The Defense Authorization Act for Fiscal Year 2008, ("Defense Authorization Act"), Section 1083, Pub. L. No. 110-181, § 1083, 122 Stat. 3, 338-344 (2008) revised the framework under which state-sponsored terrorism cases are brought by substituting 28 U.S.C § 1605A in place of 28 U.S.C. § 1605(a)(7), among other revisions. The original complaint filed in Baker on March 25, 2003 asserted the subject matter jurisdiction for the case under 28 U.S.C. § 1605(a)(7). Baker, docket #1. In 2008, the Court granted Plaintiffs' motion to amend the complaint filed in Baker, restating the subject matter jurisdiction for the case under 28 U.S.C. § 1605A. Baker, docket #65. The original complaint filed in the Pflug case on March 24, 2008 asserted the subject matter jurisdiction for the case under 28 U.S.C. § 1605A. Pflug, docket #1.[4] The requirements for the Court to assert its subject matter jurisdiction[5] over the cases—

[4] The Pflug complaint does not contain any plaintiffs or claims in addition to those pled in the Baker original or amended complaints. Service upon each of the Syrian Defendants in Baker was perfected under 28 U.S.C. § 1608(a)(3) on June 30, 2003. Baker v. Great Socialist People's Libyan Arab Jamahiriya, CA 03-00749, docket #9 (GK) (JMF) (D.D.C. filed September 5, 2003). Judge Kessler ordered on March 28, 2008 that the Baker complaint could be amended to include Plaintiffs' § 1605A claims and that in accordance with the enactment of 28 U.S.C. §1605A, no separate service was necessary, as no new claims were asserted. Fed. R. Civ. P. 5(a)(2); see also In re Islamic Republic of Iran Terrorism Litig., 659 F. Supp. 2d 31, 106-07 (D.D.C. 2009) ("Thus, by its plain terms, § 1083 indicates that no further action--under Rule 5 or otherwise--should be required of plaintiffs before their case may move forward under § 1605. More fundamentally, however, as emphasized above, this Court does not find that a change in the rule of decision applicable to personal injury or wrongful death claims under the FSIA terrorism exception results in new claims of relief for purposes of the pleading requirements in these cases."). Thus, the Pflug complaint was never separately served upon Defendants. Pflug was filed to ensure the assertion of Plaintiffs' rights under 28 U.S.C. § 1605A, created by the passage of the recodification of the state sponsored terrorism exception. The recodification was achieved via an exceptionally complicated statute that allowed for the assertion of Plaintiffs' rights under 28 U.S.C. § 1605A via different mechanisms—filing a motion as Plaintiffs did in Baker and filing a new complaint as in Pflug—and Plaintiffs to utilize all mechanism to ensure their rights.

[5] The substitution of 28 U.S.C § 1605A for 28 U.S.C. § 1605(a)(7) does not change the Court's test for subject matter jurisdiction, which is clear upon a comparison of the two statutory provisions. Subsection (a)(1) states that "a foreign state shall not be immune from suits in which money damages are sought against the foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking or the provision of material support or resources for such an act if such act or provision of material support or resources is engaged in by an official, employee or agent of such foreign state while acting within the scope of his or her office, employment or agency." Aside from the expansion of the class of potential claimants, this language matches the language from 28 U.S.C. § 1605(a)(7), the former section that established the Court's subject matter jurisdiction in Baker.

whether under 28 U.S.C. § 1605(a)(7) or 28 U.S.C. § 1605A—has not changed.[6] See 28 U.S.C § 1605A(a)(1), (a)(2).

The requirements for subject matter jurisdiction under 28 U.S.C. § 1605A allow Plaintiffs to seek money damages for personal injury or death if the damages were caused by:

1. the provision of "material support or resources"[7] for hostage taking, torture, and an extrajudicial killing;
2. if the provision of material support was engaged in by an official while acting within the scope of his office;
3. the defendant was a "state-sponsor of terrorism" at the time the act complained of occurred; and
4. the claimant or the victim was a "US national" at the time of the act of terrorism

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[6] 28 U.S.C. § 1605(a)(7) (deleted as of January 28, 2008) (stating "not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph--

(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act or the act is related to Case Number 1:00CV03110(EGS) in the United States District Court for the District of Columbia; and

(B) even if the foreign state is or was so designated, if--

(i) the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration; or

(ii) neither the claimant nor the victim was a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act [8 USCS § 1101(a)(22)]) when the act upon which the claim is based occurred.").

[7] 28 U.S.C. § 1605A(h)(3) defines "material support or resources" as "the meaning given that term in section 2339A of title 18." 18 U.S.C. § 2339A(b) defines "material support or resources" as "any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel."

28 U.S.C. § 1605A(a)(1), (a)(2). As set forth below, the Court may assert subject matter jurisdiction over the Syrian Defendants under this statute.

Proof of the first two elements is inextricably intertwined with the requirements of proof for Plaintiffs' causes of action. Plaintiffs proved at the hearing beyond their burden under 28 U.S.C. § 1608(e) that Syria provided material support and resources, as defined by 18 U.S.C. § 2339A(b), to the ANO and its network of terrorists in Syria and the Middle East for hostage taking, torture, and extrajudicial killings on a scale such that the imposition of vicarious liability is required under 28 U.S.C. § 1605A(c) and the applicable state common law. Proof of aiding and abetting or conspiracy necessarily proves that Syria provided material support or resources to the ANO and its terrorist network.

For the purposes of satisfying the requirements of 28 U.S.C. § 1605A(a)(1), Syria provided safe haven for the ANO beginning in 1983 at least. When a foreign sovereign allows a terrorist organization to operate from its territory, this meets the statutory definition of "safehouse" under 18 U.S.C. § 2339A(b):

> Insofar as the government of the Republic of Sudan affirmatively allowed and/or encouraged al Qaeda and Hezbollah to operate their terrorist enterprises within its borders, and thus provided a base of operations for the planning and execution of terrorist attacks -- as the complaint unambiguously alleges -- Sudan provided a "safehouse" within the meaning of 18 U.S.C. § 2339A, as incorporated in 28 U.S.C. § 1605(a)(7).

Owens v. Republic of Sudan, 412 F. Supp. 2d 99, 108 (D.D.C. 2006). Plaintiffs' further evidence of Syrian Defendants' cooperation and support of the ANO and its terrorist network is discussed below in the context of Syrian Defendants' joint liability for the death, personal injuries and property damage resulting from the hijacking.

Plaintiffs furthermore presented uncontroverted evidence that the Syrian Defendants supported the ANO and its terrorist network's efforts to launch terrorist attacks to kill and injure Americans and Israeli citizens and to disrupt any normalization of relations between Arab states and Israel. Thus, the first and second elements to allow the Court to assert subject matter jurisdiction are satisfied.

