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18 UNITED STATES DISTRICT COURT
19 FOR THE EASTERN DISTRICT OF WASHINGTON

20 SULEIMAN ABDULLAH SALIM,
21 MOHAMED AHMED BEN SOUD, OBAID
22 ULLAH (AS PERSONAL
23 REPRESENTATIVE OF GUL RAHMAN),

24 Plaintiffs,

25 v.

26 JAMES ELMER MITCHELL and JOHN
"BRUCE" JESSEN

Defendants.

2:15-CV-286-JLQ

PLAINTIFFS' STATEMENT
OF UNDISPUTED
MATERIAL FACTS IN
SUPPORT
OF THEIR MOTION FOR
PARTIAL
SUMMARY JUDGMENT

Oral Argument Requested
NOTE ON MOTION
CALENDAR:

JULY 28, 2017,
9:30 A.M., AT
SPOKANE, WASHINGTON

1
2 Plaintiffs Suleiman Abdullah Salim, Mohamed Ahmed Ben Soud, and
3 Obaid Ullah (as personal representative of Gul Rahman), pursuant to Rule 56 of
4 the Federal Rules of Civil Procedure and Rules 7.1 and 56.1 of the Local Rules
5 for the United States District Court, Eastern District of Washington, file this
6 Statement of Undisputed Material Facts in support of Plaintiffs’ Motion for
7 Partial Summary Judgment. The following facts are undisputed and constitute
8 all material facts necessary to a determination in favor of Plaintiffs’ Motion.¹
9

10 **I. DEVELOPMENT OF THE CIA PROGRAM**

11 1. Defendants “played a significant and formative role in the
12 development of [CIA Counterterrorism Center (CTC)’s] detention and
13 interrogation program.” Deposition of James Elmer Mitchell 335:22–24 (Ladin
14 Decl., Exh. A, cited hereinafter as “Mitchell Dep.”).

15 2. When the CIA captured its first prisoner, Abu Zubaydah, the CIA
16 Counterterrorism Center had no experience or expertise on interrogation.
17 Deposition of Jose Rodriguez 46:23–48:4 (Ladin Decl., Exh. B, cited hereinafter
18 as “Rodriguez Dep.”).
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24 ¹ All record citations are attached to the Declaration of Dror Ladin in
25 Support of Plaintiffs’ Motion for Partial Summary Judgment (May 22, 2017)
26 (“Ladin Decl.”), which accompanies this filing.

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2 3. Defendants had never interrogated a prisoner before Abu Zubaydah.
3 Deposition of John “Bruce” Jessen 116:3–8 (Ladin Decl., Exh. C, cited
4 hereinafter as “Jessen Dep.”).

5 4. Before the aggressive phase began, Defendant Mitchell recommended
6 that Abu Zubaydah’s sleep be disrupted, that he not be provided with any
7 amenities, and that noise be fed into Abu Zubaydah’s cell. Am. Answer, ECF
8 No. 77 ¶ 34.
9

10 5. The plan was that “white noise generators” would disrupt Abu
11 Zubaydah’s ability to think and would “increase his sense of helplessness by
12 highlighting his inability to alter the environment around him.” The goal was to
13 emphasize that “the only mechanism [Abu Zubaydah] has at his disposal to
14 control the environment will be in providing vital intelligence,” and that
15 pleasing his interrogators was the only way to “earn basic privileges” and
16 receive better conditions. Ladin Decl., Exh. D at U.S. Bates 001828.
17

18 6. Defendant Mitchell took part in recommending sensory deprivation,
19 including painting the cell white, installing halogen lights, installing sound-
20 dampening carpeting, and “the sanding of the holding cell bars to reduce AZ’s
21 ability to stimulate his sensorium via rubbing of the bars.” Ladin Decl., Exh. E
22 at MJ00022604; Ladin Decl., Exh. F at U.S. Bates 002000.
23

24 7. Abu Zubaydah was subsequently kept naked in a cell lit by halogen
25 lamps for 24 hours per day, while being subjected constantly to rock music or
26 other noise. Am. Answer, ECF No. 77 ¶ 38.

1
2 8. The “deliberate manipulation of the environment” in accordance with
3 these recommendations was “intended to cause psychological disorientation . . .
4 as well as an increased sense of learned helplessness.” Ladin Decl., Exh. F at
5 U.S. Bates 002000.

6 9. During this phase, the “development of psychological dependence,
7 learned helplessness and short term thinking” were pursued by the deliberate
8 environmental modifications and sleep deprivation, which aimed to produce
9 “disorientation by not allowing in natural light nor routine of schedule.” Ladin
10 Decl., Exh. D at U.S. Bates 001826. The desired result was that “the early
11 phases of the process will encourage the development of the necessary mindset
12 where [the CIA prisoner] will have difficulty concentrating, planning, and most
13 importantly resisting the process.” Ladin Decl., Exh. D at U.S. Bates 001827.

14 10. Eventually, the interrogation team “substituted a stereo to play loud
15 rock music to enhance his sense of hopelessness.” Ladin Decl., Exh. G at U.S.
16 Bates 002146.

17 11. Defendant Mitchell decided that he had sufficient “qualifications to
18 put together a psychologically based interrogation program.” Ladin Decl., Exh.
19 E at MJ00022632.

20 12. Mitchell “knew that the bulk of psychologists would probably object”
21 to his actions. Ladin Decl., Exh. A, Mitchell Dep. 270:12–13.

22 13. At Defendant Mitchell’s recommendation, the CIA contracted his
23 friend, Defendant Jessen to help “put together an interrogation program” and
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1
2 implement it on Abu Zubaydah. Ladin Decl., Exh.A, Mitchell Dep. 399:22–
3 400:19; Ladin Decl., Exh. E at MJ00022631–32.

4 14. The program was based on “Pavlovian Classical Conditioning.” Ladin
5 Decl., Exh. E at MJ00022632.

6 15. A prisoner subjected to the program would be given “a choice, you
7 can start talking or you can get some more physical pressure.” Ladin Decl., Exh.
8 C, Jessen Dep. 161:20–162:2.

9
10 16. Mitchell testified that “my thinking on the subject was that, much
11 like with a dental phobia, the time that they're going to be most motivated to get
12 out of it is before the next time” the physical pressures were applied. Ladin
13 Decl., Exh. A, Mitchell Dep. 358:20–24.

14 17. Jose Rodriguez, who was then the head of CTC, explained that he
15 heard Defendant Mitchell use the phrase “learned helplessness,” and “explaining
16 these psychological terms,” but that Mr. Rodriguez’s own interest was “in
17 getting results, not in, you know, the psychological state of people.” Ladin
18 Decl., Exh. B, Rodriguez Dep. 85:6–86:20.

19
20 18. Jose Rodriguez testified that Defendant Mitchell “had a good vision
21 for what needed to be done,” which “was the use of enhanced interrogations to
22 get Abu Zubaydah to cooperate with us.” Ladin Decl., Exh. B, Rodriguez Dep.
23 37:8–38:4.

24
25 19. In July 2002, Defendant Mitchell and others within the CIA assessed
26 Abu Zubaydah as uncooperative. Am. Answer, ECF No. 77 ¶ 41.

