

United States District Court

Southern

DISTRICT OF

New York

Jane Doe; Jane Roe (minor); Sue Doe (minor);
James Doe (minor)

SUMMONS IN A CIVIL CASE

V.

CASE NUMBER:

Central Intelligence Agency; Porter Goss;
AGENCY NAME REDACTED; United States of
America

05 CV 7939

JUDGE SWAIN

TO: (Name and address of defendant)

U.S. Attorney
U.S. Attorney's Office for the Southern District of New York
100 Church Street
New York, New York 10007

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Mark S. Zaid, Esq.
Krieger & Zaid, PLLC
1920 N Street, N.W.
Suite 300
Washington, D.C. 20036

an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

SEP 12 2005

CLERK

DATE

Marcel Quintero

(BY) DEPUTY CLERK

UNITED STATES DISTRICT COURT
FOR THE
~~EASTERN~~ DISTRICT OF NEW YORK
SOUTHERN

[REDACTED], Individually and As)
Next of Kin to [REDACTED],)
[REDACTED], and)
[REDACTED] (minors))
(True names and address withheld at)
the request of CIA),)
Plaintiffs)

v.)

Hon. PORTER GOSS,)
CENTRAL INTELLIGENCE)
AGENCY,)
[REDACTED])
and,)
THE UNITED STATES OF)
AMERICA)
Defendants)

Civil No. _____

PLAINTIFFS DEMAND
TRIAL BY JURY

COMPLAINT

NOW COME Plaintiffs, [REDACTED], individually, and as next of kin to [REDACTED], [REDACTED], and [REDACTED] (minors), by and through undersigned counsel, pursuant to Rule 3, Fed.R.Civ.Proc., and for their Complaint against Defendants Hon. Porter Goss ("Goss"), the Central Intelligence Agency ("CIA"), [REDACTED], and The United States of America, avers as follows:

JURISDICTION

1. The jurisdiction of this Court is based upon the existence of a Federal question

and/or an agency and employee of the United States as a Defendant. Plaintiffs are

[REDACTED] Plaintiffs presently reside in Foreign Country "A" and maintain a residence in the State of New York within this jurisdiction. Plaintiff [REDACTED] is the spouse of [REDACTED], a former employee of the CIA, who remains in covert status. Plaintiffs [REDACTED], [REDACTED], and [REDACTED] (minors) are the natural children of [REDACTED] and Plaintiff [REDACTED].

2. Defendant Goss is the Director of Central Intelligence ("DCI"). Defendant CIA is an agency of the United States.
3. Beginning in 2001 and continuing to the present, Defendants have injured and continue to injure Plaintiffs through acts and omissions violating Plaintiffs' rights under the Administrative Procedures Act ("APA"), 5 U.S.C. §§ 706(1) & (2)(A) - (D).
4. Beginning in 2001 and continuing to the present, Defendants have injured and continue to injure Plaintiffs through acts and omissions violating Plaintiffs' rights under the Privacy Act, 5 U.S.C. § 552a(g)(1).
5. Beginning in 2001 and continuing to the present, Defendants have injured Plaintiffs through violation of their rights under the Constitution of the United States and Amendments thereto.

¹ Throughout Plaintiffs' Complaint, classified locations (foreign and domestic) will be designated by letter.

6. Beginning in 2001 and continuing to the present, Defendants have injured Plaintiffs through negligent acts and omissions for which Defendant United States would, if a private person, be liable under the Laws of the State of New York.
7. Defendants' complained of acts and omissions have occurred within and/or had their operative effect in the State of New York, Foreign Countries "A" & "B," and [REDACTED]
8. Plaintiffs seek injunctive and declaratory relief, as well as monetary damages.
9. Jurisdiction exists pursuant to 5 U.S.C. §§ 552a(g); 701 *et seq.*; 28 U.S.C. §§ 1331 & 1346; and, the doctrine of pendant jurisdiction.
10. Defendant Goss is sued in his official capacity as DCI. The official duties of Defendant Goss are performed at various locations, both domestically and abroad, but primarily in the District of Columbia and the Commonwealth of Virginia.
11. Defendants CIA and [REDACTED] are sued as agencies of the United States.
12. On November 1, 2004 Plaintiffs submitted to Defendant CIA an administrative claim under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2675. On May 2, 2005 Defendant CIA mailed its denial of said claim. This suit is brought within six months thereafter.
13. Venue is proper pursuant to 5 U.S.C. § 552a(g)(5); 28 U.S.C. §§ 1391(b) & (c), 1402(b); and, the doctrine of pendant venue.
14. Service of process on all Defendants may be accomplished pursuant to Rule 4, Fed.R.Civ.Proc.