The third element required asks whether the defendant foreign sovereign was a "state-sponsor of terrorism" at the time the act complained of occurred. 28 U.S.C. § 1605A(a)(2)(A)(i)(I). The term "state-sponsor of terrorism" is defined by the statute at 28 U.S.C. § 1605A(h)(6):

> the term 'state sponsor of terrorism' means a country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 40 of the Arms Export Control Act (22 U.S.C. 2780), or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism . . . .

Syria has been designated as a state-sponsor of terrorism continuously since December 29, 1979[8] and Syria's continued designation as a state-sponsor of terrorism was noted on May 18, 2004, 69 Fed. Reg. 28,098, 28,100 (2004), and in 2005, as well as at other times. 31 C.F.R. 596.201 (2005).

The fourth element required asks whether the victim or claimant was a U.S. national at the time of the act of terrorism. 28 U.S.C. § 1605A(a)(2)(A)(ii). 28 U.S.C. § 1605A(h)(5) defines a U.S. national as it is defined in 8 U.S.C. § 1101(a)(22) as "a citizen of the United States." In these cases, the U.S. citizenship of the three shooting

[8] http://www.state.gov/s/ct/c14151.htm.

victims who were aboard the aircraft establishes subject matter jurisdiction for the court over all these cases, as all victims are citizens of the United States.

The Court may therefore assert subject matter jurisdiction over the Syrian Defendants under 28 U.S.C. § 1605A(a). Once the immunity of a foreign state has been lifted and the Court asserts subject matter jurisdiction, 28 U.S.C. § 1606 defines the sources of law that may be applied against a foreign sovereign.

> Once a foreign state's immunity has been lifted under Section 1605 and jurisdiction is found to be proper, Section 1606 provides that "the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances." 28 U.S.C. § 1606. Section 1606 acts as a "pass-through" to substantive causes of action against private individuals that may exist in federal, state or international law.

Heiser v. Islamic Republic of Iran, 466 F. Supp. 2d 229, 265-266 (D.D.C. 2006) quoting Dammarell v. Islamic Republic of Iran, CA No. 01-2224, 2005 U.S. Dist. LEXIS 5343, at *27-32 (D.D.C. Mar. 29, 2005). In this case, a federal cause of action exists under 28 U.S.C. § 1605A(c), along with state law causes of action where they would not lead to an impermissible duplicative recovery.

The Court looks to common law as illustrated by the Restatement (Second) Torts when seeking to define the federal causes of action under 28 U.S.C. § 1605A(c) to fulfill the requirement of 28 U.S.C. § 1606 that non-immune foreign sovereigns shall be liable as would a private individual. See Bettis v. Islamic Republic of Iran, 315 F.3d 325, 333 (D.C. Cir. 2003). The past practice of courts in this Circuit when adjudicating cases under the state sponsor of terrorism exception to the FSIA serves as a guide for this Court's choice of law analysis. Prior to the passage of the new federal cause of action found at 28 U.S.C. § 1605A(c), courts in this circuit defined causes of action under a federal private right of action known as the Flatow Amendment by utilizing common law

as illustrated by the Restatement (Second) Torts. E.g., Sutherland v. Islamic Republic of Iran, 151 F. Supp. 2d 27, 48 (D.D.C. 2001) (applying the Second Restatement of Torts to plaintiff's intentional infliction of emotional distress claim under the federal common law).[9] The Courts therefore look to the Restatement (Second) of Torts to define the federal causes of action under 28 U.S.C. § 1605A(c).

B. SYRIA IS LIABLE FOR THE MURDER AND PERSONAL INJURIES ARISING FROM THE HIJACKING UNDER 28 U.S.C. § 1605A(c).

The 2008 amendments to the FSIA expanded the legal mechanisms for determining the civil liability of state-sponsors of terrorism. These amendments create a new private right of action under federal law that operates against any foreign state that is or was a state sponsor of terrorism as described in subsection 28 U.S.C. § 1605A(a)(2)(A)(i) and any official, employee or agent of that foreign state while acting within the scope of his or her office, employment or agency. 28 U.S.C. § 1605A(c).[10] The wording of this provision[11] matches the wording of the Flatow Amendment[12], except

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[9] The practice of borrowing from common law to define causes of action under the Flatow Amendment ended with the D.C. Circuit's decision in Cicippio-Puleo v. Islamic Republic of Iran, 353 F.3d 1024, 1033 (D.C. Cir. 2004), which barred further use of the Flatow Amendment against foreign states or their agencies and instrumentalities. This decision overturned numerous district court decisions that had held the Flatow Amendment provided a cause of action against the foreign state itself. E.g., Cronin v. Islamic Republic of Iran, 238 F. Supp. 2d 222, 231 (D.D.C. 2002). The holding of Cicippio-Puleo does not apply to 28 U.S.C. § 1605A(c), which renews the availability of a federal private right of action for certain victims of state-sponsored terrorism, which was Congress's original intention behind the Flatow Amendment. Id. at 232 ("[T]he legislative history of 28 U.S.C. § 1605(a)(7) and the Flatow Amendment support the conclusion that victims of state-sponsored acts of terrorism have a cause of action against the foreign state itself.")

[10] 28 U.S.C. § 1605A(c) is the effective recodification of the understanding of the Flatow Amendment that existed prior to the Cicippio-Puleo decision. Thus, the language of the new federal private right of action nearly matches the language of the Flatow Amendment.

[11] P.L. 110-181: Private Right of Action.--A foreign state that is or was a state sponsor of terrorism as described in subsection (a)(2)(A)(i), and any official, employee, or agent of that foreign state while acting within the scope of his or her office, employment, or agency, shall be liable to--
"(1) a national of the United States,
"(2) a member of the armed forces,

28 U.S.C. § 1605A(c) explicitly provides a cause of action directly against the foreign state itself.

28 U.S.C. § 1605A(c) allows claims to be brought against the state-sponsor of terrorism if the claimant or the victim was, at the time of the terrorist act, a national of the United States, as were all the three victims here. Claims may be brought under 28 U.S.C. § 1605A(c) for "personal injury or death caused by" the acts of terrorism as described in 28 U.S.C. § 1605A(a)(1), such as when the "official, employee or agent of that foreign state" engages in the "provision of material resources or support" for "extrajudicial killing" or "hostage taking". For these acts by a foreign state's officials, employees or agents the "foreign state shall be vicariously liable for the acts of its officials, employees or agents . . . ." In this case, Plaintiffs proved that Syria both aided and abetted and conspired with the ANO and its terrorist network, which resulted in the murder and personal injuries arising from the hijacking. The Court also should find that the Syrian

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"(3) an employee of the Government of the United States, or of an individual performing a contract awarded by the United States Government, acting within the scope of the employee's employment, or

"(4) the legal representative of a person described in paragraph (1), (2), or (3), for personal injury or death caused by acts described in subsection (a)(1) of that foreign state, or of an official, employee, or agent of that foreign state, for which the courts of the United States may maintain jurisdiction under this section for money damages. In any such action, damages may include economic damages, solatium, pain and suffering, and punitive damages. In any such action, a foreign state shall be vicariously liable for the acts of its officials, employees, or agents.

