

Judge Hellerstein

01 CV 9074

BEASLEY, CASEY & ERBSTEIN

BY: JAMES E. BEASLEY, ESQUIRE

ATTORNEY FOR: PLAINTIFFS

IDENTIFICATION NO. 8860

1125-35 WALNUT STREET

PHILADELPHIA, PA 19107-4997

(215) 592-1000

JANE DOE, in her own right, on behalf of her
minor children, and as Executrix of the Estate of
T.S., Deceased

v.

THE ISLAMIC EMIRATE OF AFGHANISTAN;
THE TALIBAN;
AL QAIDA/ISLAMIC ARMY; AND
SHEIKH USAMAH BIN-MUHAMMAD
BIN-LADEN, a/k/a OSAMA BIN LADEN

U.S. FEDERAL DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CIVIL ACTION NO.

JURY TRIAL DEMANDED

FILED
U.S. DISTRICT COURT
2001 OCT 01 PM 4:24
S.D. N.Y.

CIVIL ACTION COMPLAINT

JURISDICTION

1. Jurisdiction arises pursuant to 28 U.S.C. §§1603, 1604, 1605 and related statutes, and 28 U.S.C. §1330(a), the July 4, 2000 Executive Order No. 13129 and subsequent June 30, 2001 continuation Order by President George W. Bush, and September 24, 2001 Executive Order on Terrorist Financing. Jurisdiction is also proper pursuant to Violations of 18 U.S.C. §1961 *et seq.*, (Racketeer Influenced and Corrupt Organizations). Venue is proper in this District pursuant to 28 U.S.C. §1391(f)(1).

PARTIES

2. "T.S." is a pseudonymous designation for a decedent who was killed during the World Trade Center catastrophe on September 11, 2001. The "T.S." designation is being used throughout the caption and body of this Complaint to protect the health, safety, welfare, and privacy interests of the spouse and minor children of the decedent.

3. Jane Doe is an adult individual who, at all times material hereto, was married to T.S.

4. In October, 2001, Jane Doe was appointed as the Executrix of the Estate of T.S.

5. Jane Doe brings this action on her own behalf, on behalf of the decedent's estate, and on behalf of all heirs of the decedent, in their own right, and in their capacities as beneficiaries of the Wrongful Death and Survival claims pled in this Complaint. All of the individuals referenced in this paragraph are hereinafter referred to as "plaintiffs."

6. Plaintiffs bring this action for damages as a result of the terrorist attack and consequent murder of T.S. while he was working in One World Trade Center on September 11, 2001.

7. Defendant, The Islamic Emirate of Afghanistan (hereinafter "Afghanistan"), is a foreign sovereign acting through and on behalf of its ruling party, the Taliban, and its agents, servants, and organizations, some of whom are identified herein, whose activities, as described in this Complaint, were outside the scope of immunity provided by the Foreign Sovereign Immunities Act and have been deemed terrorist activities pursuant to Former President William Jefferson Clinton's July 4, 1999 Executive Order No 13129 (Exhibit "A"), its continuation Order of June 30, 2001 by President George W. Bush (Exhibit "B"), and President George W. Bush's September 24, 2001 Executive Order on Terrorist Financing (Exhibit "C"). Afghanistan, by its activities herein, waived its immunity, either explicitly or by implication, pursuant to 28 U.S.C. §1605 (a) (1).

8. Defendant, Afghanistan, through its officials, employees, and agents, some of whom are identified herein, willfully engaged in government-sponsored acts of conspiracy, terrorism, murder, mayhem and/or the provision of material support and/or resources for said acts, within its borders, as well as those of the United States and other countries, as described more fully herein. As a result, defendant, Afghanistan, is not immune from liability pursuant to 28 U.S.C. §1605 (a) (7).

9. Defendant, Afghanistan, through its officials, employees, and agents, some of whom are identified herein, while acting within the scope of their office, employment, or agency, provided support for the organization, training, and execution of the hijacking and suicide mission of American Airlines Flight 11 into One World Trade Center and provided material support or resources for said acts, making defendants liable pursuant to 28 U.S.C. §1605 (a) (7).