FACTS

15. Plaintiff, [REDACTED], is the spouse of [REDACTED]. Plaintiffs [REDACTED], [REDACTED], and [REDACTED] (minors) are their natural children. After completing his undergraduate education, [REDACTED] became employed in the financial services industry in New York City, and obtained both NYSE and NASD securities licenses and registrations.

16. Plaintiff [REDACTED] [REDACTED], married [REDACTED] [REDACTED]

17. [REDACTED] entered-on-duty with Defendant CIA [REDACTED]

18. [REDACTED] the CIA's employment of [REDACTED] was initially [REDACTED] [REDACTED] [REDACTED] as documented in his Official Personnel File ("OPF").

19. [REDACTED]

[REDACTED]

[REDACTED]

20. In reliance upon these assurances, [REDACTED]

21. At the Direction of Defendant CIA and in order to [REDACTED]

22. During the period [REDACTED] to [REDACTED], Plaintiff [REDACTED]

23. During this period, Plaintiffs [REDACTED], [REDACTED], and [REDACTED] were born [REDACTED]. At the direction of Defendant CIA, Plaintiff [REDACTED] and [REDACTED]

Foreign Location "B."

24. [REDACTED] Plaintiffs and [REDACTED] deployed to Foreign Country "C,"

[REDACTED], on an operational assignment [REDACTED]

[REDACTED] until being

reassigned to Domestic Location "D" in late 1999.

25. At the direction of Defendant CIA, [REDACTED]

26. At the direction of Defendant CIA, [REDACTED] Plaintiff [REDACTED]

27. [REDACTED] was summarily separated from his CIA employment on the claim that he was [REDACTED] [REDACTED] being terminated immediately for unspecified reasons. Defendant CIA demanded immediate return of [REDACTED] Plaintiff [REDACTED] and threatened [REDACTED] Plaintiff [REDACTED] and [REDACTED] Plaintiff [REDACTED] Plaintiff [REDACTED] Shortly thereafter, [REDACTED] fell into severe clinical depression. Defendant CIA also told Plaintiff [REDACTED] that she could not [REDACTED] [REDACTED]

28. [REDACTED]

29. Because [REDACTED] was unemployed, ailing, without medical insurance and in need of medical care, [REDACTED] he, together with all Plaintiffs, departed the United States for Foreign Country "A" [REDACTED] [REDACTED] traveled to Foreign Country A via Foreign Location "B." Plaintiffs traveled separately to Foreign Country A via Foreign Location "F." All arrived in Foreign Country "A" on or about [REDACTED] Plaintiffs entered Foreign Country "A" [REDACTED]

[REDACTED] All Plaintiffs and [REDACTED] have since continued to reside in Foreign Country "A."

30.

[REDACTED]

31.

[REDACTED], Plaintiff [REDACTED] began to experience symptoms of serious clinical depression. [REDACTED] also continued to suffer severe clinical depression and was also diagnosed with post-traumatic stress disorder resulting from his close physical proximity to the 9/11 attacks.

32.

Throughout this period, Defendant CIA refused to provide any assistance, medical or otherwise to Plaintiff [REDACTED] and [REDACTED]. Left with no alternative, Plaintiff [REDACTED] and [REDACTED] availed themselves

[REDACTED]

33.

