

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

Marisol Melo Peñaloza, Ana Gregoria Palomino)
Romero, Luz Marina Castillo Manjarres, Milagro)
Bolano Marquez, Maria Otilia Aguirre Ballesteros,)
Aminta Domitila Lazcano Junco, Isabel Maria)
Lazcano de Calderon, Hildemaro Melgarejo Molina,)
Yolanda del Carmen Santiago Ossa, Claudina Rosa)
Orozco, Fatiniza Isabel Gutierrez Buelvas, Carlos)
Enrique Carbono Azuaga, Martha Josefa Hernandez)
Martinez, Luzlenid Silva Munoz, Francia Coll de)
Tovar, Dominga Gutierrez Caballero, Juana Maria)
Contreras de Lopez, Maria Felicia Meza Garcia,)
Everely Palomino Vanegas, Gina Paola Santana)
Gutierrez, Adelaida Isabel de la Rosa Rodriguez,)
C.N.G.R., Hermelinda Sarmiento de la Cruz, Ana)
Virginia Ochoa Navarro, Ana Cecilia Pastor)
Barrios, Edys Correa Cervantes, Manuel Gregorio)
Tapia Vega, Armando Rafael Candanoza Guzman,)
Luz Marina Anaya Royero, N.S.M.A., Maria)
Sureya Suescun Botello, Edilma Isabel Torres)
Ozuna,Alba Luz Caballero Gomez, Amparo De)
Jesus Florez Torres, J.A.G.F., Luz Marina Pacheco)
Cantillo, Merilsa Francisca Daza Amaya, Jhon)
Alfer Padilla Daza, Marcos Jose Padilla Daza,)
Gicela Margarita Padilla Daza, Adriana Cristina)
Padilla Daza, Yarlenys Rosmira Padilla Daza,)
Carmen Inelma, Alfredo Campo Medina, Ana)
Cristina Campo Medina,)

Plaintiffs,)

v.)

Estate of Garry Drummond)

Defendant.)

Case No.:
2:13-cv-00393-RDP

**THIRD
AMENDED
COMPLAINT**

**JURY TRIAL
REQUESTED**

THIRD AMENDED COMPLAINT

I. INTRODUCTION

1. Pursuant to the Court's Order of May 22, 2019, ECF No. 93 at 2, Plaintiffs file this Third Amended Complaint against the Estate of Garry N. Drummond for violations of the Torture Victim Protection Act (TVPA), 28 U.S.C. §1350. All other claims alleged in Plaintiffs' Second Amended Complaint, ECF No. 78-1, were dismissed by this Court's decision and order, ECF Nos. 92 and 93 respectively. Plaintiffs accordingly omit those additional claims against the Estate of Garry N. Drummond and the other Defendants named in the Second Amended Complaint but preserve for appeal all claims that were dismissed by the Court's decision and order.

2. Plaintiffs are all lawful legal representatives for and/or wrongful death beneficiaries of the decedents described herein who were executed by members of the Northern Block of the United Self Defense Forces of Colombia (AUC), the umbrella paramilitary group in Colombia. Plaintiffs, in their capacities as legal representatives of the estates of the decedents and/or as wrongful death beneficiaries, bring claims for damages on behalf of the decedents and for their own

damages incurred as a result of the executions of the decedents based on extrajudicial killing under the Torture Victim Protection Act (TVPA), 28 U.S.C. §1350, against Defendant the Estate of Garry N. Drummond, who at all material times herein was Chairman and Chief Executive Officer of Drummond Company, Inc. (“DCI”). Defendant Estate of Garry N. Drummond will be referred to herein as “Defendant Drummond” unless otherwise specified.

3. As Plaintiffs allege herein and will prove at trial, Defendant Drummond conspired with and aided and abetted the AUC, a Colombian paramilitary group that was designated a terrorist organization in 2001 by the U.S. government, in committing war crimes, crimes against humanity, torture and extrajudicial killings, among other crimes, in Colombia. These allegations have recently been pursued by Colombian Prosecutors. Following a lengthy independent investigation of the key witnesses and documents, on October 9, 2018, Prosecutor No. 247, Octaviano Casa Sánchez, formally launched a criminal investigation against the Drummond officials who, under the direction of Defendant Drummond, were involved in financing the AUC’s war crimes. A copy of the formal investigation document is attached as **Exhibit 1**. Garry N. Drummond was not named as a criminal Defendant in the Colombian investigation because he died on July 13, 2016.

4. The Colombian criminal case was opened despite months of Drummond's efforts long-perfected corrupt practices to prevent it. Public and political pressure finally caused Colombian authorities to deny Drummond its normal impunity. Drummond's systematic efforts to hide their crimes, including bribing and threatening numerous witnesses to Drummond's criminal acts, have previously insulated Drummond from being held accountable in Colombia. Drummond used its political power, significant resources, and expertise at operating within the corrupt climate of Colombia to avoid accountability for its crimes going back over 20 years. Indeed, Drummond consistently operates this way, even in its own backyard. On July 20, 2018, an Alabama jury convicted Drummond Vice President, David Roberson, who was acting on behalf of Drummond, as well as Drummond's counsel, of bribing an Alabama state legislator to obtain his assistance in stopping the Environmental Protection Agency from expanding a Superfund toxic cleanup site in North Birmingham. The Drummond companies have no regard for the law or the public interest if their profit is at stake. A comprehensive chronicle of Drummond's criminal and corrupt actions to avoid legal liability is provided in a recently filed RICO complaint, *Collingsworth et al. v. Estate of Garry N. Drummond et. al.*, Case No. 19-cv-01263 (D.D.C. May 1, 2019), attached hereto

as **Exhibit 2**.

5. Garry N. Drummond was the driving force behind the Drummond companies that were in charge of or operated the Colombian mining operations, most specifically Drummond Company, Inc. (“DCI”), Drummond Ltd. (“DLTD”), and Drummond USA, Inc. (“DUSA”) (unless otherwise indicated, these companies will collectively be referred to as “Drummond”), and he owned a majority of and controlled the operations of DLTD in Colombia. Virtually every major decision concerning Drummond’s Colombian operations was made by or approved by Garry N. Drummond. He made these decisions from his headquarters in Alabama. While he did visit Colombia on occasion, he had his main corporate lieutenants, including Mike Tracy and James Adkins, report the company’s Colombian operations to him in Alabama. Garry N. Drummond is personally responsible for any acts committed at his direction or with his specific approval by any of these companies and their officers, employees and agents. Garry N. Drummond died on July 13, 2016, so Plaintiffs name his Estate as an individual Defendant.

6. Drummond’s Colombian coal mine is located in La Loma, Cesar Province, and “Puerto Drummond,” where it ships its coal, is located 120 miles away in Santa Marta, Magdalena Province. Drummond obtained mining rights in the mid-

1980's but did not start real production until 1995. By then, both mine and port areas were under the control of the main leftist guerrilla group in Colombia, the Revolutionary Armed Forces of Colombia (FARC). From the outset of its operation, Drummond, like virtually all landowners and large businesses in these areas of Colombia, suffered attacks by the FARC. As a communist-inspired organization, the FARC sought to overthrow the Colombian government through violent means, seize large private lands and privately-owned natural resources, such as Drummond's vast coal mine, and redistribute this wealth to the Colombian peasants who lived in poverty.

7. The AUC began establishing a presence in Cesar and Magdalena provinces for the purpose of attacking and defeating the FARC in these areas where there were important and powerful business interests and where the FARC had established a significant foothold. By 1997, the areas of Cesar and Magdalena became embroiled in the civil conflict that had engulfed Colombia as the Colombian military and the AUC joined forces to battle the FARC.

8. Drummond initially stated that it hoped to remain neutral in the civil conflict between the leftist guerrillas, particularly the FARC, and the Colombian military and its AUC paramilitary proxies. In a September 13, 1995 memo from

James Adkins, the former Security Advisor for DCI and DLTD, to Mike Tracy, Adkins as Security Advisor for Drummond indicated that he was perplexed as to why the guerrillas had yet to make a significant attack on Drummond. He suggested that the short run goal for the company should be to keep its head down and mine coal. However, according to Drummond security reports, the company was formally declared a military target by the guerrillas.

9. After considering the various options, Drummond chose to enter the conflict. By no later than 1997, Drummond formally took a side in the civil conflict and joined with the AUC to defeat the FARC and drive its remnants out of Cesar and Magdalena Provinces. For its part, Drummond financed a significant expansion of the AUC's Northern Block, including the Juan Andres Alvarez Front, based in Cesar Province. Along with providing this Front funds to arm and supply over 165 new soldiers, Drummond also provided day-to-day operating expenses. Garry N. Drummond approved plans to support and fund the AUC, and gave the approval to Drummond's Security Advisor, Adkins. Through Drummond's Colombian Vice President, Alfredo Araujo, Drummond also provided funds directly to Jorge 40, Commander of the Northern Block of the AUC and Araujo's longtime family friend, to assist other AUC units in the areas of Drummond's operations in Cesar

and Magdalena Provinces. Drummond used various mechanisms across the years from 1997-2006 to funnel money to the AUC.

10. Further, Drummond re-prioritized and directed the strategy of the AUC, conditioning ongoing support to the AUC on requiring it to focus on defeating the FARC and eliminating its supporters and sympathizers from the area of Drummond's railroad line going through Cesar and Magdalena Provinces. Drummond also favored contractors that had direct ties to the AUC and/or were known supporters of the AUC. These include Jaime Blanco Maya, whose company Industrial de Servicios y Alimentos (ISA) had the food service contract for the Drummond mine; two firms that provided security for Drummond's rail line, Secolda and Viginorte; and Sanchez Polo, a trucking company that hauled Drummond's coal and supplies. Garry N. Drummond approved a scheme in which Drummond provided funds to Jaime Blanco, who then channeled the funds to the AUC.

11. The military units supported by substantial resources from Drummond also provided substantial assistance to the AUC in the areas of Drummond's operations. After the military requested funds from Drummond to support its close ally, the AUC, Drummond acknowledged it would be illegal for the company to

finance an armed terrorist group. However, the company simply started giving the military large sums of unrestricted money, some of which was funneled to the AUC. Further, Drummond's security department gathered intelligence about guerrilla operations in Cesar and Magdalena Provinces and provided it to, among others, Colombian Military Intelligence Commander Lino Sanchez, who then shared the information with AUC commanders in the area. The Colombian military supported by Drummond also lent arms to the AUC and participated in joint operations with the AUC in their united fight against the FARC and the Ejército de Liberación (National Liberation Army) (ELN) guerrillas.

12. As a result of Drummond's direct intervention in the civil conflict in these areas, hundreds of people living in and around Drummond's railroad corridor, including places that had previously served as safe havens for FARC and ELN guerrillas, were executed as the AUC utilized its well-known scorched earth methodology as a way to terrorize the local population and ensure they would no longer support or sympathize with the guerrilla groups. Among those killed by the AUC in these operations were Plaintiffs' decedents described herein. These executions were war crimes and extrajudicial killings in violation of the ATS, as well as extrajudicial killings under the TVPA.

13. The Justice and Peace process, which started yielding new facts in 2007, changed the dynamic of the prior bond and shared mission between the AUC, the Government of Colombia and the business community operating in Colombia, including Drummond. Many of the AUC leaders are now speaking freely about their relationship with the elites of the Colombian business community, particularly Drummond, and its direct collaboration with the Colombian military, because, among other things, the AUC leaders have expressed that they were betrayed by their former government and business partners. The AUC leaders are in prison for their role in a shared crime, while the businessmen and politicians who were their partners remain free and are enjoying the substantial fruits of their criminal enterprise.

14. The key AUC leaders and members who worked directly with Drummond are now in custody or have already served their time as part of the Justice and Peace process in Colombia and are giving testimony and speaking to government and human rights lawyers about their alliance with Drummond or Drummond's support of the AUC. These include Salvatore Mancuso, the former head of the AUC, Rodrigo Tovar Pupo, alias "Jorge 40," the leader of the AUC's Northern Block, Jhon Jairo Esquivel Cuadrado, alias "El Tigre," a former

commander of the Juan Andres Alvarez Front assigned to Drummond, Alcides Manuel Mattos Tabares, alias “Samario,” a former sub-commander of Juan Andres Alvarez Front, Jairo Jesus Charris Castro, a former AUC member who was sentenced to 30 years in prison for his role in murdering the union leaders at Drummond, and Rafael Garcia, a high official of the Colombian Administrative Department of Security (Spanish acronym: DAS; similar to the FBI), who was also a political advisor to the top leaders of the AUC. While many of these and other witnesses have expressed concern that they or their family members will suffer violent retaliation for speaking out about Drummond’s relationship with the AUC, they have provided new details about Drummond to allow justice to be served. The evidence continues to mount, but the facts alleged by Plaintiffs herein at this time are more than sufficient to state their claims against Drummond.

II. JURISDICTION AND VENUE

15. This Court has federal jurisdiction pursuant to 28 U.S.C. §1331, based Plaintiffs’ claim under the TVPA, 28 U.S.C. §1350, for extrajudicial killing against Defendant Drummond.

16. Venue properly lies in this Judicial District pursuant to 28 U.S.C. §1391(b) and (c) as Defendant Estate of Garry N. Drummond resides in Alabama.

III. EXHAUSTION OF REMEDIES FOR TVPA CLAIM

17. This Court has already confirmed that the law in the Eleventh Circuit is that the ATS has no requirement to exhaust local Colombian remedies. *See* Memorandum Opinion, *Balceró v. Drummond Company, Inc.*, Case No. 2:09-cv-1041-RDP, Doc. No. 30 (“Balceró Order”) at 33 n.23. Conversely, the TVPA has an express exhaustion requirement, and Defendant Drummond has the burden of raising and establishing lack of exhaustion as an affirmative defense. In a related case, the Court found that Plaintiffs met their initial burden of articulating that they had no local remedies that were not futile. *See id.* at 33-34. The same is true here.

18. Plaintiffs do not have access to an independent or functioning legal system within Colombia to raise their TVPA claims. Any efforts by Plaintiffs to seek redress would be futile because those seeking to challenge official or paramilitary violence, including prosecutors and prominent human rights activists, are at great risk of retaliation. In particular, there is almost complete legal impunity for murders committed in Cesar Province by the AUC.

19. In fact, the collaboration between the AUC and the government of Colombia goes to the highest levels and ensures that no serious action will be taken

to bring to justice in Colombia those involved in the murders alleged herein. Indeed, the administration of former Colombian President Alvaro Uribe was under pressure from outside Colombia, including from the U.S., due to the ongoing “para-political” scandal, which has implicated numerous high-ranking government officials, including 60 congressional representatives aligned with Uribe, and high-ranking military officers, in collaborating with paramilitaries and shielding paramilitaries from justice. However, within Colombia, it is business as usual. According to a Human Rights Watch (HRW) report issued in November 2008 entitled *Breaking the Grip? Obstacles to Justice for Paramilitary Mafias in Colombia*:

In Colombia, more than in almost any country in the Western hemisphere, violence has corroded and subverted democracy. Too often, killings and threats - not free elections or democratic dialogue - are what has determined who holds power, wealth in the country. Nowhere is this more evident than in the relationship between paramilitary groups and important sectors of the political system, the military and the economic elite.

Paramilitary groups have ravaged much of Colombia for two decades. Purporting to fight the equally brutal guerrillas of the left, they have massacred, tortured, forcibly 'disappeared,' and sadistically killed countless men, women, and children. Wherever they have gone, they have eliminated anyone who opposed them, including thousands of trade unionists, human rights defenders, community leaders, judges and ordinary civilians.

20. In this same report, HRW blames the “para-political” phenomenon for

the extensive paramilitary violence throughout the country. As HRW explains, “[t]he close military-paramilitary collaboration in several regions allowed the paramilitaries to commit massacre after massacre of civilians largely unimpeded and with impunity.” HRW further relates that former President Uribe himself has been a major obstacle to the efforts of the Colombian Supreme Court to investigate and punish government officials for collaborating with the paramilitaries. As HRW states,

President Uribe has [r]epeatedly launched personal attacks on the Supreme Court and its members in what increasingly looks like a concerted campaign to smear and discredit the Court; [o]pposed and effectively blocked meaningful efforts to reform the Congress to eliminate paramilitary influence; [p]roposed constitutional reforms that would remove the “parapolitics” investigations from the jurisdiction of the Supreme Court.

