

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Patrick Scott Baker, <i>et al.</i>	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Civil Action No. 03-cv-749 (JMF)
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Socialist People’s Libyan Arab Jamahirya, <i>et al.</i>	:	
	:	
	:	
Defendants.	:	
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Jackie Nink Pflug, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Civil Action No. 08-cv-505 (JMF)
	:	
Socialist People’s Libyan Arab Jamahirya, <i>et al.</i>	:	
	:	
	:	
Defendants.	:	
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PRELIMINARY FINDINGS OF FACT¹

I. INTRODUCTION

These actions came before this Court as the subject of an evidentiary hearing held on May 3-7, 2010. The action of Baker v. Great Socialist People’s Libyan Arab Jamahirya, No. 03-CV-749, was filed on March 3, 2003; the action of Pflug v. Great Socialist People’s Libyan Arab Jamahirya, No. 08-CV-505, was filed on March 24, 2008. The named Libyan defendants were dismissed from each of these actions pursuant to the enactment of the Libya Claims Resolution

¹ These Findings of Fact are preliminary, and will be supplemented by a final Findings of Fact and Conclusions of Law, at which point these findings will be vacated.

Act, Pub. L. No. 110-301, 122 Stat. 2999 (2008), but the plaintiffs' claims remain pending against the Syrian Arab Republic; the Syrian Air Force Intelligence agency, Idarat al-Mukhabarat al-Jawiyya; and Syria's Director of Military Intelligence, General Muhammad al-Khuli (hereinafter collectively the "Syrian defendants" or "Syria").

II. FINDINGS OF FACT

A. The EgyptAir Flight 648 Hijacking

1. On November 23, 1985, plaintiffs Baker, Pflug, and Rogenkamp, each of whom were American nationals, boarded EgyptAir Flight 648, which departed Athens at 9:05 pm Athens time. (Baker, T-2-47; Pflug, T-1-33; Rezaq, Pltf's Exh. 34 at 2741; Pltf's Exh. 35.)
2. EgyptAir Flight 648 was scheduled to fly directly to Cairo from Athens. (Baker, T-2-47; Pltf's Exh. 3.)
3. Approximately 10 minutes after leveling off, the plane was hijacked. (Baker, T-2-47-48.)
4. One of the hijackers began to taunt passengers on board by attempting to pull a pin out of a hand grenade while simultaneously brandishing a firearm. (Baker, T-2-48-51.)
5. During this time, Pflug was struck over the head with a gun by a hijacker. (Pflug, T-1-34.)
6. At 8:28 pm Malta time, three ANO hijackers, including Omar Mohammed Ali Rezaq, took control of the EgyptAir airliner. (Baker, T-2-84; Pflug, T-1-35; Pltf's Exh. 3.)
7. The ANO hijackers directed an EgyptAir flight attendant to go onto the aircraft intercom and say, "[w]e're being hijacked by the Egypt Revolution, and if you do what you are told, you will not get hurt." (Pflug, T-1-36.)
8. After taking control of EgyptAir Flight 648, the ANO hijackers began searching the passengers, collecting their passports and reseating them. (Baker, T-2-5; Pflug, T-1-39.)
9. The hijackers worked their way from the front of the plane to the back of the plane. (Pflug, T-1-39.)
10. Approximately thirty minutes after taking control of the plane, at approximately 9:00 pm Malta time, there was a shootout between an EgyptAir sky marshal (who was onboard the aircraft) and the hijackers. (Baker, T-2-52, 84; Pflug T-1-39; Pltf's Exh.3.)
11. The aircraft's fuselage was punctured by bullets, and the plane rapidly descended. (Baker, T-2-52-53; Pflug, T-1-41.)

12. Because of the need for fuel, EgyptAir Flight 648 landed at Malta's Luqa Airport at 10:16 pm. (Baker, T-2-84; Pltf's Exh. 3; Pflug, T-1-50; Baker, T-2-55.)
13. Shortly after landing in Malta, stairs were brought to the EgyptAir aircraft, and a medic was allowed onboard. (Baker, T-2-56.)
14. The medic certified that one of the hijackers shot during the shootout with the Egyptian air marshal was dead. (Baker, T-2-56.)
15. While the medic was taking the injured Egyptian air marshal off of the aircraft, Rezaq shot the air marshal in the back. (Baker, T-2-56.)
16. The hijackers then demanded fuel, and indicated that they were prepared to execute passengers in order to ensure their demands were met. (Lang, T-2-157.)
17. As the hijackers were waiting for the fuel to arrive, they called forward and released some of the passengers based on their nationalities, as determined from their respective passports. (Baker, T-2-57.)
18. The hijackers threatened to shoot a passenger every fifteen minutes if they did not receive fuel. (Pltf's Exh. 34 at 2783.)
19. Shortly after releasing some of the passengers, Omar Rezaq summoned the first Israeli passenger, Tamar Artzi, and shot her in the head, throwing her body off the aircraft onto the tarmac. It was midnight Malta time on November 24, 1985. (Baker, T-2-84; Pltf's Exh. 3.)
20. Pflug was seated next to an Australian man, who told Pflug that the first Israeli woman who was shot was moving on the tarmac. (Pflug, T-1-51.)
21. Pflug thought to herself (of the woman), "Whatever you do, don't move, just play dead." (Pflug, T-1-51.)
22. The hijackers, having discovered that the Israeli woman was still alive, shot her again while she lay on the tarmac. (Pflug, T-1-51.)
23. Approximately fifteen minutes after Artzi was shot, at 12:15 am, a second Israeli passenger, Nitzan Mendelson, was dragged to the front of the aircraft and shot in the head by Omar Rezaq. (Baker, T-2-85; Pltf's Exh. 3.)
24. Her body was also thrown from the aircraft onto the tarmac. (Baker, T-2-58.)
25. After the two Israeli women were shot, Baker commented to a woman sitting next to him that he was going to be next. (Baker, T-2-58.)
26. Approximately 15 minutes after shooting the two Israeli passengers, the hijackers called the three American passengers—Baker, Pflug, and Rogenkamp—to the front of the plane. (Pflug, T-1-52; Baker, T-2-59.)

