms only after he was blindfolded. The interrogators tried to make him "confess" that he was a spy for the United States. No matter how he responded to their questions, they refused to accept that he and the others were simply hiking in Iraq before being called over the border into Iran. The interrogators told him that unless he confessed, he would be in Evin Prison for a long time. On some occasions, they told him that Ms. Shourd and Mr. Bauer had already confessed. Josh had no way of knowing whether what they said was true. Josh's anxiety during those terror-filled first weeks was compounded by his refusal to eat—his only

means to coerce his captors to end his isolation from his friends. His hunger strike was ineffectual, other than a short meeting with his friends. Returned to his cell, Josh refused all food again for six more days before giving up.

23. Josh told himself that the interrogators would eventually realize that he was not a spy, and he would be allowed to leave. Over time, though, the reality of his situation sank in. The interrogators made clear that Iran did not care whether they were truly spies—they were Americans, and therefore valuable hostages for Iran’s negotiations on the world stage. They would ask Josh whether he knew about certain Iranian prisoners held by the United States. Nothing that Josh could do would convince Iran to release him. He felt powerless.

24. At one point, one of the interrogators noticed Josh’s last name was Fattal—an Arabic name—and asked again what Josh’s religion was. This time, Josh told the interrogator that he was Jewish, despite his fear of what consequences this might bring.

25. When he was in his cell, Josh was in a constant state of anxiety. He told himself that things would be sorted out soon; the guards would realize that he was no spy. But he could hear screams from others being tortured, and he was terrified that he would be next. Meanwhile, the isolation of his cell was torture enough—he was alone and afraid, with no idea what would happen to him. He did not know whether anyone knew that he was alive.

26. After 30 days in solitary confinement, Josh, along with Mr. Bauer and Ms. Shourd, was moved to another section of Evin Prison. He was again left in a small cell by himself, with only blankets to sleep on. Isolated, without any knowledge of the outside world, he struggled with insomnia, nightmares, and disorientation. The infrequent opportunities to see Mr. Bauer or Ms. Shourd in the prison courtyard for a few moments were all that kept him going. During the times in between their visits, Josh worried whether they had been freed, and whether

he was the only one left behind. He was punished with several weeks of isolation from his friends after he was caught taking a pen from the guards' desk to write notes to himself on tissues.

27. After four months and five days, Mr. Bauer was moved into Josh's cell without explanation. They had to adjust to being able to talk freely to each other after experiencing such long periods of isolation. Josh and Mr. Bauer had limited contact with Ms. Shourd, except for the short periods when they were allowed to visit her in the prison courtyard.

28. Leaving solitary confinement was initially a relief, but the psychological effects of "double solitary confinement" soon set in.² Josh shared space with Mr. Bauer at all times. A language barrier stood between him and everyone else besides the interrogators. Sharing small quarters together became so unbearable that Josh spent extra time in the bathroom and shower to get away. Arguments regularly stewed, deteriorating the mental atmosphere. Josh and Mr. Bauer eventually attempted to split the 8 foot by 12 foot cell in half by hanging a blanket, thus limiting the already tight quarters.

29. After more than six months in Evin Prison, the Iranian guards permitted Josh, Mr. Bauer, and Ms. Shourd to make a phone call. Josh was able to talk to his parents to let them know that he was alive and that he loved them. The guards cut him off after only five minutes.

30. In May 2010, Laura, along with Mr. Bauer's and Ms. Shourd's mothers, was permitted into Iran to visit her child. Josh and Laura were able to see one another for a few

² For an explanation of "double solitary confinement" and its effects, *see* Christie Thompson, "Doubling Up Prisoners in 'Solitary' Creates Deadly Consequences," NPR (Mar. 24, 2016), *available at* <https://www.npr.org/2016/03/24/470824303/doubling-up-prisoners-in-solitary-creates-deadly-consequences>, and The Marshall Project, "double solitary: A Curated Collection of Links" (last updated June 1, 2022), *available at* <https://www.themarshallproject.org/records/3555-double-solitary>.

precious hours. But at the end of the visit, Josh was forced back to his cell, and Laura returned to the United States. They had no idea when, or if, they would see one another again.