[12] P.L. number 104-208: Liability of agents of state sponsors of terrorism to U.S. nationals. Act Sept. 30, 1996, P.L. 104-208, Div A, Title I, § 101(c) [Title V, § 589], 110 Stat. 3009-172, provides:

"(a) An official, employee, or agent of a foreign state designated as a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 [50 USCS Appx § 2405(j)] while acting within the scope of his or her office, employment, or agency shall be liable to a United States national or the national's legal representative for personal injury or death caused by acts of that official, employee, or agent for which the courts of the United States may maintain jurisdiction under section 1605(a)(7) of title 28, United States Code, for money damages which may include economic damages, solatium, pain, and suffering, and punitive damages if the acts were among those described in section 1605(a)(7).

"(b) Provisions related to statute of limitations and limitations on discovery that would apply to an action brought under 28 U.S.C. § 1605(f) and (g) shall also apply to actions brought under this section. No action shall be maintained under this action if an official, employee, or agent of the United States, while acting within the scope of his or her office, employment, or agency would not be liable for such acts if carried out within the United States.".

provision of material support and resources to the ANO was conducted by Syrian government officials, employees and agents within the scope of their official duties.

The common law approach to civil aiding and abetting liability was set forth in the leading case of Halberstam v. Welch, 705 F. 2d 472 (D.C. Cir. 1983).[13] Courts in the D.C. Circuit have adopted the Halberstam analysis in order to analyze whether a foreign sovereign aided and abetted terrorism or conspired with terrorists. Bodoff v. Islamic Republic of Iran, 424 F. Supp. 2d 74, 85 (D.D.C. 2006); Haim v. Islamic Republic of Iran, 425 F. Supp. 2d 56, 69 (D.D.C. 2006); Ungar v. Islamic Republic of Iran, 211 F. Supp. 2d 91, 99 (D.D.C. 2002). This Court similarly adopts the Halberstam test to analyze the Syrian Defendants' vicarious liability resulting from their support of the ANO.

1. SYRIA AIDED AND ABETTED THE MURDER OF SCARLETT MARIE ROGENKAMP AND THE PERMANENT INJURY OF PATRICK SCOTT BAKER AND JACKIE NINK PFLUG

The undisputed facts establish Syrian Defendants' vicarious liability for their aiding and abetting of the terrorists who murdered Scarlett Marie Rogenkamp, injured Patrick Scott Baker and Jackie Nink Pflug. In Halberstam, the defendant (Hamilton) was held civilly liable under an aiding/abetting theory for the death of Halberstam after he was killed during a burglary by the burglar (Welch), who lived with Hamilton. 705 F. 2d at 475-76. Hamilton disclaimed knowledgeable participation while she lived with the

[13] Halberstam is widely regarded as the seminal case for civil aiding and abetting law even though it was based on diversity jurisdiction, because there was no existing state law to apply, and the Court of Appeals therefore synthesized the general American Tort Law on civil aiding and abetting including the standards set out by the RESTATEMENT (SECOND) TORTS § 876 (1979). Halberstam, 705 F. 2d at 477. (analyzing and adopting these standards). "The Supreme Court has described Halberstam v. Welch, 227 U.S. App. D.C. 167, 705 F.2d 472 (D.C. Cir. 1983), as 'a comprehensive opinion on the subject [of aiding and abetting].'" Khulumani v. Barclay Nat'l Bank Ltd., 504 F.3d 254, 287-288 (2d Cir. 2007) quoting Cent. Bank, N.A. v. First Interstate Bank, N.A., 511 U.S. 164, 181 (1994).

burglar for five years and essentially processed the proceeds of numerous burglaries; she had not participated in Halberstam's murder or in any of Welch's many burglaries. Id. at 486-87. Hamilton claimed that she never asked and was never told the purpose of Welch's nighttime forays, conducted from 5pm until 10pm, over the course of 5 years. Id. at 475. Hamilton further claimed that she never opened the numerous loot boxes stored in the basement of the house that she shared with the burglar.

The D.C. Circuit nonetheless found that "although Hamilton and Welch did not commit burglaries together," their activities were "symbiotic" because Hamilton knew about Welch's illegal activity and assisted him in various ways (e.g., filing tax returns that hid burglary profits, typing transmittal letters for ingots made of gold and silver melted from stolen loot, handling payments and accounts and maintaining all financial transactions in her name). Id. at 486-487. The court's decision in Halberstam was predicated upon general civil aiding and abetting law, including Section 876 of the Restatement (Second) Torts, to find that civil aiding/abetting liability depends upon:

1. a showing that the party whom the defendant aids must perform a wrongful act that causes an injury;

2. the defendant must be generally aware of his role as part of an overall illegal or tortious activity at the time that he provides assistance; and

3. the defendant must knowingly and substantially assist the principal violation but need not actually agree to join the wrongful conduct.

Id. at 477-478 (emphasis added). The D.C. Circuit additionally made clear in Halberstam that a defendant does not have to participate in, or even know about, the specific bad act that harms the victim. Id. at 484.

Under Halberstam, the Syrian Defendants are liable for aiding and abetting the hijacking and all of the associated intentional torts that were reasonably foreseeable as a

result of their provision of material support or resources to the ANO, which caused all of Plaintiffs' injuries. Id. The hijacking and murder and injury of Plaintiffs were a reasonably foreseeable result of Syria's decision to aid and abet the ANO, which sought to attack and murder American citizens and Israeli civilians in its quest to destabilize the Middle East Peace Process.

The Syrian Defendants are liable for the deaths and injuries caused by the ANO and its terrorist organization under an aiding and abetting theory of liability. The first two elements of the Halberstam test are clearly met: (a) the ANO, "the party whom the defendant aids", hijacked EgyptAir Flight 648, or performed a wrongful act that caused an injury and (b) Syria was "generally aware of" its "role as part of an overall illegal or tortious activity at the time that" it provided assistance to the ANO.