1
2 20. Defendants drafted and submitted to the CIA a recommended list of
3 12 physically coercive methods that they claimed would “instill fear and
4 despair”: “Attention Grasp,” “Walling,” Facial Hold,” “Facial Slap (Insult
5 Slap),” “Cramped Confinement,” “Wall Standing,” “Stress Positions,” Sleep
6 Deprivation,” “Water Board,” “Use of Diapers,” “Insects,” and “Mock Burial.”
7 Ladin Decl., Exh. H at U.S. Bates 0001110–11; Ladin Decl., Exh. C, Jessen
8 Dep. 114:20–115;11; Ladin Decl., Exh. A, Mitchell Dep. 262:5–21.
9

10 21. Defendants based their list of coercive methods on techniques used in
11 training in the Department of Defense’s Survival, Research, Evasion and Escape
12 (“SERE”) program. Ladin Decl., Exh. A, Mitchell Dep. 186:1–187:3.

13 22. “The techniques used in SERE school, based, in part, on Chinese
14 Communist techniques used during the Korean War to elicit false confessions,
15 include stripping students of their clothing, placing them in stress positions,
16 putting hoods over their heads, disrupting their sleep, treating them like animals,
17 subjecting them to loud music and flashing lights, and exposing them to extreme
18 temperatures.” S. Comm. on Armed Servs., 110th Cong., 2d Sess., Report on
19 Inquiry into the Treatment of Detainees in U.S. Custody (Comm. Print 2008) at
20 xiii, xxvi (Ladin Decl., Exh. I, cited hereinafter as “SASC Report”).
21

22 23. Defendant Jessen admitted that techniques used in SERE training
23 were based in part on coercive interrogation methods inflicted by enemies on
24 American soldiers in the Korean War. He testified that he didn’t “know who
25 determines what’s legal and illegal, but the techniques were to represent what
26

1 we thought our enemy might do if they weren't adhering to the Geneva
2 Conventions. Ladin Decl., Exh. C, Jessen Dep. 57:3–14; 65:10–23.
3

4 24. SERE training differed from Defendants' proposal: Techniques were
5 used on volunteers, not on prisoners with serious injuries and open wounds.
6 Ladin Decl., Exh. C, Jessen Dep. 134:21–135:20. SERE volunteers knew the
7 start and end date of their training, and could end it at any time, while prisoners
8 were made to believe that their interrogation could last for the rest of their
9 natural lives. Ladin Decl., Exh. I, SASC Report at 31; Ladin Decl., Exh. J at
10 U.S. Bates 001957–58.
11

12 25. Waterboarding as carried out by Defendants was different from the
13 technique used in SERE training: it involved much larger volumes of water, and
14 Defendant Jessen or Defendant Mitchell acknowledged that Defendants' method
15 was "different because it is 'for real' and is more poignant and convincing."
16 Ladin Decl., Exh. K at U.S. Bates 001376.
17

18 26. Coercive methods were also used on detainees in the CIA program
19 with a higher frequency than permitted in the SERE program. Ladin Decl., Exh.
20 C, Jessen Dep. 156.
21

22 27. Defendants knew the effect of their proposed methods might be
23 different for prisoners than for volunteers. Ladin Decl., Exh. C, Jessen Dep.
24 127:11–24. But when Defendant Mitchell presented his proposal to the Director
25 of the CIA and the head of CTC, he did not mention that fact. Ladin Decl., Exh.
26 A, Mitchell Dep. 281:4–16.

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2 28. Defendants told the CIA that these techniques were likely to be safe to
3 use and effective at extracting information from Abu Zubaydah. Ladin Decl.,
4 Exh. B, Rodriguez Dep. 98:7–11; Ladin Decl., Exh. C, Jessen Dep. 113:4–22.

5 29. Defendants inflicted many of the methods they had proposed over the
6 19-day “Aggressive Phase” of Abu Zubaydah’s interrogation. Am. Answer, ECF
7 No. 77 ¶ 51; Ladin Decl., Exh. L at U.S. Bates 002382. These methods “were
8 applied in varying combinations, 24 hours a day.” Ladin Decl., Exh. M at U.S.
9 Bates 002021.
10

11 30. On the first day of the aggressive phase of Abu Zubaydah’s
12 interrogation, Defendants began using their proposed methods on him. Either
13 Defendant Mitchell or Defendant Jessen delivered to Abu Zubaydah the “very
14 firm and pointed message that things would continue to get worse for [him]” but
15 that “at any time [Abu Zubaydah] could stop the situation from getting worse by
16 providing the required information.” Ladin Decl., Exh. N at U.S. Bates 001757.
17 Abu Zubaydah “continued to deny any additional knowledge.” Defendants told
18 Abu Zubaydah “their job was to obtain information and that if [he] did not
19 cooperate he was only going to bring more misery onto himself.” Defendants
20 then waterboarded Abu Zubaydah, who “coughed and vomited in small amounts
21 but continued to maintain his position that he did not have any additional
22 information other than what he had already provided” to the FBI, which had not
23 used Defendants’ methods. *Id.* at U.S. Bates 001758.
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2 31. On the second day of the “aggressive phase,” Defendants again
3 inflicted a variety of the methods they had proposed on Abu Zubaydah,
4 including walling, stress positions, confinement boxes, and waterboarding. Abu
5 Zubaydah again vomited after Defendants waterboarded him, and again
6 provided “persistent denials” that he possessed undisclosed threat information.
7 The interrogation team nonetheless concluded that “there still appears to be
8 areas that subject is withholding information on – we have not pinpointed what
9 those areas are.” Ladin Decl., Exh. O at U.S. Bates 001801.
10

11 32. On the third day of the “aggressive phase,” Defendants used their
12 walling method on Abu Zubaydah while demanding “What is it that you do not
13 want us to know?” After inflicting several more of the methods they had
14 proposed, Defendants again told Abu Zubaydah “that he could stop the process
15 at any time,” while Abu Zubaydah “continued with his appeal that he has told all
16 that he has and muttered ‘help me.’” Defendants waterboarded Abu Zubaydah
17 and placed him in a confinement box, after which he “appeared despondent” and
18 “cried in an apparently genuine fashion.” Defendants stuffed Abu Zubaydah
19 back in a box for several hours. Afterwards, Abu Zubaydah “started crying and
20 claimed he had given us everything.” The interrogation team noted “At the risk
21 of stating the obvious, there are potentially two reasons” that Abu Zubaydah had
22 not provided the threat information that Defendants demanded: either he was
23 concealing it, or actually did not have the information that his interrogators
24 wanted. The interrogation team noted that, in their opinion, “it is premature” to
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26

1 decide which reason explained the lack of new threat information. Ladin Decl.,
2 Exh. P at U.S. Bates 001804–1805.

3
4 33. On the fourth day of the “aggressive phase,” after using their walling
5 and slapping methods on Abu Zubaydah, Defendants told him that they would
6 stop inflicting their methods on him if he provided the threat information they
7 demanded. They warned him not to make up an answer. Abu Zubaydah “began
8 to whimper and was visibly trembling; he continued to deny he had any new
9 info to give.” Defendants then waterboarded Abu Zubaydah and left his cell.
10 When they returned, they “noted that [Abu Zubaydah’s] distress level increased
11 the moment the team entered the cell, a sign that the conditioning strategy was
12 working.” Ladin Decl., Exh. Q at U.S. Bates 001943–44.