21. Wholly apart from the danger of retaliation and the likelihood of undue influence in any civil action that might be brought by Plaintiffs in Colombia, Defendant Drummond would need to be present in Colombia. This condition is not under the control of the Plaintiffs such that they could accomplish this as a prerequisite to filing a claim in Colombia. Further, it is extremely unlikely that all of Defendant Drummond would consent to suit in Colombia, and the Colombian government is highly influenced by Drummond. Thus, Plaintiffs had no local Colombian remedies that could have been exhausted.

22. Regarding the timing of Plaintiffs' claims, at the time the majority of Plaintiffs' decedents were killed, it was extremely dangerous in Colombia to try to hold anyone accountable for AUC violence. All of Plaintiffs' pre-2007 claims were therefore tolled until at least early 2007, when the AUC paramilitaries who terrorized Plaintiffs and their decedents had to some extent demobilized and the raging civil war began to wind down.

IV. PARTIES

A. Plaintiffs

23. All of the decedents described herein are among the hundreds, or even thousands, of persons murdered by the AUC's Northern Block in furtherance of its agreement with Drummond to confront the FARC, pacify the areas where the FARC had a foothold, and otherwise ensure that the civilian population in and around the Drummond mine and its railroad line would not in any way provide support or cooperation to the FARC or other leftist rebels. The following Plaintiffs in this action, as the legal representatives of the estates and/or as wrongful death beneficiaries, bring claims for damages on behalf of the decedents and for their own damages incurred as a result of the executions of the decedents based on war crimes and extrajudicial killings under the ATS, for extrajudicial killing under the TVPA,

and for wrongful death under Colombian law. All plaintiffs of the decedents have standing to bring these claims, including under the ATS and TVPA, 28 U.S.C. § 1350, and under Colombian law. Some of the Plaintiffs listed below are minors. All minor Plaintiffs are identified only by their initials, pursuant to Fed. R. Civ. P. 5.2. All minor Plaintiffs are represented by parents and/or guardians, as indicated in the individual Plaintiff paragraphs below. All of the minor Plaintiffs' representatives are suing on behalf of the minors and are also asserting claims on their own behalf.

24. Marisol Melo Peñaloza is the domestic partner and legal representative of the Estate of Ever Enrique Charris Diaz under the laws of Colombia, and is also a legal heir to Ever Enrique Charris Diaz under the laws of Colombia. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she has suffered as a result of the execution of the decedent. On January 16, 1999, Ever Enrique Charris Diaz was killed by the AUC Northern Block, which received knowing and substantial assistance from Drummond. Mr. Charris worked as a security guard for Drummond's railroad. He was at work when a few paramilitaries approached him and shot him, killing him on the spot. His body was found where the railroad crosses the road Troncal del Caribe in Aracataca.

25. Ana Gregoria Palomino Romero is the mother and legal

representative of the Estate of Samuel Segundo Fontalvo Palomino under the laws of Colombia, and is also a legal heir of Samuel Segundo Fontalvo Palomino under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Samuel Segundo Fontalvo Palomino. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Samuel Segundo Fontalvo Palomino, who worked as a security guard on Drummond's railroad, was murdered on January 23, 2005 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On the afternoon of January 23, 2005, Samuel Segundo Fontalvo Palomino was at his job guarding the rail line near Orihueca, Magdalena when he was approached by AUC paramilitaries aboard a motorcycle. The paramilitaries murdered Samuel Segundo Fontalvo Palomino with multiple gunshots. On July 29, 2008, paramilitary Nemias Moises Sandoval Becerra, alias "Camilo," accepted responsibility for Samuel Segundo Fontalvo Palomino's murder.

26. Luz Marina Castillo Manjarres is the domestic partner and legal representative of the Estate of Aroldo Jose Rodriguez Camacho under the laws of Colombia, and is also a legal heir to Aroldo Jose Rodriguez Camacho under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Aroldo Jose

Rodriguez Camacho. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. On April 29, 2004, Aroldo Jose Rodriguez Camacho was murdered by the AUC Northern Block, which received knowing and substantial assistance from Drummond. Mr. Rodriguez, a Drummond worker at Drummond's port and a union member of SINTRAMIENERGETICA, was at a cantina in Cienaga, Magdalena with some friends, when a group of AUC paramilitaries arrived and shot him. On August 24, 2008, the AUC paramilitary Jose Gregorio Mangones Lugo, alias "Carlos Tijeras," confessed to the murder of Aroldo Jose Rodriguez Camacho.

27. Milagro Bolano Marquez is the domestic partner and legal representative of the Estate of Fernando Borja Hernandez, under the laws of Colombia, and is also a legal heir of Fernando Borja Hernandez under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Fernando Borja Hernandez. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Fernando Borja Hernandez was tortured, kidnapped, and disappeared on February 19, 1998 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On February 19, 1998, as Fernando Borja Hernandez

was closing up his vendor kiosk in the market in Bosconia, Cesar, a pickup truck carrying several armed AUC paramilitaries arrived. The paramilitaries ordered Fernando Borja Hernandez to board the vehicle, but when he refused to do so, the paramilitaries tortured Fernando Borja Hernandez and then kidnapped him. Fernando Borja Hernandez was never seen again.

28. Maria Otilia Aguirre Ballesteros is the mother and legal representative of the Estate of Carlos Alfredo Castro Aguirre under the laws of Colombia, and is also a legal heir of Carlos Alfredo Castro Aguirre under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Carlos Alfredo Castro Aguirre. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Carlos Alfredo Castro Aguirre was murdered on or about June 29, 2004 with assistance by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On or about June 29, 2004, Carlos Alfredo Castro Aguirre and some friends left Fundacion, Magdalena to travel to Chimila, Cesar in search of work they had heard was available there. On or about July 1, 2004, Carlos Alfredo Castro Aguirre was found dead with gunshot wounds. Carlos Alfredo Castro Aguirre's body had been dressed in camouflage to make it appear that he had died in combat

with the Colombian army. This appears to have been an example of the practice of “false positives” in which the AUC and the military dressed murdered civilians in uniform to claim a successful kill of a guerrilla.

29. Aminta Domitila Lazcano Junco is the mother and legal representative of the Estate of Luis Hidalgo Lazcano under the laws of Colombia, and is also a legal heir of Luis Hidalgo Lazcano under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Luis Hidalgo Lazcano. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Luis Hidalgo Lazcano was kidnapped and disappeared on June 7, 2002 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On June 7, 2002, a group of AUC paramilitaries arrived at Luis Hidalgo Lazcano’s home in Caracolicito, Copey, Cesar and asked for him by name. When Luis Hidalgo Lazcano identified himself, the paramilitaries bound his hands and kidnapped him. The Plaintiff and Luis Hidalgo Lazcano’s brother followed the paramilitaries for a short distance, but turned back when the paramilitaries threatened them. Luis Hidalgo Lazcano’s brother Anselmo went to see the paramilitaries the following day and demanded that they return Luis Hidalgo Lazcano to him dead or alive, but the paramilitaries told him that they had

killed Luis Hidalgo Lazcano and that Anselmo should not bother them again or they would kill him as well.

30. Aminta Domitila Lazcano Junco is the sister and legal representative of the Estate of Buenaventura Lazcano Junco under the laws of Colombia and is also a legal heir of Buenaventura Lazcano Junco under the laws of Colombia. Isabel Maria Lazcano de Calderon is also the sister and a legal heir of Buenaventura Lazcano Junco under the laws of Colombia, but does not act as a legal representative of his Estate in this lawsuit. Plaintiffs herein are wrongful death beneficiaries of Buenaventura Lazcano Junco. Plaintiffs seek all damages permitted under the law on behalf of the decedent and all damages they suffered as a result of the execution of the decedent. Buenaventura Lazcano Junco was murdered on December 8, 2003 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On December 8, 2003 Buenaventura Lazcano Junco was getting ready to go home from the farm where he worked, located some two hours from his home in Caracolicito, Copey, Cesar when a group of AUC paramilitaries arrived at the farm. The paramilitaries slit Buenaventura Lazcano Junco's throat, killing him.

31. Hildemaro Melgarejo Molina is the father and legal representative of the Estate of Luis Eduardo Molina Guerra under the laws of Colombia and is also a

legal heir of Luis Eduardo Molina Guerra under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Luis Eduardo Molina Guerra. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages he suffered as a result of the execution of the decedent. Luis Eduardo Molina Guerra was murdered on April 10, 2005 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On April 10, 2005, Luis Eduardo Molina Guerra was in Valledupar, Cesar when he was intercepted by AUC paramilitaries. The paramilitaries shot and killed Luis Eduardo Molina Guerra.

32. Yolanda del Carmen Santiago Ossa is the sister and legal representative of the Estate of Luis Usley Santiago Castillo under the laws of Colombia and is also a legal heir of Luis Usley Santiago Castillo under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Luis Usley Santiago Castillo. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Luis Usley Santiago Castillo was kidnapped on May 18, 2000 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. His body was found on May 19, 2000. On the morning of May 18, 2000, Luis Usley Santiago Castillo was with a cousin in Aguachica, Cesar when a group of AUC paramilitaries forced the two into a vehicle

and kidnapped them. The bodies of Luis Usley Santiago Castillo and his cousin were found on May 19, 2000 on a road leading to Puerto Mosquito, Cesar. Paramilitaries Juan Francisco Prada Marquez, Alfredo Ballena, and Armando Madriaga Picon have since confessed to the murder of Luis Usley Santiago Castillo.

33. Claudina Rosa Orozco is the sister and legal representative of the Estate of Jorge Luis Padilla Orozco under the laws of Colombia and is also a legal heir of Jorge Luis Padilla Orozco under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Jorge Luis Padilla Orozco. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Jorge Luis Padilla Orozco was murdered on July 8, 2004 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On the evening of July 8, 2004, Jorge Luis Padilla Orozco was walking home from a relative's house in Barrio Parate Firme, La Paz, Cesar when he was intercepted by an AUC paramilitary. The paramilitary shot Jorge Luis Padilla Orozco multiple times, killing him.

34. Fatiniza Isabel Gutierrez Buelvas is the mother and legal representative of the Estate of Kewin de Jesus Querales Gutierrez under the laws of Colombia and is also a legal heir of Kewin de Jesus Querales Gutierrez under the laws of Colombia.

Plaintiff herein is a wrongful death beneficiary of Kewin de Jesus Querales Gutierrez. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Kewin de Jesus Querales Gutierrez was murdered on February 18, 2004 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On February 18, 2004, Kewin de Jesus Querales Gutierrez's body was found with multiple gunshot wounds on the edge of the Guatapuri River in Valledupar, Cesar. Kewin de Jesus Querales Gutierrez was last seen alive that morning, when he was purchasing supplies at a market in Valledupar.

35. Carlos Enrique Carbono Azuaga is the father and legal representative of the Estate of Iliana Esther Carbono Murgas under the laws of Colombia and is also a legal heir of Iliana Esther Carbono Murgas under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Iliana Esther Carbono Murgas. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages he suffered as a result of the execution of the decedent. Iliana Esther Carbono Murgas was murdered on February 5, 2002 in the crossfire of a gun battle that involved the AUC Northern Block, which received knowing and substantial assistance from Drummond. On the afternoon of February 5, 2002, Iliana Esther Carbono Murgas was

at her job as a secretary at a health clinic in San Diego, Cesar when a group of AUC paramilitaries arrived and began shooting at two men who were seated outside the clinic. Iliana Esther Carbono Murgas was killed in the crossfire.

36. Martha Josefa Hernandez Martinez is the domestic partner and legal representative of the Estate of Fredis Rafael Cantillo under the laws of Colombia and is also a legal heir of Fredis Rafael Cantillo under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Fredis Rafael Cantillo. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Fredis Rafael Cantillo was kidnapped and murdered on or around August 19, 1997 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. Fredis Rafael Cantillo worked for a Drummond contractor. Around midnight on August 18, 1997, a group of AUC paramilitaries arrived at the home shared by Fredis Rafael Cantillo and the Plaintiff in Fundacion, Magdalena. The paramilitaries forced their way into the home, seized Fredis Rafael Cantillo, and pushed the Plaintiff and her son when they tried to protect Fredis Rafael Cantillo. The paramilitaries forced Fredis Rafael Cantillo into a vehicle, along with two other victims, and drove off with him. Fredis Rafael Cantillo was found dead from multiple gunshot wounds in the town of Santa Rosa de

Lima, Fundacion on the morning of August 19, 1997, along with the bodies of the other two kidnap victims.

37. Luzlenid Silva Munoz is the domestic partner and legal representative of the Estate of Juan Jose Tovar Coll under the laws of Colombia and is also a legal heir of Juan Jose Tovar Coll under the laws of Colombia. Francia Coll de Tovar is the mother and is also a legal heir of Juan Jose Tovar Coll under the laws of Colombia, but does not act as a legal representative of his Estate in this lawsuit. Plaintiffs herein are wrongful death beneficiaries of Juan Jose Tovar Coll. Plaintiffs seek all damages permitted under the law on behalf of the decedent and all damages they suffered as a result of the execution of the decedent. Juan Jose Tovar Coll, who had worked as a security guard for Acolsure on Drummond's railroad, was murdered on January 9, 2001 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On the evening of January 9, 2001, Juan Jose Tovar Coll left his home in Fundacion, Magdalena to run an errand. On the morning of January 10, 2001, Juan Jose Tovar Coll's body was found near a garbage dump on the outskirts of Fundacion, his hands and feet bound and with three gunshot wounds to his head.

38. Dominga Gutierrez Caballero is the mother and legal representative of the Estate of Jose Armando Cantillo Gutierrez under the laws of Colombia and is also

a legal heir of Jose Armando Cantillo Gutierrez under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Jose Armando Cantillo Gutierrez. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Jose Armando Cantillo Gutierrez was murdered on or about May 15, 2005 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On or about May 15, 2005, Jose Armando Cantillo Gutierrez was descending on foot from the Sierra Nevada de Santa Marta, in Cesar near the border with Magdalena when he was intercepted by a group of AUC paramilitaries. The paramilitaries shot and killed Jose Armando Cantillo Gutierrez. Jose Armando Cantillo Gutierrez's body was found in Chimila, Copey, Cesar.

39. Juana Maria Contreras de Lopez is the mother and legal representative of the Estate of Jaider Jose Lopez Contreras under the laws of Colombia, and is also a legal heir to Jaider Jose Lopez Contreras under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Jaider Jose Lopez Contreras. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. On February 10, 2001, Jaider Jose Lopez Contreras was killed by the AUC Northern Block, which received

knowing and substantial assistance from Drummond. Mr. Lopez worked for Acolsure, contracted by Drummond to provide security along the railroad. On that day, he was working the night shift when a group of paramilitaries arrived and tied him to the railroad line so that the train would run him over. His remains were found tied to the railroad line near the municipality of Algarrobo. In November 2000, the paramilitaries had previously threatened the decedent, because they wanted to blow up the rail line and blame it on the guerrilla, but he refused to help them.

40. Maria Felicia Meza Garcia is the mother and legal representative of the Estate of Carlos Arturo Madera Meza under the laws of Colombia, and is also a legal heir of Carlos Arturo Madera Meza under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Carlos Arturo Madera Meza. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Carlos Arturo Madera Meza was murdered on August 13, 2006 by remnants of the AUC Northern Block, which received knowing and substantial assistance from Drummond. Around midday on August 13, 2006, Carlos Arturo Madera Meza was on his way to his girlfriend's home in Caracolicito, Copey, Cesar when he was intercepted on the Caracolicito-Chimila road by paramilitaries on a motorcycle. The paramilitaries shot Carlos Arturo Madera

Meza in the head, killing him.

41. Everely Palomino Vanegas (also possibly Everelis, but hereinafter “Everely”) is the domestic partner and legal representative of the Estate of Gerardo Amaris Rocha under the laws of Colombia, and is also a legal heir of Gerardo Amaris Rocha under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Gerardo Amaris Rocha. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Gerardo Amaris Rocha was murdered on November 10, 2000 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On the afternoon of November 10, 2000, Gerardo Amaris Rocha was at his home in Ojo de Agua, Chimichagua, Cesar with Everely Palomino Vanegas when AUC paramilitaries arrived. The paramilitaries shot Gerardo Amaris Rocha multiple times in the head and body, killing him.