Syria could not possibly claim that it was unaware of the aims or notorious practices of the ANO, which included torture, murder and terrorism of Americans, Israelis and citizens of any other nation that stood on friendly terms with Israel across the Middle East on a horrific scale. "Additionally, the length of time two parties work closely together may also strengthen the likelihood that they are engaged in a common pursuit. Mutually supportive activity by parties in contact with one another over a long period suggests a common plan." Id. at 481 (court's emphasis retained). The ANO terrorism began after Sabri al-Banna a/k/a Abu Nidal broke away from Arafat's Fatah movement and formed his own more radical organization which he called the Fatah-Revolutionary Council (a.k.a. the Abu Nidal Organization).

The third element of the Halberstam test is whether the Syrian government knowingly and substantially assisted the hijacking. While the Syrian Defendants may not

have had prior knowledge of the particular hijacking, Syria provided its support to the ANO knowing and intending that such activities were likely. Additionally, the general forms of Syrian support were utilized for this specific hijacking. Syrian Defendants provided critical material support or resources to the ANO and its network by providing, the following, but not limited to:

- safe haven for the ANO inside Syria from 1983 through at least the November 23, 1985 hijacking and December 27, 1985 coordinated Rome and Vienna Airport Attacks; including permitting the ANO to maintain offices and safe houses in Syria and training camps in Syrian controlled territory, including the Baaka Valley in Lebanon,
- key travel documents to ANO operatives;
- the freedom for ANO operatives to travel on military highways between training camps in Syrian controlled Lebanon and Damascus without passport control but under the watchful eye of Syrian military and intelligence, it being noted that Syria had at the time tens of thousands of troops in its control of Lebanon; and
- unhindered transit through Damascus' and Beirut's international airport.

Further, Syria participated in the selection of the timing, methodologies, and operations that were involved in both the EgyptAir Hijacking and the Rome and Vienna Airport Attacks, which is corroborated by the surviving ANO terrorists from the EgyptAir Hijacking and the Rome and Vienna Airport Attacks.

Syria could never argue that any of these activities occurred without the authorization, agreement and support of its government. The key to the analysis of Syria's support for the ANO is to understand the context of its utilization by the Syrian

government. The support and conspiracy with the ANO that could not have been made without authorization and knowledge from President Assad and General Muhammad al-Khuli and the active participation of the Syrian Air Force Intelligence agency. C.f. Eisenfeld v. Islamic Republic of Iran, 172 F. Supp. 2d 1, 6 (D.D.C. 2000) (finding high officials of the defendant "whose approval would be necessary to carry out the economic commitment of Iran to Hamas and the training of terrorists in Iran" liable based upon expert witness testimony).

Whether the quantity of assistance provided meets the requirements of the Halberstam test depends on the Court's analysis of five factors: "[t]he Restatement suggests five factors in making this determination: 'the nature of the act encouraged, the amount of assistance given by the defendant, his presence or absence at the time of the tort, his relation to the other [tortfeasor] and his state of mind.'" Halberstam v. Welch, 705 F.2d 472, 478 (D.C. Cir. 1983). A court need not find that all five factors are present to make a finding of substantial assistance. The Halberstam court noted the defendant was not present during the principal violation, as described below, but nonetheless found the defendant civilly liable.

The Halberstam court first looked at the nature of the act assisted when it analyzed the five-factor test to determine the substantiality of the assistance provided by the defendant to the burglar, which was "a long-running burglary enterprise, heavily dependent on aid in transforming large quantities of stolen goods into 'legitimate' wealth." Id. at 488. This factor is defined as: "the *nature of the act* involved dictates what aid might matter, i.e. be substantial." Id. at 484. As an example, in Rael v. Cadena, 93 N.M. 684, 604 P.2d 822 (1979) (liability for verbal encouragement at the scene of a

battery) the nature of the act, a beating, informed the decision as to the substantiality of the aid, the aider and abettor yelling "kill him, kill him." 705 F.2d at 481, 484. In this case, ANO operations required the unhindered transit of their terrorists, which came directly through the Damascus and Beirut airports and over the Syrian-Lebanon border. Providing safe haven and facilitating free passage was crucial to the nature of the act involved: the construction of a terrorist network in the Middle East to launch terrorist attacks to kill and injure innocent civilians and to destabilize the Middle East peace process.

The Halberstam court next looked at the amount of assistance the burglar's co-conspirator rendered to the general criminal enterprise. "[A]lthough the amount of assistance Hamilton gave Welch may not have been overwhelming as to any given burglary in the five-year life of this criminal operation, it added up over time to an essential part of the pattern." Id. Halberstam discussed Cobb v. Indian Springs, Inc., 258 Ark. 9, 522 S.W.2d 383 (1975), where mere verbal encouragement sufficed where a security guard encouraged a younger new car owner to engage in a high speed test drive, during which a pedestrian was struck. 705 F.2d at 482. The Court should find the amount of assistance that Syria funneled to the ANO far exceeds the threshold required by Halberstam.

The Halberstam court then analyzed and discounted the third factor, presence at the scene of the principal violation.

> Third, Hamilton was admittedly not present at the time of the murder or even at the time of any burglary. But as we noted above, the success of the tortious enterprise clearly required expeditious and unsuspicious disposal of the goods, and Hamilton's role in that side of the business was substantial.

Id. The same analysis results in this case. The presence of Syrian agents is not a prerequisite for aiding and abetting liability.

The Halberstam court also discounted the fourth factor, relation to the tortfeasors, because of its desire to avoid finding a spousal relationship as a reason for liability. Id. In this case, however, the relation to the tortfeasor significantly contributed to the terrorist war that the ANO launched on American and Israeli citizens and anyone who supported the peace process. Syria provided one of the few safe places for the ANO to train and organize and Syria itself occupied a key geographical position and only its willingness to participate in the conspiracy with the ANO to attack these targets allowed the ANO to succeed as it did and to carry out spectacular terrorist attacks such as this hijacking.

The Halberstam court examined the fifth factor, the defendant's state of mind and found that the co-conspirator's long term and knowing participation in the enterprise "reflected her intent and desire to make the venture succeed; it was no passing fancy or impetuous act." Id. In this case, for over three decades the Syrian government has aided, abetted and conspired with terrorist organizations. The Syrian government is uniquely experienced in the cost-benefit calculus of working with terrorist organizations, as well as the inevitable consequences for the targeted pool of victims, such as U.S. citizens. Syria's aid to the ANO was not an impetuous act performed without an appreciation of the foreseeable consequences.