13
14 34. On the fifth day of the “aggressive phase,” Defendants inflicted a
15 series of their methods on Abu Zubaydah when he told them he did not have the
16 information they demanded. They told him “that he had the choice to stop this
17 treatment at any time by providing the information we sought, that he should not
18 waste our time with denials, and that he better not tell any lies.” Ladin Decl.,
19 Exh. R at U.S. Bates 001946. They observed that he “continued to cry.” He
20 displayed “despair and helplessness” throughout the day. Defendants continued
21 to inflict their methods on him. *Id.* at U.S. Bates 001947.

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23
24 35. By the sixth day of the “aggressive interrogation phase,” Defendants
25 and the rest of the interrogation team reached a “collective preliminary
26 assessment that it is highly unlikely [Abu Zubaydah] has actionable new

1 information about current threats to the United States.” They nonetheless
2 resolved that “the team plans to maintain the current level of psychological
3 pressures for the time being to develop and refine this preliminary assessment.”
4 Ladin Decl., Exh. S at U.S. Bates 002341. The medical officer at the site also
5 assessed that “under current medical intervention subject’s medical status is
6 likely to deteriorate to an unacceptable level over the next two weeks, and thus
7 will continue to be closely monitored.” *Id.*

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9
10 36. On the seventh day of the “aggressive interrogation phase,”
11 Defendants again subjected Abu Zubaydah to 24 hours of their methods, and he
12 again did not provide any of the new threat information they demanded. Ladin
13 Decl., Exh. T at U.S. Bates 001955–56.

14 37. On the eighth day of the “aggressive interrogation phase,” Defendants
15 again subjected Abu Zubaydah to their methods, and again acquired no new
16 threat information. Defendants told Abu Zubaydah that “the only way he was
17 going out of that room was in the large box in the corner. They prompted him to
18 tell them what the box was shaped like; he whispered ‘a coffin.’ Interrogators
19 then said subject would not be leaving the room for a long, long, long time,
20 because he was in no imminent danger of dying.” Ladin Decl., Exh. J at U.S.
21 Bates 001957–58. While Defendants inflicted their methods on Abu Zubaydah,
22 he was “trembling and shaking” and “frantically pleaded” that “he had given
23 everything he knew.” *Id.* at U.S. Bates 001959.
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2 38. The interrogation team reported that Defendants' use of the methods
3 they proposed "on a 24/7 basis for the last eight days" had "produced the desired
4 results of almost total compliance on subject's part." Ladin Decl., Exh. U at
5 U.S. Bates 002346. However, the use of Defendants' methods on Abu
6 Zubaydah had not produced any new threat information, and Abu Zubaydah's
7 "persistent responses" had been "'I have no more' or 'I have nothing more' or 'I
8 told you everything.'" *Id.*

9
10 39. On the eleventh day of the "aggressive phase," the interrogation team
11 reported that "subject exhibited initial apprehension followed by complete
12 compliance to all verbal and nonverbal commands for movement. . . . He
13 seemed to display a desperate resignation at his inability to convince the
14 interrogators that he was not holding back information. . . . When the
15 interrogators told him that his protests of ignorance regarding additional
16 information about threats against the U.S. would not stop them from using the
17 water board, subject's eye teared, his breathing increased, and he appeared
18 desperate." Ladin Decl., Exh. V at U.S. Bates 002364.

19
20 40. On the fifteenth day of the "aggressive phase," Abu Zubaydah was
21 "compliant and totally submissive," and "continue[d] to be fearful of the
22 interrogators. He "continued to maintain that he knows of no threats to the
23 United States or against United States interests beyond what he has already
24 provided." Defendants walled Abu Zubaydah, and "repeatedly and aggressively
25 pressed" him for new details. He "did not have any significant details on this
26

1 topic beyond what he already provided,” and the interrogation team noted that
2 “thus far” the aggressive phase had not resulted in any “significant actionable
3 info beyond previously provided details.” Ladin Decl., Exh. W at U.S. Bates
4 001807–08.
5

6 41. On the sixteenth day of the “aggressive phase,” Abu Zubaydah “was
7 repeatedly pressured and instructed that revealing the requested information
8 would stop the procedure.” He “again stated that he had no information in
9 addition to that which he had already provided, and alternatively begged and
10 cried that procedure be stopped.” Defendants then waterboarded Abu Zubaydah
11 to the point where he exhibited “involuntary body (leg, chest and arm) spasms.”
12 The interrogation team then resumed the questioning, while Abu Zubaydah
13 “continued to cry, and claim ignorance of any additional information. This
14 resulted in a second full-face watering. At the onset of involuntary stomach and
15 leg spasms, subject was again elevated to clear his airway, which was followed
16 by hysterical pleas. Subject was distressed to the level that he was unable to
17 effectively communicate or adequately engage the team.” Defendants then
18 stuffed Abu Zubaydah into a box and bombarded him with noise to continue his
19 “elevated level of disorientation.” Ladin Decl., Exh. X at U.S. Bates 002380.
20
21

22 42. On the seventeenth day of the aggressive phase, Abu Zubaydah “cried
23 and begged the interrogators to believe him when he said that he was not
24 holding back information as he was placed in position for watering. Two
25 iterations of the watering cycle were applied. During the watering he cried,
26

1 begged and pleaded; finally becoming hysterical.” Ladin Decl., Exh. M at U.S.
2 Bates 002022.
3

4 43. After seventeen days of the aggressive phase, the interrogation team
5 reported that “psychological and physical pressures have been applied to induce
6 complete helplessness, compliance and cooperation from the subject. Our goal
7 was to reach the stage where we have broken any will or ability of subject to
8 resist or deny providing us information (intelligence) to which he had access.”
9 Ladin Decl., Exh. M at U.S. Bates 002020.
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11 44. Defendants had previously claimed Abu Zubaydah was a skilled
12 resistor, Ladin Decl., Exh. Y at U. S. Bates 001771; Ladin Decl., Exh. A,
13 Mitchell Dep. 252:6–255:21, and CIA Headquarters thought Abu Zubaydah
14 might still be withholding information and that the program Defendants had
15 recommended might yet extract new threat information from Abu Zubaydah.
16 Ladin Decl., Exh. E at MJ00022666.
17

18 45. Defendants did not believe that the final waterboarding session would
19 result in the extraction of new threat information, but thought it would
20 demonstrate that Abu Zubaydah was compliant. Ladin Decl., Exh. K at U.S.
21 Bates 001423–24. Defendant Mitchell stated that “[i]t was ugly and hard to do.”
22 Ladin Decl., Exh. E at MJ00022668.
23

24 46. After nineteen days of the aggressive phase Defendants and the rest of
25 the interrogation team issued the “assessment that we have successfully broken
26 subject’s willingness to withhold threat and intelligence information. He is

1 presently in a state of complete subjugation and total compliance.” However,
2 they noted that, having failed to acquire the threat information they had
3 demanded over nineteen days, “[t]he issue of whether subject in fact has specific
4 threat information (not already provided) will always be open to some
5 conjecture.” Ladin Decl., Exh. L at U.S. Bates 002382–83.

6
7 47. The interrogation team proposed that, although the “aggressive phase”
8 had been stopped, “we will carefully continue to observe [Abu Zubaydah] to
9 ensure he remains ‘compliant’ and [Defendants] will stand by to ‘tune him up’
10 as required.” After completion of the aggressive phase of Abu Zubaydah’s
11 interrogation, the team planned to “systematically drain him dry of any useful
12 intelligence.” Ladin Decl., Exh. Z at U.S. Bates 002390.