42. Gina Paola Santana Gutierrez is the domestic partner and legal representative of the Estate of Sergio Luis Mejia Bravo under the laws of Colombia, and is also a legal heir of Sergio Luis Mejia Bravo under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Sergio Luis Mejia Bravo. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages

she suffered as a result of the execution of the decedent. Sergio Luis Mejia Bravo was murdered on February 20, 2007 by remnants of the AUC Northern Block, which received knowing and substantial assistance from Drummond. On February 20, 2007, Sergio Luis Mejia Bravo was in the village of Candelaria, Chimichagua, Cesar when he was intercepted by paramilitaries. The paramilitaries shot and killed Sergio Luis Mejia Bravo.

43. Adelaida Isabel de la Rosa Rodriguez is the domestic partner and legal representative of the Estate of Carlos Alberto Gutierrez Mugno under the laws of Colombia, and is also a legal heir of Carlos Alberto Gutierrez Mugno under the laws of Colombia. C.N.G.R., born in 1996, is Carlos Alberto Gutierrez Mugno and Adelaida Isabel de la Rosa Rodriguez's son, and is also a legal heir of Carlos Alberto Gutierrez Mugno under the laws of Colombia, but does not act as a legal representative of his Estate in this lawsuit. Plaintiffs herein are all wrongful death beneficiaries of Carlos Alberto Gutierrez Mugno. Plaintiffs seek all damages permitted under the law on behalf of the decedent and all damages each of them suffered as a result of the execution of the decedent. On April 13, 2002, Carlos Alberto Gutierrez Mugno, who worked as a security guard on Drummond's railroad, was murdered by the AUC Northern Block, which received knowing and substantial

assistance from Drummond. Mr. Mugno had the day off and was at a bar in the afternoon in Fundacion, Magdalena when a group of paramilitaries arrived. The paramilitaries roughed Carlos Alberto Gutierrez Mugno up, then shot him several times, killing him. In 2009, Jose Gregorio Mangonez Lugo, alias "Carlos Tijeras," confessed to the murder of Carlos Alberto Gutierrez Mugno.

44. Hermelinda Sarmiento de la Cruz is the mother and legal representative of the Estate of Wilmer Rafael Sarmiento de la Cruz under the laws of Colombia and is also a legal heir of Wilmer Rafael Sarmiento de la Cruz under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Wilmer Rafael Sarmiento de la Cruz. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Wilmer Rafael Sarmiento de la Cruz was murdered on December 6, 2005 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On December 6, 2005, Wilmer Rafael Sarmiento de la Cruz was returning to his home in Barrio Maregua, Valledupar, Cesar when he was intercepted by a group of AUC paramilitaries. The paramilitaries forced Wilmer Rafael Sarmiento de la Cruz out of his truck, and then shot him several times in the head, killing him.

45. Ana Virginia Ochoa Navarro is the daughter and legal representative of

the Estate of Gustavo Enrique Ochoa Perez under the laws of Colombia, and is also a legal heir of Gustavo Enrique Ochoa Perez under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Gustavo Enrique Ochoa Perez. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Gustavo Enrique Ochoa Perez was kidnapped and murdered on May 20, 1999 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On the night of May 20, 1999 Gustavo Enrique Ochoa Perez was at home on the Hacienda Moravia in Maria Angola, Valledupar, Cesar with his family when a group of AUC paramilitaries arrived and banged on the door, identifying themselves as soldiers with the Colombian Army and demanding to be allowed in. When Gustavo Enrique Ochoa Perez opened the door, the paramilitaries seized him and kidnapped him. A short distance away from his home, the paramilitaries shot and killed Gustavo Enrique Ochoa Perez.

46. Ana Cecilia Pastor Barrios is the daughter and legal representative of the Estate of Jose Alberto Pastor Juvinao under the laws of Colombia, and is also a legal heir of Jose Alberto Pastor Juvinao under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Jose Alberto Pastor Juvinao. Plaintiff seeks all

damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Jose Alberto Pastor Juvinao was kidnapped on September 23, 2001 by the AUC Northern Block, which received knowing and substantial assistance from Drummond; Jose Alberto Pastor Juvinao's body was found on September 26, 2001. Early on the morning of September 23, 2001, Jose Alberto Pastor Juvinao left his home in Las Vegas, Caracolicito, Copey, Cesar to go to his farm. Along the way, Jose Alberto Pastor Juvinao was intercepted by a group of AUC paramilitaries. The paramilitaries kidnapped Jose Alberto Pastor Juvinao and killed him. The paramilitaries then dismembered Jose Alberto Pastor Juvinao's body, which was found in Las Vegas on September 26, 2001. Edys Correa Cervantes is the sister and legal representative of the Estate of Victor de Jesus Correa Cervantes under the laws of Colombia and is also a legal heir of Victor de Jesus Correa Cervantes under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Victor de Jesus Correa Cervantes. Victor de Jesus Correa Cervantes was murdered on May 23, 2002 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On the night of May 23, 2002, Victor de Jesus Correa Cervantes was working on the rail line as a security guard in La Agustina, Guacamayal, Zona Bananera, Magdalena when he was intercepted by

a group of AUC paramilitaries. The paramilitaries shot Victor de Jesus Correa Cervantes once in the head, killing him.

47. Manuel Gregorio Tapia Vega (also “Tapias,” but hereinafter “Tapia”) is the father and legal representative of the Estate of Luis Segundo Tapia Padilla (also “Tapias,” but hereinafter “Tapia”) under the laws of Colombia, and is also a legal heir of Luis Segundo Tapia Padilla under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Luis Segundo Tapia Padilla. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages he suffered as a result of the execution of the decedent. Luis Segundo Tapia Padilla was murdered on or about September 4, 2002 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. Shortly before his murder and as a result of threats from AUC paramilitaries, Luis Segundo Tapia Padilla and his domestic partner, who was pregnant, went to live at the La Esmeralda farm where he worked, which is located on the Bosconia-Bucaramanga road. On or about September 4, 2002, AUC paramilitaries arrived at the La Esmeralda farm and shot Luis Segundo Tapia Padilla and his domestic partner, killing them both along with the unborn child she was carrying.

48. Armando Rafael Candanoza Guzman is the brother and legal

representative of the Estate of Alberto Luis Candanoza Guzman under the laws of Colombia, and is also a legal heir of Alberto Luis Candanoza Guzman under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Alberto Luis Candanoza Guzman. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages he suffered as a result of the execution of the decedent. Alberto Luis Candanoza Guzman, who worked for FENOCO on the railroad line, was murdered on December 2, 2001 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On the night of December 2, 2001, Alberto Luis Candanoza Guzman was sitting in front of his work station in Bosconia, Cesar when a pickup truck of armed AUC paramilitaries arrived. The paramilitaries shot Alberto Luis Candanoza Guzman twice in the head, killing him. On February 22, 2011, the AUC Northern Block paramilitaries Sixto Arturo Fuentes Hernandez, alias “El Negro Peter,” and Oscar Ospino Pacheco, alias “Tolemaida,” confessed to the murder of Alberto Luis Candanoza Guzman.

49. Luz Marina Anaya Royero is the domestic partner and legal representative of the Estate of Victor Nicolas Mejia Palacio under the laws of Colombia, and is also a legal heir to Victor Nicolas Mejia Palacio under the laws of Colombia. N.S.M.A., born in 2003, is the daughter of Victor Nicolas Mejia

Palacio and Luz Marina Anaya Royero, and is also a legal heir under the laws of Colombia, but does not act as a legal representative of his Estate in this lawsuit. Plaintiffs herein are all wrongful death beneficiaries of Victor Nicolas Mejia Palacio. Plaintiffs seek all damages permitted under the law on behalf of the decedent and all damages each of them suffered as a result of the execution of the decedent. On June 20, 2005, Victor Nicolas Mejia Palacio was murdered by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On June 18, 2005, Mr. Mejia left his home in Santa Marta, Magdalena to begin his workday in the department of Cesar. Two days later, on June 20, 2005, his body was found near Curumani, Cesar in an advanced state of decomposition. Victor Nicolas Mejia Palacio had been shot to death.

50. Maria Sureya Suescun Botello is the wife and legal representative of the Estate of Gil Roberto Castaneda Murcia under the laws of Colombia, and is also a legal heir of Gil Roberto Castaneda Murcia under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Gil Roberto Castaneda Murcia. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Gil Roberto Castaneda Murcia was kidnapped and murdered on March 3, 2003 by the AUC

Northern Block, which received knowing and substantial assistance from Drummond. On the morning of March 3, 2003, a group of AUC paramilitaries arrived at Gil Roberto Castaneda Murcia's farm in Agustin, Codazzi, Cesar. The paramilitaries loaded a large number of cattle into their vehicles and stole them. The paramilitaries forced Gil Roberto Castaneda Murcia into their vehicle and drove away, kidnapping him. Gil Roberto Castaneda Murcia's body was found a short drive away from the farm. Gil Roberto Castaneda Murcia had been shot twice in the head and once in the back. Following the murder, Maria Sureya Suescun Botello received death threats from the AUC paramilitaries, forcing her to abandon her claim to Gil Roberto Castaneda Murcia's farm in Agustin, Codazzi, Cesar.

51. Edilma Isabel Torres Ozuna is the mother and legal representative of the Estate of Pedro Miguel Rodriguez Torres under the laws of Colombia, and is also a legal heir of Pedro Miguel Rodriguez Torres under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Pedro Miguel Rodriguez Torres. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. Pedro Miguel Rodriguez Torres was murdered on or about May 6, 2003 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. Pedro Miguel

Rodriguez Torres, on May 3, 2003, left his home in Valledupar, Cesar to do some errands with his uncle. The bodies of Pedro Miguel Rodriguez Torres and his uncle were found on May 6, 2003 in Loma Linda on the highway to Buenaventura. Pedro Miguel Rodriguez Torres had been shot twice in the neck and head. Pedro Miguel Rodriguez Torres' uncle had also been shot to death.

52. Alba Luz Caballero Gomez is the domestic partner and legal representative of the Estate of Jairo de Jesus Ponzon Rua under the laws of Colombia, and is also a legal heir to Jairo de Jesus Ponzon Rua under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Jairo de Jesus Ponzon Rua. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of the execution of the decedent. On January 26, 1997, Jairo de Jesus Ponzon Rua was killed by the AUC Northern Block, which received knowing and substantial assistance from Drummond. Mr. Ponzon worked as a security supervisor for the company Odebrecht, a Drummond contractor hired to do maintenance on the railroad. On the day Mr. Ponzon was killed, he was patrolling his usual route from Aracataca to La Loma de Potrerillo. He never came back and his body was found in La Loma del Balsamo, Fundacion. Soon before his death, a group of paramilitaries had threatened him, indicating that he should quit his

job, but he refused.

53. Amparo De Jesus Florez Torres is the domestic partner and legal representative of the Estate of Engelver Garcia Pallares under the laws of Colombia, and is also a legal heir to Engelver Garcia Pallares under the laws of Colombia. J.A.G.F., born in 1996, is Engelver Garcia Pallares and Amparo De Jesus Florez Torres's son, and is also a legal heir under the laws of Colombia, but does not act as a legal representative of his Estate in this lawsuit. Plaintiffs herein are all wrongful death beneficiaries of Engelver Garcia Pallares. Plaintiffs seek all damages permitted under the law on behalf of the decedent and all damages each of them suffered as a result of the execution of the decedent. Engelver Garcia Pallares was killed on September 3, 1999 on the highway going from Codazzi to the township of Cuatro Vientos, Cesar, by the AUC Northern Block, which received knowing and substantial assistance from Drummond.

54. Luz Marina Pacheco Cantillo is the wife and legal representative of the Estate of Armando Mejia Daza under the laws of Colombia, and is also a legal heir of Armando Mejia Daza under the laws of Colombia. Plaintiff herein is a wrongful death beneficiary of Armando Mejia Daza. Plaintiff seeks all damages permitted under the law on behalf of the decedent and all damages she suffered as a result of

the execution of the decedent. Armando Mejia Daza was murdered on April 19, 1999 by the AUC Northern Block, which received knowing and substantial assistance from Drummond. On the morning of April 19, 1999, Armando Mejia Daza was in the store he ran out of his home in Caracolicito, Copey, Cesar when a pickup truck with AUC paramilitaries aboard arrived. The paramilitaries entered the store and shot Armando Mejia Daza several times, killing him. The paramilitaries then stole a number of Armando Mejia Daza's commercial goods and fled.

55. Merilsa Francisca Daza Amaya is the domestic partner and legal representative of the Estate of Marcos Jose Padilla Rodriguez under the laws of Colombia, and is also a legal heir to Marcos Jose Padilla Rodriguez under the laws of Colombia. Jhon Alfer Padilla Daza, Marcos Jose Padilla Daza, Gicela Margarita Padilla Daza, Adriana Cristina Padilla Daza and Yarlenys Rosmira Padilla Daza are Marcos Jose Padilla Rodriguez' children, and are also legal heirs under the laws of Colombia, but do not act as legal representatives of his Estate in this lawsuit. Plaintiffs herein are all wrongful death beneficiaries of Marcos Jose Padilla Rodriguez. Plaintiffs seek all damages permitted under the law on behalf of the decedent and all damages each of them suffered as a result of the execution of the decedent. Marcos Jose Padilla Rodriguez was killed on November 23, 2003 by the

AUC Northern Block, which received knowing and substantial assistance from Drummond. Mr. Padilla was working at his bar in Valledupar, when two paramilitaries arrived. They ordered a drink and then shot Mr. Padilla, killing him instantly. On January 21, 2004, the municipal deputy of Valledupar issued a statement certifying that Marcos Jose Padilla Rodriguez was killed for ideological and political reasons in the context of the internal armed conflict.

56. Carmen Inelma is the mother and legal representative of the Estate of Aroldo Enrique Campo Medina under the laws of Colombia, and is also a legal heir to Aroldo Enrique Campo Medina under the laws of Colombia. Alfredo Campo Medina and Ana Cristina Campo Medina are Aroldo Enrique Campo Medina's siblings, and are also legal heirs under the laws of Colombia, but do not act as legal representatives of his Estate in this lawsuit. Plaintiffs herein are all wrongful death beneficiaries of Aroldo Enrique Campo Medina. Plaintiffs seek all damages permitted under the law on behalf of the decedent and all damages each of them suffered as a result of the execution of the decedent. Aroldo Enrique Campos Medina was killed on January 29, 2007 in Chiriguana, Cesar by remnants of the AUC Northern Block, which received knowing and substantial assistance from Drummond. Mr. Campo left a friend's house and was heading home, when he was

intercepted by a paramilitary who shot and killed him on the spot.

B. Defendant and Relevant Drummond Entities and Officers

57. Garry N. Drummond was the Chairman and Chief Executive Officer of DCI until he died on July 13, 2016. His Estate is named as a Defendant following his death. Garry Drummond was a resident of the State of Alabama his entire life. While residing in Alabama, he personally approved the plan proposed by Adkins and others to have Drummond provide material support to the AUC so that the AUC would drive the FARC and other guerrilla groups out of the areas of Drummond's operation in Colombia. Drummond received regular visits from Adkins, often on a monthly basis, in which Adkins briefed him on all security issues, including the progress of the AUC's efforts on behalf of Drummond to drive the guerrilla groups out of the areas of Drummond's operations. Defendant Drummond also made frequent trips to Colombia and was able to observe first-hand the presence of the AUC around the Drummond facilities, and he was briefed by Adkins and others as to all aspects of security in the areas around Drummond's Colombian operations.

58. DCI is a for-profit corporation incorporated in Alabama that is

engaged primarily in the mining and shipment of coal. It is a closely-held corporation owned by the Drummond family, and, until his death, was controlled in its day-to-day operations by Garry N. Drummond. Its principal place of business is located at 1000 Urban Center Dr., Birmingham, Alabama 35242-2532. Among other places, DCI owns and operates a large coal mine, rail line and port in Colombia, South America. The operations in Colombia are financed and managed from the Alabama headquarters of DCI, and the profits from the Colombia operations revert to DCI.

59. DLTD is an Alabama company, and has its principal place of business is at 530 Beacon Parkway, Birmingham, Alabama 35209. It is a wholly-owned subsidiary by DCI. DLTD manages the day-to-day operations of the Drummond coal operations in Colombia but is at all times operating under the complete ownership, direction and control of DCI. Fully aware of the violence in Colombia, particularly anti-union violence, and the absolute impunity afforded to the perpetrators of such violence in Colombia, DCI created DLTD for the sole purpose of operating the Colombian mines for the sole benefit of DCI while also attempting to shield DCI from liability for any and all tortious conduct committed by the management of these mines. The creation of DLTD was a sham done for the aforesaid unlawful purpose.