The Halberstam court also found the length and circumstances of the co-conspirator's assistance to add to the inference that she knew that her husband was involved in a criminal enterprise. "She performed these services in an unusual way under

unusual circumstances for a long period of time and thereby helped launder the loot and divert attention from Welch." Id. at 487. In this case, Syria can never claim that it misunderstood the aims and practices of the ANO. Syria knew that the ANO would kill and injure American citizens to achieve its goals – often during the course of the purposefully-most-spectacular acts of terrorism possible. Knowing this, and because of this, the Syrian government continued to give substantial assistance. The stealthy circumstances of Syrian assistance to the ANO are similar to the circumstances of Hamilton's aid to Welch, which prompted the Halberstam court to note that Hamilton provided the "services in an unusual way under unusual circumstances for a long period of time" thereby creating a further justification for a finding of aiding and abetting liability.

Finally, a key question for the Halberstam court was whether the murder was a natural and foreseeable consequence of the activity that the wife assisted the husband in.

> Similarly, under an aiding-abetting theory, it was a natural and foreseeable consequence of the activity Hamilton helped Welch to undertake. It was not necessary that Hamilton knew specifically that Welch was committing burglaries. Rather, when she assisted him, it was enough that she knew he was involved in some type of personal property crime at night--whether as a fence, burglar, or armed robber made no difference--because violence and killing is a foreseeable risk in any of these enterprises.

Id. at 488 (D.C. Cir. 1983) (emphasis added). Even if Syria did not know that this specific hijacking would occur, it was natural and foreseeable outcomes of Syria's support, sponsorship and aid to the ANO.

2. SYRIA CONSPIRED WITH THE ANO TO KILL AND INJURE U.S. CITIZENS BY ACTS OF INTERNATIONAL TERRORISM

Halberstam v. Welch also discussed the tort of civil conspiracy, as set forth by the Restatement, which has also been relied upon by numerous decisions in this Circuit finding that foreign states conspired with terrorist groups such as Hezbollah. E.g., Valore v. Islamic Republic of Iran, 478 F. Supp. 2d 101, 109 (D.D.C. 2007) citing Estate of Heiser v. Islamic Republic of Iran, 466 F. Supp. 2d 229, 266 (D.D.C. 2006). Civil conspiracy includes four elements. "A list of the separate elements of civil conspiracy includes: (1) an agreement between two or more persons; (2) to participate in an unlawful act, or a lawful act in an unlawful manner; (3) an injury caused by an unlawful overt act performed by one of the parties to the agreement; (4) which overt act was done pursuant to and in furtherance of the common scheme." Halberstam v. Welch, 705 F.2d 472, 477 (D.C. Cir. 1983) citing Ryan v. Eli Lilly & Co., 514 F. Supp. 1004, 1012 (D.S.C. 1981). Under this analysis, the government of Syria is also vicariously liable for the murders and personal injuries resulting from the hijacking, as a result of its conspiracy with the ANO to attack American citizens and to destabilize the peace process through terrorist attacks as acts of international terrorism.

The first and key element to a conspiracy case is whether the Syrian government agreed to join the ANO in wrongful conduct. "The prime distinction between civil conspiracies and aiding-abetting is that a conspiracy involves an agreement to participate in a wrongful activity. Aiding-abetting focuses on whether a defendant knowingly gave 'substantial assistance' to someone who performed wrongful conduct, not on whether the defendant agreed to join the wrongful conduct." Halberstam, at 478. Whether the Syrian government agreed to the specific hijacking is irrelevant:

> As to the extent of liability, once the conspiracy has been formed, all its members are liable for injuries caused by acts pursuant to or in furtherance of the conspiracy. A conspirator need not participate actively in or benefit from the wrongful action . . . . [a]s noted above, a conspirator can be liable even if he neither planned nor knew about the particular overt act that caused injury, so long as the purpose of the act was to advance the overall object of the conspiracy.

Id. at 481, 487 (emphasis added). Civil conspiracy only requires proof of an agreement to participate in wrongful conduct. Id. at 477. The Syrian government and the ANO conspired to kill and injure U.S. citizens through barbaric acts of terrorism. The hijacking was organized and committed as an overt act pursuant to the conspiracy and in furtherance of the goals of the conspiracy. Civil conspiracy does not require an agreement to engage in the particular wrongful act that produced the injuries. See id.

The question then logically becomes what evidence is sufficient to establish the existence of an unlawful conspiracy:

> in most cases the court will have to infer a conspiracy from indirect evidence, it must initially look to see if the alleged joint tortfeasors are pursuing the same goal -- although performing different functions -- and are in contact with one another. The circumstances of each case dictate what other specific evidence may be useful in inferring agreement.

Id. at 481 (emphasis added). Here, Syria and the ANO overtly and intentionally joined together. Syria and ANO pursued the same goal: the prevention of the peaceful recognition by moderate Arab states and Yassir Arafat's Fatah and Palestine Liberation Organization of the Israeli government, as supported by the United States, Egypt and others. While the well-known capabilities of the U.S. military certainly provided a good reason for Syria to exert best efforts to obscure any ties between it and the ANO, Plaintiffs produced evidence that Syria consciously took steps to obscure its ties to terrorism, by hiring, engaging, supporting, sponsoring, aiding, abetting and joining with

non-Syrian terrorists, hired guns, to wit, the ANO, which has been designated and remains designated by the US government as a Foreign Terrorist Organization.

Although evidence of an explicit agreement is unnecessary for a finding of civil conspiracy, in Halberstam v. Welch, the court inferred an agreement between Hamilton, the live-in companion and co-conspirator of the burglar and the de-facto accountant of his criminal enterprise, and Welch, the burglar, despite the lack of a confession by Hamilton or any other direct evidence of an agreement between them to conspire to steal goods and launder the proceeds. Id. at 486-87.

> [C]ourts have to infer an agreement from indirect evidence in most civil conspiracy cases. The circumstances of the wrongdoing generally dictate what evidence is relevant or available in deciding whether an agreement exists. Factors like the relationship between the parties' acts, the time and place of their execution, and the duration of the joint activity influence the determination. In this case, Hamilton and Welch did not commit burglaries together but their activities were symbiotic.

Id. (emphasis added). In this case, the convicted terrorist, Omar Rezaq, being the sole surviving hijacker, has admitted under oath his involvement with the ANO, that he was trained in an ANO training camp in the Syrian-controlled Baaka Valley, that he was dispatched to Athens and instructed to commit the hijacking of EgyptAir Flight 648, bound for Cairo. The Court, having also received the testimony of former US government officials Colonel Patrick Lang (ret.) of the Defense Intelligence Agency, Ambassador Robert Oakley and Dr. David Long formerly of the State Department, and others, including Professor Marius Deeb and Dr. Yoram Schweitzer, concludes that the undisputed facts establish the existence of an actual agreement between Syria and the ANO to commit acts of international terrorism, including that they actually committed the EgyptAir Flight 648 Hijacking and the Rome and Vienna Airport Attacks. Further,

the Court infers an agreement to engage in a campaign of terrorism designed to destabilize the peace process, which was overtly implemented through the terrorist attacks against innocent civilians from certain countries supporting the peace process, including Egypt, the United States and Israel.