10. Defendant, the Taliban (hereinafter "the Taliban"), is described by the U.S. Department of Treasury, Office of Foreign Asset Control in its Overview of Sanctions Regulations (Exhibit "D") as: "(1) the political/military entity headquartered in Kandahar, Afghanistan that, as of October 21, 1999, exercised de facto control over Kandahar, Farah, Helmund, Nimruz, Herat, Badghis, Ghowr, Oruzghon, Zabol, Paktiha, Ghazni, Nangarhar, Lowgar, Vardan, Faryab, Jowlan, Balkh, Paktika, and Kabul; (2) its agencies and instrumentalities; (3) associated blocked persons, as determined by the U.S. Department of the Treasury and published in the Federal Register, and listed on OFAC's list of "Specially Designated Nationals and Blocked Persons" ("The SDN List"). The Taliban is a foreign government whose activities, as described herein, were outside the scope of immunity provided by the Foreign Sovereign Immunities Act. The Taliban, by its activities herein, waived its immunity, either explicitly or by implication, pursuant to 28 U.S.C. §1605 (a) (1).

11. Defendant, the Taliban, through its officials, employees, and agents, some of whom are identified herein, willfully engaged in acts of terrorism, murder, mayhem, and/or the provision of material support and/or resources for said acts, within its borders and those of the United States, and across state and national boundaries, as described more fully herein. As a result, defendant, the Taliban, is not immune from liability pursuant to 28 U.S.C. § 1605 (a) (7).

12. Defendant, Sheikh Usamah Bin-Muhammad Bin-Ladin (hereinafter "Osama Bin Laden"), is an adult individual who, at all times material hereto, planned, conspired, funded, directed, controlled, and engaged in terrorist activities and pursuits involving intentional and willful mass murder of thousands of innocent men, women, and children.

13. On or about February 23, 1998, Osama Bin Laden issued a Fatwah (religious decree) urging Jihad (holy war) against Americans (Exhibit "E"). Bin Laden's Fatwah stated, in part, as follows:

[I]n compliance with God's order, we issue the following Fatwah to all Muslims: The ruling to kill the Americans and their allies - - civilians and military - - is an individual duty for every Muslim who can do it in any country in which it is possible to do it, . . . We - - with God's help - - call on every Muslim who believes in God and wishes to be rewarded to comply with God's order to kill the Americans and plunder their money wherever and whenever they find it.

14. Later in 1998, Osama Bin Laden was quoted as saying: "If someone can kill an American soldier, it is better than wasting time on other matters."

15. Defendant, Al Qaida/Islamic Army (hereinafter "Al Qaida"), is a terrorist organization which uses violence, bombings, murder, mayhem and other terrorists tactics in order to accomplish its unlawful objectives and goals. Al Qaida is supported, controlled, funded, protected, aided, and abetted by defendants, Afghanistan and the Taliban, and is headed and directed by defendant, Osama Bin Laden. As a result of its unlawful terrorist activities, Al Qaida is not immune from liability

pursuant to 28 U.S.C. §1605(a)(7) and has waived its immunity, either explicitly or by implication, pursuant to 28 U.S.C. §1605(a)(1).

16. On July 4, 1999, after finding that the policies and actions of the Taliban in Afghanistan, in allowing territory under its control to be used as a safe haven and base of operations for Osama Bin Laden and the Al Qaida organization which had committed and threatened to continue to commit acts of violence against the United States and its nationals, constituted an unusual and extraordinary threat to the national security and foreign policy of the United States, President Clinton issued Executive Order No. 13129, declaring a national emergency to deal with that threat. The Order, issued under the authority of International Emergency Economic Powers Act (50 U.S.C. 1701-1706) ("IEEPA"), the National Emergencies Act (50 U.S.C. 1601 et seq.) and §301 of Title 3, United States Code, imposed an asset freeze against the Taliban.

17. Defendant, the Taliban, through its officials, employees, and agents, some of whom are identified herein, while acting within the scope of their office, employment, or agency, provided support for the organization, training, and execution of the hijacking and suicide flight American Airlines Flight 11 into One World Trade Center and provided material support or resources for said acts, pursuant to 28 U.S.C. §1605(a)(7).