13
14 48. The aggressive interrogation of Abu Zubaydah did not end because he
15 finally provided threat information, but because Defendants and the CIA
16 determined that “it was no longer useful” to continue. Ladin Decl., Exh. C,
17 Jessen Dep. 145:21–46:9, 148:6–12.

18
19 49. Defendant Mitchell “had a visceral reaction to the tapes” of
20 Defendants’ using their methods on Abu Zubaydah, and “thought they were
21 ugly.” He “didn’t like the fact that the tapes were out there” and recommended
22 they be destroyed. Ladin Decl., Exh. A, Mitchell Dep. 386: 10–23; 389:2–22;
23 392:10–17. A senior CIA official, Jose Rodriguez, agreed: he believed the tapes
24 “would make the CIA look bad,” and, if released, would “almost destroy the
25 clandestine service.” Rodriguez Dep: 92:18–93:25. On Rodriguez’s orders, the
26

1 CIA destroyed the tapes. Mitchell Dep: 387:21–388:7.
2

3 50. Although they had failed to acquire any new threat information, the
4 interrogation team was “satisfied” that they had “applied the techniques
5 aggressively and conditioned subject to the point that we can assess he is
6 compliant.” The interrogation team was satisfied that Abu Zubaydah did not
7 possess undisclosed threat information, and observed that the intelligence they
8 had was consistent with what Abu Zubaydah had told them. Ladin Decl., Exh. L
9 at U.S. Bates 002383; Ladin Decl., Exh. Z at U.S. Bates 002389–90.
10

11 51. Defendant Mitchell later wrote in response to a question as to why
12 Defendants had waterboarded Abu Zubaydah so many times: “As for our buddy,
13 he capitulated the frist [sic] time. We chose to expose him over and over until
14 we had a high degree of confidence he wouldn’t hold back. He said we [sic] was
15 ready to talk during the first exposure.” Ladin Decl., Exh. AA at U.S. Bates
16 002581 (emphasis in original).
17

18 52. Defendant Mitchell, summing up Defendants’ interrogation of Abu
19 Zubaydah, wrote: “I left feeling good about what we had accomplished.” Ladin
20 Decl., Exh. E at MJ00022671.
21

22 **II. EXPANSION OF THE CIA PROGRAM**

23 53. After seventeen days of the “aggressive phase,” the interrogation
24 team, which included Defendants, wrote to CIA headquarters that “the
25 aggressive phase” of Abu Zubaydah’s interrogation “should be used as a
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1
2 template for future interrogation of high value captives.” Ladin Decl., Exh. M at
3 U.S. Bates 002023.

4 54. Defendants’ methods became the basis for the CIA’s enhanced
5 interrogation program. Ladin Decl., Exh. B, Rodriguez Dep. 59:19–60:25, 63:6–
6 10.

7 55. Defendants participated in the program’s initial expansion, opining on
8 potential lessons from Abu Zubaydah’s interrogation for future interrogations.
9 Ladin Decl., Exh. BB at U.S. Bates 001611; Ladin Decl., Exh. DD at U.S. Bates
10 001891–92. Defendants’ contracts expanded after Abu Zubaydah’s interrogation
11 as well. For example, less than two months after Abu Zubaydah’s interrogation,
12 the value of Defendant Jessen’s contract had already doubled. Ladin Decl., Exh.
13 CC at U.S. Bates 000086, 000092, 000094.

14 56. Defendants were aware of a phenomenon called “abusive drift”: once
15 coercion was employed, interrogators would tend to exceed any approved limits,
16 resulting in even more severe abuse of prisoners. Ladin Decl., Exh. C, Jessen
17 Dep. 35:24–36:17; Ladin Decl., Exh. E at MJ00022633, MJ00022857.

18 57. Defendants “designed a program for the CIA to get prisoners to talk,
19 but the CIA would decide which prisoners to apply it to.” Ladin Decl., Exh. B,
20 Rodriguez Dep. 244:9–12.

21 58. When the CIA sought approval for the program, it submitted to the
22 Justice Department’s Office of Legal Counsel only the 12 methods Defendants
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1 had proposed. Deposition of John Rizzo 47:4–15 (Ladin Decl., Exh. EE, cited
2 hereinafter as “Rizzo Dep.”).
3

4 59. By January 2003, the methods that Defendants had proposed and used
5 on Abu Zubaydah were standardized as the official “Enhanced Interrogation
6 Techniques” in the “enhanced interrogation program” used on CIA prisoners.
7 Ladin Decl., Exh. FF at U.S. Bates 001170–72; Ladin Decl., Exh. EE, Rizzo
8 Dep. 64:8–23.
9

10 60. The list of “Enhanced Techniques” standardized in the January 2003
11 guidelines are “the attention grasp, walling, the facial hold, the facial slap (insult
12 slap), the abdominal slap, cramped confinement, wall standing, stress positions,
13 sleep deprivation beyond 72 hours, the use of diapers for prolonged periods, the
14 use of harmless insects, [and] the waterboard.” Ladin Decl., Exh. FF at U.S.
15 Bates 001172. The list of “standard techniques” included “isolation, sleep
16 deprivation not to exceed 72 hours, reduced caloric intake . . . use of loud music
17 or white noise . . . and the use of diapers for limited periods.” *Id.*
18

19 61. With the exception of the “abdominal slap” technique, the
20 standardized “Enhanced Techniques” are the methods Defendants proposed in
21 July 2002. Ladin Decl., Exh. H at U.S. Bates 001110–11. The “abdominal slap”
22 was a technique that Defendants used on Abu Zubaydah in an interrogation that
23 they claimed was successful. ECF No. 77 ¶ 49.
24

25 62. “As initially proposed, sleep deprivation was to be induced by
26 shackling the subject in a standing position, with his feet chained to a ring in the

1 floor and his arms attached to a bar at head level, with very little room for
2 movement.” Office of Professional Responsibility, Rep. on Investigation into the
3 OLC’s Memoranda Concerning Issues Relating to the CIA’s Use of “Enhanced
4 Interrogation Techniques” on Suspected Terrorists 36 n.35, U.S. Bates 000643
5 (2009) (Ladin Decl., Exh. GG, cited hereinafter as “OPR Report”). “[D]etainees
6 were typically shackled in a standing position, naked except for a diaper.” OPR
7 Report 126, U.S. Bates 000733; Ladin Decl., Exh. C, Jessen Dep. 228:20–
8 229:2.
9
10

11 63. Defendants’ list of methods was specifically sent to COBALT. Ladin
12 Decl., Exh. FF at U.S. Bates 001170–72. Ladin Decl., Exh. B, Rodriguez Dep.
13 71:20–73:24.

14 64. Prisoners at COBALT were subjected to total darkness “to disorient
15 prisoners so they didn’t know if it was day or night.” Ladin Decl., Exh. HH at
16 U.S. Bates 001126.