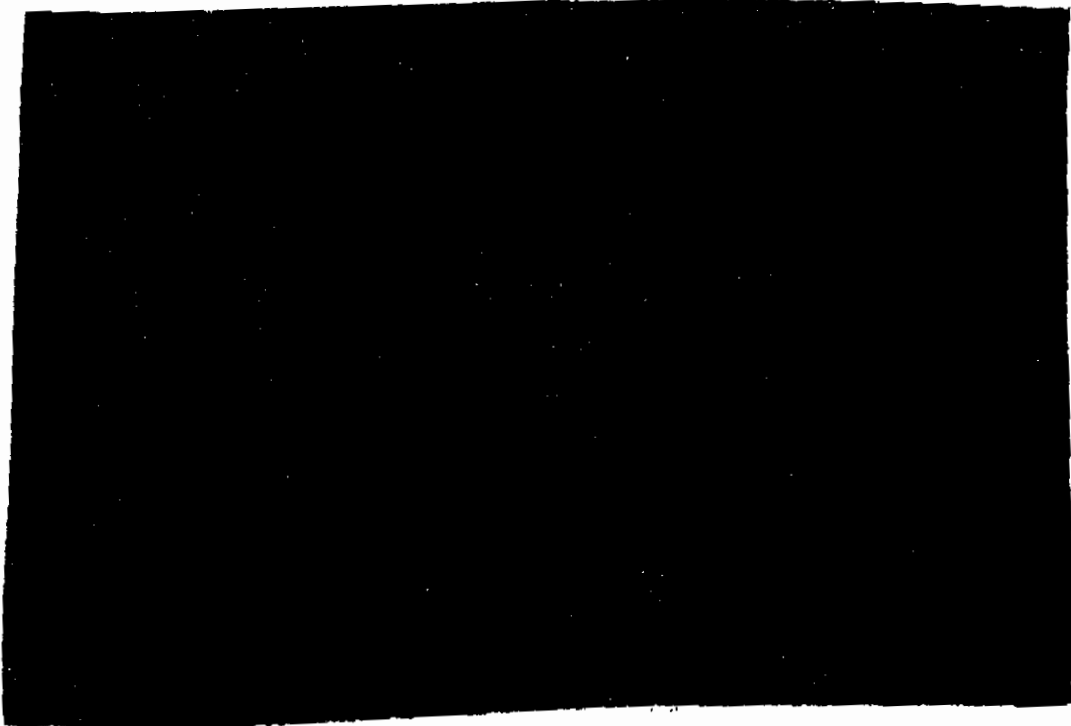
Throughout this period and continuing to the present, Plaintiffs remain unable to leave Foreign Country "A" [REDACTED]

[REDACTED]

[REDACTED] has returned to the United States at his own expense on five separate occasions in an unsuccessful effort to obtain some assistance from Defendant CIA

34.

[REDACTED]



35. As the result, [REDACTED] Plaintiff [REDACTED] is unable to travel from Foreign Country "A" and remains a virtual prisoner in her home, constantly fearful of eventual detection [REDACTED]. Her medical and psychological condition, as well as her marriage to [REDACTED] and her ability to care for Plaintiffs [REDACTED], [REDACTED], and [REDACTED] (minors) continue to deteriorate. Although she receives medical treatment and psychological counseling, Defendant CIA had demanded that she not disclose the basis of her apprehension to her medical professionals, while simultaneously refusing to provide her any alternative treatment. Consequently, Plaintiffs [REDACTED], [REDACTED], and [REDACTED] (minors), continue to suffer loss of care, comfort and counsel from their natural mother.

36. Plaintiff [REDACTED] also suffers severe emotional distress producing physical symptoms from fear that [REDACTED]

[REDACTED] Thus, Plaintiff [REDACTED] lives in constant fear [REDACTED]

COUNT I
VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

37. Plaintiffs reallege each and every paragraph numbered 1 through 36, inclusive, as if fully set forth herein.

38. The complained of acts and omissions by Defendants Goss have violated [REDACTED] [classified] portions of CIA regulations providing for the integrity of its [REDACTED], the protection [REDACTED] and the treatment of its employees, in violation of 5 U.S.C. §§ 706(1) & (2)(A) - (D).

39. As a direct and proximate result of Defendant Goss's complained of acts and omissions, Plaintiffs have suffered damages in the form of loss of income and benefits, invasion of privacy, substantial out-of-pocket costs, including attorneys fees, and mental suffering producing physical symptoms.

40. Plaintiffs have no available internal administrative remedy at CIA to address the complained of acts and omissions. Plaintiffs therefore ask this Court to order Defendants CIA and [REDACTED]

41. Plaintiffs further asks this Court to order Defendant Goss to undertake rule-making to promulgate appropriate regulations to ensure protection of Plaintiffs' rights in matters concerning, related to or arising from their relationship with CIA.