60. DUSA is a for-profit corporation incorporated in Alabama. Its principal place of business and/or registered address is 1000 Urban Center Dr., Birmingham, Alabama 35242. DUSA is the general partner of DLTD. DUSA is an indirect wholly-owned subsidiary of DCI, and DCI created and used its wholly owned subsidiary, Drummond Coal Sales, to create DUSA. DUSA and its officers and directors, jointly with DCI, operate, direct and control the day-to-day operations of DLTD in Colombia. Fully aware of the violence in Colombia, particularly anti-union violence, and the absolute impunity afforded to the perpetrators of such violence in Colombia, DCI created DUSA for the sole purpose of serving as the general partner of DLTD, which operated the Colombian mines for the sole benefit of DCI, while also attempting to shield DCI from liability for any and all tortious conduct committed by the management of these mines. The creation of DUSA was a sham done for the aforesaid unlawful purpose.

61. James Adkins, who is not named as a defendant in this Complaint, was the Security Advisor for Drummond's operations in Colombia. Hired by Drummond from the CIA, Adkins had full knowledge of the terrorist activities of Colombian paramilitary groups at the time he was hired. Adkins reported to both Garry N. Drummond who was at all times an Alabama-based DCI officer and

Mike Tracy who was a DLTD and DCI officer. Adkins also reported to other Alabama-based officers, including Mike Zervos. On behalf of Defendant Drummond, Adkins approved the payments to the AUC and its predecessor paramilitary groups as described herein. During his years of service for Drummond, between 1995-2002, Adkins traveled to Alabama every 4-6 weeks to brief Garry N. Drummond and other Drummond officials on security issues, including Drummond's support for the AUC. Adkins also regularly briefed and provided security updates to Mike Tracy. Adkins told the AUC leaders and their intermediaries that he went to Alabama regularly to brief Garry Drummond and obtain his consent to key strategic issues, including providing support to the AUC. Adkins obtained consent in Alabama from Garry Drummond to provide substantial support to the AUC. Adkins reported directly to Garry Drummond, and when Garry Drummond was about to terminate his employment in 2001, Adkins resigned.

62. At all times relevant to the allegations herein, Mike Tracy, who is not named as a defendant in this Complaint,¹ was an executive at DCI or DLTD, and at

¹ Mike Tracy was named as a Defendant in the Second Amended Complaint, but was dismissed by the Court's decision and order, ECF Nos. 92 and 93.

various times a board member of DUSA. He became the CEO of DCI following Garry N. Drummond's death on July 13, 2016. Tracy oversaw the start of operations for Drummond's mine in Colombia. Tracy was in charge of all aspects of the Drummond mining operation in Colombia and reported directly to Garry Drummond. Tracy was briefed by Adkins about Drummond contractors who were paying the AUC, the paramilitary presence throughout all of Drummond's area of interest, Adkins' view that the paramilitary presence was not "negative," and requests made to Drummond to support the nascent paramilitary groups, among other matters involving the paramilitaries. Tracy approved and ratified the Drummond contractors' payments to the AUC. Tracy also approved payments to the Colombian military after he was notified that the military was controlling and supporting paramilitary groups in the area. Additionally, as one of Adkins' supervisors, Tracy knew or should have known about Adkins' central role in Drummond's payment schemes to the AUC on behalf of Drummond. Tracy socialized with known paramilitaries when he was in Colombia.

63. At all times relevant to the allegations herein, Augusto Jimenez, who is not named as a defendant in this Complaint, was President of DLTD. Jimenez was a direct participant in Drummond's plan to make significant payments to the

AUC, and he personally participated in arranging payments from security contractor Secolda to the AUC. Jimenez kept an office and residence in Alabama during all times material to this Complaint and split his time between Colombia and Alabama. He reported directly to Garry Drummond, and regularly briefed him in Alabama on all aspects of the Colombia project. Jimenez was directly involved in security issues, including obtaining assistance from the Colombian military for the Drummond operations, and he approved, hired, and monitored security contractors in Colombia, which included private security firms that had direct links to the AUC. Jimenez was aware of the agreements Adkins made with the AUC, and he approved of Drummond's direct collaboration with the AUC terrorists. On numerous occasions, Jimenez met with representatives of the AUC, including Jaime Blanco Maya, who acted as a liaison between the AUC and Drummond. Additionally, at all times relevant to the allegations herein, Alfredo Araujo, who is not named as a defendant in this Complaint, was Director of Community Relations for DLTD. Araujo was a direct participant in Drummond's plan to make significant payments to the AUC, and he personally participated in arranging payments from Drummond to various AUC commanders, including his friend Rodrigo Tovar Pupo, alias "Jorge 40," head of the Northern Block of the AUC.

64. The AUC paramilitary forces that murdered all of the decedents referenced herein were acting within the course and scope of a business relationship with Drummond with the advance knowledge, acquiescence or subsequent ratification of Defendant Drummond.

65. Defendant Drummond is liable under a superior responsibility theory. Although Plaintiffs' current allegations adequately allege such a theory, Defendants in the *Balcero* case previously ignored similar allegations and improperly characterized superior responsibility as a "new theory of liability" during summary judgment briefing. *See* Case 2:09-cv-01041-RDP, Doc. No. 425 at 2. To remove any doubt, Plaintiffs expressly state that they seek to hold Defendant Drummond liable in relation to wrongdoing committed by the following persons under his effective control: Jimenez, Adkins, Araujo, and Blanco.

IV. THE CIVIL CONFLICT IN COLOMBIA AND THE GOVERNMENT OF COLOMBIA'S DIRECT RELATIONSHIP WITH THE AUC

66. Colombia is widely-known as a country that was torn by a long-standing civil war involving armed leftist groups, primarily the FARC on the one side, and the Colombian military and the AUC on the other. Other leftist guerrilla

groups active in 1995-96 when the paramilitary groups began consolidating include the ELN.

67. The AUC, officially formed in late 1996 by Carlos Castaño as an umbrella group to consolidate the various paramilitary groups into one major force to defeat the FARC, was created by Colombian landowners, military officers and politicians for the purpose of serving as a brutal military unit to engage and defeat the leftist guerrilla groups that had formed to overthrow the Government of Colombia. The main such group, the FARC, had been successful in its military campaigns of the early to mid-1990s and controlled large areas of the Uraba region, and Magdalena and Cesar Provinces. These areas under FARC control were among the most valuable in Colombia, as Uraba and Magdalena were the primary banana-growing regions of Colombia, and Cesar had significant natural resources, particularly coal.

68. There never has been a question that the regular military in Colombia, and the civil government authorities, tolerated the paramilitaries, allowed them to operate, and often cooperated with them. Recent testimony of AUC leaders in custody under the Justice and Peace process makes this connection even more explicit – the government of Colombia worked with the leaders of the AUC to

create the AUC as an informal special unit of the military for the purpose of using brutal tactics that the regular military was not permitted to use under the Geneva Conventions and other laws governing the conduct of war.

69. Many current and former political leaders in Colombia were directly involved in establishing the right-wing paramilitary groups in Colombia which later joined under the one umbrella of the AUC. Indeed, in 1996, former Colombian President Alvaro Uribe was the governor of Antioquia and was instrumental in the creation of one of the first paramilitary groups in Colombia.

70. The sole purpose of creating the AUC was to have a military organization that was capable and willing to use extreme violence and brutal means to defeat the FARC and drive it out of the areas where it was interfering with important business interests in Colombia. The regular Colombian military was ineffective in dealing with the FARC. There are a number of documented reasons for this. Most military observers agree that the leadership of the Colombian military, drawn from the elites of Colombia, were simply unwilling to risk life and limb to engage a ferocious guerrilla group like the FARC. The AUC's mission was to "out guerrilla the guerrillas" as one former U.S. military advisor to the Colombian army put it. The AUC was expected to use terror and violence to defeat

the FARC.

71. The initial supporters of the AUC in the private sector were wealthy Colombian landowners who had been victims of the FARC's violence. For example, former Colombian President Uribe's family owned a large farm. Uribe's father was executed by the FARC, and the family plantation was crippled by the FARC's violent attacks in the area. Likewise, Raul Hasbun's family owned and operated a banana plantation in Uraba. When Hasbun's father was killed by the FARC, he not only organized his community to support the AUC, he himself became a commander in the AUC, using the nom de guerre Pedro Bonito.

72. The AUC, including the Northern Block units directly involved in the wrongful acts alleged herein, was created based on official sanction of the Government of Colombia. In 1994, as a way for the Colombian government to create a legal mechanism to fund the AUC, it passed Decree 356, which established the "Special Vigilance and Private Security Services." This decree laid the foundation for the creation of the Convivir groups, officially launched in 1995 through Resolution 368. The Convivir groups were comprised of civilians who petitioned the government for a license to "provide their own security. . . in areas of high risk or in the public interest, which requires a high level of security."

Defense Ministry, Decree 356, República de Colombia, February 11, 1994, pp. 19-20; and Resolution 368, April 27, 1995.

73. When former Colombian President Uribe was still the Governor of Antioquia, he implemented the plan to establish the government-registered front groups called “Convivirs” to allow the AUC to collect government and private funds to support the military activities of the AUC. Further, the Convivirs provided legal status to the AUC and allowed the Colombian government to coordinate activities with it.

74. The AUC’s predecessor paramilitary groups established at least 14 Convivirs in 1995-96 that were “legal” entities under Colombian law that served as fronts for the paramilitaries. Landowners and private companies made payments to these Convivirs based on geographic region. One hundred percent of the funds collected were used by the paramilitaries for arms, supplies and other necessities in the paramilitaries’ campaign against the FARC. The Colombian military also helped raise funds for the AUC, approaching private companies, including Drummond, about making contributions to the Convivirs, which were fronts for the AUC and/or its predecessor organizations. Further, Colombian military officers met regularly with the leaders of the Convivirs to coordinate military operations and

share intelligence. The Convivir leaders were in all cases paramilitary commanders. All of these arrangements are documented by the Human Rights Watch Report, *War Without Quarter: Colombia and International Humanitarian Law (1998)*.

75. As a result of the Convivir structure, as well as the fact that most of the AUC members had been in the Colombian military, the AUC had a close, mutually-beneficial, symbiotic relationship with the Colombian military. As reported by HRW, 78% of the murders in Colombia from October 1999 to March 2000 were attributable to the paramilitaries. HRW investigators found “detailed, abundant, and compelling evidence of continuing close ties between the Colombian Army and paramilitary groups responsible for gross human rights violations.”

76. The facts supporting the ongoing symbiotic relationship between the military and paramilitaries in Colombia include active and retired military who actually set up paramilitary units, military who provided the paramilitaries with weapons, intelligence, and supplies, and paramilitaries who conduct missions at the request of the military.

77. The close, symbiotic relationship between the military and paramilitaries in Colombia is so widely acknowledged that the U.S. State

Department confirmed this fact without reservation:

Credible allegations of cooperation with paramilitary groups, including instances of both silent support and direct collaboration by members of the public security forces, in particular the army, continued. Evidence suggests that there were tacit arrangements between local military commanders and paramilitary groups in some regions, and paramilitary forces operated freely in some areas that were under military control or despite a significant military presence. Individual members of the security forces actively collaborated with members of paramilitary groups – passing them through roadblocks, sharing intelligence, providing them with ammunition, and allegedly even joining their ranks while off-duty.

78. In the February 28, 2002 Report of the UN High Commissioner for Human Rights on the human rights situation in Colombia (“UNHCR Report”), the UN High Commission explained that the links between the paramilitaries and the State continued and indeed were intensifying. As the UNHCR Report explained:

During 2001, the Office continued to observe that paramilitary activity was strengthening and spreading throughout much of the country’s territory.... Toleration, support and complicity on the part of public servants, as well as non-fulfillment of their duty to safeguard rights, with respect to several acts by these groups, means that the State continues to bear responsibility.

79. The UNHCR Report further related that “the growth in paramilitary activity has been aided by the State’s inaction or slow reaction in preventing the formation of illegal armed groups, and in keeping new territories from falling into the de facto control of these organizations.” Finally, the UNHCR report explained

that the growth in paramilitary control and violence has been assisted by the impunity which human rights violators receive in the Colombian judicial system. Thus, the UNHCR stated that, throughout 2001, it “continued to receive troubling reports of ties between members of the security forces and elements of the paramilitary groups. The existence of pending criminal and disciplinary investigations of members of the security forces shows how widespread these relationships are. However, the investigations have not led to any determination of responsibility or the application of relevant sentences and punishments to ensure that these acts do not benefit from impunity.”

80. The UNHCR reached the very same conclusions in its March 18, 2003 report, stating that there remains “open collusion” on the part of Colombian security forces with paramilitaries and that there is continued “expansion and consolidation of paramilitaries in several areas.”

81. Further, in Country Reports on Human Rights Practices – Colombia (March 2002), the U. S. State Department, which had in September 2001 designated the AUC, the chief and largest paramilitary group as a “terrorist” group, continued to conclude that “in some locations elements of the state security forces tolerated or even collaborated with paramilitary forces.” The State Department reached this same

conclusion in its Report of March 31, 2003, stating that “[s]ome members of the security forces collaborated with paramilitary groups that committed serious abuses.”

82. For a number of years, the location in which Drummond operates in Colombia, the Cesar Province, has been one of these locations where the collaboration between the state security forces and the paramilitary forces is especially keen. Thus, Amnesty International has reported that it “has been increasingly concerned by the escalation in human rights violations carried out in the Department of Cesar by members of the security forces and paramilitary allied to them. ‘Disappearances,’ extrajudicial executions and other human rights violations continue to be reported as the security forces have increased their presence and paramilitary organizations have been set up and consolidated in the region, sometimes with the support of powerful economic interests.” Indeed, Drummond allowed the military to establish a base within the perimeter of its property and it allowed the AUC to establish bases around its coal mine. There was frequent collaboration between the military and the AUC due to Drummond’s provision of a safe haven for the AUC.

83. Amnesty International, in specifically describing the human rights

situation in the Cesar Province – the area in which the acts described herein took place – explained that “[t]he systematic violation of human rights against members of popular organizations . . . in the department of Cesar corresponds to a national strategy of undermining organizations which the [state] security forces deem to be subversive.” Amnesty International further found that:

[m]any violations of human rights in the [Cesar] region are committed in order to advance and protect the interests of economically powerful sectors. Labeling anyone who dares to challenge the interests of powerful economic sectors as subversive . . . and then targeting them for human rights violations provides a means for those sectors to protect their interests.

Recently, the UNHCR has confirmed this assessment of Amnesty International, noting in the same breath that “members of paramilitary groups have been blamed for most of the [] violent deaths” suffered by trade unionists and that Cesar is one of “[t]he departments most affected by anti-union violence . . .”

84. As a consequence of the official vilification of “leftists” and “guerrilla sympathizers” by the Colombian government, this served as an open invitation to paramilitaries to target innocent civilians living in areas where there was a FARC presence with violence. Indeed, Rafael Garcia, a former DAS official, stated under oath that the DAS worked closely with the AUC, that as a DAS official he witnessed Drummond making payments to the AUC to murder the union leaders at

Drummond, and that he personally, while a DAS official, also served as the political adviser for the AUC paramilitaries and acted as liaison between DAS Director Jorge Noguera and AUC Northern Block leader, Jorge 40. He specifically stated under oath that “the AUC and the DAS worked closely together to further their joint mission of ridding Colombia of leftist guerrillas.”

85. From late 1996 on, the AUC became a major combatant in Colombia’s civil conflict with the FARC. In most of the rural areas where the FARC had its strongholds, the Colombian military had ceded military operations to the AUC. By 2001, the conflict between the AUC and the FARC had become a notorious exchange of atrocities. The AUC, using tactics of terror on civilians living in and around areas that had been under FARC control, assumed that these innocents were sympathetic to the FARC and systematically murdered thousands of them. The AUC became known for using chain saws and machetes to dismember its victims in order to ensure that witnesses to this violence would never harbor or assist FARC guerrillas in their villages.

86. Effective on September 10, 2001, the U.S. Department of State designated the AUC a terrorist organization. See 66 Fed. Reg. 47,054. This designation was based on the acts of the AUC from 1996-2001 in which it used

extreme violence to terrorize innocent civilians and ensure that they did not sympathize with the FARC.