17 65. Prisoners at COBALT were deprived of amenities: “A prisoner begins
18 his confinement with nothing in his cell except a bucket used for human waste,”
19 but can be given “rewards for cooperation.” These “rewards” included lights to
20 cut the endless darkness, earplugs to block out the endless music, a mat to sleep
21 on, and extra blankets against the cold. *Id.* at U.S. Bates 001127.
22
23

24 66. Prisoners at COBALT were kept in diapers “solely to humiliate the
25 prisoner for interrogation purposes.” When guards ran out of diapers, they either
26

1 used “a handcrafted diaper secured by duct tape,” or kept the prisoners nude. *Id.*
2 at U.S. Bates 001126.
3

4 **III. GUL RAHMAN’S TORTURE AND CIDT**

5 67. In November 2002, Mr. Rahman was abducted and taken to
6 COBALT. Defendants traveled to COBALT that same month, during which
7 Defendant Jessen personally participated in multiple interrogations of Mr.
8 Rahman at COBALT during which Mr. Rahman was kept naked or in a diaper,
9 “in cold conditions with minimal food and sleep,” and subjected to physical
10 assault. Ladin Decl., Exh. II at U.S. Bates 001076; Ladin Decl., Exh. JJ at
11 001051; Ladin Decl., Exh. KK at 001547–49.
12

13 68. Defendant Jessen advised the CIA that Mr. Rahman displayed a
14 “sophisticated level of resistance training,” because he “complained about poor
15 treatment,” and said he couldn’t think because he was so cold. Ladin Decl., Exh.
16 LL at U.S. Bates 001073. Defendant Jessen was asked to assess Mr. Rahman for
17 resistance methods and to design an interrogation plan. Ladin Decl., Exh. C,
18 Jessen Dep. 238:11–241:15.
19

20 69. Defendant Mitchell participated in one of Defendant Jessen’s sessions
21 with Mr. Rahman. Ladin Decl., Exh. MM at U.S. Bates 001290.
22

23 70. Defendant Jessen conducted an assessment as to whether Mr. Rahman
24 “would be profoundly or permanently affected by continuing interrogations, to
25 include HVT-enhanced measures.” As part of his assessment, Defendant Jessen
26 used one of the “enhanced interrogation techniques” that Defendants had

1 proposed for use on Abu Zubaydah—a facial slap—“to determine how he would
2 respond.” Defendant Jessen concluded that Mr. Rahman “was impervious to it,”
3 and assessed that Mr. Rahman would not be “profoundly and permanently
4 affected” by the use of any of the methods Defendants had proposed for use on
5 Abu Zubaydah. Ladin Decl., Exh. C, Jessen Dep. 238:22–241:15, 211:7–15.
6

7 71. Defendant Jessen advised that rather than using the more active
8 “enhanced interrogation techniques,” Mr. Rahman’s interrogators should instead
9 focus on “deprivations”: “it will be the consistent and persistent application of
10 deprivations (sleep loss and fatigue) and seemingly constant interrogations
11 which will be most effective in wearing down this subject’s resistance posture.”
12 Ladin Decl., Exh. NN at U.S. Bates 001057–58.
13

14 72. During the weeks Mr. Rahman spent in the CIA prison before his
15 death, Rahman was mostly naked or wearing a diaper. Ladin Decl., Exh. MM at
16 U.S. Bates 001291. Defendant Jessen admitted that Mr. Rahman’s diaper and
17 clothes were removed at the interrogators’ direction. *Id.*
18

19 73. The diaper and nudity were used to humiliate Mr. Rahman, and had
20 the intended effect: Mr. Rahman was “particularly concerned with being naked
21 in front of . . . the guards,” and “asked to be covered” during every interrogation.
22 *Id.* at U.S. Bates 001293. This was in accord with Defendants’ proposal that
23 diapers be used to “leverage” a prisoner’s being “very sensitive to situations that
24 reflect a loss of status or are potentially humiliating.” Ladin Decl., Exh. H at
25 U.S. Bates 001110–11.
26

1
2 74. According to Defendant Jessen, Mr. Rahman was subjected to
3 consistent sleep deprivation for days, with Mr. Rahman “chained to the
4 overhead bar in his cell,” to induce “sleep deprivation right from the beginning.”
5 Ladin Decl., Exh. JJ at U.S. Bates 001049, 001051.

6 75. According to Defendant Jessen, Mr. Rahman “was without clothes
7 very early on in his incarceration,” and “didn’t have clothing more than he did
8 have clothing.” *Id.* at U.S. Bates 001050.

9
10 76. Defendant Jessen observed other interrogators and guards using a
11 “hard takedown” on Mr. Rahman: the renditions team dragged Mr. Rahman out
12 of his cell, cut his clothes off, taped him, and put a hood over his head. They
13 slapped him and punched him as they ran him up and down the long corridor
14 adjacent to his cell. When Mr. Rahman stumbled, the team dragged him along
15 the ground. Afterwards, Mr. Rahman had abrasions on his head and leg and
16 crusty contusions on his face, leg, and hands. Defendant Jessen told a CIA
17 interrogator at COBALT that he had not used the technique, but it was worth
18 trying. Ladin Decl., Exh. JJ at U.S. Bates 1051. Defendant Jessen suggested to
19 the CIA interrogator that if you do a hard takedown, you should “leverage that
20 in some way” Ladin Decl., Exh. C, Jessen Dep. 197:12–198:7. Defendant Jessen
21 said an interrogator should speak to the prisoner afterwards, to “give them
22 something to think about.” Ladin Decl., Exh. HH at U.S. Bates 001133.

23
24 77. Defendant Jessen said the hard takedown was a “good technique, but
25 these kinds of things need to be written down and codified with a stamp of
26

1 approval or you're going to be liable." Ladin Decl., Exh. JJ at U.S. Bates
2 001049.
3

4 78. After several days during which Mr. Rahman had been kept in a
5 diaper, his hands chained to an overhead bar in accord with Defendants' sleep
6 deprivation method, and after Defendant Jessen observed that Mr. Rahman
7 displayed early signs of hypothermia, Defendant Jessen recommended that the
8 CIA "continue the environmental deprivations [Mr. Rahman] is experiencing."
9 Ladin Decl., Exh. NN at U.S. Bates 001057.
10

11 79. Defendant Jessen claimed that Mr. Rahman "continues to use 'health
12 and welfare' behaviors and complaints as a major part of his resistance posture."
13 Ladin Decl., Exh. II at U.S. Bates 001077. Defendant Jessen explained that
14 "health and welfare behavior" is "[a]ny complaint dealing with health and
15 welfare," and gave as an example the complaint "I'm cold." Ladin Decl., Exh.
16 C, Jessen Dep. 234:10–235:4. Defendant Jessen also identified as specific
17 examples of Mr. Rahman's "sophisticated level of resistance training" that Mr.
18 Rahman's "claimed inability to think due to conditions (cold)," that he
19 "complained about poor treatment," and that he "complained about the violation
20 of his human rights." Ladin Decl., Exh. LL at U.S. Bates 001073. Jessen stated
21 that after he saw Mr. Rahman "showing the early stages of hypothermia," he
22 "ordered the guards to give him a blanket." Ladin Decl., Exh. JJ at 1050.
23
24

25 80. Four days after Defendant Jessen left COBALT, an interrogator
26 conducted a brief question session with Mr. Rahman "based on Jessen's

1 recommendation that Rahman be left alone and environmental deprivations
2 continued.” Ladin Decl., Exh. MM at U.S. Bates 001312.
3

4 81. Two days later, Mr. Rahman—deprived of food, sleep, clothing, and
5 warmth—died of hypothermia. *Id.* at U.S. Bates 001272–73.