COUNT II
VIOLATION OF THE PRIVACY ACT

42. Plaintiffs reallege each and every paragraph numbered 1 through 36, inclusive, as if fully set forth herein.

43. Defendant [REDACTED] has wilfully and intentionally failed to maintain accurate, timely and complete records pertaining to Plaintiff [REDACTED], so as to ensure fairness to Plaintiff in violation of 5 U.S.C. § 552a(e)(5). As the result, all Plaintiffs have suffered adverse effects.

44. Defendant CIA has wilfully and intentionally failed to maintain accurate, timely and complete records pertaining to Plaintiff [REDACTED], so as to ensure fairness to Plaintiff in violation of 5 U.S.C. § 552a(e)(5). As the result, all Plaintiffs have suffered adverse effects. Plaintiffs are entitled to actual damages and costs of the instant action pursuant to 5 U.S.C. §§ 552a *et seq.*

COUNT III
TORTIOUS VIOLATION OF PLAINTIFFS' RIGHTS
UNDER THE UNITED STATES CONSTITUTION
AND AMENDMENTS THERETO

45. Plaintiffs reallege each and every paragraph numbered 1 through 36, inclusive, as if fully set forth herein.

46. The complained of acts and omissions by Defendants have been under color of Federal law at all times pertinent hereto. The complained of acts and omissions by Defendants have been willful, malicious or with deliberate indifference to the clearly established rights of Plaintiffs under the First, Fifth and Eighth Amendments to the Constitution of the United States.
47. The complained of acts and omissions by Defendants have interfered with and/or deprived Plaintiffs of their rights to freedom of speech and association, travel, liberty, procedural due process, substantive due process, equal protection, privacy, and subjected them to cruel and unusual punishment in the form of virtual incarceration.
48. As a direct and proximate result of Defendants' complained of acts and omissions, Plaintiffs have suffered damages in the form of loss of income and benefits, loss of career opportunity, invasion of privacy, substantial out-of-pocket costs, including attorneys fees, and mental and physical suffering producing physical symptoms, compensable through an appropriate award of monetary damages.
49. Plaintiffs have exhausted every possible administrative procedure available to them and therefore have no effective remedy for the complained of acts and omissions by Defendants and damages resulting therefrom, other than resort to the court system.

COUNT IV
FEDERAL TORT CLAIMS ACT

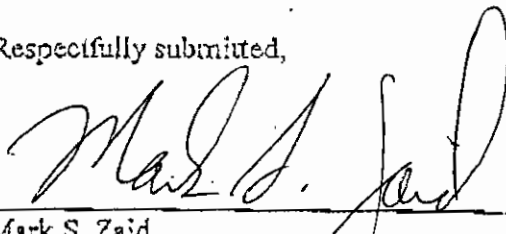
50. Plaintiffs reallege each and every allegation contained in paragraphs numbered 1 through 36, above, as if fully set forth herein.
51. If Defendant United States were a private person, it would be liable to Plaintiffs in accordance with the law of the State of New York.
52. Plaintiffs are free from any acts of negligence contributing to the proximate cause of their complained of damages.
53. Defendant United States' complained of acts and omissions constitute a negligent [REDACTED] of Plaintiff [REDACTED].
54. Defendant United States' complained of acts and omissions constitute a negligent endangerment of the life and safety of the Plaintiffs.
55. Defendant United States' complained of acts and omissions constitute a negligent false light invasion of the Plaintiffs' privacy.
56. Defendant United States' complained of acts and omissions constitute a negligent infliction of emotional distress upon the Plaintiffs.
57. Defendant United States' complained of acts and omissions constitute a negligent interference with the Plaintiffs' prospective economic opportunity.

WHEREFORE, Plaintiffs pray this Honorable Court grant them the following relief:

- a. Relief specifically sought in Counts I - IV;
- b. An award of costs of litigation, including the fees and expenses of attorneys, pursuant to the Privacy Act, 5 U.S.C. § 552a, *et seq.*, and the Equal Access to Justice Act, 28 U.S.C. § 2412(b) & (d);
- c. Compensatory damages in an amount to be determined by the trier of fact, and,
- d. That the Court order Defendants to immediately [REDACTED]

Plaintiff further prays that the Court provide whatever further, different or additional relief as it should deem just and proper.

Respectfully submitted,


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