18. Defendant, the Taliban, has, on September 30, 2001, admitted by statement of Mullah Abdul Salam Zaeef, the Taliban ambassador to Pakistan, that the Taliban has under its control Osama Bin Laden, an Executive Order defendant and organizer of co-defendant, Al Qaida.

19. Defendants, Al Qaida and Osama Bin Laden (at times hereinafter collectively referred to as "Executive Order defendants"), have been purposely singled out by the President of the United States as entities that commit, threaten to commit, or support terrorism, specifically including those acts which resulted in the September 11, 2001 murders caused by the hijacking and suicide flights

of American Airlines flight 11 into One World Trade Center, as well as the other hijackings of United Airlines flight 175 into Two World Trade Center, American Airlines flight 77 into the Pentagon, and United Airlines flight 93 into a field in Western Pennsylvania. These Executive Order defendants did conspire to plan and commit crimes against United States citizens, the plaintiffs' decedent herein in particular, and property across state and national borders. As such, the Executive Order defendants, whose assets have been frozen pursuant to the Executive Order, are subject to liability to the plaintiffs.

20. All named defendants procured the services of individuals to act as hijackers in furtherance of their terroristic plans and, in particular, obtained the services of Satam M. A. Al Suqami, Abdulaziz Alomari, Waleed M. Alshehri, Wail M. Alshehri, and Mohamed Atta (hereinafter "hijackers"), all of whom have been identified by the Federal Bureau of Investigation as the hijackers of American Airlines Flight 11 which was deliberately hijacked and flown into One World Trade Center's North Tower. These hijackers were acting within the course and scope of their authority on behalf of all defendants, and for whose actions all defendants are liable to the plaintiffs.

21. Afghanistan and the Taliban provided material support and resources to the hijackers and to the Executive Order defendants. In addition to harboring Executive Order defendants, Osama Bin Laden and members of Al Qaida, among others, Afghanistan and the Taliban sponsored the hijackers and the Executive Order defendants within the meaning of 28 U.S.C. § 1605(a)(7) and 28 U.S.C. § 1605 by providing funding, direction, and training for their terrorist activities in Afghanistan and in the United States.

22. All named defendants conspired amongst themselves and other unnamed co-conspirators to prepare, finance, and execute the September 11, 2001 attacks on America referenced in this Complaint.

23. All named defendants engaged in interstate and international criminal activity in locations such as Portland, ME; Boston, MA; Atlanta, GA; Venice, FL; London, England; and Hamburg, Germany in violation of 18 U.S.C. §1961 *et seq.*, (Racketeer Influenced and Corrupt Organizations) and did achieve financial gain through these illegal activities.

24. The defendants' assets have been frozen by virtue of the aforementioned Executive Orders, and plaintiffs seek recovery of these frozen assets, and other sources of compensation for their losses and damages caused by the September 11, 2001 hijacking, pursuant to the above cited statutes and case law.

25. The actions of the defendants, identified herein, are acts of terrorism as defined in the aforecited Presidential Executive Orders and specifically consisted of activities which involved intentional, violent acts and acts dangerous to human life, property, or infrastructure of the United States intended to accomplish the following objectives:

- To intimidate or coerce a civilian population;
- To influence the policy of a government by intimidation or coercion; and
- To affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking.

26. The defendants in this action have committed and threaten to continue to commit acts of terror, violence, and murder against the United States and its citizens.

FACTS

27. On Tuesday, September 11, 2001, at approximately 08:45 a.m. New York local time, One World Trade Center, the North Tower, was struck by American Airlines Flight 11, a hijacked, fully fueled 767 jumbo jet. Two World Trade Center, the South Tower, was hit by a similarly hijacked jet at approximately 09:03 a.m. In separate but related attacks, the Pentagon building near Washington D.C. was hit by a hijacked 757 jet at approximately 09:43 a.m., and at 10:10 a.m., a

fourth hijacked jetliner crashed into a field in Western Pennsylvania as a result of courageous actions by the passengers and crew. The South Tower, Two World Trade Center, the second Tower to be struck, was the first to collapse, at approximately 10:05 a.m. The North Tower, One World Trade Center, collapsed at approximately 10:30 a.m., 1 hour and 45 minutes after being struck.