31. After being held hostage for more than a year, Ms. Shourd was released from Evin Prison on September 14, 2010, on \$500,000 bail. The three Americans had long felt that Ms. Shourd, as a woman who was held alone in solitary confinement, was the most sympathetic candidate for release—her release would make Iran appear merciful to an international audience. Josh was happy that Ms. Shourd was free to go home, but he worried that it would be quite some time before Iran released another prisoner.

32. The daily grind of prison life wore on Josh. The hanging light bulb in his cell remained on twenty-four hours a day. He heard news of Iranian politicians publicly calling for his death. He heard of other prisoners being put to death in that very prison. He banged on his metal door to combat the feeling of impotence when hearing the regular physical torture in nearby cells. He continued to have to wear a blindfold whenever he left his cell, and guards surveilled the cell at all hours. Guards prodded, poked, insulted, and goaded him on a daily basis. On more than one occasion there were physical fights between Josh and Mr. Bauer, on one side, and the guards on the other, including one instance of the guards pushing Josh down a stairwell.

33. In February 2011, approximately eighteen months after he was first detained, Josh was charged with illegal entry and espionage. He was not allowed to meet with an attorney until his trial took place in July. The following month, he and Mr. Bauer were each sentenced to eight years' imprisonment.

34. On September 21, 2011, 781 days after he first saw the Iranian soldiers at the border, Josh and Mr. Bauer were released on bail. They were flown to Oman, where they reunited with their families and Ms. Shourd.

THE FAMILY'S EFFORTS TO HELP JOSH

Laura

35. Laura was hiking with a friend on July 31, 2009, when she received a call from the United States embassy in Baghdad, informing her that Josh had been detained by Iranian forces. Fortunately, Mr. Meckfessel, after receiving the phone call from Mr. Bauer, had immediately contacted the United States embassy to let them know what had happened. Laura quickly called Jacob and Alex to relay the news.

36. Laura was immediately overwhelmed by the sudden attention from the media and from government officials. She found herself on constant conference calls with the U.S. Department of State and the Federal Bureau of Investigation. For several days, members of the media camped out in front of her house, and bombarded her with questions about Josh. Meanwhile, Laura herself had very little information about what had happened to her son. For the first month or so, she knew only that he was being held somewhere in Iran. She felt helpless, constantly wondering what was happening to her youngest son.

37. Laura, along with Mr. Bauer's and Ms. Shourd's mothers, participated in several media interviews in order to bring attention to their children's detention. Over the course of Josh's imprisonment, Laura traveled to Washington, D.C., New York, and other cities multiple times every month in order to raise awareness to Josh's detention. Laura did not work for the first eighteen months of Josh's detention, and instead spent all of her time working on the campaign for his release. Later, Laura was able to work only part-time, as her efforts in the campaign still required a significant portion of her time and energy. She felt the financial strain

of not being able to commit to a full-time job. Laura had trouble sleeping, and often woke up in the middle of the night in the hopes of learning breaking news of what was happening nine hours ahead in Iran.

38. Laura received daily phone calls from her parents, who were in their eighties and extremely worried about Josh's safety. Laura's father, a World War II veteran, was particularly frightened that he would never see his grandson again. Laura's own stresses and fears were compounded and exacerbated by those of her parents.

39. Laura wanted Josh and the others to understand that they had not been forgotten. She wrote letters to her son, Mr. Bauer, and Ms. Shourd every day. Laura would tell Josh about current events and his family, and she was always concerned and careful to censor her messages so that the Iranian guards would not throw the letters away. She cherished the three or four five-minute phone calls she received from him over the course of the two years.

40. Laura, along with Mr. Bauer's and Ms. Shourd's mothers, decided to travel to Iran to help their children. Laura and the other mothers left the United States in May 2010, although they had started the visa application process months before they were eventually permitted to visit Iran. From the moment that Laura left the United States, she felt that she was constantly being observed and scrutinized by the news media and government officials in Iran. Laura was anxious and on-edge throughout her time in Iran, worrying that if she did not act in the exact manner that Iran wanted her to, Josh would be punished.