27. The three American passengers' hands were tied behind their backs with neckties, and they were seated in the first row on the starboard side of the plane. (Baker, T-2-59; Pflug, T-1-52.)
28. Shortly before 12:30 am Malta time, Baker was taken to the door of the aircraft. (Baker, T-2-60; Pltf's Exh. 3).
29. While standing at the door, Baker overheard a radio transmission broadcast from the Malta control tower: ""There is to be no more killing. The fuel is on its way." (Baker, T-2-60.)
30. Baker was allowed to sit down again. (Baker, T-2-60.)
31. Four and a half hours after the EgyptAir Flight 648 aircraft departed Athens, and four hours into the hijacking, after having witnessed the execution-style shooting of two other passengers, Baker was again brought to the door of the aircraft. Shortly after 12:30 am Malta time, he was shot point-blank in the head by Rezaq. (Baker, T-2-60-61, 85; Pflug, T-1-53; Pltf's Exh. 3.)
32. Baker's body was thrown down the stairway to the airplane. He landed approximately halfway down the stairs. (Baker, T-2-61.)
33. Baker heard two men coming down the stairs. They carried his limp body back up to the aircraft. (Baker, T-2-61.)
34. The hijackers then threw him out of the door of the aircraft a second time. This time, he landed on the tarmac. (Baker, T-2-61.)
35. Baker played dead on the tarmac until he was sure that the hijacker had gone back inside the plane. (Baker, T-2-61.)
36. Baker managed to escape by sneaking away on the tarmac and running underneath the hijacked airplane. (Baker, T-2-81.)
37. As Baker ran across the tarmac in the dark, he saw someone stand up in a grassy area to his left and point a rifle at him. (Baker, T-2-62.)
38. Baker turned around to show the person that he had his hands tied behind his back, in order to show that he was not a threat and to avoid being shot. (Baker, T-2-62, 82.)
39. The person pointing the rifle turned out to be a British soldier, who may have thought Baker was a terrorist running from the airplane. (Baker, T-2-82.)
40. Baker was taken by ambulance to a Maltese hospital. (Baker, T-2-63.)
41. Baker was hospitalized at St. Luke's Hospital G'Mangia, Malta, where he was treated for four (4) days for the gunshot wound to his head and other injuries which he suffered. (Pltf's Exh. 31B.)

42. At 4:30 am Malta time, eight and one-half hours after the EgyptAir flight 648 aircraft had departed Athens and eight hours into the hijacking, and after witnessing the execution-style shooting of three other passengers, a second American passenger, Rogenkamp, was brought to the front of the aircraft, where she was shot in the head and killed by Rezaq. (Pflug, T-1-54, 56-57; Pltf's Exh. 3.)
43. Rogenkamp's body was also thrown onto the tarmac after the shooting. (Pflug, T-1-57.)
44. Rogenkamp's body was taken to the Malta Hospital, where she was later identified by Baker, who was being treated there. (Baker, T-2-64.)
45. At 10:00 am Malta time, fourteen hours after the EgyptAir flight 648 aircraft had departed Athens and thirteen and one-half hours into the hijacking, and after witnessing the execution-style shooting of four other passengers, Pflug, the third American passenger onboard, was called forward and shot in the head by Rezaq. (Pflug, T-1-57-60; Pltf's Exh. 3.)
46. Like the other Israeli and American victims who were shot in the head, Pflug was thrown onto the tarmac. (Pflug, T-1-61.)
47. Pflug lay on the tarmac, pretending to be dead while going in and out of consciousness, for approximately five hours. (Pflug, T-1-62.)
48. Medics arrived at the EgyptAir aircraft, and, believing Pflug to be dead, recovered her body and placed her in an ambulance to take her to a morgue. (Pflug, T-1-66.)
49. After the medics realized that Pflug was alive, she was taken to St. Luke's Hospital in G'Mangia, Malta, where she was treated for her injuries. (Pflug, T-1-66-67.)
50. Pflug subsequently underwent brain surgery, and has endured a lifetime of recovery, pain, suffering, and physical and emotional trauma. (Pflug, T-1-53; Pltf's Exh. 4A.)
51. On the second day of the hijacking, at 8:15 pm Malta time, Egyptian commandos stormed the hijacked airplane in an attempt to rescue the remaining passengers and bring about the end of the hijacking. (Lang, T-2-170-71.)
52. As a result of this rescue attempt, the aircraft was almost completely destroyed, and approximately 60 passengers were killed. (Pltf's Exh. 3; Lang, T-2-170-172; Baker, T-2-86.)

B. The Abu Nidal Organization Perpetrated the EgyptAir Flight 648 Hijacking

53. Omar Ali Rezaq, the sole surviving hijacker, was injured in the rescue attempt by Egyptian commandos, and was subsequently treated at a Maltese hospital. (Pltf's Exh. 34 at 2567-2571.)
54. Rezaq was tried and convicted in Malta and served time in prison. (Pltf's Exh. 34 at 2792-2793.)

55. Subsequent to his release from the Malta prison, Rezaq was tried in Washington, DC, before Judge Royce C. Lamberth in the U.S. District Court for the District of Columbia. (Ex 34.)
56. Rezaq's criminal trial was styled United States of America v. Omar Mohammed Ali Rezaq No. 93-CR-284. (Pltf's Exh. 34.)
57. During his criminal trial, Rezaq did not deny the fact that he got on EgyptAir Flight 648, that he went into the cockpit, that he intentionally forced the plane to divert Malta, and that he shot EgyptAir Flight 648 passengers on the ground in Malta. (Pltf's Exh. 34 at 2781.)
58. During his criminal trial, when asked if Rezaq remembers shooting people on EgyptAir Flight 648, Rezaq testified, "[its] [s]omething I cannot forget." (Pltf's Exh. 34 at 2782.)
59. Subsequently, in a signed affidavit, Omar Rezaq admitted that he was convicted of air piracy as the terrorist who hijacked EgyptAir Flight 648. (Pltf's Exh. 35.)
60. Rezaq admitted that the operation had been carried out by the ANO, of which he was a member. (Pltf's Exh. 35, Pltf's Exh. 34.)
61. Rezaq also admitted that he was trained in an ANO training camp in the Syrian-controlled Baaka Valley. (Pltf's Exh. 35, Pltf's Exh. 34.)
62. Rezaq also admitted that this terrorist hijacking took place at the instigation of and with the support of the governments of Syria and Libya. (Pltf's Exh. 34, Pltf's Exh. 35.)
63. Omar Rezaq is currently serving a life sentence at the Federal Maximum Security Prison, ADX, Federal Bureau of Prisons, in Florence, Colorado, having been convicted of air piracy as a result of his involvement as an ANO terrorist in the EgyptAir Flight 648 hijacking on November 23, 1985. (Pltf's Exh. 35.)