28. T.S. was at his usual place of business in One World Trade Center at the time American Airlines Flight 11 struck the North Tower. T.S. was able to navigate his way to the roof with a co-worker, who called his own wife on a cell phone and told her that he and T.S. were on the roof awaiting rescue by helicopter. Plaintiffs' decedent tragically perished when the North Tower collapsed a short time later.

29. The hijackers, identified above, used box cutters, knives, and murder to commit air piracy on behalf of Afghanistan, the Taliban, Al Qaida, and Osama Bin Laden. The hijackers, acting in their capacity as agents, servants, and/or employees of, and supported by, Afghanistan, the Taliban, and the Executive Order defendants, willfully and maliciously piloted the hijacked Flight 11 into One World Trade Center, killing thousands of civilians, including the plaintiffs' decedent.

30. Defendants, Afghanistan, the Taliban, and the Executive Order defendants, have a well charted history of committing terroristic activities against U.S. interests, citizens, and servicemen around the world, including the following:

- December, 1992 hotel bombings in Yemen that targeted U.S. servicemen on their way to Somalia as part of a humanitarian United Nations mission;
- February 26, 1993 car bombing of the World Trade Center's South Tower in New York killing 6 and injuring more than a thousand;
- November 13, 1995 car bombing of a Saudi Arabian National Guard training facility in Riyadh, Saudi Arabia killing 7 people, including 5 Americans, and injuring 60 others, 34 of them Americans;
- June 25, 1996 truck bombing at a military housing complex in Dhahran, Saudi Arabia killing 19 U.S. servicemen, and injuring 300 others;

- August, 1998 bombings of U.S. embassies in Kenya and Tanzania, killing 224 people and injuring thousands; and
- October 12, 2000 terrorist bombing of the USS Cole warship while the ship was refueling in the port of Aden, Yemen, killing 17 American sailors.

31. The September 11, 2001 events were the culmination of further measures taken by these named defendants to commit, threaten to commit, or support terrorism, through terrorist training camps, use of Afghanistani land and resources, and other methods used to support terror.

32. As a direct and proximate result of the intentional, willful, reckless, and careless actions of the defendants, the plaintiffs and their decedent have suffered severe and permanent personal injuries, damages, and losses, including the following:

- (a) Plaintiffs' decedent's fear of death due to the damage caused to One World Trade Center prior to its collapse by the suicide hijack attack;
- (b) severe mental anguish to the decedent and his heirs due to the damage caused to One World Trade Center prior to its collapse;
- (c) severe pain and suffering of the decedent and his family due to the damage caused to One World Trade Center prior to its collapse;
- (d) severe anxiety to the decedent and his family due to the damage caused to One World Trade Center prior to its collapse;
- (e) inability of plaintiffs' decedent to perform the usual household and personal activities that he normally would have through the remainder of the decedent's natural life expectancy;
- (f) loss of earnings and future earning potential;
- (g) loss of life and life's pleasures;
- (h) humiliation and embarrassment;
- (i) disfigurement;
- (j) costs relating to managing the estate;
- (k) death by way of murder as a result of the defendants' conduct and that of their co-conspirators.

THEORIES OF LIABILITY

33. Plaintiffs incorporate by reference the averments contained in the preceding paragraphs as though fully set forth at length.

34. The aforementioned personal injuries, death, and losses of the plaintiffs were caused by the intentional acts, recklessness, and carelessness of all named defendants, acting individually or in concert, as well as other co-conspirators not yet identified, and of their agents, servants and/or employees acting within and during the course and scope of their employment, authority, or apparent authority.

35. Defendants, Afghanistan, the Taliban, Al Qaida, and Osama Bin Laden are directly and vicariously subject to liability in this action due to the mandates of the above cited Acts, statutory authority, case law, and Executive Orders. They are also responsible for the actions of those terrorist activities which were supported and undertaken by other co-conspirators.