41. Laura felt immense relief at finally seeing Josh after so many months apart. But he looked different than she remembered—he had lost weight, his skin was pale, and his eyes were hollowed and dull. He looked utterly exhausted. Laura had traveled to Iran with the belief

that Josh would be coming home with her. When she had to watch him leave and head back to Evin Prison, she was devastated.

Jacob

42. Jacob was listening to the news on July 31, 2009, when a story broke concerning three Americans detained in Iran. Jacob felt an inexplicable sense of dread, even though he believed that Josh was in Iraq, not Iran. But shortly after seeing the news report, he received a frantic phone call from Laura: their son was one of the detained Americans.

43. Jacob was terrified for his son's life. For the first few weeks of Josh's imprisonment, Jacob had no idea what had happened to him, and he imagined the worst. Even when he knew that Josh was being held in Evin Prison, the knowledge was not much comfort to him—he still felt so distant from Josh, and had no knowledge of what was happening to him. Members of Jacob's extended family in Israel would call constantly asking for updates, which only compounded Jacob's stress and high blood pressure.

44. Jacob, Laura, and Alex, along with the families of Mr. Bauer and Ms. Shourd, started a campaign to try to free their loved ones. However, since Jacob had dual Israeli/U.S. citizenship, he worried that playing a prominent role in the campaign could endanger his son. Instead, he worked in the background to try to bring Josh home. Jacob, along with Laura, communicated with over sixty different embassies to try to rally international support to help Josh, Mr. Bauer, and Ms. Shourd.

45. Jacob was able to speak to his son on the phone only three or four times during Josh's imprisonment. Jacob told Josh how much he loved him, and tried to reassure Josh that the families were doing okay. Each time, Jacob wondered whether the five-minute phone calls would be his last moments with his son. Jacob was overjoyed to see Ms. Shourd's release in the

fall of 2010, but he worried that his Israeli ties would mean that it would be years before Josh was similarly allowed to come home. As time went on, Jacob feared that Mr. Bauer would be released while Josh was left to languish alone in Evin Prison.

Alex

46. Alex learned of Josh's capture and imprisonment on July 31, 2009, after receiving a phone call from his parents. At the time, Alex was living in Sweden while working towards his PhD. Alex immediately flew back to the United States to be with his parents; he was in Philadelphia within 48 hours.

47. Alex immediately began strategizing and campaigning for his brother's release. Alex put his PhD program on hold for the duration of Josh's imprisonment and moved back into his parents' home. For more than two years, he tried to support his parents while simultaneously dedicating all of his time and attention towards bringing Josh home.

48. Alex experienced high levels of stress and anxiety throughout Josh's imprisonment. He constantly worried that a misstep or misstatement on his part would result in severe consequences for Josh. There were several instances over the two years where Alex believed that Josh might be released soon, and each time, the devastating realization that the release was not happening took a heavy toll.

49. Alex played a significant role in the campaign, serving as the liaison between the campaign and various foreign embassies, diplomats, and government officials. He participated in conference calls with the U.S. Department of State once or twice a week, and participated in many interviews with the media. Alex traveled to Washington, D.C., New York, and other cities multiple times a month to bring awareness to Josh's detention. Alex was often frustrated with

the lack of information he received about his brother, but never gave up hope that Josh would return safely to the United States.

Post-Release

50. After more than two years in prison, Josh faced difficulty transitioning back to normal life. Once he returned to the United States, he was swarmed with media attention, and people recognized him in public. Josh spent months moving from city to city, thanking friends and family members for their efforts in trying to obtain his release. After spending so long in near isolation, Josh was anxious and nervous being around large groups of people. Nonetheless, he felt that he could not rest until he had shown everyone how much he appreciated what they had done for him. It was several months before Josh was able to sleep in the same bed for more than five nights, and he spent the next two years living in several different towns in Oregon, California, Pennsylvania, West Virginia, and New York.

51. Josh experienced symptoms of post-traumatic stress disorder. He was often jumpy and fearful in response to loud or unexpected noises. Other times, he would break down in tears unexpectedly, despite his efforts to demonstrate to his family that he was adjusting well to returning home. Josh had difficulty interacting with others after having spent more than a year with only Mr. Bauer for company. He suffered from nightmares, panic attacks, and paranoia. He saw a therapist regularly for over a decade. In the hope for relief from his symptoms, Josh sought treatment from naturopaths, acupuncturists, endobiogenists, and osteopaths.

