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12 Attorneys for Plaintiffs
 BARBARA BAUMAN, et al.

13 UNITED STATES DISTRICT COURT
 14 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 15

16 BARBARA BAUMAN, on behalf of herself)
 and as heir of her son, OSCAR ALBERTO)
 17 ALVAREZ BAUMAN; GREGORY)
 GRIECO, on behalf of himself and as heir of)
 18 his brother MIGUEL GRIECO; JOSEFINA)
 NUNEZ, on behalf of herself and as heir of)
 19 her husband, DIEGO NUNEZ; GABRIELE)
 NUNEZ, MIRIAM NUNEZ and SILVIA)
 20 NUNEZ, on behalf of themselves and as)
 heirs of their father, DIEGO NUNEZ;)
 21 EMILIO GUILLERMO PESCE, on behalf)
 of himself and as heir of his brother,)
 22 ESTEBAN A. REIMBER; MIRTA)
 HAYDEE ARENAS, on behalf of herself)
 23 and as heir of her brother , ALBERTO)
 FRANCISCO ARENAS; GRACIELA)
 24 GIGENA, on behalf of herself and as heir of)
 her husband, ALBERTO GIGENA;)
 25 GUILLERMO ALBERTO GIGENA and)
 NURIA GIGENA, on behalf of themselves)
 26 and as heirs of their father, ALBERTO)
 GIGENA; AMELIA SCHIAFFO, on behalf)
 27 of herself and as heir of her husband)
 FERNANDO OMAR DEL CONNTE;)
 28 ELBA LEICHNER, on behalf of herself and)

Case No.:

**COMPLAINT FOR DAMAGES AND
 DECLARATORY RELIEF FOR:**

1. Extra-Judicial Killing
2. Torture
3. Crimes Against Humanity
4. Cruel, Inhuman and Degrading Treatment
5. Violation of California’s Wrongful Death Statute
6. Intentional Infliction of Emotional Distress

DEMAND FOR JURY TRIAL

1 as heir of her son JORGE LEICHNER;)
ANUNCIACION SPALTRO DE)
2 BELMONTE, on behalf of herself and as)
heir of her husband HECTOR BELMONTE;)
3 HECTOR RATTO; EDUARDO)
OLASIREGUI; RICHARDO MARTIN)
4 HOFFMAN; EDUARDO ESTIVILLE,)
ALFREDO MANUEL MARTIN; JUAN)
5 JOSE MARTIN; JOSE BARREIRO; and)
ALEJANDRO DAER,)
6)
Plaintiffs,)
7)
vs.)
8)
DAIMLERCHRYSLER CORPORATION,)
9 and DOES 1 through 50, inclusive,)
10)
Defendant.)

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1 I. NATURE OF ACTION

2 This case involves the forced disappearance and presumed murders of Oscar Alberto
3 Alvarez Bauman, Miguel Grieco, Diego Nuñez, Estaban A. Reimer, Alberto Francisco Arenas,
4 Alberto Gigena, Fernando Omar del Connte, Jorge Leichner and Hector Belmonte -- all
5 workers and trade unionists at the Mercedes Benz Argentina (“MBA”) plant in Gonzalez-
6 Catan, Argentina. The disappearances of these individuals were carried out by state security
7 forces acting under the direction of and in collaboration with MBA -- now known as
8 DaimlerChrysler Argentina (“DCA”), a wholly-owned subsidiary of Defendant
9 DaimlerChrysler Corporation. Close relatives of these disappeared individuals bring this
10 action on behalf of themselves for the injuries, including pain and suffering, they have endured
11 as a result of these disappearances, and as heirs of the disappeared. This case also involves the
12 kidnapping, detention and torture of Plaintiffs Hector Ratto, Eduardo Olasiregui, Ricardo
13 Martin Hoffman, Eduardo Estivill, Alfredo Manuel Martin, Juan Jose Martin, Jose Barreiro
14 and Alejandro Daer -- workers and trade unionists at the same MBA plant. The kidnapping,
15 detention and torture of these Plaintiffs were carried out by state security forces acting under
16 the direction of and with material assistance from MBA.

17 2. The disappearance and presumed extra-judicial killings of the aforementioned
18 missing individuals as well as the kidnapping, detention and torture of the aforesaid Plaintiffs
19 were committed in contravention of the law of nations, and as such, are actionable under the
20 Alien Tort Claims Act (“ATCA”), 28 U.S.C. §1350 and the Torture Victims Protection Act
21 (“TVPA”), 28 U.S.C. §1350, Note. Plaintiffs bring this action against Defendant
22 DaimlerChrysler Corporation (“DaimlerChrysler”) which so dominates and controls DCA, the
23 successor-in-interest of MBA, that the two companies are in fact alter egos. High-ranking
24 employees/officials of MBA, including Director of Legal Affairs Ruben Pablo Cueva, Human
25 Resources Director Pedro de Elias and Director of Production Juan Tasselkraut conspired with,
26 directed and aided and abetted state security forces in carrying out the human rights violations
27 alleged herein.

1 II. PARTIES

2 Category I Plaintiffs

3 3. Plaintiff Barbara Bauman is a citizen and permanent resident of Argentina. She
4 is the mother and surviving heir of Oscar Alberto Alvarez Bauman. Oscar Alberto Alvarez
5 Bauman had been an employee of MBA and was an independent union activist. He was
6 disappeared along with his wife Monica on August 4, 1977. Plaintiff Barbara Bauman sues on
7 behalf of herself for the injuries, including pain and suffering, she has endured as a result of
8 the loss of her son. She also brings this action on behalf of her son, as his heir, for the injuries
9 he suffered as a result of his kidnapping, torture, disappearance and presumed murder.

10 4. Gregorio Grieco is a citizen and permanent resident of Argentina. He is the
11 brother and surviving heir of Miguel Grieco. Miguel Grieco had been an employee of MBA
12 and an independent union activist. He was disappeared by state security forces on December
13 14, 1976. Gregorio Grieco sues on behalf of himself for the injuries, including pain and
14 suffering, he has endured as a result of the loss of his brother. He also brings this action on
15 behalf of his brother, Miguel Grieco, as the latter's heir, for the injuries the latter suffered as a
16 result of his kidnapping, torture, disappearance and presumed murder.