36. The actions of the hijackers, as operatives of Afghanistan, the Taliban, and the Executive Order defendants, occurred within and without the United States and specifically within the jurisdiction of the Southern District of New York. These acts of terror and murder on behalf of the co-defendant terrorists named herein subject all defendants to liability for the death of plaintiffs' decedent.

37. The Executive Order defendants, whose actions in committing, supporting and endorsing terrorism having been outlined by the President in the pertinent Executive Orders (Exhibits "A" - "C"), have been specifically linked to the terrorism which was executed on September 11, 2001 resulting in the death of plaintiffs' decedent and thousands of other civilians in and around One World Trade Center, the Pentagon, and Western Pennsylvania.

CAUSES OF ACTION

**COUNT ONE
WRONGFUL DEATH
PLAINTIFFS v. ALL NAMED DEFENDANTS**

38. Plaintiffs incorporate by reference the averments in the preceding paragraphs as though fully set forth at length.

39. Plaintiffs bring this action for Wrongful Death pursuant to New York's Wrongful Death Statute (EPTL 5-4.1) which provides that decedent's survivors are entitled to damages deemed a "fair and just compensation for the pecuniary injuries resulting from the decedent's death to the persons for whose benefit the action is brought." (EPTL 5-4.3).

40. The decedent is survived by family members, whose identities are known and available for *in camera* review so as to protect their identities at this stage of this litigation, all of whom are entitled to recover damages for T.S.'s death, and on whose behalf this action is brought.

41. The injuries and damages suffered by the plaintiffs by virtue of the death of T.S., and the consequences resulting therefrom, were proximately caused by the intentional and reckless acts, omissions, and other tortious conduct of the defendants named herein, as described *supra*.

42. As a direct and proximate result of the death of T.S., his heirs have been deprived of future aid, assistance, services, comfort, and financial support.

43. As a direct and proximate result of the death of T.S., his heirs will forever grieve the murder of T.S.

44. As a further result of the intentional and reckless acts, omissions, and other tortious conduct of the above-named defendants, T.S.'s heirs have been caused to expend various sums to raise the Estate and other expenses for which they are entitled to recover pursuant to the Wrongful Death statute.

WHEREFORE, plaintiffs demand judgment in their favor against all named defendants, jointly, severally, and/or individually, in an amount in excess of One Million Dollars (\$1,000,000.00) plus interest, costs, and such other relief as this Honorable Court deems appropriate.

COUNT TWO
SURVIVAL
PLAINTIFFS v. ALL NAMED DEFENDANTS

45. Plaintiffs incorporate herein by reference the averments contained in the preceding paragraphs as though fully set forth herein.

46. Plaintiffs bring this action on behalf of the decedent's estate pursuant to NY CLS EPTL 811-3.2 for damages suffered by the estate as a result of the decedent's death, including the decedent's pain and suffering, inconvenience, loss of life and life's pleasures, loss of earnings and earning capacity, and other items of damages permitted pursuant to this statutory cause of action.

WHEREFORE, plaintiffs demand judgment in their favor against all named defendants, jointly, severally, and/or individually, in an amount in excess of One Million Dollars (\$1,000,000.00), plus interest, costs, and such other relief as this Honorable Court deems appropriate.

COUNT THREE
ASSAULT, BATTERY AND FALSE IMPRISONMENT
PLAINTIFFS v. ALL NAMED DEFENDANTS

47. Plaintiffs incorporate by reference the averments in the preceding paragraphs as though set forth at length.

48. As a result of the September 11, 2001 intentional hijacking and suicide flight of American Airlines Flight 11 into One World Trade Center, it is believed and therefore averred that plaintiffs' decedent was mentally and physically harmed, trapped, and falsely imprisoned prior to the building collapse and his subsequent death.

49. As a result of this assault, battery, and false imprisonment, it is believed and averred that plaintiffs' decedent suffered damages, as outlined above, due to the false imprisonment caused as a direct result of the September 11, 2001 willful hijacking and suicide flight into One World Trade Center.