As Hamilton in Halberstam acted as a logistical support hub for Welch—as his accountant and money launderer—Syria acted as a logistical support hub for the ANO by providing safe haven for training, logistics, weapons and the enabling of travel for the operations of numerous important ANO operatives and facilitating safe passage through absolutely critical transit points for the movement of terrorists. The duration of joint activity, from at least 1983 to 1987, further establishes the existence of a long term, active and violent conspiracy to engage in acts of international terrorism, and the actual commitment by Syria and the ANO of the EgyptAir Flight 648 hijacking, the killing and maiming of the Plaintiffs, the destruction of the aircraft and the subsequent Rome and Vienna Airport Attacks as part of the agreement between the Syrian Defendants and ANO to engage in violent, brutal, notorious terrorist attacks to kill and injure American citizens and others in a blatant attempt to violently destabilize the peace process through visible attacks on Egypt, the US, Israel and their western allies.

C. PLAINTIFFS' ARE ENTITLED TO DAMAGES UNDER 28 U.S.C. § 1605A(c)

Plaintiffs have proven Defendants' liability under 28 U.S.C. § 1605A(c), which makes the following damages available under the federal cause action: economic damages, solatium, pain and suffering and punitive damages, as suffered by the Plaintiff victims and their families.

1. ECONOMIC DAMAGES

As to economic damages to the Estate of Scarlett Rogenkamp, Patrick Scott Baker and Jackie Nink Pflug resulting from the tortuous conduct of Defendants, evidence of the Scarlett Rogenkamp, Patrick Baker and Jackie Pflug's lost earning capacity was presented by Dr. James Markham, an economist who was accepted by the Court as an expert in the field of forensic economics.

The testimony of Dr. James Markham reviewed the methodology of calculation of economic loss, which the Court should find to be competent, admissible, probative, reliable and a proper basis for the damage awards proposed herein for the Court's consideration in keeping with the proof introduced at trial.

The Court, having received the evidence and testimony of the Plaintiff victims, Patrick Baker, Jackie Pflug, and Patricia Henry, as Administrator of the Estate of Scarlett Rogenkamp, and having considered the testimony of Dr. James Markham, hereby finds as follows:

(i) that the Estate of Scarlett Rogenkamp is entitled to receive compensatory damages for the total amount of economic loss damages sustained as a result of the murder of Scarlett Rogenkamp, and accordingly does hereby award damages to said Estate against the Syrian Defendants, jointly and severally, in the amount of $_____; and an award of prejudgment interest from November 23, 1985 to date of Judgment; and interest thereon at the legal rate from date of Judgment until paid in full; and

(ii) that Patrick Scott Baker is entitled to an award of compensatory damages for the total amount of economic loss damages sustained by Patrick Scott Baker, and

accordingly does hereby award damages to Patrick Scott Baker against the Defendants, jointly and severally, in the amount of $_____; and an award of prejudgment interest from November 23, 1985 to date of Judgment; and interest thereon at the legal rate from date of Judgment until paid in full; and

(iii) that Jackie Nink Pflug is entitled to an award of compensatory damages for the total amount of economic loss damages sustained by Jackie Nink Pflug, and accordingly does hereby award damages to Jackie Nink Pflug against the Defendants, jointly and severally, in the amount of $_____ and an award of prejudgment interest from November 23, 1985 to date of Judgment; and interest thereon at the legal rate from date of Judgment until paid in full.

2. SOLATIUM

This lawsuit has been brought by Patrick Scott Baker, Jackie Nink Pflug, and the Estate of Scarlett Marie Rogenkamp and their respective family members who are the named Plaintiffs herein for recovery of their damages sustained as a result of the acts of international terrorism committed by the Syrian Defendants. Under 28 U.S.C. § 1605A(c), United States nationals or their legal representatives have standing to bring a cause of action for damages, including solatium damages, where personal injury or death results from state-sponsored terrorism. The law of solatium, in the context of state-sponsored terrorism cases, finds no better explanation than Judge Lamberth's opinion in Flatow v. Islamic Republic of Iran, 999 F. Supp. 1 (D.D.C. 1998). Although the later case by the US Court of Appeals for the District of Columbia Circuit, Cicippio-Puleo v. Islamic Republic of Iran, 353 F.3d 1024, 1033 (D.C. Cir. 2004) found that the Flatow Amendment and its damages, such as solatium, were not available to claimants against

the foreign state itself, the law has subsequently changed as a result of the enactment of 28 U.S.C. 1605A, *et seq*, which established a federal cause of action with solatium damages against the foreign state itself. The codification under 28 USC 1605A(c) allows a proper look back at opinions such as Flatow that issued prior to Cicippio-Puleo for valuable insight into the nature of the damages available under 28 U.S.C. § 1605A(c), which includes the same damages as were available under the Flatow Amendment, which this Court affirmed in the recent Gates v. Syrian Arab Republic decision. 580 F. Supp. 2d 53, 71 n.16 (D.D.C. 2008). This Court noted that "opinions such as Flatow provide insight into the nature of such damages." Id.

Solatium damages compensate Plaintiffs for their emotional injuries and their family members' emotional injuries which were suffered as a result of the heinous treatment and execution style shooting of Ms. Rogenkamp, Ms. Pflug, and Mr. Baker which resulted in the horrific murder of Ms. Rogenkamp. "Solatium is traditionally a compensatory damage which belongs to the individual heir personally for injury to the feelings and loss of decedent's comfort and society." Flatow, 999 F. Supp. at 29. There are identifiable factors that enter into a judgment for solatium. "Thus mental anguish, bereavement and grief resulting from the fact of decedent's death constitutes the preponderant element of a claim for solatium." Id. at 30 (stating "the claimant must prove a close emotional relationship with the decedent.") citing to Miles v. Apex Marine Corp., 498 U.S. 19 (1990). As damages for mental anguish are extremely fact-dependent, the claims require careful analysis on a case-by-case basis.

The heinous and calculated manner in which Mr. Baker, Ms. Pflug, and Ms. Rogenkamp were terrorized culminating in being shot execution style in the head added

to Plaintiffs' solatium damages. The brutality quotient was maximized in order to achieve the maximum amount of terror, which was especially felt by Plaintiffs. This factor affects Plaintiffs' solatium damages.