C. The Abu Nidal Organization is a Foreign Terrorist Organization

64. The ANO was established and led by Sabri al-Banna, a/k/a Abu Nidal. (Lang, T-2-141.)
65. Abu Nidal was originally a member and operative of Yasser Arafat's Fatah organization and a part of the Palestine Liberation Organization ("PLO"). (Deeb, T-2-203-204.)
66. In October 1974, when Abu Nidal was serving as Arafat's Fatah organization representative in Baghdad, Iraq, he broke away from the movement and formed his own, more radical organization, which he called the Fatah-Revolutionary Council, a.k.a. the Abu Nidal Organization. (Deeb, T-2-203.)
67. Abu Nidal broke away from Arafat in opposition to Arafat's support of the Middle East peace process. (Deeb, T-2-208-209.)
68. Abu Nidal was a violent individual, and the ANO was brutal; their documented

methodology for the commission of terrorist attacks was bloodshed. (Long, Pltf's Exh. 52 at 2.)

69. During the relevant period surrounding the November 23, 1985 hijacking of EgyptAir Flight 648 and the December 27, 1985 attacks at both the Leonardo da Vinci Airport at Rome, Italy and the Schwechat Airport at Vienna, Austria ("Rome and Vienna Airport attacks"), the ANO became one of the most sophisticated terrorist groups of its day, with a global network of operations. (Long, Pltf's Exh. 52 at 2.)
70. One of the primary reasons that the ANO was so effective was the high level of internal security Abu Nidal achieved within his organization. (Long, Pltf's Exh. 52 at 2.)
71. Compartmentalization within the ANO was rigid, both horizontally and vertically; personnel were organized into small cell groups, with minimal interaction between members. (Pltf's Exh. 52 at 2.)
72. The ANO was run like a commercial enterprise, with different departments, including secret service, military, archives, and foreign relations. (Badra, Pltf's Exh. 34 at ¶10.)
73. ANO terrorists used assumed names, along with matching forged identification and travel documents; the names were changed constantly so that no one could be sure of the real names of ANO members. (Pltf's Exh. 52 at 2.)
74. The ANO would not have been able to operate or conduct the attacks without the support of foreign governments. (Lang, T-2-175.)
75. The ANO was known by the United States government in 1985 and 1986 to be a brutal, violent, and dangerous terrorist organization, and was subsequently designated as a Foreign Terrorist Organization ("FTO") by the U.S. government. (Deeb, T-2-226.)
76. According to the FTO list released on January 19, 2010, ANO remains designated as a FTO. (Pltf's Exh.43.)

D. Syria Sponsored and Supported the Abu Nidal Organization

77. The head of the Syrian Air Force Intelligence, General Muhammad al-Khuli, in his official capacity, invited Abu Nidal and his organization to move to Syria in January 1981. (Deeb, T-2-206-208.)
78. When al-Khuli officially invited the ANO to be based in Syria, he was following the orders of Syrian President Hafiz al-Asad. (Deeb, T-2-206-208.)
79. Prior to the hijacking and continuing to the present, Syria has been run as a police state under the al-Asad family. (Deeb, T-2-191.)
80. While the ANO was based in Syria, its actions and terrorist operations would not have been possible without the full knowledge and support of the Syrian regime. (Deeb, T-2-207.)

81. In the beginning of 1983, the ANO established itself more concretely in Syria with physical headquarters and bases for training. This coincided with the exponential growth of ANO attacks around the world. (Deeb, T-2-228.)
82. ANO operations expanded to include attacks in the greater Middle East, Turkey, Pakistan, and Western Europe. (Deeb, T-2-228.)
83. The ANO's establishment of a base of operations in Syria in 1983 also marked a dramatic increase in the number of ANO terrorist attacks; more than a dozen ANO attacks in 1984, and twice that number in 1985. (Pltf's Exh. 47.)
84. The extensive support and infrastructure provided by the Syrian defendants enabled the ANO to expand its scope of operations, resulting in more terrorist attacks. (Pltf's Exh. 52 at 4.)
85. The ANO, from 1982 through at least the fall of 1985, trained its terrorist squads in the Syrian-controlled Baaka Valley in Lebanon, maintained safe houses and headquarters in Damascus, Syria, and operated under the watchful eye and with the permission of the Syrian government and the Syrian defendants. (Deeb, T-2-212-14; Lang, T-2-143-44.)
86. Syria provided the ability for ANO to train and house and dispatch its operatives, who were also given passage to return to Syria or the Syria-controlled Baaka Valley in Lebanon for further terrorist training and operations. (Lang, T-2-144; Rezaq, Pltf's Exh. 34, 2756, 2763-2764, 2769; Ibrahim, Pltf's Exh. 36.)
87. Both before and after the November-December 1985 time period during which the EgyptAir hijacking and the Rome and Vienna Airport attacks occurred, Syria provided logistical support to the ANO including, but not limited to, permitting the ANO to maintain offices and safe houses in Syria, maintaining training camps in Syria-controlled territory including the Baaka Valley in Lebanon, and providing identification and travel documents to ANO operatives. (Lang, T-2-143-145; Oakley, T-4-25; Rezaq, Pltf's Exh. 34, 2756, 2763-2764, 2769; Ibrahim, Pltf's Exh. 36.)
88. Syria also allowed the ANO to move about freely in Syria and in Syria-controlled Lebanon and in this regard permitted ANO operatives to travel to and from both the Damascus international airport and the Beirut, Lebanon airport. (Deeb, T-2-218; Lang, T-2-155.)
89. Moreover, Syria also permitted ANO agents the freedom to travel on military highways between training camps in Syria-controlled Lebanon and Damascus without passport control. (Lang, T-2-144.)
90. Surviving ANO terrorists from the EgyptAir hijacking and the Rome and Vienna Airport attacks have corroborated, through sworn depositions and/or filed affidavits admitted into evidence by the Court, Syria's specific logistical support and sponsorship of the ANO during the time period surrounding the attacks. (Pltf's Exh. 35; Pltf's Exh. 36; Pltf's Exh. 37; Pltf's Exh. 38.)