17 5. Josefina Nuñez is a citizen and permanent resident of Argentina. She is the
18 surviving wife of Diego Nuñez, an MBA employee who was disappeared by state security
19 forces on August 13, 1977. Josefina Nuñez sues on behalf of herself for the injuries, including
20 pain and suffering, she has endured as a result of the loss of her husband. She also brings this
21 action on behalf of her husband, Diego Nuñez, as the latter's heir, for the injuries the latter
22 suffered as a result of his kidnapping, torture, disappearance and presumed murder.

23 6. Gabriele Nuñez, Miriam Nuñez and Silvia Nuñez are citizens and permanent
24 residents of Argentina. They are surviving daughters of Diego Nuñez, who was disappeared
25 on August 13, 1977. They sue on behalf of themselves, individually, for the injuries, including
26 pain and suffering, they have endured as a result of the loss of their father. In addition, they
27 bring this action on behalf of their father, Diego Nuñez, as the latter's heir, for the injuries he
28 suffered as a result of his kidnapping, torture, disappearance and presumed murder.

1 7. Emilio Guillermo Pesce is a citizen and permanent resident of Argentina. He is
2 the surviving brother of Esteban A. Reimer, an MBA employee who was disappeared by state
3 security forces on January 5, 1977. He sues on behalf of himself for the injuries, including
4 pain and suffering, that he has endured as a result of the loss of his brother. He also brings this
5 action on behalf of his brother, Esteban A. Reimer, as the latter's heir, for the injuries he
6 suffered as a result of his kidnapping, torture, disappearance and presumed murder.

7 8. Mirta Haydee Arenas is a citizen and permanent resident of Argentina. She is
8 the surviving sister of Alberto Francisco Arenas who was disappeared by state security forces
9 on August 19, 1977. She sues on behalf of herself for the injuries, including pain and
10 suffering, that she has endured as a result of the loss of her brother. She also brings this action
11 on behalf of her brother, Alberto Francisco Arenas, as the latter's heir, for the injuries he
12 suffered as a result of his kidnapping, torture, disappearance and presumed murder.

13 9. Graciela Gigena is a citizen and permanent resident of Argentina. She is the
14 surviving wife of Alberto Gigena who was disappeared by state security forces on August 13,
15 1977. She sues on behalf of herself for the injuries, including pain and suffering, that she has
16 endured as a result of the loss of her husband. She also brings this action on behalf of her
17 husband, Alberto Gigena, as the latter's heir, for the injuries he suffered as a result of his
18 kidnapping, torture, disappearance and presumed murder.

19 10. Guillermo Alberto Gigena and Nuria Gigena are citizens and permanent
20 residents of Argentina. They are the children of Alberto Gigena who was disappeared by state
21 security forces on August 13, 1977. They bring this case on behalf of themselves for the
22 injuries, including pain and suffering, that they endured as result of the loss of their father.
23 They also bring this action on behalf of Alberto Gigena, as the latter's heir, for the injuries he
24 suffered as a result of his kidnapping, torture, disappearance and presumed murder.

25 11. Amelia Schiaffo is a citizen and permanent resident of Argentina. She is the
26 surviving wife of Fernando Omar Del Connte who was disappeared on August 12, 1977. She
27 brings this action on behalf of herself for the injuries, including pain and suffering, that she
28 endured as a result of the loss of her husband. She also brings this case on behalf of Fernando

1 Omar Del Connte, as the latter's heir, for the injuries he suffered as a result of his kidnapping,
2 torture, disappearance and presumed murder.

3 12. Elba Leichner is a citizen of Chile and a permanent resident of Argentina. She
4 is the mother of Jorge Leichner who was disappeared on August 14, 1977. She brings this
5 action on behalf of herself for the injuries, including pain and suffering, that she endured as a
6 result of the loss of her son. She also brings this case on behalf of Jorge Leichner, as the
7 latter's heir, for the injuries he suffered as a result of his kidnapping, torture, disappearance
8 and presumed murder.

9 13. Anunciacion Spaltro de Belmonte is a citizen and permanent resident of
10 Argentina. She is the wife of Hector Belmonte, an MBA employee and union activist who
11 was disappeared on August 13, 1977. She brings this action on behalf of herself for the
12 injuries, including pain and suffering, that she endured as a result of the loss of her husband.
13 She also brings this case on behalf of Hector Belmonte, as the latter's heir, for the injuries he
14 suffered as a result of his kidnapping, torture, disappearance and presumed murder.

15 Category II Plaintiffs

16 14. Alfredo Manuel Martin is a citizen and permanent resident of Argentina.
17 Alfredo Martin was kidnapped, detained and tortured on December 14, 1976 by state security
18 forces and Ruben Lavallen, a police station Chief. Alfredo Martin brings this action on behalf
19 of himself for the damages he suffered as a result of his kidnapping, detention and torture.

20 15. Hector Ratto is a citizen and permanent resident of Argentina. On August 12,
21 1977, Hector Ratto was detained by security forces at the MBA plant in Gonzalez Catan and
22 brought by these forces to an army barracks in Campo de Mayo and then transferred soon
23 thereafter to a police station where he was summarily and arbitrarily imprisoned for
24 approximately eighteen months. During his time in captivity, Hector Ratto was subject to
25 extreme forms of torture, including electroshocking. Hector Ratto brings this case on behalf of
26 himself for the damages he suffered as a result of his arbitrary detention and torture.

27 16. Juan Jose Martin is a citizen and permanent resident of Argentina. Juan Jose
28 Martin was kidnapped in the Gonzalez-Catan factory of MBA on April 29, 1976, and brought

1 to the police precinct in San Justo where he was detained and tortured for 19 days. Juan Jose
2 Martin brings this case on behalf of himself for the damages he suffered as a result of his
3 kidnapping, arbitrary detention and torture.

4 17. Ricardo Martin Hoffmann is a citizen and permanent resident of Argentina.
5 Ricardo Martin Hoffman was forced to go into exile in Italy in 1977 after his house was
6 ransacked by security forces and he discovered that these same forces were intent upon
7 arresting him at the Gonzalez-Caton plant just as they had apprehended fellow independent
8 unionist Alfredo Martin. Ricardo Martin Hoffman brings this case on behalf of himself for the
9 damages he suffered as a result of his forced exile.