87. The fact that the Colombian military and government had a major role in the formation and financing of the AUC's predecessor paramilitary groups is conclusively established by the September 13, 1995 memo Adkins sent to Tracy, attached as **Exhibit 3**. Adkins reported to Tracy that the Cordoba Battalion Commander of the Colombian military visited him to request funds from Drummond to support the formation of a paramilitary group under the Colombian government's Convivir program to combat the guerrillas. The Colombian military helped to launch the AUC, which it expected to be an effective guerilla warfare arm of the military. As former AUC Commander Raul Hasbun has stated, the AUC was part of the military but without the limitations of the Geneva Conventions.

**V. DRUMMOND'S ROLE IN FINANCING THE AUC'S WAR
CRIMES, INCLUDING EXTRAJUDICIAL KILLINGS**

88. Drummond's Colombian coal mine is located in La Loma, Cesar Province, and "Puerto Drummond," where it ships its coal from, is located 120

miles to the North in Santa Marta, Magdalena Province. A map of the region of Drummond's operations is attached hereto as **Exhibit 4**. Drummond's Colombian coal contains a low sulfur content, making it attractive to countries and states aiming to lower the pollution produced from coal-burning power-plants. According to Drummond's website, www.drummondco.com, they increased production in Colombia from one million tons of coal annually to 25 million tons by 2011. Drummond obtained the mining rights in the mid 1980's but did not start real production until 1995. By then, both mine and port areas were essentially under the control of the main leftist guerilla group in Colombia, the FARC (the Revolutionary Armed Forces of Colombia). From the outset of its operation, Drummond, like virtually all landowners and large businesses in these areas of Colombia, suffered attacks by the FARC. As a communist-inspired organization, the FARC sought to overthrow the Colombian government with violent means, seize large private lands and privately-owned natural resources, such as Drummond's vast coal mine, and redistribute this wealth to the Colombian people.

89. The AUC began establishing a presence in Cesar and Magdalena for the purpose of attacking and defeating the FARC in these areas where there were important and powerful business interests and where the FARC had established a

significant foothold. The FARC operated out of the Sierra Nevada mountains, more or less between Santa Marta and Drummond's mine, which allowed the FARC to strike Drummond's assets and their rail line. By 1997, the areas of Cesar and Magdalena became embroiled in the civil conflict that had engulfed Colombia as the Colombian military and the AUC joined forces to battle the FARC.

90. In 2007, after years of denials and cover ups, Chiquita pled guilty to a federal felony of providing material support to a terrorist organization. In its factual proffer to the Justice Department, attached hereto as **Exhibit 5**, Chiquita admitted that it was a financial founder of the AUC and made regular payments to the AUC from 1996-2004, when a self-reporting member of the board of directors informed the Justice Department of Chiquita's payments to the AUC, a designated terrorist organization. This is a rare glimpse into the world of the relationship between the AUC and U.S. multinationals. Chiquita confirmed that it made its payments to a Convivir set up as a front for the AUC. Defendant Drummond provided support to the AUC well beyond what Chiquita provided, and are equally guilty of providing knowing and substantial support to a terrorist organization. In sharp contrast to Chiquita, no one at Drummond has felt the ethical duty to tell the truth about the company's substantial funding of the AUC.

91. Drummond initially stated that it would remain neutral in the civil conflict between the leftist guerillas, particularly the FARC, and the Colombian military and its AUC paramilitary proxies. In a September 13, 1995 memo from James Adkins (former Director of Security for DCI) to Tracy (**Exhibit 3**), Adkins, as head of security for Drummond, indicated that he was perplexed as to why the guerillas had yet to make a significant attack on Drummond. He suggested that the short-term goal for the company should be to keep its head down and mine coal. However, according to Drummond security reports, the company was formally declared a military target by the guerillas.

92. After considering the various options, Drummond chose to enter the conflict. By no later than 1997, Drummond formally took a side in the civil conflict and joined with the AUC to defeat the FARC and drive its remnants out of Cesar and Magdalena Provinces. For its part, Drummond financed a significant expansion of the AUC's Northern Block, including the Juan Andres Alvarez Front, based in Cesar Province. Along with providing this Front with significant funds to arm and supply over 165 new soldiers, Drummond provided it with its day-to-day operating expenses. Garry N. Drummond expressly approved this plan, and gave the approval to Drummond's head of security, Adkins. Drummond also provided funds directly

to Jorge 40, Commander of the Northern Block of the AUC, to assist other AUC units in the areas of Drummond's operations in Cesar and Magdalena Provinces. One of the goals of the Northern Block was to purge the FARC from their hideouts in Sierra Nevada.

93. Drummond's massive and important funding for the AUC re-prioritized and directed the strategy of the AUC, and Drummond conditioned ongoing support on requiring the AUC to focus on defeating the FARC and eliminating its supporters and sympathizers from the area of Drummond's railroad line going through Cesar and Magdalena Provinces. Drummond also favored contractors that had direct ties to the AUC and/or were known supporters of the AUC. These included Jaime Blanco Maya, owner of ISA, which held the food service contract for the Drummond mine, as well as two firms that provided security for Drummond's rail line, Secolda and Viginorte, and Sanchez Polo, a trucking company that hauled Drummond's coal and supplies.

94. Colombian military units were stationed in and around Drummond's mine and port facilities, reflecting Drummond's strong and corrupt connections to the Colombian government. These troops were in essence privatized by Drummond and were supported by substantial resources from Drummond. These troops also

provided substantial logistical and tactical support to the AUC in the areas of Drummond's operations. Drummond's security department gathered intelligence about guerilla operations in Cesar and Magdalena Provinces and provided it to, among others, Colombian Military Intelligence Commander Lino Sanchez, who then shared the information with AUC commanders in the area. The Colombian military supported by Drummond also lent arms to the AUC and participated in joint operations with the AUC in their united fight against the FARC and ELN guerillas.

95. As a result of Drummond's direct intervention in the civil conflict in these areas, hundreds of people living in and around Drummond's railroad corridor, including places that had previously served as safe havens for FARC and ELN guerillas, were executed as the AUC utilized its well-known scorched earth methodology as a way to terrorize the local population and ensure they would no longer support or sympathize with the guerilla groups. Among those killed by the AUC in these operations were Plaintiffs' family members. These executions were war crimes and extrajudicial killings in violation of international law and the laws of Colombia and the U.S. Further, Drummonds' financing of the AUC, designated a terrorist organization on September 10th, 2001 by the U.S. State Department, also

violated international law and the laws of Colombia and the U.S.

96. The facts regarding Drummond's direct support to the AUC could not have been known until the 2006 demobilization of the AUC. Until then, the AUC, Drummond, and some members of the Colombian military were the only parties with knowledge of their illegal relationship and none had an interest in admitting it. However, following the demobilization and the start of the Justice and Peace (J&P) process in 2006, former AUC commanders had an incentive to reveal the truth: the terms of the J&P were that AUC members would get substantially reduced sentences only if they fully revealed their war crimes and other criminal acts.

97. Drummond was able to keep most of their close allies in the J&P process quiet for a time with bribes and/or threats against the witnesses and their families. However, one by one, the AUC witnesses began to testify about Drummond's key role in financing the AUC and its many war crimes against innocent civilians. The Justice and Peace process, which started yielding new facts in 2007, changed the dynamic of the prior bond and shared mission between the AUC, the Government of Colombia, and the business community operating in Colombia, including Drummond. Many of the AUC leaders spoke freely about their relationship with the elites of the Colombian business community, particularly

Drummond, and their direct collaboration with the Colombian military, because, among other reasons, the AUC leaders have expressed that they were betrayed by their former government and business partners. The AUC leaders were imprisoned for their role in a shared crime, while the businessmen and politicians who were their partners remained free and enjoyed the substantial fruits of their criminal enterprise.

98. The key AUC leaders and members who worked directly with Drummond are now in custody or have already served their time as part of the Justice and Peace process in Colombia and are giving testimony and speaking to government and human rights lawyers about their alliance with Drummond. These include Salvatore Mancuso, the former head of the AUC, serving time in a U.S. prison, Jhon Jairo Esquivel Cuadrado, alias “El Tigre,” a former commander of the Juan Andres Alvarez Front assigned to Drummond, Alcides Manuel Mattos Tabares, alias “Samario”, a former sub-commander of the Juan Andres Alvarez Front, Jairo Jesus Charris Castro, a former AUC member who was sentenced to 30 years in prison for his role in murdering the union leaders at Drummond, and Rafael Garcia, a high official of the Colombian Administrative Department of Security (Spanish acronym: DAS; similar to the FBI), who was also a political advisor to the

top leaders of the AUC, including Rodrigo Tovar Pupo, alias “Jorge 40,” the leader of the AUC’s Northern Block.

99. Rodrigo Tovar Pupo, alias Jorge 40, the AUC’s head of the Northern Block, which had jurisdiction over the areas of Drummond’s facilities, has either refused to talk about Drummond or has denied any connection to Drummond. However, once he was extradited to the U.S. for drug trafficking, on April 30, 2009, his U.S. lawyer made a proffer to the Justice Department offering to enter into a plea agreement in exchange for Jorge 40’s testimony that Adkins, acting on behalf of Drummond, paid the AUC \$20,000 to murder the top two leaders of Drummond’s Colombian mine, Locarno and Orcasita, and that Adkins later met with Jorge 40 directly to make additional arrangements for Drummond to provide assistance to the AUC. *See* **Exhibit 6** at 3-4. The latter fact of Jorge 40’s meeting with Adkins was confirmed by 2009 J&P testimony provided by AUC Commander Mancuso. **Exhibit 7** at 64-66. Jorge 40 remains imprisoned in the U.S. Based on information and belief, he has made a financial arrangement with his childhood friend, Alfredo Araujo, Drummond’s Director of Community Relations, to keep quiet about the close connection between his Northern Block and Drummond.

100. Drummond has a personal and direct connection to the origin of the

AUC. As noted, Alfredo Araujo was a close friend since childhood of Rodrigo Tovar Pupo, alias Jorge 40, who was one of the original founders of the AUC along with Carlos Castaño and Salvatore Mancuso. Several of Araujo's close relatives joined Jorge 40 as active members of the AUC. Three close family members of Araujo, his cousin, Hernando Molina Araujo, a former governor of Cesar Province, another cousin, Alvaro Araujo Castor, a former Senator, and his uncle, Alvaro Araujo Noguera, a former Minister of Agriculture, are in jail for their support for the AUC. Araujo used his family relationship and connection to Jorge 40 to make arrangements for Drummond to make substantial payments to the AUC. Araujo made the plan with Jorge 40. He then used his position in the company to get Jimenez and others to agree to the plan to make substantial payments to the AUC. Araujo, on behalf of Drummond, shared with AUC the goal of eradicating the FARC and other leftist guerillas and prevailing in the ongoing civil conflict.

101. Araujo was also a friend of Jaime Blanco Maya, who had close ties to both the AUC and to the government. Araujo brought Blanco into the Drummond fold by arranging for his company, ISA, to get the food concession for the workers at the Drummond mine. Blanco was close friends with Oscar Jose Ospino Pacheco, alias "Tolemeida," one of the AUC Northern Block's top commanders under Jorge

40. At the same time, Blanco's half-brother, Edgardo Maya, was until recently the Government of Colombia's Inspector General. Jaime Blanco Maya is now in prison for his ties to the AUC and his admitted role in the conspiracy to murder two of the top union leaders at Drummond's coal mine, Locarno and Orcasita.

102. While Carlos Castaño is either dead or disappeared, the other two AUC founders, Salvatore Mancuso and Jorge 40, both now in prison in the United States following plea agreements on drug trafficking charges, have, as previously alleged, stated that Drummond was one of the U.S. multinationals that provided substantial support to the AUC that allowed it to buy arms and equipment and join the war effort to defeat the FARC. Jorge 40 has since declined to testify about Drummond because, on information and belief, Araujo made a financial arrangement with him to keep silent about Drummond.

103. Drummond provided substantial support to the AUC with full knowledge of the activities of that terrorist organization. Across the years, Drummond provided millions of dollars to the AUC to support its war with the FARC, and Drummond established, equipped, supported, and directed the AUC's Northern Block in its actions in engaging the FARC in the towns along Drummond's 120-mile railroad line from its mine in La Loma to "Puerto

Drummond” in Santa Marta. Drummond became a major supporter of the AUC war effort to defeat the FARC and provided support from approximately 1997 to 2006, when the AUC formally began demobilizing after its efforts to destroy and contain the FARC were largely successful.

104. Specifically, Drummond began paying the AUC through Jaime Blanco no later than early 1997. According to Blanco, who has now admitted his role in arranging for Drummond to finance the AUC, he and Adkins devised a scheme for Adkins to make payments to the AUC through Blanco. **Exhibit 8** at ¶¶ 17-23. When Adkins brought Garry N. Drummond the idea, Drummond agreed to make payments to the AUC. *Id.* at ¶ 18. The payments were first made by Adkins bringing cash payments in increments of \$10,000, the maximum amount allowed without having to declare it, from Alabama. Blanco would deliver the cash payments from Adkins to the AUC. *Id.* at ¶¶ 18-20. After some time, Adkins and Blanco developed another scheme to funnel money to the AUC through Blanco. Blanco would use inflated invoices for services provided to Drummond, and he would provide the overage to the AUC. *Id.* at ¶¶ 21-23. This method of using false invoices to hide illegal payments was devised by Adkins, *id.* at ¶ 21. As described further herein, Drummond used other methods to provide support to the AUC

during the relevant time period, but one early method was funneling the money to the AUC through Blanco as described above.

105. Shortly after he was hired, Adkins reported to various Drummond officers that the Cordoba Battalion Commander of the Colombian military requested funds from Drummond in September 1995 to support “Plan Convivir,” the military’s effort to form and fund paramilitaries. **Exhibit 3**.

106. Adkins reported to Drummond on the army’s control over the paramilitaries and the success of the paramilitaries in fighting the guerillas. He stated, “Plan Convivir is beginning to take shape in our area of concern. The infamous Rambo, otherwise known as Fidel Castaño, has been busy in the Banana Zone nearest to us.” He also discussed the success of two other paramilitary groups, the “Chepe Barrerra” group and the “Victor Carranza” group. He reported that *“[t]hese paramilitary groups are under the control of the military and have made it inadvisable for small guerilla groups to appear in towns and villages in our area of operations.”* He noted “at least 30 new paramilitaries reportedly have been activated in this zone to eliminate the guerilla and bandit presence,” and “their presence is having some effect.” **Exhibit 9** at 2 (emphasis added). Adkins provided numerous other security reports to Drummond. Adkins referred to armed assistance

to the military and Drummond being provided by “cowboys.” **Exhibits 9,10,11.**

107. Drummond provided substantial support to the Colombian military with no controls on the use of the funds and allowed the military to use the funds for any purpose, which could have included making contributions to the AUC.

Exhibit 12, another Adkins memo, states, “We also threw in the millions that we were pouring into the country and region in the form of royalties and taxes, especially war taxes.” Adkins, Tracy, Drummond Executive Mike Zervos, and Garry N. Drummond all acknowledged in their depositions that Drummond provided the military with millions of dollars and that they had no idea what the military did with the money. Given that the military specifically asked Drummond for funds to support the AUC, there is no question that these Drummond officials knew that some portion of their “millions” funded the AUC.

108. Drummond knew as early as September 1995 from a report by Adkins that *the military’s plan to organize and fund paramilitary groups “will bring with it egregious human rights violations”* **Exhibit 3** at 2 (emphasis added).

109. Prior to coming to work for Drummond, Adkins was fired by the CIA for his role in the Nicaraguan Contra scandal. Adkins was found by Lawrence Walsh, appointed as Independent Counsel to investigate the Iran-Contra conspiracy,

to have violated the law by providing support to the Contras, falsifying CIA financial accounts to hide his crime, and lying to investigators. **Exhibit 13** (Independent Counsel Walsh's final report to Congress).

110. According to the testimony of multiple former AUC members, the violent crimes against civilians were designed to "cleanse" or "pacify" the civilian populations around the Drummond facilities. Acting on behalf of Drummond, the AUC executed hundred, if not thousands, of innocent civilians using tactics of terror and violence, particularly in the areas that the FARC had a stronghold. These areas included Cesar [where Drummond's mine is located] and Magdalena [where Drummond's port is located] Provinces. In these areas, the AUC pursued a scorched earth policy of first driving the FARC out and then brutally murdering and torturing people who lived in these areas and were assumed by the AUC to be sympathetic to the FARC. As Jose Gregorio Mangones Lugo, alias "Carlos Tijeras," who was an AUC commander in Magdalena where Drummond's port is located, stated in a declaration, "We not only drove the guerilla groups out of the area, but our tactics made sure the local people would never entertain the idea of supporting or joining the guerillas. We made clear with our actions that anyone who supported the FARC was our enemy and would be dealt with accordingly." **Exhibit 14** at ¶ 24 G.