91. Syria participated in the planning, including the timing and the methodologies, and the operations involved in both the EgyptAir hijacking and the Rome and Vienna Airport attacks. (Deeb, T-2-216-217.)
92. The Syrian government, both directly and acting through Syrian Air Force Intelligence, provided support to the ANO organization, and specifically sponsored the ANO EgyptAir hijacking and the Rome and Vienna Airport attacks. (Lang, T-2-145.)
93. The EgyptAir hijacking and the Rome and Vienna Airport attacks could not have taken place without Syria's direct support for the ANO. (Lang, T-2-145; Deeb, T-2-229; Long, Pltf's Exh. 52 at 4; Schweitzer, Pltf's Exh. 53 at 35; Schweitzer, Pltf's Exh. 54 at 35.)
94. The ANO was materially and substantially supported in its terrorist activities by the Syrian defendants beginning in 1981-1983, and continuing through and including the November 1985 EgyptAir hijacking and the December 1985 Rome and Vienna Airport attacks.

E. Syria is a State Sponsor of Terrorism

95. Prior to and during the relevant period surrounding the hijacking of EgyptAir Flight 648 and the Rome and Vienna Airport attacks, terrorism was an integral foreign policy tool for the Syrian regime. (Deeb, T-2-197; Lang, T-2-128.)
96. Syria became actively and directly involved in sponsoring terrorist activities beginning in the mid-1970s. (Deeb, T-2-197.)
97. Historically, Syria has provided material support to terrorist groups primarily in order to achieve foreign policy goals, such as pushing the United States and its allies out of the region. (Deeb, T-2-198.)
98. Syria opposed the Middle East peace process between Israel and Egypt. (Schweitzer, Pltf's Exh. 54.)
99. Syrian-sponsored terrorist activities were, and continue to be, primarily directed against any entity supportive of that process, including moderate Arab states such as Egypt, pro-Yassir Arafat Palestinian groups, and U.S. and Israeli targets. (Deeb, T-2-198; Pltf's Exh. 54 at 31-32.)
100. Syria supported the ANO's operations against Arab countries that supported the Israel-Egypt peace treaty. (Schweitzer, Pltf's Exh. 54.)
101. In this regard, Syria has used terrorist groups as a means of achieving foreign policy goals without resorting to conventional methods of warfare, which it could not, and still cannot, afford to wage against either Israel or the United States. (Deeb, Pltf's Exh. 50 at 2, 7.)
102. As a result of its past support of terrorism, Syria was among the first countries designated in 1979 by the United States Department of State as a State Sponsor of Terrorism.

(Oakley, T-4-11.)

103. Syria was designated as a State Sponsor of Terrorism on December 29, 1979. (Pltf's Exh. 41.)
104. Syria, as a result of its ongoing, current and continuous sponsorship of terrorism, today remains designated by the State Department as a State Sponsor of Terrorism. (Pltf's Exh. 41.)
105. During the period encompassing the EgyptAir hijacking of November, 1985, and the Rome and Vienna Airport attacks of December, 1985, Syria remained one of the primary state sponsors of terrorism. (Oakley, T-4-9.)
106. During the same time period, the United States considered Syria one of the worst sponsors of terrorism in the world. (Oakley, T-4-22.)
107. During the relevant time period, Syria began to increasingly rely on terrorist groups comprised of non-Syrians in order to deflect detection of Syria's support and liability for the actions of its terrorist surrogates. (Deeb, T-2-201.)
108. During the relevant period surrounding the EgyptAir hijacking and the Rome and Vienna Airport attacks, President Hafiz al-Asad ruled Syria under an authoritarian government, whereby all organs of the state were directly under his control. (Deeb, T-2-214, 216.)
109. One of the primary organizations al-Asad utilized to sponsor terrorist organizations, such as the ANO, was the Syrian Air Force Intelligence agency, Idarat al-Mukhabarat al-Jawiyya. (Oakley, T-4-13.)
110. The Syrian Air Force Intelligence agency acted more as a presidential intelligence service than an instrumentality of the Air Force, and was of paramount importance because it functioned as the highest intelligence organization in Syria. (Deeb, T-2-206, 226.)
111. The head of the Air Force Intelligence, General Muhammad al-Khuli, was the most powerful intelligence chief within Syria. (Deeb, T-2-206-208.)
112. Syria remains a major sponsor of terrorism today. (Deeb, T-2-197.)
113. At present, according to the testimony received by the Court from Dr. Deeb, Syria, as a state sponsor of terrorism, spends between US \$500,000,000 (at a minimum) and US \$700,000,000 annually on terrorism-related expenditures. (Deeb, T-2-235.)
114. Syria's current and ongoing support of international terrorism includes, but is not limited to, providing material support to HAMAS and Hezbollah, each of which have been designated by the U.S. Department of State as Foreign Terrorist Organizations. (Deeb, T-2-160-161.)