> Spouses and relatives in direct lineal relationships are presumed to suffer damages for mental anguish. The testimony of sisters or brothers is ordinarily sufficient to sustain their claims for solatium. See Reiser, 786 F. Supp. 1334. Proof relies predominantly on the testimony of claimants, their close friends, and treating medical professionals, as appropriate. See Alejandre at 20-22; 61 ALR4th 413 at § 13.

Id. at 30-31. The malice and political objectives that motivated the murders also increases Plaintiffs' solatium damages.

> The malice associated with terrorist attacks transcends even that of premeditated murder. The intended audience of a terrorist attack is not limited to the families of those killed and wounded or even just Israelis, but in this case, the American public, for the purpose of affecting United States government support for Israel and the peace process. The terrorist's intent is to strike fear not only for one's own safety, but also for that of friends and family, and to manipulate that fear in order to achieve political objectives. Thus the character of the wrongful act itself increases the magnitude of the injury. It thus demands a corresponding increase in compensation for increased injury.

Flatow, 999 F. Supp. at 30.

The following further types of proof and evidence of mental anguish have been considered factors to be accounted for when conducting a solatium damages analysis:

- obvious distress during testimony, or the claimant's inability to testify;
- testimony of a general feeling of permanent loss or change caused by the decedent's absence; and
- medical treatment for depression and related affective disorders. Id. at 31.

These factors are relevant in this case, as described below.

The closeness of Plaintiffs' relationships with the decedents is another factor that supports their claims for solatium damages. "Courts have also recognized that in the long term, the sudden death of a loved one may manifest itself as 'a deep inner feeling of pain and anguish often borne in silence.'" Id. citing Connell v. Steel Haulers, Inc., 455 F.2d 688 (8th Cir. 1972). The nature and intensity of the relationship between the decedent and his loved ones is a critical factor in the solatium analysis:

> The nature of the relationship between the claimant and the decedent is a critical factor in the solatium analysis. If the relationship is strong and close, the likelihood that the claimant will suffer mental anguish and loss of society is substantially increased, particularly for intangibles such as companionship, love, affection, protection, and guidance. Numerous factors enter into this analysis, including: strong emotional ties between the claimant and the decedent; decedent's position in the family birth order relative to the claimant; the relative maturity or immaturity of the claimants; whether decedent habitually provided advice and solace to claimants; whether the claimant shared interests and pursuits with decedent; as well as decedent's achievements and plans for the future which would have affected claimants.

999 F. Supp. at 31-32. Finally, in Flatow now Chief Judge Lamberth recognized the difficulty of the task assigned to a Court in deciding what compensation to assign for solatium damages:

> This is the paradox of solatium; although no amount of money can alleviate the emotional impact of a child's or sibling's death, dollars are the only means available to do so. It is with this understanding as to the purpose of solatium, alternately described as the "intangible loss," that the Court analyzes the facts of this case.

Id.

In the recent Valore v. Islamic Republic of Iran, Nos. 03-cv-1959, 06-cv-516, 06-cv-750, 08-cv-1273, 2010 WL 1244552, at *28 (D.D.C. 2010) decision by Chief Judge Lamberth, the court applied the format used in Peterson v. Islamic

Republic of Iran, 515 F. Supp. 2d 25, 52 (D.D.C. 2007) to award solatium damages. In Valore the appropriate amount of pain and suffering damages for family members of deceased victims was calculated as follows: spouse ($8 million); parents ($5 million); siblings ($2.5 million). Moreover, this Court held that the appropriate amount of damages for family members of injured victims was: spouse ($4 million); parents ($2.5 million); siblings ($1.25 million). Valore v. Islamic Republic of Iran, Nos. 03-cv-1959 (06-cv-516, 06-cv-750, 08-cv-1273, 2010 WL 1244552, at *28 (D.D.C. 2010). The Court adopts these amounts as guidelines for making its determinations with regards to solatium damages. Plaintiffs' evidence in support of their claims for solatium damages follow.[14]

i. Family of Scarlett Marie Rogenkamp

Present at trial were Scarlett Rogenkamp's sisters Patricia Henry—individually and in her capacity as administrator of her and Scarlett's mother Hetty Peterson's Estate—and Michelle Holbrook, along with Valerie Peterson who serves as the administrator of Scarlett Rogenkamp's father's—Vernon Peterson Estate. Ms. Rogenkamp's brother Paul Peterson and sister Katherine Doris testified by sworn affidavit.

The testimony before the Court described a close-knit family that, despite the distance between them, remained connected emotionally. As the oldest of four children, Scarlett was close to and made an effort throughout her life to spend time with and be supportive of her four siblings. (Doris, Ex.22 at ¶¶12, 14, 15, 17, Peterson, Ex. 25 at ¶¶11, 14, Holbrook, T-2-11, 17, Henry, T-1-125, 130). As such, Patricia Henry describes

[14] Solatium should not be discounted to a present value. Flatow, at 32.

being "best friends" with her sister Scarlett while growing up and described their relationship as "close." (Henry, T-1-125). Testimony also made clear that Scarlett was also very close with her parents. Testimony described Scarlett as being very similar to her mother Hetty Peterson and their enjoyment of the same activities, especially when they were together. (Henry, T-1-131). Scarlett's father, Vern Peterson, was "very close" with his eldest daughter. (Henry, T-1-120).

Ms. Rogenkamp was a very accomplished woman and this made her family extremely proud. (Doris, Ex. 22 at ¶¶11, 18). Immediately prior to the EgyptAir Hijacking, Scarlett was continuing her ten year service as a civil service employee in the United States Air Force and at that time was stationed overseas in Athens, Greece. (Henry, T-1-129-130).

Immediately following the EgyptAir Hijacking, the wait for any confirmation that Scarlett indeed was among those killed added to the emotional trauma that the Rogenkamp family suffered. (Doris, Ex. 22 at ¶21). Her family all were grief struck and felt an enormous loss when they learned Scarlett was indeed murdered. This feeling of deep loss, which cannot be filled, continues today. Scarlet's father never was able to find peace after Scarlett's execution. (Peterson, T-2-31).

Moreover, the manner in which Scarlett Rogenkamp was murdered deeply exacerbated the emotional scars that were inflicted on her family. Scarlett's father and sister Michelle Holbrook did not describe Scarlett's murder as a "murder" but instead as an "execution." (Holbrook, T-2-13, 16).

Certain members of Scarlett Rogenkamp's family members have also battled depression and undergone medical treatment to treat their depression suffered as a direct

result of Scarlett Rogenkamp's murder. (Doris, Ex. 22 at ¶¶25, 26, 27, Peterson, Ex. 23 at ¶¶25, 27).