111. The AUC used extremely violent means to take back areas held by the FARC and used tactics of violence and terror to depopulate areas of innocent civilians merely because the AUC presumed that civilians in areas previously held by the FARC were sympathetic to the leftist guerillas. This military tactic is documented by the U.S. State Department. For example, the 1997 State Department Report noted that “[t]he many paramilitary groups took the offensive against the guerillas, often perpetrating targeted killings, massacres, and forced displacements of the guerrillas’ perceived or alleged civilian support base . . . *An active policy of depopulation, pursued by some paramilitary groups against communities suspected of guerilla support*, was the primary cause of the growing internal displacement problem.” 1997 State Department Report at 2 (emphasis added) (www.state.gov/j/drl/rls/hrrpt).

112. As the U.S. State Department reported in 1999:

Paramilitary groups and guerillas were responsible for the vast majority of political and extrajudicial killings during the year. **Throughout the country, paramilitary groups killed, tortured and threatened civilians suspected of sympathizing with guerillas in an orchestrated campaign to terrorize them into fleeing their homes, thereby depriving guerillas of civilian support. The AUC paramilitary umbrella organization . . . exercised increasing influence during the year, extending its presence through violence and intimidation into areas previously under guerilla control.**

1999 State Department Report at 2 (emphasis added)

(www.state.gov/j/drl/rls/hrrpt).

113. These consistent and reliable reports by the State Department of the AUC's tactics in terrorizing villagers are exactly what happened in the areas around Drummond's facilities where Drummond unleashed the AUC to attack the nearby villages. The AUC was designated as a terrorist organization by the U.S. State Department on September 10, 2001. 66 Fed. Reg. 175, 47054 (Sept. 10, 2001). The designation was based on the AUC's consistent record of brutality from the moment of its formation in 1996, including the massacres of civilians.

114. According to Jhon Jairo Esquivel Cuadrado, alias "El Tigre," the commander of the Juan Andres Alvarez Front from 1996-2000, prior to November 1999, the Juan Andres Alvarez Front was operating in the municipalities of Bosconia, El Paso, La Jagua de Ibirico, Becerril, Agustín Codazzi, San Diego, La Paz, and Chiriguaná, which are the major towns in Cesar along the route of Drummond's rail line. As El Tigre stated, "the AUC was there because these were known FARC strongholds, and the AUC's mission was to eradicate the FARC wherever we found it." **Exhibit 15** at ¶ 1 and Exhibit A thereto.

115. El Tigre further stated, “I have reviewed the facts of what happened to those who were killed as described in Plaintiffs’ Complaint in the *Balcero* case that was filed on May 19, 2009. While many of those events occurred after I was captured by police on July 19, 2000 and taken out of service with the AUC, the places that are described are areas that were FARC strongholds and that we had targeted for attack. The violent acts that are described are typical of what we in the AUC did to ensure that villagers would not provide any form of support to the FARC. While I was commander of the Juan Andres Alvarez Front we infiltrated the communities where the FARC had a presence, identified persons we suspected of being guerillas, and then hunted them down and killed them. We used brutal methods to ensure that the survivors would be clear that if they assisted the FARC in any way, a brutal death would be their fate. Drummond’s support for our Front and the Northern Block did not change our military targets or methods but did prioritize the order and timing of the areas we targeted, and of course, allowed us to be more effective because Drummond’s funds provided us with more men, arms and supplies. Based on Drummond’s direction to us, mainly provided through Alfredo Araujo, we prioritized our operations to have a major focus on the towns along Drummond’s rail line where

we had information that the FARC was operating or had supporters.” **Exhibit 15** at ¶ 18.

116. Alcides Manuel Mattos Tabares, alias “Samario,” was from mid-2000 until May 2002 the chief of security for Oscar Jose Ospino Pacheco, alias “Tolemeida,” who in July 2000 replaced El Tigre as the Commander of the Juan Andres Alvarez Front. Samario was jailed from May to December 2002, and when released, was made the third Commander of the Front and was in charge of “Urbanos,” the AUC’s term for hit men. **Exhibit 16** at ¶ 4. As the person directly responsible for processing orders to execute people from December 2002 until April 9, 2005, when he again went to prison, Samario had full knowledge of the targets and the reasons for executions carried out by the AUC’s Juan Andres Alvarez Front. Samario, consistent with the assertions of El Tigre, has stated that the Front focused a lot of its operations against the FARC in the areas around Drummond’s rail line in Cesar, particularly in the municipalities of Bosconia, El Paso, La Jagua de Ibirico, Becerril, Agustín Codazzi, San Diego, La Paz, and Chiriguaná. This was, according to Samario, “because the FARC was very successful in these areas and this is where we had to fight them and root out their supporters.” *Id.* ¶¶ 4-5. Further, Samario stated that, “every execution order that passed through my hands was to kill someone we

thought was a member or supporter of the FARC, or we thought was a leftist guerilla who was on the same side of the war as the FARC. Sometimes others were killed in villages when we went after our targets because they were in the way, or we needed to make a strong example to the people. Even the unionists we killed for Drummond we killed because Alfredo Araujo Castro, who had an important position with Drummond, told Tolemeida and me they were leftist guerillas who were helping the FARC.” *Id.* ¶ 5.

117. Samario confirmed that, following the successful executions of the union leaders, Drummond began regularly financing the Juan Andres Alvarez Front to exterminate the FARC in the areas along Drummond’s rail line. As the head of the “urbanos” he was directly involved in most of the killings and they ultimately drove the FARC away from Drummond’s rail line. Samario provided a partial list of 250 names of the many people he killed in furtherance of Drummond’s direction to cleanse the rail line areas of FARC and their sympathizers. *Id.* ¶¶ 16-18 and Exhibit A thereto.

118. Early on, Araujo, acting as Drummond’s primary contact with the AUC, had specific and detailed knowledge of the AUC’s record of terror due to his

discussions with Jorge 40, Tolemeida, and Jaime Blanco, and other AUC leaders with whom he had a personal relationship.

119. According to Jairo Jesus Charris Castro, who was until March 1999 the Security Coordinator for Viginorte, the private security company used by Drummond in Colombia that also was a front group for the AUC, he regularly observed security meetings involving not only Adkins and Alfredo Araujo with General Peña and Colonel Lineros in 1998-99, but that Garry Drummond, the chief executive officer of Drummond, Mike Tracy, and Augusto Jimenez, among others, participated in security briefings that included discussions of the activities of the AUC and the FARC as they related to Drummond's areas of operation in Colombia.

120. Mike Tracy had his own contacts with AUC members. Between 1998-2000 he met with AUC representatives on several occasions at an apartment in Santa Marta that was in front of the Ecopetrol building. The apartment was on the 5th floor and it was rented from a Colombian named Mauricio Avellaneda. He also met with AUC commanders at the Drummond port area. AUC members were given free access to the Drummond port and were waived through the security gates by Drummond Security forces. Tracy was often there and met with the AUC forces. Tracy also on numerous occasions had drinks with AUC members at a bar in Santa Marta called the

Golden Mendihuaca Caribbean Resort. During these informal meetings, Tracy would receive briefings from the AUC on the status of their security operations for Drummond.

121. After the AUC was designated a terrorist organization, at least some of Drummond's payments were made to ISA, the food service company that served as a conduit for AUC funding with the assistance of Alfredo Araujo's close friend, Jaime Blanco. These funds were channeled to the AUC by Blanco. Drummond's payments to the AUC in cash and through front companies are direct evidence of Drummond's knowledge that it was paying for illegal activity. Drummond also, according to the Popa Battalion's commander Colonel Mejia, began channeling money to Colonel Mejia to distribute to the AUC as a way of hiding and legitimizing the payments.

VI. THE SPECIFIC WAR CRIMES, INCLUDING EXTRAJUDICIAL KILLINGS, DEFENDANT DRUMMOND COMMITTED WITH THE AUC TO BENEFIT DRUMMOND'S BUSINESS INTERESTS IN COLOMBIA.

122. Shortly after the Drummond employees in Colombia successfully organized themselves into a union known as SINTRAMIENERGETICA, Drummond decided to use the very paramilitaries which they helped establish as a

force in the region to destroy this union. In relevant part, key members of the Drummond Ltd. management – including Augusto Jimenez, Alfredo Araujo, Ricardo Urbina Aroca, Senior Human Resources supervisor; and Pedro Maya, Human Resources Manager at the La Loma mines – met with leaders of the AUC, including AUC Northern Bloc leader Jorge 40 and his representatives, during the latter part of 2000 and the beginning of 2001 to arrange for the AUC to eradicate the union through violent means. In furtherance of this conspiracy, this management made payments to the AUC as consideration for the AUC’s carrying out this violent destruction of the union, including the murders of Valmore Locarno Rodriguez (hereinafter Locarno), Victor Hugo Orcasita Amaya (hereinafter Orcasita), and Gustavo Soler Mora (hereinafter Soler), who were the top union leaders and also employees of Drummond.

123. Locarno and Orcasita, President and Vice President, respectively, of the union, had been in heated negotiations with Drummond for nearly a year for a new contract. In the course of the ongoing negotiations, pamphlets were passed out on and around the Drummond Company facilities in Colombia labeling SINTRAMIENERGETICA a “guerilla union,” and attacking Locarno and Orcasita as supporters of the guerillas. In a letter to Drummond Ltd., Locarno specifically

protested that the pamphlets described above had been distributed around the La Loma mine in the Cesar Department of Colombia. He asked for security protection because of the death threats he had been receiving. His request was denied by Drummond Ltd.'s Senior Human Resources supervisor, Ricardo Urbina Aroca, by letter dated October 6, 2000. In rejecting this request without explanation, Ricardo Urbina Aroca told Locarno, on behalf of Drummond Ltd., "[w]e hope that the authorities can take measures that they consider appropriate regarding the situations raised by you all."

124. There were two persistent issues that were the subject of heated negotiations between SINTRAMIENERGETICA and the Drummond Company. First, the union demanded better security to protect them from the paramilitaries who had been hired or retained by Drummond to protect the Drummond rail lines and other facilities from attacks by guerillas operating in the area. The other contentious issue was that in the prior year, several Drummond workers were killed in a mining accident, and the company had failed to pay the compensation due their families under the laws of Colombia. During these negotiations, the President of DLTD, Augusto Jimenez, made veiled threats against the union leaders, telling them on

several occasions, “the fish dies from opening his mouth,” according to several witnesses present.

125. Locarno met personally with Garry Drummond on the worker compensation issue on or about June 12, 2000, in Colombia. Locarno and Orcasita had also written and faxed to Garry Drummond personally their concerns that their lives, and the lives of other union leaders and members, were in danger due to the presence of the violent paramilitary forces that were agents or employees of Drummond. They also specifically notified other officials of the DCI and/or DLTD, including, but not limited to, Augusto Jimenez, D. L. Lobb, General Manager of DLTD., and Mike Zervos, an employee of DCI, about their security concerns.

126. The concerns expressed by Locarno and Orcasita to Garry N. Drummond and other representatives of Drummond were based on recent assassinations, kidnappings and torture of other members and leaders of SINTRAMIENERGETICA. In the year prior to the murders of Locarno and Orcasita, Candido Mendez and Manuel Enrique Charris Ariza were also murdered by the paramilitaries. Locarno and Orcasita had made a very simple demand to be permitted to sleep at the coal mine, rather than being transported to nearby villages by bus, where they were exposed to the paramilitaries who controlled the local roads.

This request, made to Garry N. Drummond and other Drummond officials, was denied despite the fact that Colombia's secret service agency, the DAS, had alerted Drummond that Locarno and Orcasita were at risk of assassination and despite the fact that the DAS itself echoed their request that they be able to sleep at the coal mine.

127. Meanwhile, at other levels, the DAS itself collaborated with the AUC paramilitaries, funneling money to these paramilitaries and actually encouraging them to kill unionists. Indeed, at least one DAS official, Rafael Garcia, witnessed the payment of monies by a top Drummond official – an individual he believed to be then Drummond Ltd. President Augusto Jimenez but later realized that the person was Alfredo Araujo – to Jorge Castro Pacheco, a sitting Colombian Senator and a representative of the AUC Northern Bloc commander Jorge 40. It was clear from what was said at this meeting that the exchange of money was in return for the AUC's agreement to carry out the killings of Valmore Locarno and Victor Orcasita. Yet, the DAS did nothing to prevent these killings though it was officially tasked to protect unionists by the Colombian government.

128. Although Drummond flatly refused to improve security arrangements for the union leaders who had received specific death threats, Drummond made sure that the expatriate employees from the U.S. were never exposed to danger. At all

times material hereto, these U.S. employees were flown in and out of the Drummond mines and port on a private runway and provided with a compound where they lived and were protected by the military and private security forces 24 hours a day, 7 days a week. At all times relevant hereto, Drummond's private security forces, which guard both its operations and U.S. personnel, have themselves been led by active and former military personnel, including General Pena (chief of security for both the port and mines), Retired Colonel Jorge Garzón (chief of Security for the port) and Retired Colonel Edgar Ruíz.

129. On March 12, 2001, shortly after they were threatened by Augusto Jimenez, Locarno and Orcasita were pulled off a Drummond company bus and murdered by paramilitaries of the AUC. Some of these paramilitaries were themselves members of the regular military and were being paid by the regular military as they also assassinated innocent civilians. The paramilitaries who killed Locarno and Orcasita were working as agents or employees of Drummond at the time.

130. The paramilitaries boarded the bus and asked for Locarno and Orcasita by name, saying that these two "had a problem with Drummond." The paramilitaries made the workers produce their identification cards. When Locarno was identified by the paramilitaries, he was pulled off the bus and shot in the head several times in front

of the other workers. Orcasita was then identified. He was tied up and thrown in the paramilitaries' vehicle. He was found dead by the side of the road several hours later, shot in the head. He had been tortured before he was murdered. There were cuts on his chest, and his teeth had been knocked out. Both because some of the regular military in the area were involved in the executions as members of the paramilitaries, and because the regular military stationed at the Drummond compound allowed the paramilitaries to operate with impunity, no action was taken to bring those responsible for the murders of Locarno and Orcasita to justice.

131. Subsequent to the murders of Locarno and Orcasita, their families received written and verbal threats to keep quiet about the murders.

132. Soler eventually stepped up to assume the position of President of the Union. He renewed negotiations with Drummond and specifically sought to obtain new security arrangements for the workers, especially in light of the murder of Locarno and Orcasita. He and the other leaders of SINTRAMIENERGETICA sent a letter to Garry Drummond renewing the demand to allow the workers to have sleeping facilities at the mine site. Again, this request was denied. In addition, Soler publicly denounced the murders of Locarno and Orcasita and publicly stated his belief that someone at the La Loma mines must have told the paramilitaries which specific bus

was carrying them on the night of March 12, 2001. Meanwhile, threats against Soler's life and the lives of other union leaders continued.

133. On October 5, 2001, shortly after assuming the position of President of the Union, Soler himself was murdered by paramilitaries of the AUC. Soler was captured by paramilitaries on his way back home from the La Loma mines, just as Locarno and Orcasita had been. Thus, after leaving work at around 2:30 in the afternoon, Soler was left by the escorts he was using for security at the transport terminal near the mines in the city of Valledupar. He then boarded a public bus traveling toward his home town of Chiriguana. While in transit, the bus he was on was stopped by paramilitaries which drove in the path of the bus with a white truck and parked the truck in front of the bus. The paramilitaries boarded the bus and called Soler by name. They then removed him from the bus. On October 7, the body of Soler was found in a nearby area by farmers. His body showed signs of torture and he had been shot twice in the head.

134. Jaime Blanco Maya and Jairo Jesus Charris Castro have both been convicted by the Colombian courts for their roles in the murders of Locarno and Oracasita. Both of them have admitted that they participated in the conspiracy to murder the union leaders, but that it was Adkins, Araujo, Garry Drummond and

others from Drummond who were the “intellectual authors” of the murders. In both cases, the Presiding Judge, William Andrés Castiblanco Castellanos, issued a final sentencing report directing prosecutors to investigate the role of these Drummond officials in the murders. As one example of Drummond’s ability to bribe and threaten their way to legal impunity for human rights crimes in Colombia, neither prosecutor in these cases engaged in a meaningful investigation of the role of the Drummond officials in the murders, despite the specific directive from the judge to do so.