6 82. After Mr. Rahman’s death, Defendant Jessen told an investigator that
7 Mr. Rahman “knew how to use physical problems or duress as a resistance
8 tool.” Ladin Decl., Exh. JJ at U.S. Bates 001053.
9

10 83. Defendant Jessen also told the investigator that “if a detainee is strong
11 and resilient, you have to establish control in someway [sic] or you’re not going
12 to get anywhere. If bound by the Geneva Convention, this person would not
13 break. You have to try different techniques to get him to open up. . . . You want
14 to instill fear and despair.” *Id.* at U.S. Bates 001050–51.

15 84. Defendant Jessen reported that the atmosphere at COBALT “was
16 excellent for the type of prisoners kept there—‘nasty but safe,’” and that the
17 CIA officer who had ordered that Mr. Rahman be chained during his final days,
18 pantless, to a freezing concrete floor “was very level headed and acted in a
19 measured manner.” Defendant Jessen stated he would work with the CIA officer
20 “anytime, anyday.” Ladin Decl., Exh. HH at U.S. Bates 001124; Ladin Decl.,
21 Exh. JJ at U.S. Bates 001053.
22
23

24 **IV. MR. SALIM’S TORTURE AND CIDT**

25 85. Mr. Salim was held at COBALT for two months, between March
26 2003 and May 2003. Salim Decl. ¶ 3.

1
2 86. While he was held at COBALT, Mr. Salim was subjected to
3 conditions that included deprivation of natural light and any ability to
4 distinguish between day and night, continuous loud music and noise, isolation.
5 Mr. Salim felt that he was “treated like I wasn’t human, worse than an animal.”
6 Salim Decl. ¶ 6.

7
8 87. Interrogators also subjected Mr. Salim to forced nudity, diapers, and
9 sleep deprivation through shackling in a painful position that made it impossible
10 to sleep. For about a week he was “chained[], naked except for a diaper, by [his]
11 arms and legs to a rusty hoop that was attached to the wall, [his] arms
12 outstretched and at eye level. The only position [he] could safely adopt was a
13 squatting position that very quickly became uncomfortable and extremely
14 painful. The excruciating stress position, together with the putrid smell and
15 deafening noise, made it impossible for [him] to sleep.” Salim Decl. ¶ 7.

16
17 88. Mr. Salim was deprived of any “amenities,” including clothing, a
18 toilet, and any ability to keep himself clean. Salim Decl. ¶¶ 6, 9.

19
20 89. Forced nudity and use of diapers had the desired impact on Mr. Salim:
21 “The forced nudity left [him] feeling vulnerable, helpless, and deeply
22 humiliated.” Salim Decl. ¶ 9.

23
24 90. The “aggressive phase” of Mr. Salim’s interrogation began about a
25 week after his initial detention, once he was examined by someone he believed
26 to be a doctor. Shortly after the examination, his torture increased in severity.
Salim Decl. ¶ 8.

1
2 91. CIA records confirm that interrogators subjected Mr. Salim to
3 “enhanced interrogation techniques” that included “nudity” and “sleep
4 deprivation, water dousing, cramped confinement, facial slap, attention grasp,
5 belly slap, and walling.” Ladin Decl., Exh. PP at U.S. Bates 001567; Ladin
6 Decl., Exh. QQ at U.S. Bates 001609.

7 92. Mr. Salim was stuffed, while “naked, chained and shackled,” inside “a
8 small wooden box, measuring about three square feet.” Once interrogators
9 locked him in the pitch black, rancid-smelling box, he “vomited out of pain and
10 fear.” Interrogators locked him in the box only once, but used it repeatedly as a
11 threat, stuffing him inside the box for short intervals without locking the door.
12 “Even the threat of the small box filled [Mr. Salim] with dread.” Salim Decl. ¶
13 11.

14
15 93. Interrogators subjected Mr. Salim to repeated walling, combined with
16 the repeated use of the attention grasp, facial slap, and abdominal slap methods.
17 They wrapped his neck in a cloth collar, pulled him towards them, then slammed
18 him into a wooden wall over and over while assaulting him in the face and
19 stomach, before interrogating him. “As the session continued, it became more
20 and more painful,” for Mr. Salim, inflicting physical pain, and “severe
21 headache[s] and dizziness immediately after the session ended [and that] lasted
22 for hours.” Salim Decl. ¶ 12.

23
24 94. Shortly after the walling and physical assault session, interrogators
25 subjected Mr. Salim to cramped confinement in a “tall, thin, coffin-like box.” He
26

1 was forced inside, and his hands were chained above his head in a painful
2 position. He was left in darkness, with music blasting him, for two or three
3 hours. After he was released from the box, he experienced a splitting headache,
4 and his shoulders felt dislocated. Salim Decl. ¶ 13

5
6 95. Interrogators subjected Mr. Salim to a prolonged period of sleep
7 deprivation through forced standing in a painful position. His hands were
8 chained above his head, and he was positioned so that his feet barely touched the
9 floor. He was left to hang from his chains, naked, in the darkness, barraged with
10 music played at ear-splitting levels for what seemed like four or five days. He
11 was provided only sips of water, and remained standing with his arms chained
12 above his head even when he had to relieve himself. He was taken down only
13 for interrogation. Whenever he would drift into sleep, he “was immediately
14 jolted awake from the excruciating pain that shot through [his] arms and
15 shoulders as they momentarily supported [his] full body weight.” Afterwards
16 Mr. Salim suffered searing pain in his upper and lower back. His legs became
17 swollen, a large cut had opened on his hand, and the cast covering his broken
18 fingers began giving off a sickening smell. Mr. Salim received only limited
19 medical treatment from a doctor or nurse for these years. Salim Decl. ¶ 15.
20
21

22
23 96. Interrogators subjected Mr. Salim to various sessions in which he was
24 subjected to “enhanced interrogation techniques” in combination without
25 questioning, interspersed with sessions in which he was assaulted while
26 interrogators demanded information. Salim Decl. ¶ 8.

1
2 97. Interrogators also subjected Mr. Salim to water dousing that
3 approximated the water board method. They stripped him naked and forced him
4 to lie on a large plastic sheet, after which they repeatedly doused him with
5 gallons of icy water. The water was so cold it stopped his breathing. In between
6 dousings, he was subjected to slaps and other physical assault. During some of
7 the later sessions, a hood was placed over Mr. Salim's head. When the hood was
8 soaked, it clung to his face, causing to "choke and suffocate" and feel like he
9 was drowning. After each 20-30 minute session, his interrogators "pulled up the
10 corners of the freezing cold sheet and rolled [him] inside, leaving him "to shiver
11 violently in the cold for about 10 or 15 minutes" before further interrogation.
12 This procedure was repeated over and over for days. Salim Decl. ¶ 10.

13
14 98. Interrogators also strapped Mr. Salim to a water board and threatened
15 to pour water directly into his mouth and nose. But instead they spun him
16 around 360 degrees several times, until he was "dizzy, nauseous, and completely
17 disoriented." Salim Decl. ¶ 14.

18
19 99. The use of all these abuses, applied repeatedly and in combination
20 produced in Mr. Salim "a constant state of terror." Salim Decl. 17.

21 100. Mr. Salim also suffered severe physical and mental pain as a result
22 of interrogators subjecting him to Defendants' methods. Salim Decl. ¶ 18;
23 Deposition of Suleiman Abdullah Salim 162:3-12, 167:7-19, 168:24-169:14,
24 171:9-21 (Ladin Decl., Exh. OO, cited hereinafter as "Salim Dep.").