10 18. Eduardo Estivill is a citizen and permanent resident of Argentina. Eduardo
11 Estivill was forced to go into exile in Europe in 1977 after his house was searched by police
12 forces who were directed to his home by MBA and who were intent upon apprehending Mr.
13 Estivill. Eduardo Estivill brings this case on behalf of himself for the damages he suffered as a
14 result of his forced exile.

15 19. Jose Barreiro is a citizen and permanent resident of Argentina. Jose Barreiro
16 went into hiding and internal exile in 1977 after his house was raided at night by police intent
17 upon apprehending him. Jose Barreiro brings this case on behalf of himself for the damages he
18 suffered as a result of his forced exile.

19 20. Alejandro Daer is a citizen and permanent resident of Argentina. In August of
20 1977, Mr. Daer was forced into exile in Brazil after police searched his home, detained
21 members of his family and attempted to kidnap him. Alejandro Daer brings this case on behalf
22 of himself for the damages he suffered as a result of his forced exile.

23 21. Eduardo Olasiregui is a citizen and permanent resident of Argentina. Mr.
24 Olasiregui was wrongfully arrested and imprisoned for two and a half years as a result of the
25 false and malicious accusations of MBA. He was later pardoned. Mr. Olasiregui brings this
26 case on behalf of himself for the damages he suffered as result of his wrongful and arbitrary
27 imprisonment.

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Defendant

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2 22. Defendant DaimlerChrysler does significant business in the State of California
3 and maintains one of its chief, North American offices, known as the DaimlerChrysler
4 Research and Technology Center North America, within the jurisdiction and venue of this
5 Court, located at 1510 Page Mill Road, Palo Alto, California 94306. DaimlerChrysler, the
6 successor-in-interest of DaimlerBenz, is the parent company of DCA (the successor-in-interest
7 of MBA) and owns 100 percent of the latter. DaimlerChrysler utilizes DCA as its mere
8 instrumentality and so dominates and controls the latter that the two companies are in fact alter
9 egos. Among other things, DaimlerChrysler maintains domination and control over the
10 employment practices, labor relations and human rights practices of DCA.

11 23. DaimlerChrysler, in response to concerns raised by its own shareholders,
12 recently investigated MBA (now known as DCA) in relation to the very allegations at the heart
13 of the instant action and produced a detailed report of this investigation which it released
14 publicly in December of 2003. DaimlerChrysler paid the full cost of this investigation and
15 treated the investigation as if it was an internal review of its own operations. DaimlerChrysler
16 has publicly defended the former officials of MBA alleged to have engaged in the misconduct
17 detailed herein and has publicly treated these officials as its own officials, referring to them as
18 “our top management” which DaimlerChrysler must protect. And, while the report of this
19 investigation concluded that these MBA officials had foreseeably placed the workers at issue
20 in this case in mortal danger by giving their identities and addresses to repressive state forces
21 in Argentina, and by designating these workers as “subversives” to these forces,
22 DaimlerChrysler nonetheless continues to defend the conduct of these officials and of MBA.
23 DaimlerChrysler has thereby ratified this conduct.

24 24. In addition, throughout the time period at issue in this case, MBA was
25 dominated and controlled by DaimlerBenz, the predecessor-in-interest of Defendant
26 DaimlerChrysler, through such DaimlerBenz officers as Klaus Oertel. The domination and
27 control of MBA resulted in MBA acting as a legal or *de facto* agent for DaimlerBenz with
28 respect to the wrongful acts alleged herein. DaimlerBenz was fully aware of the participation

1 of the MBA officials in the human rights violations detailed in this Complaint and
2 DaimlerBenz approved and ratified this participation. As a result of the above, Defendant
3 DaimlerChrysler is either directly liable for its own conduct in aiding and abetting the actions
4 of MBA or is vicariously liable for the conduct of its agent MBA.

5 III. JURISDICTION

6 25. This Court has federal question jurisdiction under 28 U.S.C. §1331 and The
7 Alien Tort Claims Act, 28 U.S.C. § 1350. The Alien Tort Claims Act (“ACTA”) provides
8 federal jurisdiction for “any civil action by an alien for a tort only, committed in violation of
9 the law of nations or a treaty of the United States.” Plaintiffs’ causes of action arise under,
10 inter alia, customary international law, as expressed in the Universal Declaration of Human
11 Rights; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or
12 Punishment; the International Covenant on Civil and Political Rights; the Charter of the
13 Organization of American States; the American Declaration of the Rights and Duties of Man;
14 and the American Convention on Human Rights.

15 26. This Court also had federal question jurisdiction under the Torture Victims
16 Protection Act, 28 U.S.C., §1350, note. The Torture Victims Protection Act (“TVPA”)
17 expressly provides for civil liability against any “individual,” interpreted by the Ninth Circuit
18 to include corporation, “who, under actual or apparent authority, or color of law, of any foreign
19 nation -- (1) subjects an individual to torture . . . or (2) subjects an individual to extra-judicial
20 killing”

21 27. This Court has supplemental and ancillary jurisdiction over the state law claims.

22 28. This Court also has diversity jurisdiction over the federal and state claims
23 pursuant to 28 U.S.C. Section 1332, because the matter in controversy exceeds \$75,000
24 exclusive of interest and costs for each named Plaintiff, and there is complete diversity
25 between all Plaintiffs and the Defendant.

26 IV. INTRADISTRICT ASSIGNMENT

27 29. Venue properly lies in this Court pursuant to 28 U.S.C. §1391 (b) and (c)
28 because Defendant DaimlerChrysler does business and maintains a primary place of business

1 within the State of California and within the district of this Court. In particular,
2 DaimlerChrysler maintains a facility known as DaimlerChrysler Research and Technology
3 Center North America at 1510 Page Mill Road, Palo Alto, California 94306.

4 V. FACTS

5 30. In 1975, amidst labor strife between MBA and its workers, and amidst labor
6 strife in general in Argentina, MBA signed an accord in which it agreed to set aside one
7 percent of its sales for the “eradication of the negative elements of the factory.” This accord
8 was officially approved by the national Labor Ministry of Argentina.