135. According to Jaime Blanco, Drummond’s main Colombian counsel, Jaime Bernal Cuellar, worked with Blanco and DLTD’s current President, Jose Miguel Linares, to cover up evidence of Drummond officials’ participation with Blanco in the murder of the Drummond union leaders. Bernal told Blanco that he knew about Drummond’s payments to the AUC and wanted to work with Blanco to cover those up and prevent any prosecution of Drummond officials and Blanco. However, at some point, Drummond decided to scapegoat Blanco and blame him for the murders. **Exhibit 8** at ¶¶ 49-51.

136. Tolemeida, the AUC Commander who carried out the murder of the union leaders for Drummond and its co-conspirators, for years denied any connection to Drummond. He denied having met with Drummond officials and claimed that

Drummond had nothing to do with the murders of the union leaders. However, recently, when confronted by the enormous evidence from other AUC members, including Mancuso, El Tigre, Samario, Peinado, Charris, Oscar David Perez Bertel (alias Yuca), and Jaime Blanco Maya, that Drummond paid for the murders, and threatened with the loss of J&P benefits if he continued to lie about Drummond's involvement, Tolemeida admitted that he was financed by Drummond via payments funneled through Jaime Blanco.

137. To this day, SINTRAMIENERGETICA is hobbled and haunted by the murders of its top leaders by the AUC at the direction of Drummond. Drummond had the union leaders murdered precisely to cripple the union to prevent it from pursuing effective contracts, which would increase labor costs for Drummond.

138. Drummond directed the AUC to protect its mine, its rail line and its port, at all costs. It was essential for Drummond to comply with its contractual obligations to supply coal to its customers under the deadlines set by the contracts. If FARC or other guerilla groups were able to attack any of Drummond's facilities, they would cause costly delays to Drummond's operations. Based on the statements of El Tigre and Samario, as well as other AUC leaders who have testified in the Justice and Peace process in Colombia or have otherwise given statements, all of the people killed by

the AUC in the area of Drummond's facilities were executed as suspected FARC members or supporters. Neither Drummond nor the AUC went to much trouble to verify whether someone who they "suspected" as being associated with FARC actually was. Instead, it was more efficient to simply "cleanse" the local population of anyone who could remotely be conceived to have been a supporter of the FARC. As a result, thousands of innocent civilians, including Plaintiffs' decedents, were murdered by Drummond's AUC death squads simply for being in the wrong place at the wrong time. Drummond was willing to directly support and direct this murderous operation because it put the financial interests of the coal operations above the lives of the rural farmers who lived in the area. Drummond was able to use its corrupt political influence, along with threats and other violence, to avoid accountability for the thousands of deaths that resulted from Drummond's use of the AUC as a security force.

139. As previously alleged, Adkins and Blanco discussed the need for Drummond to provide regular payments to El Tigre, the commander of the AUC's Juan Andrés Álvarez Front, which was based along Drummond's rail line. Adkins went to Alabama and obtained Garry Drummond's agreement in 1996 to start paying El Tigre. This was done at first by Adkins bringing \$10,000 cash payments from

Alabama to evade the law and Drummond's accounting system. Thereafter, Adkins and Blanco developed a scheme to use inflated invoices from Blanco, and he would provide the overage to El Tigre. Blanco, El Tigre and Charris were very clear and consistent about this aspect of Drummond's scheme. Blanco and Charris, who worked daily with Drummond management, identified Garry Drummond, Jimenez, Adkins, Tracy, Araujo, and several other Drummond officials as being directly involved in the plan to provide the AUC with substantial resources.

140. Drummond provided substantial assistance to the AUC *for the purpose of* siding with the AUC in Colombia's civil conflict and driving FARC guerillas out of Drummond's areas of operation, particularly its rail line. Charris testified that Drummond brought in AUC Commander El Tigre to "counteract or neutralize the activity and presence of the guerilla" and that bringing in the AUC was a "direct order from Garry Drummond because they were going through a crisis, a collapse, due to the guerilla attacks . . . to the railroad." **Exhibit 17A** at 20:2-5. Charris further testified that "*[t]he commitment that El Tigre, Jim Adkins and myself had was to increase the forces of the AUC. It was — the purpose was to increase the staff and to have a successful security of the mine, the railroad lines, and the purchase of weapons that El Tigre had so that he could fulfill or cover all commitments with*

Drummond.” The “*Northern Bloc . . . was strengthened, and the selective massacres took place when Drummond had already provided the funds to the Northern Bloc.*” **Exhibit 17A** at 30:1-7 and 31:5-8. Blanco confirmed, “Adkins told me that Garry Drummond had authorized these payments himself in order to support the AUC . . . and minimize these attacks by the guerillas.” **Exhibit 8** ¶ 26.

141. AUC Commander El Tigre was present at a 1999 meeting with Jorge 40 and Araujo at which Araujo agreed Drummond would fund the AUC so that El Tigre would “clean up the area of guerillas,” *which El Tigre understood meant “killing all of the guerillas or guerilla men that are armed in the area and civilians as well.”* Drummond’s support allowed El Tigre to pay and equip 200 AUC troops. According to El Tigre, Drummond’s “substantial payments allowed us to have more arms and men when we attacked [the FARC.” He further stated, “the Juan Andrés Álvarez Front . . . had an important presence . . . *all along the Drummond railroad line, where we carried out our work of security, intelligence, and massacres in order to clean the railroad corridor.*” **Exhibit 15** at ¶ 14.

142. AUC Commander Samario confirmed that Drummond provided most of the funds for his men to fight the guerillas in the area around Drummond’s rail line

and allowed him to add about 160 armed men to the Juan Andrés Álvarez Front.

Exhibit 16 at ¶¶ 15-16.

143. Drummond’s substantial support for the AUC caused a surge of AUC combatants to occupy the areas in and around the Drummond facilities and its rail line, bringing an AUC reign of terror to the area. Another AUC witness, Gelvez, testified the arrival of the AUC to the area (around Drummond’s coal mine) brought a wave of crime including “the daily murder of 30 to 40 people ... the amount of homicides that occurred between 1997, ‘98, and ‘99 was horrible.” **Exhibit 18** at 71:16-72:5.

144. Another demobilized AUC combatant, Peinado, testified the AUC “continued to grow in size and strength, in large part due to the significant support provided by the Drummond company . . . The *Front engaged in regular and systematic cleansing campaigns to rid these areas of guerillas and their sympathizers . . . thousands of civilians were killed.*” **Exhibit 19** at ¶ 8.

145. El Tigre, Samario and Charis all agreed that once Drummond joined with the AUC in the civil conflict, *at Drummond’s direction, the AUC prioritized driving FARC guerillas out of the areas of Drummond’s operations* and escalated attacks on towns along Drummond’s rail line, killing hundreds of innocent civilians.

Samario testified that his orders were to protect the railroad line and he and his men proceeded to “wipe out” suspected FARC guerillas. **Exhibit 16** at ¶ 18. Peinado added that *Drummond security manager Lineros directed the AUC to focus “cleansing operations” in specific towns along the Drummond rail line. Peinado participated in these cleansing operations and “hundreds of civilians were killed.”* **Exhibit 19** at ¶14.

146. Under the orders of Adkins and Garry N. Drummond, Drummond’s private security contractors coordinated security of Drummond’s rail line with the AUC and alerted the AUC if there were intruders along the rail line so that the AUC could respond and determine whether they were guerillas that required AUC engagement. Charris, the coordinator for Viginorte, was ordered by Adkins and Drummond to coordinate security with the AUC, which was directed by Drummond “to neutralize the activity and presence of the guerilla.” **Exhibit 17A** at 20:2-15. Charris was directed by Drummond security managers “to control the presence of paramilitary forces in the area as well as the state security forces . . .” *Id.* at 49:10-18. Blanco agreed that Charris handled the AUC relationship for Adkins. **Exhibit 8** at ¶ 48. Samario, one of the key men patrolling the Drummond rail line, testified that security staff for Drummond reported to the AUC whenever there were strange

people in the area for the purpose of having the AUC kill them. “If they could not justify their being there they were assassinated.” **Exhibit 20** at 64:3-13.

147. Yuca, another member of the AUC patrols, *stated that his AUC unit coordinated with “Drummond’s security along the railroad line” and “carried out a cleansing campaign along the Drummond rail line.”* **Exhibit 21** ¶ 7.

148. Another key way Drummond financed the AUC, mainly through Araujo, was to purchase land the AUC unlawfully stole from innocent civilians living along the Drummond rail line. As previously alleged, the AUC would terrorize towns along the rail line and murder hundreds of innocent people merely because they lived near areas where the FARC controlled. After the AUC terrorized the local people, Hugues Manuel Rodríguez Fuentes, an AUC Commander known as Barbie, would either seize or buy for pennies on the dollar land owned by relatives of people who were murdered or otherwise terrorized. Barbie would make clear that the people should leave the area and there would be serious consequences if they refused. In this way, he accumulated large tracts of land.

149. Barbie formed a company, Rodriguez Fuentes Investments Ltd., which held the land he acquired through AUC terror tactics. He then sold large portions of the land to Drummond, with his childhood friend Araujo handling the transactions

for Drummond. When Barbie's role as an AUC commander became public knowledge, and the AUC was declared a terrorist organization by the U.S. government, Drummond could no longer engage in financial transactions directly with him. Araujo and Barbie solved the problem by having Barbie's wife, Maria Consuelo Pavajeau, create a new company, Inversiones Rodriguez Fuentes. This company was given title to all of the land Barbie seized, and Araujo, knowing of the sham transaction and that Barbie was the beneficiary of the transactions, continued to purchase land for Drummond from Barbie through the new company.

150. Araujo's purchases of land on behalf of Drummond from his close friend Commander Barbie helped to fund Barbie's AUC unit, and also allowed Barbie to fund other aspects of the AUC's mission. This was a common method used by the AUC to raise funds, and Commander Barbie's role in seizing land for Drummond is a matter of public record.

151. According to published sources, Colombians who lost their land due to the AUC's reign of terror still risk their lives as they fight to get their land back:

Can Colombia really return lost land to owners displaced by conflict?

...[I]ntimidation and threats... suffered for reclaiming... land are part of a pattern of widespread abuses that threatens to thwart land restitution efforts, according to a new report by Human Rights

Watch launched today in Bogota...

‘In Colombia, trying to get your land back often means assuming risk and living in fear,’ says José Miguel Vivanco, Human Rights Watch director for the Americas...

After Rodríguez and other farmers from the property, known as El Toco, fled their farms in the late 1990s, the land was taken over by Hugues Manuel Rodríguez a well-known cattle rancher and paramilitary warlord who went by the name ‘Commander Barbie.’ Locals say Barbie installed a paramilitary base on El Toco and filled it with his cattle. – *The Christian Science Monitor*, September 17, 2013

152. Human Rights Watch’s 2013 report detailed the abuses handed out by the AUC and their successors to the displaced people who dared to claim the land stolen from them:

“Colombia’s failure to significantly curb the power of paramilitary successor groups also poses a direct threat to land claimants’ security, while more broadly undermining the rule of law in areas where IDPs seek to return. These groups inherited the criminal operations of the United Self-Defense Forces of Colombia (AUC) paramilitary coalition, which carried out widespread land takeovers prior to the government’s deeply flawed demobilization process.”

These displaced people face intimidation, threats and death:

Widespread Abuses

IDP land claimants and leaders have been subject to widespread abuses due to their restitution efforts, including killings, intimidation and threats, and new incidents of forced displacement. This report documents such cases involving victims reclaiming land through the Victims Law—and other restitution mechanisms—from the departments of Antioquia, Bolívar, Cesar, Chocó, Córdoba, La Guajira, Sucre, and Tolima, as well as Bogotá. Official data and other forms of evidence reviewed by Human Rights Watch indicate that the pattern of abuses extends throughout the country.

153. *El Tiempo*, the major Colombian newspaper, reported that Drummond's U.S. attorneys Baker Botts negotiated in Washington, DC with Commander Barbie (Hugues Rodriguez) to facilitate Drummond's purchase of some of the land taken from the displaced people. **Exhibit 22**.

154. Published reports indicate that at least one entire community in Cesar district – Mechoacán – was wiped off the map.

In the Cesar Department, where the U.S.-owned Drummond mine operates, things are even worse. Union leaders there live in daily fear for their safety and lives.

We had hoped to return to one community that we visited last summer, Mechoacán — but it had been wiped off the map. We met with the communities of Boquerón, El Hatillo, and Plan Bonito, that are slowly being strangled by the mine. Drummond, unlike Cerrejón, still refuses to recognize any right to collective relocation for these communities and is simply trying to starve people out in hopes that they will leave. – *Interview with Aviva*

Chomsky on dissidentvoice.org, June 16, 2009

155. Colombian news sources have reported that Drummond already occupies most of the land expropriated from the Mechoacán community and plans to purchase them in foreclosure to expand the mine.

Coal and Blood in the Lands of ‘Jorge 40’

...As stated in official documents, of 128 parcels in the Mechoacán community, 124 are occupied by Drummond. The law has part of these lands in foreclosure, and the US coal company needs to buy them to continue the expansion of the mine.” – www.verdadabierta.com, October 26, 2010.

156. There is overwhelming evidence that the Defendant Drummond knowingly provided substantial funding and other logistical assistance to the AUC’s war crimes and other serious violations of human rights.

157. In 2014, the Dutch section of PAX Christi International conducted a comprehensive and independent investigation of Drummond’s collaboration with the AUC. PAX then issued a thorough report of the evidence, *The Dark Side of Coal*. The report concludes that there is substantial evidence that Drummond financed the war crimes of the AUC and caused the murders of hundreds of innocent civilians.

Exhibit 23.

158. PAX continued to research the emerging evidence and issued an updated report in 2016 that included new testimony and other evidence to support their initial report and conclusions. **Exhibit 24.**

159. All of Plaintiffs' decedents are innocent victims of the Drummond plan to substantially assist the AUC in its scorched earth security program. These and many other people were executed by the AUC in furtherance of Defendant Drummond's business interests.

VII. CAUSE OF ACTION FOR EXTRAJUDICIAL KILLING

Torture Victims Protection Act, 28 U.S.C. § 1350 Defendant Drummond Aided and Abetted or Conspired With the AUC, or the AUC Was Defendant's Agent, in Connection With the AUC's Extrajudicial Killings of Plaintiffs' Decedents, Which Were Committed Under Color of the Authority of the Colombian Government

160. Plaintiffs incorporate by reference paragraphs 1 through 159 of this Complaint as is set forth herein.

The Executions of Plaintiffs' Decedents Were Extrajudicial Killings

161. As previously alleged, acting in the place of the Colombian military, the AUC directly engaged the FARC in an extremely brutal and violent struggle that left thousands of innocent civilians dead, displaced and terrorized. *See generally* R. Kirk, *More Terrible Than Death: Massacres, Drugs, and America's War in Colombia* (2003); S. Dudley, *Walking Ghosts: Murder and Guerrilla Politics in Colombia* (2006). All of Plaintiffs' decedents were executed by the AUC, which was acting under color of authority of the Colombian government. None of those executed had committed a crime, had been charged with a crime, or had been provided with any form of judicial process prior to their executions. Each of these executions were thus extrajudicial killings under the TVPA.

Drummond Aided and Abetted the AUC's Extrajudicial Killings

162. Citing *Presbyterian Church of Sudan v. Talisman Energy, Inc.*, 453 F.Supp. 2d 633, 668 (S.D. N.Y. 2006), the Court in *Balcerro* held that the standard

for aiding and abetting is “(1) the principal violated international law; (2) the defendant knew of the specific violation; (3) the defendant acted with the intent to assist that violation – that is, the defendant specifically directed his acts to assist in the specific violation; (4) the defendant’s acts had a substantial effect upon the success of the criminal venture; and (5) the defendant was aware that his acts assisted the specific violation.”² *Balceró* Order at 17.

163. As to the first element, Plaintiffs have established in ¶¶ 114-59 and 161, *supra*, the AUC, the principal, violated international law by engaging in extrajudicial killings.