25
26 101. Interrogators' repeated application of Defendants' methods broke

1 Mr. Salim physically and mentally to the point that he attempted to take his own
2 life by overdosing on painkillers that CIA medics had given to him and that he
3 had stockpiled over the weeks of his confinement at COBALT. Salim Decl. ¶
4 17.

5
6 102. Interrogators stopped the “aggressive phase” of Mr. Salim’s
7 immediately after his unsuccessful suicide attempt and transferred him from the
8 interrogation cell at COBALT to another CIA facility nearby. Ladin Decl.,
9 Exhibit OO, Salim Dep. 180:12–181:12.

10
11 103. Mr. Salim was detained by the CIA without charge or trial for
12 another year and several months. Salim Decl. ¶ 17.

13
14 104. On June 9, 2004, the CIA transferred Mr. Salim from its custody to
15 the custody of the U.S. Department of Defense at Bagram Air Force Base, where
16 Mr. Salim was held without charge or trial, until August 2008. Ladin Decl., Exh.
17 PP at U.S. Bates 001567; Ladin Decl., Exhibit OO, Salim Dep. 218:12–16.

18
19 105. While he was detained at Bagram, the Department of Defense
20 determined that Mr. Salim had not been involved in terrorist operations, and that
21 there was no basis to detain him. Ladin Decl., Exh. RR at U.S. Bates 001529.

22
23 106. In August 2008, the Department of Defense released Mr. Salim
24 with a certification that he “has been determined to pose no threat to the United
25 States Armed Forces or its interests in Afghanistan.” Ladin Decl., Exh. SS.

26 **V. MR. BEN SOUD’S TORTURE AND CIDT**

107. Mr. Ben Soud was held at COBALT for over a year, between April

1 2003 and April 2004. Ben Soud Decl. ¶ 3.
2

3 108. At COBALT, Mr. Ben Soud was subjected to conditions that
4 included deprivation of natural light and any ability to distinguish between day
5 and night, continuous loud music and noise, isolation, and deprivation of
6 amenities beyond a bucket for human waste. These “extremely harsh and
7 debilitating” conditions caused him “severe mental anguish and distress.” Ben
8 Soud Decl. ¶ 6.
9

10 109. Mr. Ben Soud was deprived of sleep by being chained and shackled
11 in painful positions. Guards chained him in three different stress positions,
12 which caused him acute back and knee pain and exacerbated the pain in his
13 broken left foot. Ben Soud Decl. ¶ 7. When Mr. Ben Soud could not be forced
14 to stand because of his broken foot, guards would bang loudly on the door to his
15 cell to keep him awake. Once the cast on his leg was removed, guards would
16 unchain him and forcibly march him around the prison, naked, every half-hour
17 throughout the night. Mr. Ben Soud found the experience “extremely
18 humiliating and degrading,” and “incredibly painful, especially in [his] foot,
19 which had only recently healed.” Ben Soud Decl. ¶ 8.
20

21 110. For the first two months at COBALT, Mr. Ben Soud was kept
22 naked or in diapers. In May 2003, after the worst of his torture was over,
23 interrogators finally provided Mr. Ben Soud with clothing for the first time. Ben
24 Soud Decl. ¶ 11.
25

26 111. Deprivation of clothing and use of diapers had the desired impact

1 on Mr. Ben Soud, who, as a devout man, found the forced nudity “especially
2 humiliating and degrading,” and felt “vulnerable and helpless.” Ben Soud Decl.
3 ¶ 11.
4

5 112. The “aggressive phase” of Mr. Ben Soud’s interrogation began
6 some two weeks after his initial detention at COBALT, after CIA interrogators
7 had repeatedly asked him the same questions. Ben Soud Decl. ¶ 9, 10.
8

9 113. CIA records confirm that interrogators subjected Mr. Ben Soud to
10 “enhanced interrogation techniques” that included “nudity, sleep deprivation,
11 insult slap, abdominal slap, attention grasp, cramped confinement, water
12 dousing, walling, stress positions,” dietary manipulation, and “facial hold.”
13 Ladin Decl., Exh. PP at U.S. Bates 001581; Ladin Decl., Exh. QQ at U.S. Bates
14 001609.
15

16 114. Interrogators subjected Mr. Ben Soud to repeated sessions of the
17 walling method in combination with facial slap and abdominal slap methods
18 over a four or five week-long period. The sessions followed a methodical
19 procedure: an interrogator would place a foam collar around Mr. Ben Soud’s
20 neck, slap him firmly in the face and then the stomach, and then throw him
21 repeatedly against a wooden wall. Each time he was smashed into the wall, the
22 noise was “deafening and terrifying.” The process would be repeated for 20 or
23 30 minute sessions, and was interspersed with questioning. The walling method
24 and questioning were repeated over and over, “on a daily basis for many hours.
25 As the sessions continued, they became increasingly painful. [Mr. Ben Soud]
26

1 developed a severe headache and dizziness immediately after a session ended,
2 which lasted for hours thereafter.” As Mr. Ben Soud’s interrogations became
3 more aggressive, the sessions increased in ferocity resulting in “more acute pain
4 in [his] body, headaches and dizziness.” Ben Soud Decl. ¶ 12.

5
6 115. Interrogators subjected Mr. Ben Soud to cramped confinement in a
7 tall thin wooden box, with his arms chained over his head and loud music
8 blasting in his ears. Ben Soud Decl. ¶ 15. Interrogators also subjected Mr. Ben
9 Soud to cramped confinement in a significantly smaller box, measuring
10 approximately 3 ft by 3 ft. He was locked inside for roughly forty-five minutes,
11 and experienced physical and mental pain, including “acute lower back pain,”
12 severe leg pain—particularly in the leg with the broken foot, and in his knees,
13 neck, and elbows. He was filled with dread when interrogators would later
14 repeatedly threaten to stuff him back inside the box. Ben Soud Decl. ¶ 16.

15
16
17 116. Towards the end of the “aggressive phase” of Mr. Ben Soud’s
18 interrogation, interrogators subjected Mr. Ben Soud to a new sleep deprivation
19 method, involving a painful standing stress position. For roughly 36 hours he
20 was hung by the arms from a metal rod, naked and positioned so that the balls of
21 his feet (one of which was broken) barely touched the ground. Although the
22 room was pitch-black it was impossible to fall asleep, and loud music was
23 blasted for the duration of his time in the sleep deprivation cell. “After a very
24 short time, alone in that room and unable to sleep, [Mr. Ben Soud] began to
25 hallucinate and slowly became hysterical.” Once he was released, he was unable
26

1 to walk and guards had to carry him to an examination room for treatment. His
2 legs “had become engorged and swollen with fluid,” in particular the leg that
3 had been broken. “Both limbs were excruciatingly painful,” as were his arms
4 and back. The pain lasted for many days, and remains with him. Ben Soud Decl.
5 ¶ 17.
6

7 117. During the “aggressive phase,” interrogators subjected Mr. Ben
8 Soud to additional coercive methods, including water dousing and another
9 approximation of waterboarding. During the water dousing sessions, guards
10 would force him, naked, onto a large plastic sheet, which they pulled up to form
11 a shallow basin. They doused him with buckets of cold water until he was
12 partially submerged. The water was so cold that it was physically painful, and he
13 shivered violently. The sessions lasted about half an hour to forty minutes,
14 sometimes longer, and were interspersed with interrogations where Mr. Ben
15 Soud, naked and shivering, was questioned. After about two weeks, the
16 method’s intensity was increased by placing a hood over Mr. Ben Soud’s head
17 prior to pouring the water. The addition of the hood caused him to feel like he
18 was drowning. Mr. Ben Soud was subjected to this water treatment multiple
19 times a day for four or five weeks. Ben Soud Decl. ¶ 13.
20
21