52. Alex has also felt long-term effects from Josh's imprisonment. After Josh returned home safely, Alex resumed his PhD program, finishing his research in Colombia. Given what had happened to his brother, however, Alex was even more acutely aware of how dangerous Colombia could be. He suffered from anxiety and paranoia. He often takes extra

precautions—like using multiple cell phones and arranging different forms of lodging for any given night—to make himself feel safer.

COUNT I

**(PERSONAL INJURIES CAUSED BY TORTURE AND HOSTAGE-TAKING:
28 U.S.C. § 1605A) (JOSH, LAURA, JACOB, AND ALEX)**

53. Paragraphs 1 through 52 above are incorporated as if set forth herein.

54. Josh, Laura, Jacob, and Alex Fattal were citizens of the United States when Josh was arrested and held unlawfully by Iran. While being held hostage, Josh was tortured as described herein.

55. Anti-terrorism provisions codified at 28 U.S.C. § 1605A(a) establish a federal right of action against Iran for committing acts of hostage-taking and torture.

56. Section 1605A provides four elements for a claim against a foreign state, all of which are met here:

- a. That defendant be designated as a state sponsor of terrorism;
- b. That claimant be a national of the United States;
- c. That the foreign country must be given reasonable opportunity to arbitrate that claim if the conduct took place on foreign soil; and
- d. That the personal injury is alleged to have been caused by “an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources for such an act.”

57. Iran was designated a state sponsor of terrorism by the Secretary of State on January 19, 1984. *See* 49 Fed. Reg. 2836-02 (Jan. 23, 1984).

58. The definition of “torture” under the FSIA, derived from Section 3 of the Torture Victim Protection Act of 1991 (“TVPA”), Pub. L. No. 102-256, 106 Stat. 73 (Mar. 12, 1992), codified at 28 U.S.C. § 1350 (note), includes:

[A]ny act, directed against an individual in the offender’s custody or physical control, by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on that individual for such purposes as obtaining from that individual or a third person information or a confession, punishing that individual for an act that individual or a third person has committed or is suspected of having committed, intimidating or coercing that individual or a third person, or for any reason based on discrimination of any kind

59. While Josh was in Iran’s custody and control, Iran intentionally subjected Josh to 781 days of severe pain and suffering, including solitary confinement, emotional and mental abuse, and threats of continued confinement, all with the intent to obtain a false confession that he was spying on behalf of the United States. Iran’s conduct constitutes torture as defined under the FSIA.

60. “Hostage-taking” under the FSIA, 28 U.S.C. § 1605A(h)(2), as derived from Article 1 of the United Nations International Convention Against the Taking of Hostages, Dec. 17, 1979, 1316 U.N.T.S. 205, is defined as follows:

Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the “hostage”) in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostages (“hostage-taking”) within the meaning of this Convention.

61. Iran detained Josh on false charges and threatened, interrogated, and continued to detain Josh for 781 days to win political favors or other concessions from the United States. Iran’s conduct was hostage-taking as defined under the FSIA.

62. A foreign state is held vicariously liable for the acts of its officials, employees, or agents. 28 U.S.C. § 1605A(c)(4).

63. Josh, Laura, Jacob, and Alex suffered and continue to suffer physical and psychological harm to this day because of Josh's hostage-taking and torture by Iran.

COUNT II

(§ 1605A(c) CAUSE OF ACTION – ASSAULT AND BATTERY) (JOSH)

64. Paragraphs 1 through 63 above are incorporated as if set forth herein.

65. Iran committed or is responsible for numerous acts of assault and battery upon Josh during his confinement and torture.

66. Under the FSIA, a foreign state stripped of its immunity “shall be liable in the same manner and to the same extent as a private individual under like circumstances.” 28 U.S.C. § 1606.

67. Iran is stripped of its immunity under the FSIA because of its acts of hostage-taking and torture and is therefore liable for torts in the same manner and to the same extent as a private individual.