9 31. Shortly after Mercedes signed the above-referenced accord, a majority of
10 workers at the MBA plant in Gonzalez-Catan elected an independent commission to represent
11 them in discussing wages and other terms and conditions of employment with MBA. This
12 commission came to be known as “the group of nine” or the “Internal Commission.” MBA
13 refused to negotiate with this Internal Commission. In response, approximately 4,000 workers
14 went out on strike in support of the demand that MBA recognize and bargain with the Internal
15 Commission. MBA discharged 117 of these striking workers whom Klaus Oertel, then an
16 officer of DaimlerBenz and chief Director of MBA, characterized as “known activists, [and]
17 extreme elements.” The firing of these workers was ratified by the Labor Ministry of
18 Argentina which declared the strike illegal.

19 32. Subsequently, a high-ranking official of MBA, Heinrich Metz, was kidnapped.
20 Mr. Metz was ultimately released unharmed. In response to this kidnapping, MBA Director of
21 Legal Affairs Ruben Cueva sent a declaration to the political police of Argentina in which he
22 singled out four ex-workers of MBA, including Plaintiff Eduardo Olasiregui, as the potential
23 perpetrators of this kidnapping. As Cueva explained in this October 24, 1975 letter, all of
24 these four suspects had been workers and activists at MBA, but had been discharged no later
25 than October of 1974. Cueva in this same letter insinuated that the kidnapping was linked to
26 the strike in the MBA plant in 1975 in which workers demanded that MBA recognize and
27 bargain with the Internal Commission. Cueva then went out of his way in this same letter to
28 name all of the members of this Commission, including Plaintiffs Eduardo Estivill and Jose

1 Barreiro and to provide the political police with their home addresses.

2 33. In 1976, shortly after the aforementioned events, the military overthrew the
3 democratically-elected President of Argentina, Isabel Peron, and set up a military junta which
4 governed over Argentina until 1983. During the period of this military rule, approximately
5 30,000 individuals were kidnapped, tortured and “disappeared” by the military and police
6 forces. A disproportionate number of these “disappeared” were blue collar workers with trade
7 union affiliations.

8 34. The height of the military repression, including the “disappearances,” occurred
9 in the first year following the coup, from 1976 through 1977. As indicated in a March 22,
10 1977 memorandum of MBA, MBA approved of the methods of the military and police during
11 this period, stating that “[i]n those days you achieved important results in the military reaction
12 against the guerilla, among other things, one of those responsible for the kidnapping of Metz
13 was eliminated. In general the result of the government’s methods during its first year were
14 favorable and open good prospects for the development of the country.”

15 35. During this period of intense repression from 1976 through 1977, MBA, fully
16 aware of the conduct of the military and police in “disappearing” individuals they perceived as
17 “subversive” or “extremist,” maintained close ties with high-ranking members of the military
18 and police forces and utilized these forces to rid its plant in Gonzalez-Catan of individuals
19 MBA itself viewed as “subversive” and as slowing production, including leaders and
20 supporters of the independent commission. To this end, MBA, through various high-ranking
21 employees/officials -- including Director of Human Resources Pedro de Elias, Director of
22 Legal Affairs Ruben Pablo Cueva, and Director of Production Juan Tasselkraut -- had
23 members of the military and police forces stationed within the Gonzalez-Catan plant, opened
24 the plant to periodic raids by these forces and identified to these forces which workers it
25 deemed to be “subversive.” These MBA officials did so with the full knowledge that the
26 singling out of alleged “subversives” to these military and police forces would foreseeably
27 result in the summary apprehension, detention, torture and “disappearance” of such
28 individuals.

1 36. As a recently declassified U.S. State Department document noted, as a general
2 matter, management of corporations in Argentina collaborated with the state security forces in
3 this repression in order to rid the corporations of labor agitators. As this document, a wire
4 from the U.S. Embassy in Buenos Aires to the U.S. Secretary of State written in June of 1978,
5 explained: “WE BELIEVE THERE IS A GREAT DEAL OF COOPERATION GENERALLY
6 BETWEEN MANAGEMENT REPRESENTATIVES AND THE SECURITY AGENCIES
7 AIMED AT ELIMINATING TERRORIST INFILTRATORS FROM THE INDUSTRIAL
8 WORK PLACES AND AT MINIMIZING THE RISK OF INDUSTRIAL STRIFE.” This
9 same document noted the disturbing trend, particularly in the first years of the military coup, of
10 “DENUNCIATIONS FROM MANAGEMENT OF ALLEGED TERRORIST ACTIVITIES
11 IN THE PLANTS WHICH MAY BE LITTLE MORE THAN LIEGITIMATE [sic.](ALBEIT
12 ILLEGAL) LABOR UNREST.” MBA’s collaboration with the security forces in dealing with
13 its labor unrest was typical of the period.

14 37. This collaboration between Argentine authorities and corporations generally,
15 and MBA in particular, emanated from their shared aim of ridding industry of labor union
16 activity. This aim is set forth in the following statement by the Minister of Labor on
17 November 12, 1977: “. . . the Government and the Armed Forces have committed their
18 resources and maximum effort to guaranteeing the freedom to work, and family and individual
19 security for management and workers, and the annihilation of that public enemy. But it is
20 worth remembering that those who deviate from the course taken by the 'Process' in search of
21 individual or group benefit become accomplices of that subversion which must be destroyed,
22 as do those who lack the courage to assume the responsibilities imposed by this situation.”

23 38. The individuals MBA singled out to the authorities as “subversives” included all
24 of the Plaintiffs in this case: Oscar Alberto Alvarez Bauman, Miguel Grieco, Diego Nuñez,
25 Esteban Reimer, Alberto Francisco Arenas, Alberto Gigena, Fernando Omar del Connte,
26 Hector Belmonte, Jorge Leichner, Hector Ratto, Eduardo Olasiregui, Ricardo Martin Hoffman,
27 Eduardo Estivill, Alfredo Manuel Martin, Juan Jose Martin, Jose Barreiro and Alejandro Daer.
28 All of these individuals were activists in the Internal Commission.