F. The Plaintiffs are American Victims of the EgyptAir Flight 648 Syrian-Sponsored ANO Hijacking

1. Patrick Baker and Family

115. Baker was born in White Salmon, Washington on July 13, 1957. (Pltf's Exh. 28.)
116. Baker was born a United States citizen and has remained a United States citizen from the time of his birth through the present. (Baker, T-2-34.)
117. Baker's biological father is Jerry Baker. (Baker, T-2-37; Pltf's Exh. 28.)
118. Baker's biological mother is Lois Baker. (Baker, T-2-37; Pltf's Exh. 28.)
119. Baker's siblings are David Baker, Craig Baker, and Stacie Baker. (Baker, T-2-38.)
120. David Baker is now deceased. (Pltf's Exh. 63.)
121. Craig Baker serves as the personal representative of the estate of David Baker. (Pltf's Exh. 64; Baker, T-3-113.)
122. Baker's parents and siblings were all born United States citizens. (Baker, T-2-37-40.)
123. Baker's parents have remained United States citizens from the time of their respective births through the present. (Baker, T-3-130-131; Baker, T-3-148; Baker, T-2-37-40.)
124. Craig and Stacie Baker have remained United States citizens from the time of their respective births through the present. (Baker, T-2-39-40; Baker, T-3-110; Baker, T-3-161.)
125. David Baker remained a United States citizen from the time of his birth through the time of his death. (Baker, T-2-39; Baker, T-3-112-113.)
126. Baker graduated from Washington State University with a Bachelor of Science degree in General Biology in 1980. (Baker, T-2-35-36.)
127. Lois Baker, Patrick's mother, had a master's degree in medical technology, and spent her career in laboratories and hospitals. (Baker, T-3-131-32.)
128. Baker had plans to attend graduate school and pursue a graduate degree. (Baker, T-2-36.)
129. With the aim of paying off student loans, Baker worked at an aluminum plant for three years. (Baker, T-2-40-41.)
130. Prior to the EgyptAir Flight 648 hijacking, Baker also worked as a fish processor. (Baker, T-2-34.)
131. As a result of being shot in the head by ANO terrorist Omar Rezaq during the EgyptAir hijacking, Baker suffered severe, permanent, painful, life-long injuries, including, but not limited to, a laceration wound head trauma, concussion, and wounds to his body from twice being thrown from the aircraft. (Pltf's Exh. 31.)

132. To treat these injuries, Baker was hospitalized at St. Luke's Hospital G'Mangia, Malta for four days. (Pltf's Exh. 31B.)
133. Baker's treatment included, but was not limited to, the treatment of his gunshot wound to the back/side of his head, the treatment of the contusions and abrasions on his body, and monitoring for the possibility of brain injury. (Pltf's Exh. 30; Pltf's Exh. 31.)
134. In addition to the severe physical injuries suffered by Baker, prior to being shot and tossed from the plane, Baker suffered emotional trauma and mental anguish throughout the many hours of the horrific hijacking ordeal upon which he has continuously reflected in the decades since it occurred. (Baker, T-2-77.)
135. As a result of being a victim of the EgyptAir Flight 648 hijacking, Baker suffers severe emotional injuries including, but not limited to, post-traumatic stress disorder. (Pltf's Exh. 57B at 7.)
136. Baker also suffered permanent brain injuries as a result of being shot in the head during the EgyptAir hijacking. (Pltf's Exh. 33.)
137. As a result of the injuries, both psychological and physical, Baker was unable to obtain a master's degree as initially planned. (Baker, T-2-91.)
138. Baker retreated to a psychological "comfort zone" after the hijacking and shooting, and pursued a line of work in the fishing industry, which tended to be socially isolated, to cope with the after-effects of his injuries and experience of being a hijacking victim. (Baker, T-2-91-92; Pltf's Exh. 57B at 4.)
139. The Court heard testimony from Baker himself, as well as from his father Jerry Baker, his mother Lois Baker, and his two living siblings, Stacie and Craig Baker, the latter of whom also testified as administrator of the estate of Patrick Baker's eldest brother, David Baker. (Patrick Baker, T-2-32; Jerry Baker, T-3-147; Lois Baker, T-3-128; Stacie Baker, T-3-159; Craig Baker, T-3-108.)
140. According to the testimony before the Court, the Baker family was "very close." (Baker, T-3-115.)
141. Patrick was close with his parents and his siblings. (Baker, T-3-135.)
142. As the Baker siblings were close in age, they participated in many activities together while growing up. (Baker, T-3-162.)
143. The Baker family would always celebrate holidays together while growing up, and even after the Baker children left home. (Baker, T-3-115; Baker, T-3-151.)
144. Baker's family kept in touch with Patrick when he went off to college. (Baker, T-3-136-137; Baker, T-3-116-117; Baker, T-3-152; Baker, T-3-164.)
145. Patrick Baker was described in testimony as being "easygoing" and "very open," with a

- “huge sense of adventure” prior to his ordeal as a victim of the EgyptAir hijacking. (Baker, T-3-117; Baker, T-3-135.)
146. Lois Baker testified that she and her husband received a call from the State Department notifying them that their son Patrick had been shot. (Baker, T-3-138.)
 147. Lois Baker testified, “I had to believe [Patrick] was alive . . . it was such an upsetting time. We didn’t know if he was really alive or dead” (Baker , T-3-139.)
 148. Jerry Baker was also concerned about his son, and “if he was ok.” (Baker, T-3-155.)
 149. Craig Baker testified that he was “terrified” when he learned that his brother Patrick had been shot in the head as a result of the EgyptAir hijacking, a sentiment that Craig testified was shared by David Baker, as they did not exactly know about Patrick Baker’s condition. (Baker, T-3-121.)
 150. Additionally, Stacie Baker testified that she was “in shock” when she learned the news that Patrick had been shot. (Baker, T-3-167.)
 151. Upon returning to the United States following the EgyptAir hijacking, Baker was described as being “quiet,” and did not talk much, which his brother Craig testified was not at all like he used to be. (Baker, T-3-123; Baker, T-3-169.)
 152. Lois Baker testified that Patrick would be easily angered or nervous following his return home, which was very out of character. (Baker, T-3-143.)
 153. Jerry Baker described his son following his return as “more subdued” and “serious.” (Baker, T-3-157.)
 154. Following Baker’s return to Washington state, he stayed with his brother Craig for a week, who recalls hearing Patrick having nightmares and groaning in his sleep. (Baker, T-3-123-124.)
 155. Stacie Baker testified that it was really hard to see Baker in the condition he was in following his return to Washington, and that she was extremely worried about him. (Baker, T-3-172.)
 156. Today, Baker’s family sometimes worries that “something may be wrong with Patrick” which has yet to manifest itself. (Baker, T-3-144-145; Baker, T-3-158.)
 157. Lois Baker testified that it was very hard for her to accept that her son was a victim of the EgyptAir hijacking. (Baker, T-3-145.)
 158. Lois Baker testified, “I had feelings of how horrible it was for everybody on board, not just Patrick . . . it’s always been there in the back of our minds, everything that’s happened to him.” (Baker, T-3-145.)
 159. Stacie Baker testified that one of the most difficult aspects was watching not only what