22 118. Mr. Ben Soud was also strapped to a waterboard with a hood placed
23 over his head. He was then spun around, and buckets of cold water were poured
24 over him while his feet were elevated. The water ran into his mouth and up his
25 nose, causing him to feel like he was drowning as he choked and struggled for
26

1 breath. “Although interrogators did not pour water directly over [his] mouth and
2 nose, they threatened to do so if [he] didn’t cooperate.” The threat terrified him.
3 Ben Soud Decl. ¶ 14.
4

5 119. Interrogators subjected Mr. Ben Soud to various sessions in which
6 he was subjected to “enhanced interrogation techniques” in combination,
7 interspersed with interrogation sessions when he would be assaulted while
8 interrogators demanded information. During these sessions, the combined
9 physical assaults (consisting of repeated uses of the attention grasp, facial hold,
10 facial slap, and abdominal slap methods) caused him “acute pain” which lasted
11 for hours after the interrogations. Ben Soud Decl. ¶18.
12

13 120. Interrogators stopped the aggressive phase of Mr. Ben Soud’s
14 torture about five or six weeks after they had started it. Ben Soud Decl. ¶ 5, 19.
15

16 121. Mr. Ben Soud suffered severe mental and physical pain as a result
17 of the combination of abuses he was subjected to, in combination with the
18 humiliating and degrading conditions of his confinement. He felt “completely
19 hopeless and helpless,” and experienced “a constant state of terror, apprehension
20 and dread,” which began to let up only “once interrogators stopped using some
21 of the worst of their interrogation methods, around the end of May, 2003.” Ben
22 Soud Decl. ¶ 19.
23

24 122. Mr. Ben Soud was detained by the CIA until August 2004, when
25 the CIA transferred Mr. Ben Soud to the custody of the Qaddafi dictatorship in
26 Libya. Mr. Ben Soud was imprisoned by the Qaddafi regime for his membership

1 in a group opposed to the dictatorship, and remained in prison until Qaddafi's
2 overthrow in January 2011. Deposition of Mohamed Ahmed Ben Soud 225:17–
3 226:7, 228:4–16, 238:16–23 (Ladin Decl., Exh. TT). Mr. Ben Soud never fought
4 against the United States. Ben Soud Decl. 20.

6 123. After Qaddafi was killed in 2011, President Obama announced that
7 “the dark shadow of tyranny has been lifted” from Libya. Remarks by the
8 President on the Death of Muammar Qaddafi, Oct. 20, 2011.

9 [https://obamawhitehouse.archives.gov/the-press-office/2011/10/20/remarks-president-death-](https://obamawhitehouse.archives.gov/the-press-office/2011/10/20/remarks-president-death-muammar-qaddafi)
10 [muammar-qaddafi](https://obamawhitehouse.archives.gov/the-press-office/2011/10/20/remarks-president-death-muammar-qaddafi) (Ladin Decl., Exh. UU).

12 VI. DEFENDANTS CONTINUED TO PROFIT FROM THE 13 PROGRAM

14 124. As the years progressed, Defendants remained “involved in the
15 selection and development of interrogation and exploitation techniques” and
16 were “instrumental in training and mentoring other CIA interrogators and
17 debriefers.” Ladin Decl., Exh. VV at U.S. Bates 001585–86.

19 125. Defendants formed Mitchell, Jessen & Associates to meet the
20 “growing demand for expert consultation, operational interrogation and
21 exploitation capabilities” in the CIA program. *Id.* at U.S. Bates 001586.
22 Defendants’ company acquired a “sole source contract to support CTC’s
23 rendition, detention, and interrogation program.” Ladin Decl., Exh. WW at U.S.
24 Bates 001629. Mitchell, Jessen & Associates contracted with the CIA to
25 continue providing “professional services by Drs. Mitchell and Jessen.” Ladin
26

1 Decl., Exh. XX at U.S. Bates 001906. Defendants submitted a technical
2 proposal for their company, claiming they would respond to a need “to continue
3 developing and refining the program,” as “an outside source of professional
4 expertise in the area of human exploitation, interrogation, debriefing, and the
5 management of detainees in ways that facilitate intelligence collection.” Ladin
6 Decl., Exh. VV at U.S. Bates 001585.
7

8
9 126. In 2006, Defendants spent several days considering refinements to
10 their list of methods, and decided that “nudity, slaps, facial holds, dietary
11 manipulation, and cramped confinement,” were, in fact, “completely
12 unnecessary.” Defendants believed walling and sleep deprivation were essential.
13 They briefed their “recommendations to the mid-level CIA officers who were
14 working the issue for CIA leadership.” Ladin Decl., Exh. E at MJ00022862:
15

16 127. In 2007, Secretary of State Condoleezza Rice wanted a personal
17 briefing on the program from its original architects. Defendants, accompanied
18 by John Rizzo, met with the Secretary. Ladin Decl., Exh. EE, Rizzo Dep. 68:14–
19 69:8. During the discussion of sleep deprivation, the Secretary of State
20 expressed concern that Defendants’ method—which involved shackling a
21 prisoner’s hands to an overhead tether—evoked an image similar to the prisoner
22 abuse scandal that had taken place at Abu Ghraib. Ladin Decl., Exh. YY at U.S.
23 Bates 001175–76. Defendants “indicated the possibility of devising alternative
24 methods to deprive sleep,” and resolved to “work on alternative methods for
25
26

1 implementing sleep deprivation EIT and propose courses of action.” *Id.* at U.S.
2 Bates 001176–77.
3

4 128. Defendants played additional leading roles in the program,
5 including “provid[ing] high-level briefings to the 7th floor,” i.e., to CIA’s top
6 management, as well as the production of papers evaluating and justifying the
7 use of “coercive physical pressures” as part of interrogation. Ladin Decl., Exh.
8 ZZ at U.S. Bates 001909; Ladin Decl., Exh. AAA at U.S. Bates 002285–2291.
9

10 129. Defendants were personally paid millions of dollars by the CIA as
11 independent contractors for “research and development as well as operational
12 services.” Ladin Decl., Exh. XX at U.S. Bates 001906.

13 130. After the program was investigated by the Senate Select Committee
14 on Intelligence, the CIA agreed with the Committee’s conclusion that the CIA
15 “allowed a conflict of interest to exist wherein the contractors who helped
16 design and employ the enhanced interrogation techniques were also involved in
17 assessing the fitness of detainees to be subjected to such techniques and the
18 effectiveness of those same techniques.” Ladin Decl., Exh. BBB, CIA Response
19 at 10; Ladin Decl., Exh. B, Rodriguez Dep. 133:2–20.
20

21 131. Until the CIA program was shuttered and Defendants’ contract was
22 terminated in 2009, Mitchell, Jessen, and Associates received \$81 million in
23 taxpayer money. ECF No. 77 ¶ 68; Ladin Decl., Exh. BBB, CIA Response at 11,
24 49.
25
26

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CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2017, I caused to be electronically filed and served the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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