1 39. The first Plaintiff to fall victim to MBA’s campaign against independent
2 activists was Juan Jose Martin. On April 29, 1976, Plaintiff Juan Jose Martin was kidnapped
3 by military and police forces directly from his post at work at the MBA plant in Gonzalez-
4 Catan. The forces engaged in this kidnapping were directed by MBA officials, including
5 Director of Human Resources Pedro de Elias and Director of Production Juan Tasselkraut, to
6 Juan Jose Martin and were told by these same MBA officials that he was a “subversive.” Juan
7 Jose Martin was held in the custody of the military in the police station of San Justo without
8 warrant or charges for 19 days, during which time he was physically and mentally tortured by
9 the military. This torture included electroshocks to Mr. Martin’s person. Ruben Lavallen, the
10 Chief of this police station at the time, oversaw the torture and interrogation of Mr. Martin and
11 did so with the knowledge and approval of Director of Human Resources Pedro de Elias.

12 40. On May 5, 1976, during this period of captivity, Pedro de Elias wrote a
13 memorandum in which he stated that Juan Jose Martin was being detained by military
14 authorities. As Pedro de Elias wrote in referring to Martin, “the military authorities detained a
15 worker inside the plant in the search of his home prohibited Marxist books were found.” Juan
16 Jose Martin was finally released alive after his 19 days of captivity as a result of the protest of
17 fellow workers and union activists.

18 41. On December 14, 1976, Plaintiff Alfredo Martin, a union leader, was kidnapped
19 from his home by police forces, including station Chief Ruben Lavallen, and brought to the
20 police headquarters in San Justo where he was held for hours without warrant or charges.
21 During his period of captivity, Alfredo Martin was physically and mentally tortured by both
22 military forces and Ruben Lavallen who, *inter alia*, submitted his body to electroshocks.
23 Again, the kidnapping and torture of Martin were carried out by the police forces with the
24 knowledge and approval of MBA officials, including Pedro de Elias. When Martin returned to
25 the MBA plant in Gonzalez-Catan after being held and tortured, Director of Production Juan
26 Tasselkraut was waiting for him and acknowledged that he knew exactly what had happened
27 with Martin.

28 42. Also on the night of December 14, 1976, union activist Miguel Grieco, a worker

1 at the MBA plant in Gonzalez-Catan was forcibly kidnapped from his home by police forces at
2 the direction of MBA officials, including Director of Human Resources Pedro de Elias.
3 Miguel Grieco was never seen or heard from again after this night. Mr. Grieco is presumed
4 murdered and is officially listed as one of Argentina's "disappeared."

5 43. On January 5, 1977, Esteban A. Reimer, an active leader of the Internal
6 Commission and one of the chief spokesmen for the workers at the MBA plant in Gonzalez-
7 Caton, was seized at his home by members of the First Army Command in front of his family
8 and taken away. These military forces carried with them a list upon which Reimer's name
9 appeared. Before withdrawing from Reimer's home with Mr. Reimer in their custody, they
10 crossed Mr. Reimer's name from this list. Reimer's family members searched for him at local
11 police stations but no officials at these stations would acknowledge that Mr. Reimer had been
12 apprehended. After his disappearance, he was seen only once again. Specifically, he was seen
13 with fellow union leader and MBA employee Victor Hugo Ventura, who was also kidnapped
14 on the night of January 5, 1977, at the police station of Ruben Lavallen. After that, neither
15 Reimer nor Ventura were ever seen again. Both Reimer and Ventura are presumed murdered
16 and are officially listed among Argentina's "disappeared."

17 44. The security forces who captured Mr. Reimer on the night of January 5, 1977
18 were acting upon intelligence given to them by MBA officials. Specifically, they were acting
19 upon copies of personnel files which MBA gave to the military forces at the end of 1976 in
20 which MBA accused him of distributing pamphlets endorsed by the Internal Commission and
21 referring to him as an "agitator" who would "integrate the Workers Movement of the
22 Company." According to Defendant DaimlerChrysler's own internal report of the events at
23 issue in this lawsuit, a report just released in December of 2003, MBA's release of this
24 information to the state security forces had foreseeably "fatal consequences" for Mr. Reimer.

25 45. Shortly thereafter, military forces came searching for and ransacked the homes
26 of MBA workers and union activists Ricardo Martin Hoffman, Eduardo Estivill and Jose
27 Barreiro. The military forces came looking for these individuals with the intent to kidnap and
28 "disappear" them, as they had the others, based upon MBA's assertion to these forces that they

1 were “subversives.” In response to these activities of the military and in light of their
2 knowledge of the kidnapping and disappearance of their co-workers as described above,
3 Plaintiffs Hoffman, Estivill and Barreiro were forced into hiding and exile in fear for their very
4 lives. Specifically, Hoffman and Estivill were forced to go into exile in Europe.

5 46. In August of 1977, tensions between MBA and the supporters of the Internal
6 Commission became increasingly tense over a work slowdown initiated by the independent
7 union activists. In early August of 1977, MBA Director of Human Resources Pedro de Elias
8 wrote in a memorandum that “the factory finds itself in a critical situation . . . with serious
9 consequences for the production.” Shortly after this was written, union activists were
10 systematically kidnapped and disappeared by police and military forces acting at the behest of
11 MBA officials, including MBA Director of Production Juan Tasselkraut and MBA Director of
12 Human Resources Pedro de Elias.

13 47. Specifically, between August 12 and August 19, 1977, MBA workers and
14 independent union activists Oscar Alberto Alvarez Bauman (Aug. 4), Hector Ratto (Aug. 12),
15 Fernando Omar Del Connte (Aug. 12), Alberto Gigena (Aug. 13), Hector Belmonte (Aug. 13),
16 Diego Nuñez (Aug. 13), Jorge Alberto Leichner (Aug. 14) and Alberto Francisco Arenas (Aug.
17 19) were forcibly apprehended and kidnapped by military forces. Of these individuals, only
18 Hector Ratto survived. All of these other individuals were never seen or heard from again.
19 They are presumed murdered and are officially listed as Argentina’s “disappeared.” In the
20 case of disappeared Alberto Gigena, his wife Plaintiff Graciela Beatriz Velazquez de Gigena
21 witnessed his violent kidnapping from their home on the night of August 13. This kidnapping
22 was carried out, as she witnessed, by police forces including station Chief Ruben Lavallen.