had happened to her brother Patrick, but how it affected her parents. (Baker, T-3-174.)

2. *Scarlett Rogenkamp and Family*

160. Rogenkamp was born in Everett, Washington on March 26, 1947. (Pltf's Exh. 11.)
161. At the time of her murder, Rogenkamp was a United States citizen. (Pltf's Exh. 12.)
162. Rogenkamp's biological father was Vernon Peterson. (Pltf's Exh. 11.)
163. Rogenkamp's biological mother was Hetty Peterson, whose birth name was Hetty Messink. (Ex 11; Henry, T-1-121-122.)
164. Rogenkamp's siblings are Patricia Henry, Katharine Doris, Paul Peterson, and Michelle Holbrook. (Henry, T-1-115.)
165. Patricia Henry currently serves as the executor of Rogenkamp's estate. (Pltf's Exh. 13.)
166. Vernon Peterson was born a United States citizen and remained a United States citizen until his death. (Peterson, T-2-26.)
167. Hetty Peterson became a naturalized United States citizen on November 17, 1950, and remained a United States citizen from that time until her death. (Pltf's Exh. 16; Henry, T-1-108.)
168. Rogenkamp's siblings were all born citizens of the United States, and have remained United States citizens from the time of their respective births through the present. (Henry, T-1-104; Pltf's Exh. 22; Pltf's Exh. 23; Holbrook, T-3-9.)
169. Rogenkamp attended one year of college at The College of William & Mary in Virginia, subsequently completing her undergraduate education at the University of California, Long Beach, where she received a Bachelor of Arts degree. (Henry, T-1-129.)
170. Rogenkamp was a civilian employee of the United States Air Force for approximately ten years and worked in the capacity of a Property Management Specialist, rising to the level of a GS-12 within the Air Force civilian service. (Henry, T-1-129-130.)
171. Rogenkamp no doubt suffered as she endured the hijacking, watched Rezaq shoot other passengers in the while head knowing that she was next, was shot herself and endured physical pain, mental anguish, and great suffering, and subsequently died as a result of the gunshot to her head, which caused a mortal laceration to the brain. (Pltf's Exh. 12.)
172. Rogenkamp posthumously received a Purple Heart. (Pltf's Exh. 14.)
173. Present at trial were Rogenkamp's sisters, Michelle Holbrook and Patricia Henry, the latter of whom appeared both individually and as administrator of both Rogenkamp's and Rogenkamp's mother's, Hetty Peterson's, estates. (Holbrook, T-2-5; Henry, T-1-103.)
174. Also present at trial was Valerie Peterson, who serves as the administrator of the estate of

- Vernon Peterson, Rogenkamp's father. (Peterson, T-2-22.)
175. Rogenkamp's brother, Paul Peterson, and sister, Katherine Doris, testified by sworn affidavit. (Doris, Ex 22; Peterson, Pltf's Exh. 25)
 176. As the oldest of four children, Rogenkamp was close to and made an effort throughout her life to spend time with and be supportive of her four siblings. (Doris, Pltf's Exh.22 at ¶¶ 12, 14, 15, 17; Peterson, Pltf's Exh. 25 at ¶¶ 11, 14; Holbrook, T-2-11, 17; Henry, T-1-125, 130).
 177. Patricia Henry describes being "best friends" with her sister while growing up, and described their relationship as "close." (Henry, T-1-125.)
 178. Henry described Rogenkamp as being very similar to her mother, Hetty Peterson, and noted that they enjoyed the same activities, especially when they were together. (Henry, T-1-131.)
 179. Rogenkamp's mother visited her in Greece in September 1985, and they enjoyed traveling together. (Henry, T-1-130.)
 180. Her father, Vernon Peterson, was also "very close" with his eldest daughter. (Henry, T-1-120.)
 181. Rogenkamp was a very accomplished woman, which made her family extremely proud. (Doris, Pltf's Exh. 22 at ¶¶ 11, 18.)
 182. Immediately prior to the EgyptAir hijacking, Rogenkamp 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.)
 183. Immediately following the EgyptAir hijacking, the wait for any confirmation that Rogenkamp indeed was among those killed added to the emotional trauma that the Peterson family suffered. (Doris, Pltf's Exh. 22 at ¶ 21.)
 184. Her father never was able to find peace after her execution. (Peterson, T-2-31.)
 185. The manner in which she was murdered compels her sister Michelle Holbrook to describe her murder not as a "murder," but instead as an "execution." (Holbrook, T-2-13.)
 186. Certain members of Rogenkamp's family have also battled depression and undergone medical treatment to treat depression suffered as a direct result of her murder. (Doris, Pltf's Exh. 22 at ¶¶ 25, 26, 27; Peterson, Pltf's Exh. 23 at ¶¶ 25, 27.)
 187. Her sister Katharine stated in her affidavit that she finds it very difficult to discuss the emotional impact of Scarlett's death on her, and the only way she could express her feelings about Rogenkamp's death was in writing. (Henry, T-1-113; Doris, Pltf's Exh. 22 at ¶ 8.)