WHEREFORE, plaintiffs demand judgment in their favor against all named defendants, jointly, severally, and/or individually, in an amount in excess of One Million Dollars (\$1,000,000.00), plus interest, costs, and such other relief as this Honorable Court deems appropriate.

COUNT FOUR
NEGLIGENT AND/OR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
PLAINTIFFS v. ALL NAMED DEFENDANTS

50. Plaintiffs incorporate by reference the averments in the above paragraphs as though fully set forth at length.

51. All defendants knew that the September 11, 2001 intentional hijacking and suicide flight of American Airlines flight 11 into One World Trade Center would injure innocent United States Citizens at their place of work, leaving family members to grieve for their losses.

52. The actions of the defendants in causing the September 11, 2001 intentional hijacking and suicide flight of American Airlines flight 11 into One World Trade Center were done with a willful disregard of the rights of plaintiffs and their decedent.

53. All named defendants knew or should have known that plaintiffs would contemporaneously view the images, through the news media, of the hijacked flight 11 into One World Trade Center and therefore willfully and intentionally inflicted severe emotional distress on plaintiffs.

54. As a direct and proximate result of defendants' conduct, plaintiffs have suffered and will forever in the future suffer the following:

- (a) Severe and permanent emotional distress and anxiety as a result of watching and observing the hijacked flight crash into One World Trade Center, the resulting fire and ultimate collapse of said building, taking with it the life of plaintiffs' decedent;
- (b) Permanent psychological distress; and
- (c) Permanent mental impairment.

55. The conduct of all named defendants was undertaken in an intentional manner to murder United States Citizens such as plaintiffs' decedent and to cause the contemporaneous and permanent emotional suffering of the decedent's heirs.

56. The defendants, by engaging in this unlawful conduct, negligently and/or intentionally inflicted emotional distress upon the plaintiffs herein.

WHEREFORE, plaintiffs demand judgment in their favor against all named defendants, jointly, severally, and/or individually, in an amount in excess of One Million Dollars (\$1,000,000.00), plus interest, costs, and such other relief as this Honorable Court deems appropriate.

**COUNT FIVE
CIVIL RICO
PLAINTIFFS v. ALL NAMED DEFENDANTS**

57. Plaintiffs incorporate by reference the averments in the preceding paragraphs as though fully set forth at length.

58. All named defendants did, in violation of 18 U.S.C. §1961 *et seq.*, (Racketeer Influenced and Corrupt Organizations) and within the meaning of the statute, agree and conspire to hijack American Airlines Flight 11 and attack One World Trade Center, and other locations as part of their larger terror plan, through a pattern of racketeering activity as defined in 18 U.S.C. §1961

et seq., including but not limited to acts of murder, kidnapping, arson, robbery, and related fraudulent activities in connection with the procurement of false identification documents.

59. Defendants committed further RICO violations in the unlawful reproduction of naturalization or citizenship papers; obstruction of justice, obstruction of criminal investigations, and the obstruction of state and/or local law enforcement; false statements in applications, as well as forgery, false use and misuse of passports, visas, permits, and other documents; as well as liability for acts indictable under the Immigration and Nationality Act relating to bringing in and harboring certain aliens and assisting their entry into the United States.

60. Defendants committed further RICO violations by their willful interference with commerce, robbery, or extortion, racketeering, and the laundering of monetary instruments and engaging in monetary transactions in property derived from specified unlawful activities.

61. Defendants committed further RICO violations by their unlawful use of interstate commerce facilities in the commission of murder-for-hire, and liability for the interstate transportation of stolen motor vehicles such as American Airlines' hijacked flight 11.

62. Defendants committed further RICO violations due to the fraud connected with the short selling of stocks which occurred in concert with the September 11th attacks and for which profit was obtained.

WHEREFORE, plaintiffs demand treble damages in excess of One Million Dollars (\$1,000,000.00), plus interest, costs, and such other relief as this Honorable Court deems appropriate.

BEASLEY, CASEY & ERBSTEIN

BY:


JAMES E. BEASLEY, ESQUIRE
Attorneys for Plaintiffs

Dated: October 10, 2001