23 48. As for Hector Ratto, he was kidnapped directly from the MBA plant in
24 Gonzalez-Catan by military forces acting at the direction of MBA Director of Production Juan
25 Tasselkraut. Hector Ratto was held in a secret detention center for one and a half years, during
26 which time he was regularly tortured by the police and military forces through, *inter alia*, the
27 electroshocking of his person. This electroshock torture resulted in Mr. Ratto’s arms being
28 paralyzed for over 2 months.

1 49. Other MBA workers and independent union activists, not represented in this
2 lawsuit, were also “disappeared” during this period in August of 1977, including Juan Jose
3 Mosquera and Charles del Carmen Grossi.

4 50. In addition, during this same period in August of 1977, military forces came
5 searching for and ransacked the homes of MBA worker and union activist Alejandro Daer.
6 The military forces detained some family members of Alejandro Daer in an attempt to coerce
7 them into telling them of Daer’s whereabouts. The military forces came looking for Daer with
8 the intent to kidnap and “disappear” him as they had the others based upon MBA’s assertion to
9 these forces that Daer was a “subversive.” In response to these activities of the military and in
10 light of their knowledge of the kidnapping and disappearance of their co-workers as described
11 above, Plaintiff Alejandro Daer was forced into hiding and exile in fear for his life.
12 Specifically, Daer was forced into exile in Brazil.

13 51. After this period in August of 1977 in which the aforesaid workers were
14 detained, “disappeared” or forced into exile, MBA Director of Human Resources Pedro de
15 Elias wrote in an MBA memorandum that the actions of the military in ridding MBA of these
16 workers had, as anticipated, ended the production slowdown and were welcome by MBA. As
17 he wrote, “the workers of MBA detained by the security forces were still not freed. In the
18 factory they calmed the situation but they have not normalized it. The strike ended on Friday
19 and without it the production has returned to its maximum performance.”

20 52. MBA, with full knowledge and approval of police station Chief Ruben
21 Lavallen’s participation in the crimes as described above, hired Mr. Lavallen as Chief of
22 Security for MBA in 1978. In so hiring Lavallen, MBA formalized the agency relationship
23 which it maintained with Lavallen throughout the period described above when the
24 independent union activists were kidnapped, tortured and disappeared and ratified Lavallen’s
25 conduct in participating in these crimes.

26 53. Plaintiff Eduardo Olasiregui, who had been accused by MBA Director of Legal
27 Affairs Ruben Cueva as one of the suspected kidnappers of MBA official Metz, was arrested
28 by official police forces and imprisoned for two and a half years as a result of this charge. This

1 charge had been maliciously leveled by Cueva as retaliation for Olasiregui's union activities.
2 Olasiregui was later exonerated and pardoned for the kidnapping of Metz, but not before he
3 lost years of his life to imprisonment.

4 54. Defendant DaimlerChrysler and its alter ego and/or agent, MBA (now known as
5 "DCA") are vicariously liable for all of the aforementioned tortious actions as they were
6 committed in furtherance of MBA's business interests and activities and with the advance
7 knowledge, acquiescence and subsequent ratification of MBA and DaimlerBenz, the
8 predecessor-in-interest of DaimlerChrysler. Defendant DaimlerChrysler itself has recently
9 ratified these tortious acts through its actions as detailed above in paragraph 23. Further, all of
10 the wrongful acts alleged herein were committed by individuals retained as employees or
11 agents of MBA, making DaimlerChrysler, through the agents of its alter ego or agent, MBA,
12 directly or vicariously liable for all of the wrongful acts.

13 55. Plaintiffs do not have an adequate forum in Argentina in which to bring the
14 instant action. This is so because, despite changes in the central government of Argentina, the
15 Argentine courts are still filled with corrupt judges from the period of the repression. In
16 addition, Plaintiffs have a legitimate fear of reprisal if they bring this action in Argentina
17 because the police and military forces are also filled with officials left over from the repression
18 and because people continue to be threatened for speaking out against the injustices which
19 occurred during the time of the military dictatorship. Indeed, Alfredo Martin was recently the
20 subject of a kidnap attempt, and he was threatened that if he continued to speak out about his
21 treatment during the military dictatorship, he would be kidnapped. Civil cases in Argentina
22 routinely take over 10 years to reach decision, and the remedy provided in analogous civil
23 cases is inadequate.

24 56. While the events at issue in this case took place some time ago, the statute of
25 limitations in this case should be tolled because MBA, and the police and military forces it
26 conspired with, actively attempted (many times successfully) to hide their crimes by
27 "disappearing" the bodies of the victims. The bodies of all the "disappeared" at issue in this
28 case have never been found. The destruction of evidence by the "disappearance" of the

1 individuals in this case have also severely hampered and delayed the attempts of the surviving
2 Plaintiffs in this case to ascertain the facts surrounding their victimization and to ascertain the
3 identity of those responsible for their victimization. In addition, after the military dictatorship,
4 the government of Argentina passed immunity laws which protected those guilty of the crimes
5 committed during the dictatorship and thereby assured that the facts surrounding these crimes
6 would not come to light. These immunity laws remain on the books to this day. As a result,
7 the facts of this case have only recently emerged in the past few years.

8 VI. DEFENDANT'S VIOLATIONS OF LAW

9 57. Defendant's actions as hereinabove alleged violate, and Plaintiffs' causes of
10 action arise from, the following laws, agreements, conventions, resolutions and treaties, which
11 constitute specific examples of the applicable law of nations or customary international law:

- 12 a. Alien Tort Claims Act, 28 U.S.C. § 1350;
- 13 b. Torture Victims Protection Act, 28 U.S.C. § 1350;
- 14 c. Common law of the United States of America;
- 15 d. United Nations Charter, 59 Stat. 1031, 3 Bevans 1153 (1945);
- 16 e. Universal Declaration of Human Rights, G.A. Res. 217A(iii), U.N. Doc.
17 A/810 (1948);
- 18 f. International Covenant on Civil and Political Rights, G.A. Res.
19 2220A(xxi), 21 U.N. Doc., GAOR Supp. (No. 16) at 52, U.N. Doc.
20 A/6316 (1966);
- 21 g. Convention Against Torture and Other Cruel, Inhuman or Degrading
22 Treatment or Punishment, G.A. res. 39/46, 39 U.N. Doc., GAOR Supp.
23 (No. 51) at 197, U.N. Doc. A/39/51 (1984)(ratified 10/28/98);
- 24 h. Declaration on the Protection of All Persons From Being Subjected to
25 Torture and Other Cruel, Inhuman or Degrading Treatment or
26 Punishment, G.A. Res. 3452, 30 U.N. Doc., GAOR Supp. (No. 34) at 91,
27 U.N. Doc. A/10034 (1976);
- 28 i. Vienna Declaration and Programme of Action (World Conference on

1 Human Rights, 1993);

2 j. Article 3 of the Geneva Conventions; and

3 k. Statutes and common law of the State of California, including but not
4 limited to, wrongful death, negligence, and recklessness.