188. Approximately three days after Rogenkamp's death, Katharine sought treatment at the hospital on the Camp Pendleton military base, where she was admitted through the emergency room and stayed for three days; she suffered from complications from asthma, shock, and emotional distress. (Doris, Pltf's Exh. 22 at ¶ 26.)
189. Katharine has been treated for depression by numerous doctors since her sister's death, and believes that some of her depression stems from her despondency following the event. (Doris, Pltf's Exh. 22 at ¶ 27.)
190. Rogenkamp's brother Paul stated in his affidavit that he finds it very difficult to discuss his sister's death, and lives a reclusive life because he finds it hard to be around people. (Henry, T-1-116; Peterson, Pltf's Exh. 23 at ¶ 8.)
191. Paul lived with Rogenkamp from 1974-76, shortly after he graduated from high school, at which point they became very close; she took care of Paul in lieu of their parents, who were stationed overseas. (Peterson, Pltf's Exh. 23 at ¶¶ 10-11).
192. Paul attended the California Maritime Academy for a period of time, and was proud to be on the path to civil maritime service, just as his sister served in the United States Civil Service for the Air Force. (Peterson, Pltf's Exh. 23 at ¶ 15.)
193. Paul found attending his sister's funeral to be a very traumatic experience, and has been unable to attend any funeral since, including those for his parents. (Peterson, Pltf's Exh. 23 at ¶ 24.)
194. Since Rogenkamp's death, Paul has sought treatment for substance abuse and depression, and has been admitted for rehabilitation for his substance abuse problems three times since 1992. (Peterson, Pltf's Exh. 23 at ¶ 25-27.)
195. Paul is afraid to fly, and has found it difficult to pursue a career. (Peterson, Pltf's Exh. 23 at ¶ 28-29.)
196. Rogenkamp was described in testimony as "beautiful," "outgoing," "confident," and a "free spirit." (Henry, T-1-126.)
197. Her supervisor at the Air Force expressed the following in a condolence letter to her family: "[N]o 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." (Pltf's Exh. 15.)

3. Jackie Pflug and Family

198. Pflug was born in Houston, Texas on January 24, 1955. (Pltf's Exh. 1.)
199. Pflug was born a United States citizen and has remained a United States citizen from the time of her birth through the present. (Pflug, T-1-18.)

200. Pflug's biological father is Eugene Nink. (Pltf's Exh. 1.)
201. Pflug's biological mother is Rylma Nink. (Nink, T-4-48-49.)
202. Pflug's siblings are Mary E. Nink O'Donnell and Gloria Jo Nink. (Nink, T-4-49.)
203. Pflug's father and siblings were all born United States citizens and have remained United States citizens from the time of their birth through the present. (Nink, T-4-48; O'Donnell, T-4-56; Nink, T-4-72.)
204. Pflug's mother was born a United States citizen and remained a United States citizen until her death. (Nink, T-4-73.)
205. Pflug married Scott Pflug in July 1985. (Pflug, T-3-54.)
206. Scott Pflug was born a United States citizen and has remained a United States citizen from the date of his birth until the present. (Pflug, T-3-50.)
207. Jackie Pflug and Scott Pflug divorced three years after the EgyptAir Flight 648 hijacking. (Pflug, T-3-81.)
208. Jackie Pflug married Jim Olsen on May 25, 1996. (Olsen, T-4-39.)
209. Pflug and Olsen have one son, T.O., who was born in August 1997. (Olsen, T-4-40; Pltf's Exh. 74.)
210. Pflug received her Bachelor of Science Degree from Sam Houston State in 1977. (Pflug, T-1-19.)
211. Pflug subsequently taught for four years, and then went back to school to receive a Master's of Science Degree from the University of Houston. (Pflug, T-1-19.)
212. Pflug specialized in the field of special education and, among other duties, performed testing on children to assess diagnostically specific learning disabilities. (Pflug, T-1-20-21.)
213. After teaching and working as a diagnostics specialist in the United States, Pflug worked abroad in the field of special education at schools in Norway and Egypt. (Pflug, T-1-22, 25.)
214. Pflug intended to pursue a doctorate program beginning in the summer of 1986, with the aim of earning the degree by the time she was forty years old. (Pflug, T-1-27.)
215. In November 1985, Jackie and Scott Pflug were living in Cairo, Egypt. (T-1-26.)
216. Scott Pflug was the volleyball coach at the school where he and Pflug worked in Cairo, and she accompanied him to Athens to attend a volleyball tournament in which the Cairo school was participating. (Pflug, T-1-27-28.)

217. Although Jackie Pflug was scheduled to depart Athens for Cairo on an earlier flight, she changed her flight so she could stay and watch the volleyball team compete in a higher round tournament game, ultimately changing her flight to EgyptAir Flight 648 on November 23, 1985. (Pflug, T-1-28-29.)
218. In addition to the severe physical injuries suffered by Pflug, prior to being shot and tossed from the plane, she suffered severe emotional anguish throughout the many hours of the horrific hijacking ordeal. (Pflug T-1-55-56; Pflug, T-1-57-62.)
219. As a result of being shot point-blank in the head by ANO terrorist Omar Rezaq during the EgyptAir hijacking, Pflug's physical injuries included, but were not limited to, an entry wound from the bullet to the right side of her head and damage to her skull and brain. (Pltf's Exh. 4A.)
220. The damage to Pflug's skull and brain required surgery to remove both the bullet and fragments of skull that the bullet pushed into her brain. (Pltf's Exh. 4A.)
221. The shooting and subsequent surgery left Pflug with a partially caved-in head, which was later somewhat corrected by another surgery to insert a metal plate in her head; as a result of the injury, she has diminished peripheral vision and significant visual perception problems. (Pflug, T-1-78-79; Pflug, T-1-73-76.)
222. Pflug was unable to count money or tell time after she was shot. (Pflug, T-1-79.)
223. When Pflug attempted to return to teaching, she struggled with the day-to-day tasks, and the children made fun of her because she was bald after her brain surgeries. (Pflug, T-1-80, 95.)
224. Eventually, parents complained that someone with as low a reading level as she now possessed should not be teaching, and Pflug was asked not to return. (Pflug, T-1-79.)
225. Pflug describes teaching prior to and at the time of the hijacking as having been "the love of my life next to my former husband," but the difficulties she experienced after the hijacking made it necessary for her to leave the profession. (Pflug, T-1-80.)
226. Pflug says she never returned to school because she no longer had "that kind of high level of thinking" necessary for a doctorate. (Pflug, T-1-80.)
227. Pflug's injuries, her long recovery process, the experience of being a hijacking victim, and her overall emotional state changed her significantly, and the pressure caused severe difficulties in her marriage to Scott Pflug, which ended in divorce three years after the hijacking. (Pflug, T-3-81; Pflug, T-1-83-86.)
228. Pflug's permanent physical and mental injuries stemming from the EgyptAir hijacking include memory loss, vision problems, learning disabilities, epileptic seizures, post-traumatic stress disorder, and clinical depression. (Pflug, T-1-73, 96; Spector, T-3-98.)
229. The emotional scarring that Pflug suffered during the hijacking and after has been severe