68. Iran applied force to Josh's person and took actions reasonably tending to create the apprehension of Josh that it was about to apply such force to him. Iran also intended harmful or offensive contact with Josh without his consent.

COUNT III

(§ 1605A(c) CAUSE OF ACTION – INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS) (JOSH)

69. Paragraphs 1 through 68 above are incorporated as if set forth herein.

70. Iran's use of solitary confinement, threats of indefinite confinement, manipulation, and restrictions of Josh's contact with his family and an attorney were intentional, reckless, extreme, and outrageous, and caused Josh severe emotional distress.

71. Iran's treatment of Josh violated acceptable norms of treatment under both United States and international law, and was also for that reason extreme and outrageous.

72. Iran's actions left Josh severely emotionally and psychologically damaged.

COUNT IV

(§ 1605A(c) CAUSE OF ACTION – FALSE IMPRISONMENT) (JOSH)

73. Paragraphs 1 through 72 above are incorporated as if set forth herein.

74. Josh was deprived of liberty without cause and without legal justification. Iran held Josh despite knowledge that it had no basis to do so.

COUNT V

(§ 1605A(c) CAUSE OF ACTION – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS/SOLATIU) (LAURA, JACOB, AND ALEX)

75. Paragraphs 1 through 74 above are incorporated as if set forth herein.

76. "An actor who by extreme and outrageous conduct intentionally or recklessly causes severe emotional harm to another is subject to liability for that emotional harm and, if the emotional harm causes bodily harm, also for the bodily harm." Restatement (Third) of Torts: Liability for Physical & Emotional Harm § 46; *accord Valencia v. Islamic Republic of Iran*, 774 F. Supp. 2d 1, 14 (D.D.C. 2010); *Acosta v. Islamic Republic of Iran*, 574 F. Supp. 2d 15, 28 (D.D.C. 2008).

77. When a defendant's conduct is directed at a third person, the Restatement generally requires that a plaintiff be a "close family member[]" and have "contemporaneously

perceive[d] the event.” Restatement (Third) of Torts § 46 cmt. m; *accord Valencia*, 774 F. Supp. 2d at 14.

78. “All acts of terrorism are by their very definition extreme and outrageous and intended to cause the highest degree of emotional distress, literally, terror, in their targeted audience[.]” *Estate of Heiser v. Islamic Republic of Iran*, 659 F. Supp. 2d 20, 27 (D.D.C. 2009) (quoting *Stethem v. Islamic Republic of Iran*, 201 F. Supp. 2d 78, 89 (D.D.C. 2002)). That is, “the function of the presence requirement . . . is, in state-sponsored terrorism cases, fulfilled by the horrific and terrifying nature of terrorism itself[.]” *Valencia*, 774 F. Supp. at 14.

79. Because Josh was taken hostage and tortured, Jacob, Laura, and Alex need only demonstrate that they had a close relationship to Josh and that they did suffer emotional distress to state a valid claim for intentional infliction of emotional distress.

80. Iran’s taking and imprisonment of Josh was extreme and outrageous. Josh’s imprisonment caused Laura, Jacob, and Alex emotional harm. Each family member spent two years worrying about Josh—how he was doing, and if they would ever be able to see him again. They put their own lives on hold for two years to try to ensure his release. The family suffered, and continue to suffer, from stress, fear, and anxiety even after Josh returned home.

PRAYER FOR RELIEF

1. As a result of the personal injuries Joshua, Laura, Jacob, and Alexander Fattal have suffered due to Iran’s acts of torture and hostage-taking, they are entitled to economic damages and compensatory damages for pain and suffering and solatium, all of which are recoverable under the FSIA. 28 U.S.C. § 1605A(c).

2. In addition to all appropriate compensatory damages, Plaintiffs are entitled to punitive damages because Iran’s acts were intentional, malicious, and performed deliberately to injure, damage, and harm Joshua, Laura, Jacob, and Alexander Fattal.

3. Plaintiffs further seek costs, attorneys' fees, and such other relief as may be just and proper, including pre-judgment interest.

Dated: July 18, 2022

Respectfully submitted,

/s/ Emily P. Grim

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