5
6 VII. CLAIMS FOR RELIEF

7 First Cause of Action
8 (For Extrajudicial Killing
9 On Behalf of Category I Plaintiffs Against Defendant)

10 58. Plaintiffs incorporate by reference paragraphs 1 through 57 of this Complaint as
11 is set forth herein.

12 59. Defendant, or Defendant's employees or agents, engaged in acts of intentionally
13 and tortiously causing the apprehension, torture, deaths and disappearances of worker activists
14 Oscar Alberto Alvarez Bauman, Miguel Grieco, Diego Nuñez, Esteban A. Reimer, Alberto
15 Francisco Arenas, Alberto Gigena, Fernando Omar Del Connte, Jorge Leichner and Hector
16 Belmonte. Specifically, as is alleged above, Defendant, operating under color of law,
17 conspired and acted jointly with the Argentina military and police to have these workers
18 kidnapped, tortured and murdered. Defendant's employees and/or agents, including high-
19 ranking officials Pedro de Elias and Juan Tasselkraut, acting in the furtherance of Defendant's
20 business interests, carried forth this conspiracy to disappear these workers. In addition,
21 Defendant provided significant moral and logistical support, supplies, intelligence and other
22 substantial assistance that contributed to the ability of the Argentine police and military to
23 carry out the murder and disappearances of Oscar Alberto Alvarez Bauman, Miguel Grieco,
24 Diego Nuñez, Esteban A. Reimer, Alberto Francisco Arenas, Alberto Gigena, Fernando Omar
25 Del Connte, Hector Belmonte and Jorge Leichner. Defendant furthermore ratified the
26 participation of police station chief Ruben Lavallen in a number of these crimes when, with
27 full knowledge of this participation, it hired him as its Chief of Security after the crimes were
28 committed. These acts violate the law of nations, customary international law, and worldwide
industry standards and practices, including, but not limited to, the specific laws, agreements,

1 conventions, resolutions and treaties listed in paragraph 57, *supra*. The acts described herein
2 are actionable under the ATCA and the TVPA, and, if such a showing is required, were done
3 jointly with the official armed forces of Argentina.

4 60. Defendant's conduct in violation of the law of nations, customary international
5 law, and worldwide industry standards and practices, including, but not limited to, the specific
6 laws, agreements, conventions, resolutions and treaties listed in paragraph 57, *supra*, resulted
7 in the deaths of Plaintiffs' family members. Defendant is directly liable for these violations of
8 the law of nations, customary international law, and worldwide industry standards and
9 practices, including, but not limited to, the specific laws, agreements, conventions, resolutions
10 and treaties listed in paragraph 57, *supra*. Defendant is also vicariously liable for any
11 violations of its employees or agents of the law of nations, customary international law, and
12 worldwide industry standards and practices, including, but not limited to, the specific laws,
13 agreements, conventions, resolutions and treaties listed in paragraph 57, *supra*.

14 61. Plaintiffs seek compensatory and punitive damages, in amounts to be ascertained
15 at trial, for the losses and suffering they endured as a result of the murder of their loved ones
16 named herein. Plaintiffs' losses and suffering are particularly acute in light of the fact that
17 their loved ones were "disappeared" and their bodies never found, preventing them from ever
18 obtaining closure over their deaths. Indeed, the lives of the Plaintiffs have been invariably
19 shattered as a result of these disappearances. Plaintiffs, as the heirs of these disappeared
20 workers, also seek compensatory and punitive damages, amounts to be ascertained at trial, for
21 the losses and suffering endured by these individuals as a result of the wrongful actions of the
22 Defendant herein.

23 Wherefore, Plaintiffs pray for relief as set forth below.

24 Second Cause of Action
25 (For Torture
26 On Behalf of Category II Plaintiffs Against Defendant)

26 62. Plaintiffs incorporate by reference paragraphs 1 through 61 of this Complaint as
27 if set forth herein.

28 63. The acts described herein placed Plaintiffs in great fear for their lives and caused

1 them to suffer severe physical and mental pain and suffering. Plaintiffs have been subjected to
2 acute and continuing emotional and physical trauma as a result of their being kidnapped,
3 arbitrarily imprisoned, electroshocked and/or forced into exile. This continuing emotional and
4 physical trauma of the Plaintiffs includes severe depression, headaches, nightmares, lack of
5 concentration and suicidal urges. The severe suffering of Plaintiffs was a foreseeable and
6 intended consequence of Defendant's actions described herein. Defendant acted with knowing
7 disregard for the life and well-being of the Plaintiffs. The acts of Defendant amounted to the
8 torture of Plaintiffs and violate the law of nations, customary international law, and worldwide
9 industry standards and practices, including, but not limited to, the specific laws, agreements,
10 conventions, resolutions and treaties listed in paragraph 57, supra.

11 64. The acts described herein were inflicted deliberately and intentionally for
12 purposes which include, among others, punishing the victim or third persons, and constitute
13 torture in violation of the laws of nations as described above in paragraph 57, supra, and are
14 therefore actionable under both the ATCA and the TVPA.

15 Wherefore, Plaintiffs pray for relief as set forth below.

16 Third Cause of Action
17 (For Crimes Against Humanity
18 On Behalf of All Plaintiffs Against Defendant)

18 65. Plaintiffs incorporate by reference paragraphs 1 through 64 of this Complaint as
19 if set forth herein.

20 66. The apprehension, kidnapping, detention, torture and disappearance of the
21 individuals named in this action were neither random nor occasional but widespread and
22 systematic. These acts occurred under the direction, encouragement and acquiescence of
23 Defendant and in furtherance of Defendant's business. As a result of these acts, all of the
24 Plaintiffs have been subjected to acute and continuing emotional and physical trauma,
25 including severe depression, headaches, nightmares, lack of concentration and suicidal urges.