- and permanent; she struggles on a daily basis with exhaustion and frustration with her diminished abilities. (Pflug, T-1-102-103; Pflug, T-1-91).
230. As a direct result of Pflug's injuries, she has been under continuous doctors' care starting from the time of her initial treatment at St. Luke's Hospital in Malta immediately after her rescue. (Pflug, T-1-79.)
 231. The Court heard testimony from Pflug herself, and also from: Jackie Pflug's father, Eugene J. Nink; Pflug's husband at the time of the EgyptAir hijacking, Scott Pflug; her siblings Mary E. Nink O'Donnell and Gloria Jo Nink; and her current husband James A. Olsen, who also testified about their minor son, T.O. (Jackie Pflug, T-1-16; Eugene Nink, T-4-46; Scott Pflug, T-3-48; O'Donnell, T-4-54; Gloria Nink, T-4-71; James Olsen, T-4-36.)
 232. Pflug's family was close as she was growing up in Texas, and were "really involved" with each other's lives. (Nink, T-4-50; Nink, T-4-75.)
 233. The Nink family would take summer vacations together, visit relatives and would frequently engage in other family activities. (O'Donnell, T-4-58.)
 234. Pflug's parents were very supportive of their daughter, and were involved in coordinating activities for her when she was a child. (Nink, T-4-76.)
 235. Pflug's family remained a close-knit unit throughout the time period when Pflug left home. (O'Donnell, T-4-58.)
 236. 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.)
 237. Despite the distance, Pflug and her siblings and parents stayed in touch through letters and telephone conversations. (O'Donnell, T-4-61, 64.)
 238. When they married, Jackie and Scott Pflug wanted to continue to live overseas, travel, and "do the job [they] love[d]" together. (Pflug, T-3-81.)
 239. They did not want to be separated, so they sought schools where each of them could get positions, eventually finding jobs at the Cairo American College. (Pflug, T-3-53-55.)
 240. Testimony described Pflug, prior to the EgyptAir hijacking, as "adventurous," and as someone who enjoyed traveling and seeing the world. (Nink, T-4-51.)
 241. Pflug was also described as being "very active," "outgoing," "cheerful," and "happy." (O'Donnell, T-4-60; Nink, T-4-78.)
 242. Following the hijacking and shooting, Pflug's family did not know for approximately six to eight hours whether she was dead or alive. (O'Donnell, T-4-65.)

243. Pflug's mother cried after hearing news that her daughter was on the hijacked airliner. (Nink, T-4-80.)
244. Pflug's oldest sister, Gloria, testified that she felt "devastated" knowing both that Pflug was on the hijacked EgyptAir airliner, and that she had to relay the tragic news to her mother. (Nink, T-4-80.)
245. Pflug's parents and siblings were extremely upset after learning that Pflug had been shot in the head during the EgyptAir hijacking. (O'Donnell, T-4-69.)
246. Scott Pflug, her husband at the time, felt "blown away" and "devastated" when he heard that his wife had been shot, and he did not believe she was still alive. (Pflug, T-3-61-62.)
247. After four days in the hospital in Malta, and another three or four days at a military hospital in Germany, Pflug and her husband returned to the United States. (Pflug, T-3-65, 69-71.)
248. Scott Pflug cared for his wife full-time from the time of their return to the United States until their divorce three years later. (Pflug, T-3-79-80.)
249. Eugene Nink testified that, after seeing Pflug following the hijacking with her substantial injuries, she was "different," and this caused him to worry. (Nink, T-4-53.)
250. Rylma Nink was also "extremely worried" about her daughter. (O'Donnell, T-4-68.)
251. Pflug's sister, Mary Nink O'Donnell, described Pflug following the hijacking and injuries as "[not] being the Jackie we all knew." (O'Donnell, T-4-69.)
252. Pflug's siblings were distraught by the fact that, as a result of her injuries sustained during the EgyptAir hijacking, she had lost so much of what she had worked so hard to achieve. (O'Donnell, T-4-69.)
253. Pflug's siblings continue to worry about her to this day. (O'Donnell, T-4-70.)
254. Pflug's mother and father were also very worried for her, and knew that their daughter's life had been changed forever. (Nink, T-4-86-87.)
255. Scott Pflug testified that after the EgyptAir hijacking, Pflug was not the same person he married, and they no longer had the same way of looking at things. (Pflug, T-3-81-82.)
256. James "Jim" Olsen, Pflug's current husband, testified that the EgyptAir hijacking "affects [them] daily," and he must watch over her to "pick up" the tasks that she cannot do on her own. (Olsen, T-4-42.)
257. There is a time of the day that Olsen describes as "the overload part of the day," when Pflug "becomes irritable, impatient, [and] has a tendency to cry because she can't go on anymore during the day," which saddens Olsen. (Olsen, T-4-43.)

258. Olsen worries about leaving the home for long periods of time, because he is worried that “Jackie might not be able to handle what goes on around the house” and keeping up with their son. (Olsen, T-4-43.)
259. T.O., Pflug’s only son, is deeply affected by the stories of his mother’s 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).

JOHN M. FACCIOLA
U.S. MAGISTRATE JUDGE