In highly emotional testimony Scarlett Rogenkamp was described as "beautiful", 'outgoing', 'confident' and a 'free spirit.' (Henry, T-1-126). As her supervisor at the Air Force recognized and expressed in a condolence letter to her family, "no one who met Scarlett could fail to see her spirit and drive...her zest for life. This zest radiated to touch others...oftentime to bring sunshine into our lives. You always knew where Scarlett stood; she stood up for what she thought was right." (Ex. 15). Based upon all of the testimony, the Court finds that awards in the following amounts are appropriate in compensation, as solatium, for the loss suffered by each individual family member of Scarlett Marie Rogenkamp:

Estate of Hetty Peterson (Mother of Scarlett Rogenkamp): $_____

Estate of Vernon Peterson (Father of Scarlett Rogenkamp): $_____

Patricia Henry (Sister of Scarlett Rogenkamp): $_____

Michelle Holbrook (Sister of Scarlett Rogenkamp): $_____

Paul Peterson (Brother of Scarlett Rogenkamp): $_____

Katherine Doris (Sister of Scarlett Rogenkamp): $_____

ii. Family of Jackie Nink Pflug

The Court heard testimony from Jackie Pflug herself and also from: Jackie Pflug's father Eugene J. Nink, her husband at the time of the EgyptAir Hijacking Scott Pflug, her siblings Mary E. Nink O'Donnell and Gloria Jo Nink. The Court also heard testimony from Ms. Pflug's current husband James A. Olsen and received testimony about her minor son, T.O.

Jackie Pflug's family was close growing up in Texas and were 'really involved' with each other's lives. (Nink, T-4-50, Nink, T-4-75). The Nink family would take summer vacations together, visit relatives and would frequently engage in other family activities. (O'Donnell, T-4-58). Ms. Pflug's parents were very supportive of their daughter Jackie and were involved in coordinating activities for their daughter Jackie when she was a child. (Nink, T-4-76).

Jackie Pflug's family remained a close-knit unit throughout the time period when Ms. Pflug left home. (O'Donnell, T-4-58). When Jackie Pflug decided to go abroad to teach, the family was excited for, her but was also "heartbroken" because of the distance that would separate them. (O'Donnell, T-4-60, 64). Despite the distance, Jackie and her siblings and parents stayed in touch though letters and telephone conversations. (O'Donnell, T-4-61, 64).

Jackie Pflug married Scott Pflug in July 1985. (Pflug, T-3-54). They did not want to be separated and wanted to work at the same school abroad and eventually found jobs at the Cairo American College. (Pflug, T-3-53-55). When they married, Jackie Pflug and Scott Pflug wanted to continue to live overseas, travel and "do the job [they] love[d]" together. (Pflug, T-3-81).

Prior to the EgyptAir Hijacking, Jackie Pflug was described in testimony as being "adventurous" who liked to travel and see the world. (Nink, T-4-51). Ms. Plug was also described as being "very active", "outgoing", "cheerful" and "happy." (O'Donnell, T-4-60, Nink, T-4-78).

Following the execution style shooting and inhumane treatment that Ms. Pflug endured at the hands of the ANO terrorists who perpetrated the EgyptAir Hijacking,

Jackie's family did not know for approximately six to eight hours whether Ms. Pflug was dead or alive. (O'Donnell, T-4-65). Jackie's mother Rylma cried after hearing news that Jackie was on the hijacked airliner. (Nink, T-4-80). Jackie Pflug's oldest sister Gloria testified that she felt 'devastated' knowing both that Jackie was on the hijacked EgyptAir airliner and that she had to relay the tragic news to her mother. (Nink, T-4-80). Jackie Pflug's parents were extremely upset after learning that their daughter had been shot in the head during the EgyptAir Hijacking. This sentiment was also shared by her siblings. (O'Donnell, T-4-69). Scott Pflug, Jackie's husband at the time, felt 'blown away' and 'devastated' when he heard that it was his wife Jackie that had been shot and did not believe she was still alive. (Pflug, T-3-61-62). Scott Pflug immediately went to Malta and subsequently accompanied his wife back, and necessarily relocated from Cairo, to the United States. (Pflug, T-3-65, 69-71). Scott cared for his wife full time from the time of their return to the United States until they eventually divorced. (Pflug, T-3-79-80). The struggle to heal from her wounds and their emotional consequences wreaked havoc on Ms. Pflug's marriage to Scott Pflug and their marriage ended in divorce. (Pflug, T-3-81, Pflug, T-1-73-76). After sustaining her traumatic injuries as a result of being a victim of the EgyptAir Hijacking and her return to the United States, Jackie's father testified that Jackie was 'different' and this caused him to worry. (Nink, T-4-53). Jackie's mother was also "extremely worried" about her daughter Ms. Pflug. (O'Donnell, T-4-68).

After returning to the United States, Ms. Pflug was described by her sister Mary Nink O'Donnell as "[not] being the Jackie we all knew." Ms. Pflug's siblings were distraught and 'upset' by the fact that Jackie had lost so much of what she had worked so hard to achieve as a result of her injuries sustained during the EgyptAir Hijacking.

(O'Donnell, T-4-69). Jackie's siblings continue to worry about Jackie Pflug to this day. (O'Donnell, T-4-70). Jackie's mother and father were also very worried for Jackie and knew that their daughter's life had been changed forever. (Nink, T-4-86-87). Scott Pflug testified that after the EgyptAir Hijacking, Ms. Pflug was not the same person he married as they did not have the same way of looking at things. (Pflug, T-3-81-82). James "Jim" Olsen, Ms. Pflug's husband today, testified that the effects of the EgyptAir Hijacking "affects them daily" and Mr. Olsen, as a caring husband, constantly has to watch over Ms. Pflug and 'pick-up' the tasks that Jackie cannot do all on her own. (Olsen, T-4-42). Jackie was unable to return to teaching and suffered derogatory attacks when she tried to do so, dramatically affecting her self esteem, ability to cope and depression. (Pflug, T-1-79-80, 94).

There is a time of the day that Ms. Pflug begins to cry because she cannot go on anymore during the day. This deeply saddens Mr. Olsen. T.O., Jackie Pflug's only son is deeply affected by the stories of his mothers horrific ordeal and 'sometimes [says] that he's very afraid that someone is going to get him like someone got [his] mom.' (Olsen, T-4-43). T.O. needs to be constantly reassured that he will be ok and speaks with doctors about these worries. (Olsen, T-4-44).

Based upon all of the testimony, the Court finds that awards in the following amounts are appropriate in compensation, as solatium, for the loss suffered by each individual family member as a result of Jackie Nink Pflug's horrific ordeal as a victim of the EgyptAir Hijacking:

Estate of Rylma Nink (Mother of Jackie Pflug): $_____

Eugene Nink (Father of Jackie Pflug): $_____