26 67. The acts described herein constitute crimes against humanity, in violation of the
27 laws described in paragraph 57 above, and are therefore actionable under the ATCA.
28 Customary international law prohibits inhumane acts of a very serious nature such as

1 kidnapping, willful killing, torture, arbitrary detention, forced exile and other inhumane acts
2 committed as part of a widespread or systematic attack against any civilian population.
3 Leaders, organizers, instigators and accomplices participating in the formulation of these acts,
4 such as Defendant here, are responsible for all acts performed by any person in execution of
5 such plan.

6 Wherefore, plaintiffs pray for relief as set forth below.

7 Fourth Cause of Action
8 (For Cruel, Inhuman and Degrading Treatment
9 On Behalf of All Plaintiffs Against All Defendant)

9 68. Plaintiffs incorporate by reference paragraphs 1 through 67 of this Complaint as
10 if set forth herein.

11 69. The acts described herein had the intent and the effect of grossly humiliating and
12 debasing Plaintiffs, inciting fear and anguish and breaking their will and physical and moral
13 resistance. As a result of these acts, all of the Plaintiffs have been subjected to acute and
14 continuing emotional and physical trauma, including severe depression, headaches,
15 nightmares, lack of concentration and suicidal urges.

16 70. Plaintiffs were placed in great fear for their lives and the lives of their loved
17 ones and were forced to suffer severe physical and psychological abuse and agony.

18 71. The acts described herein constitute cruel, inhuman and degrading treatment in
19 violation of the laws described in paragraph 57 and are therefore actionable under the ATCA.

20 Wherefore, Plaintiffs pray for relief as set forth below.

21 Fifth Cause of Action
22 (For Wrongful Death
23 On Behalf of Category I Plaintiffs Against Defendant)

24 72. Plaintiffs incorporate by reference paragraphs 1 through 71 of this Complaint as
25 if set forth herein.

26 73. Defendant, or Defendant's employees or agents, acted in concert with Argentine
27 military and police to commit acts that constitute wrongful death under the laws of the State of
28 California and that caused the deaths of Oscar Alberto Alvarez Bauman, Miguel Grieco, Diego

1 Nuñez, Esteban A. Reimer, Alberto Francisco Arenas, Alberto Gigena, Fernando Omar Del
2 Connte, Hector Belmonte and Jorge Leichner. Plaintiffs, relatives and representatives of the
3 estates of these deceased, seek damages herein for pecuniary loss resulting from loss of
4 society, comfort, attention, services and support and for the losses suffered by these murdered
5 and “disappeared” individuals.

6 74. Defendant’s actions were a direct and substantial cause of the deaths of Oscar
7 Alberto Alvarez Bauman, Miguel Grieco, Diego Nuñez, Esteban A. Reimer, Alberto Francisco
8 Arenas, Alberto Gigena, Fernando Omar Del Connte, Hector Belmonte and Jorge Leichner.
9 Defendant failed to use due care to protect them from injury and harm, thereby proximately
10 causing their wrongful deaths. Plaintiffs are entitled to recover compensatory and punitive
11 damages in amounts to be ascertained at trial.

12 Wherefore, Plaintiffs pray for relief as set forth below.

13 Sixth Cause of Action
14 (For Intentional Infliction of Emotional Distress
15 By All Plaintiffs Against Defendant)

15 75. Plaintiffs incorporate by reference paragraphs 1 through 74 of this Complaint as
16 if set forth herein.

17 76. The conduct alleged herein on the of Defendant constitutes extreme and
18 outrageous conduct against the Plaintiffs.

19 77. Defendant intended to cause Plaintiffs to suffer severe emotional distress, or, in
20 the alternative, Defendant engaged in the conduct with reckless disregard of the probability of
21 causing these individuals to suffer severe and ongoing emotional distress.

22 78. Plaintiffs suffered and continue to suffer severe emotional distress and the
23 outrageous conduct of Defendant was a cause of the emotional distress suffered by them.

24 79. Defendant’s outrageous conduct constitutes the intentional infliction of
25 emotional distress and is actionable under the laws of California, the United States and
26 Argentina.

27 Wherefore, Plaintiffs pray for relief as set forth below.
28

1 VIII. PRAYER FOR RELIEF

2 WHEREFORE, Plaintiffs respectfully request the Court to:

- 3 1. enter judgment in favor of Plaintiffs on all counts of the Complaint;
- 4 2. declare that Defendant has violated Plaintiffs' human rights and the laws of the
- 5 State of California and the United States, as set forth herein;
- 6 3. award Plaintiffs compensatory and punitive damages in an amount to be proven
- 7 at trial;
- 8 4. award Plaintiffs the costs of suit including reasonable attorneys' fees;
- 9 5. award Plaintiffs such other and further relief as the Court deems just under the
- 10 circumstances.

11 Dated: January 13, 2004

Respectfully submitted,

12 CHAVEZ & GERTLER LLP

13 INTERNATIONAL LABOR RIGHTS FUND

14 DANIEL M. KOVALIK

15
16 By: _____
MARK A. CHAVEZ

17 Attorneys for Plaintiffs BARBARA BAUMAN, et al.

18
19 DEMAND FOR JURY TRIAL

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

21
22 Dated: January 13, 2004

Respectfully submitted,

23 CHAVEZ & GERTLER LLP

24 INTERNATINOAL LABOR RIGHTS FUND

25 DANIEL M. KOVALIK

26
27 By: _____
MARK A. CHAVEZ

28 Attorneys for Plaintiffs BARBARA BAUMAN, et al.

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CERTIFICATION OF INTERESTED ENTITIES OR PERSONS

Pursuant to Civil Local Rule 3-16, the undersigned certifies that as of this date, other than the named Plaintiffs, there is no such interest to report.

Dated: January 13, 2004

Respectfully submitted,
CHAVEZ & GERTLER LLP
INTERNATIONAL LABOR RIGHTS FUND
DANIEL M. KOVALIK

By: _____
MARK A. CHAVEZ

Attorneys for Plaintiffs BARBARA BAUMAN, et al.

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