164. As to the second element, Plaintiffs allege that the Defendant Drummond had actual knowledge of the AUC’s specific extrajudicial killings. The

² Although Plaintiffs address herein the higher standard adopted by *Balceró*, their position is that the binding standard for aiding and abetting was stated by the Eleventh Circuit in *Cabello v. Fernandez-Larios*, 402 F.3d 1148, 1158 (11th Cir. 2005) as: (1) “one or more of the wrongful acts that comprise the claim were committed,” (2) the Defendants “substantially assisted some person or persons who personally committed or caused one or more of the wrongful acts that comprise the claim,” and (3) Defendants “knew that [their] actions would assist in the illegal or wrongful activity at the time [they] provided the assistance.” This test is virtually identical to that adopted by the RESTATEMENT (SECOND) OF TORTS, § 876(b). Further, under international law, a similar aiding and abetting standard of knowing, substantial assistance has been applied since at least the Nuremberg cases. *See, e.g., U. S. v. Friedrich Flick, 6 Trials of War Criminals Before the Nuremberg Military Tribunals Under Control Council Law No. 10* (1952).

AUC's use of violent tactics, including extrajudicial killings, to terrorize innocent civilians living in areas under FARC control was well known in Colombia and was widely reported in the press in Colombia and the United States. In 1997, for example, the State Department Report noted that "[t]he many paramilitary groups took the offensive against the guerrillas, often perpetrating targeted killings, massacres, and forced displacements of the guerrillas' perceived or alleged civilian support base . . . An active policy of depopulation, pursued by some paramilitary groups against communities suspected of guerrilla support, was the primary cause of the growing internal displacement problem." *Id.* at 2 (emphasis added).

165. As previously alleged in ¶ 112, the State Department carefully documented the AUC's record of war crimes, including extrajudicial killings, and Drummond was fully aware of this record.

166. Further, Araujo, acting as Drummond's primary contact with the AUC, had specific and detailed knowledge of the AUC's record of terror, including extrajudicial killings, due to his discussions with Jorge 40, Tolemaida, and Jaime Blanco, and other AUC leaders with whom he had a personal relationship.

167. In addition, Adkins, in his capacity as Security Advisor and as a former CIA agent with extensive experience in Latin America including Colombia,

had specific and detailed knowledge of the AUC's record of terror, including extrajudicial killings, due to his review of all major reports of AUC atrocities, including U.S. State Department Human Rights Reports on Colombia, and his discussions with Jorge 40, Tolemaida, and Jaime Blanco, and other AUC leaders with whom he met. Further, he was briefed in regular meetings by Araujo, as well as the Colombian security officials employed by Drummond. Adkins regularly briefed Garry N. Drummond and Mike Tracy on the status and activities of the AUC in and around the Drummond facilities.

168. Further, from 1995 on, Adkins, using personnel of his extensive and experienced security department, as well as his regular briefings with the military personnel based on the Drummond property, and through meetings with Alfredo Araujo, Jaime Blanco and others with direct links to the AUC's predecessor paramilitary groups, had detailed and extensive knowledge of the operations of the AUC, the FARC, other leftist guerrilla groups, and the military. From 1995 on, Adkins prepared detailed intelligence reports for Drummond, and he reported his findings to Drummond officers, including Augusto Jimenez, Mike Tracy and Garry Drummond. Thus, by 1997, around the time when Drummond made a formal arrangement with the AUC to provide substantial financial support to the Northern

Block and the Juan Andres Alvarez Front, Drummond had specific and detailed knowledge of the AUC's brutal methods and tactics, including mass extrajudicial killings.

169. As an example of Adkins' detailed knowledge that he communicated to other Drummond officials, in an August 10, 1995 report for Drummond, Adkins lists the towns along the Drummond rail route and provides details of guerrilla attacks, identifies the 19th Front of the FARC as "a particular threat to Drummond," and lists the real names and the aliases of the leaders of the 19th Front of the FARC. He also lists the names and some aliases for "ordinary combatants" of the 19th Front of the FARC. He lists also the weapons the 19th Front has as its disposal, communication equipment, and that the 19th Front is both a military unit and a political unit, "charged with recruiting and gaining sympathizers." This detailed knowledge only improved each year until Drummond made the formal decision to join the AUC to defeat the FARC, which had been succeeding in its mission of gaining sympathizers in the towns around the Perija Mountains and near and along Drummond's rail line.

170. In his September 13, 1995 memo to Mike Tracy (**Exhibit 3**), Adkins expressly stated his knowledge of the tactics of the paramilitary group at the time

it was forming. In declining at that time to provide support to the nascent paramilitary group, Adkins stated, “such a program will bring with it egregious human rights violations that preclude Drummond from ever participating.” When, by 1996 or early 1997, Drummond made the formal decision to join with the AUC in its war with the FARC, its leaders had specific knowledge of the tactics that would be employed by the AUC as it pursued the FARC in the towns in and around the Perija Mountains and near and along Drummond’s rail lines. Mike Tracy approved and ratified Drummond’s decision to engage the AUC. See *supra* ¶ 60. Adkins and others have testified that informing Tracy meant informing Garry N. Drummond. As Adkins was reporting directly to Garry Drummond and Mike Tracy, both must have approved the decision to engage the AUC.

171. Early on, General (ret.) Rafael Peña Ríos, the head of local security for Drummond in Colombia, based on his past military experience and his own direct interactions with the AUC and its predecessor paramilitary organizations, had specific knowledge of the AUC’s record of terror and its tactic of executing innocent civilians in areas of FARC influence to discourage others from supporting the FARC. On at least one occasion, he told El Tiempo newspaper in

Colombia that he, like the paramilitary groups, viewed trade unions and the leftist guerrillas as one and the same thing, and he excused the violence of the right-wing paramilitaries as necessary to confront the guerrillas.

172. According to a June 28, 1995 Drummond report, “[t]here is no lack of resources for intelligence collection. Drummond has access to military and police reporting thanks mainly to General Peña.”

173. In November 1999, the head of security at the Drummond mine was Colonel (ret.) Ricardo Lineros. Based on his past military experience and his own direct interactions with the AUC and its predecessor paramilitary organizations, he had specific knowledge of the AUC’s record of terror and its tactic of executing innocent civilians in areas of FARC influence to discourage others from supporting the FARC. Colonel Lineros regularly met with and briefed Adkins and General Peña.

174. Jairo Jesus Charris Castro, who was until March 1999 the Security Coordinator for Viginorte, the private security company used by Drummond in Colombia that also was a front group for the AUC, reported that he regularly observed security meetings involving not only Adkins and Alfredo Araujo with General Peña and Colonel Lineros in 1998-99, but that Garry N. Drummond, the

chief executive officer of Drummond, Mike Tracy, and Augusto Jimenez, among others, participated in security briefings that included discussions of the activities of the AUC and the FARC as they related to Drummond's areas of operation in Colombia.

175. Even if Drummond was somehow ignorant of the AUC's record of extreme violence, including extrajudicial killings, when it began funding the AUC on a large scale, after funding began, Adkins and Alfredo Araujo, on behalf of Drummond, closely monitored the AUC's actions and were fully aware of the violence that was done by the units directly supported by Drummond. They reported their observations in regular briefings to Jimenez, Tracy and Garry N. Drummond. Further, in September 2001, the AUC was formally and publicly designated a terrorist organization by the U.S. State Department. Drummond was aware of this designation and continued to fund the AUC until 2006, when the AUC formally demobilized. The violent events from 1996-2001 that led to the AUC's designation as a terrorist organization were widely reported and were certainly known to Drummond through Araujo and Adkins.

176. AUC members were given free access to the Drummond port and were waived through the security gates by Drummond Security forces. Tracy was

often there and regularly observed AUC forces at the Drummond facilities and reported such observations regularly to Defendant Drummond. Tracy also attended a party with AUC commanders. According to Adkins and others, Tracy fully advised Garry N. Drummond on all aspects of Drummond's Colombia operations.

177. ISA was the food service company that served as a conduit for AUC funding with the assistance of Alfredo Araujo's close friend, Jaime Blanco. These funds were channeled to the AUC by Blanco. Drummond's payments to the AUC in cash and through front companies are direct evidence of Drummond's knowledge that it was paying for illegal activity. Drummond agreed to pay \$600,000 for the early termination of its contract with ISA. Although ISA's services ended on August 31, 2001, even after the AUC was designated a terrorist organization on September 10, 2001, Drummond continued to make payments directly to ISA, including on September 21, 2001. Additionally, as late as 2002, Drummond was still making payments to satisfy its termination agreement with ISA to a Colombian bank. Drummond also provided substantial funds to the Colombian military, which included the Popa Battalion, with absolutely no conditions attached to the use of those funds. A former commander of the Popa

Battalion during the time Drummond was financing the Colombian military, Colonel Hernan Mejia Gutierrez, is in a Colombian military prison charged with collaborating with the AUC and participating in the “false positives” scheme with the AUC. Drummond started making the payments to the Colombian military shortly after Adkins advised Tracy in a September 13, 1995 memo that the Cordoba Battalion Commander visited him and directly requested funds from Drummond to support the paramilitary groups that ultimately became the AUC. Garry Drummond reviewed this Adkins memo as well. Adkins observed in the memo that it would be illegal for Drummond to support the paramilitary groups, but then Drummond began making large payments in unrestricted funds to the military. A reasonable inference is that Drummond provided these funds in this manner to support the paramilitary groups without being detected.

178. As to the third element, when Drummond entered into an arrangement to support the AUC, they acted with the intent to assist the AUC’s war crimes. Drummond intended that, with its funds, the AUC would expand its war effort against the FARC and focus the AUC’s military campaign in Cesar in specific areas in or around the Perija Mountains and near or along the Drummond rail line where the FARC had a foothold. In doing so, as previously alleged,

Drummond had specific knowledge that the AUC would commit war crimes, including extrajudicial killings, of innocent civilians, like Plaintiffs' decedents, who lived in and around the towns Drummond required the AUC to attack and pacify. Garry N. Drummond discussed with Adkins and others that the guerrillas threatened his ability to make timely deliveries of coal to his international customers and he expected the AUC to solve this problem.

179. The area of Drummond's coal mine was protected by a detachment of Colombian military that established a base on Drummond's property. Approximately 300 troops from La Popa Battalion, a military unit based in Valledupar in the province of Cesar, were permanently assigned to Drummond to guard its facilities from any attacks by the FARC. In addition, Drummond used a private security firm, Viginorte, which was a front group for the AUC but did provide security staff for Drummond's management personnel and to control access to its facilities. Further, Drummond had an extensive in-house security staff, including Adkins and General Peña. Drummond's main facilities and staff were thus protected by tight security. When Drummond made the decision to join with the AUC, it was for the same reason that the Colombian government allowed for and facilitated the formation of the AUC in the first instance – to pursue the

FARC in the areas where it had support and destroy it using the same violent tactics that the FARC itself employed.

180. In November 1999, Alfredo Araujo, on behalf of Drummond, met with Jorge 40 and other AUC members, including El Tigre, “Guerrero,” “Kevin,” “Cortico,” “Pelo de Puya,” “El Enano,” “Pirulo,” and “Cachaco,” to discuss a plan to get major Drummond funding for the AUC’s Northern Block. Araujo explained to Jorge 40 that there had been a recent FARC attack on the Drummond rail line, but that for the Drummond executives in the U.S. to approve significant funding for the AUC, there had to be another attack, and the AUC had to demonstrate that it could respond effectively with a swift and violent counterattack on the FARC. Araujo directed that the AUC should stage a new attack on the rail line, and make it look like the FARC’s 41st Front had attacked the rail line again. This, Araujo assured Jorge 40, would cause the Drummond executives in Alabama, particularly Defendant Drummond, to agree to make payments to enhance the AUC’s presence in the areas in or around the Perija Mountains and near or along the Drummond rail line.

181. According to El Tigre, Araujo said to Jorge 40, “Drummond is willing to provide a sum of money so that your group can strengthen itself with men and

arms, as long as you commit to providing security to the railroad line and the coal operations in the mine.” Further, according to El Tigre, who was at the meeting, “we were told by Araujo that the areas along the Drummond rail line that had a FARC presence had to be attacked and pacified. We all understood this. We were not talking about physical protection of property. We were talking about doing what the AUC was created to do, and that is destroy the FARC and its supporters. Sometimes people from Drummond used words like ‘security’ and we did too – it was a euphemism for going after the FARC and its supporters. We also used ‘operation’ as a way to say we were going to attack a FARC area. The Colombian army provided the stationary guards for Drummond’s property. The AUC’s role was to hunt and destroy the FARC and its sympathizers.” **Exhibit 15** at ¶¶ 10-11.

182. Jorge 40 assigned El Tigre and “Pirulo” to conduct the staged attack on the Drummond rail line, which they did successfully in April 2000. Following the attack, as per the agreement with Araujo, the AUC distributed pamphlets in the town of Loma de Potrerillo attributing the attack to the FARC’s 41st Front. The AUC then, in May 2000, in furtherance of the plan agreed to with Araujo, assassinated five people near Casacara, Becerril, in Cesar, and claimed that these five were FARC collaborators who were responsible for blowing up the rail line.

These five men had nothing to do with the attack but were killed to show that the AUC could respond effectively to a FARC attack on the rail line and find and execute FARC members on their own territory. Their names were William Enrique Rios Villazon, Angel Maria Ospina, Ciro Alfonso Guerrero Rueda, Oscar Enrique Yance Atencio, and Edilson Julio Glavis.

183. After the successful staging of a rail attack, Drummond made a large payment to the AUC's Northern Block. Jorge 40 sent El Tigre and "Amin" to the town of Las Palmitas, near the back entrance to the Drummond mine. Drummond employees whose names are not known delivered three boxes filled with US dollars. Amin opened the boxes to verify the contents. The funds were then delivered to Jorge 40 by his men.

184. When Drummond supplied that payment and thereafter made regular monthly payments to the AUC, it was explicitly agreed, initially between Araujo and his friend Jorge 40, and thereafter between Adkins and Jorge 40 and his representatives, that the funds were to be used to recruit at least 165 new soldiers so that the AUC's Northern Block would be able to successfully attack and destroy the FARC and its supporters in the areas in or around the Perija Mountains on the border with Venezuela and near or along Drummond's rail line. In fact, the funds provided

by Drummond were the sole source of funds for these new troops and arms, and these new troops and arms allowed the Northern Block in Cesar and Magdalena to expand to a major force that was able to successfully defeat the FARC in the areas near or along Drummond's rail line.

185. According to El Tigre, Drummond, through Araujo and Adkins, did not make a general contribution to the AUC's overall treasury. Rather, the funds were specifically dedicated at Drummond's direction to buy arms and supplies to equip more than 165 additional men to add to the AUC's Northern Block so that it could effectively attack and defeat the FARC.

186. Once the funds were paid by Drummond, the Juan Andres Alvarez Front of the AUC's Northern Block was able to recruit new men and went from a force of about 20 to 200. According to El Tigre, Jorge 40 used Drummond's funds, and only Drummond's funds, to purchase arms and equipment for the new AUC men directly from Carlos Castaño. From then on, under the command of El Tigre, the Juan Andres Alvarez Front became a major fighting force in the war against the FARC. The forces created a permanent base from which they patrolled the towns in and around the Drummond facilities and the rail corridor and pursued their mission of destroying the FARC and its sympathizers. In fulfilling this mission, the Juan Andres Alvarez Front

murdered hundreds of innocent civilians and displaced thousands more because, according to El Tigre, the best way to prevent civilians from assisting the FARC in an area is to get rid of the people living there. This was the AUC's well-known and established method of operation.

187. In 2000, while under the command of El Tigre, the Juan Andres Alvarez Front executed seven investigators from the Public Prosecutor's Office: Israel Alberto Roca Martinez, Hugo Alberto Quintero Solano, Jaime Elias Barros Ovalle, Edilberto Linares Correa, Mario Abel Anillo Trocha, Danilo Javier Carrera Aguancha, and Carlos Arturo Ibarra Bernal. As part of the Justice and Peace process, El Tigre has specifically confessed that he and his men executed the seven CTI investigators during the civil conflict because they threatened to disrupt the AUC's war effort against the FARC.

188. The Juan Andres Alvarez Front, under El Tigre's command, also murdered a man named "Daniel," whom Araujo specifically directed them to execute based on Araujo's assertion that Daniel was a guerrilla. They killed him in La Loma near the Platanal bridge.

189. El Tigre was captured by the Colombian authorities on July 19, 2000. Jorge 40 then assigned the command of the Juan Andres Alvarez Front to

Tolemaida, who continued the AUC's war against the FARC. After the change in power, Adkins participated in a November 2000 meeting between Drummond officials and top AUC leaders. The meeting occurred at the entrance to Drummond's mine in La Loma at approximately 2 p.m. Adkins was accompanied by Araujo and Jaime Blanco, the previously described friend of Araujo's who ran the cafeteria concession at the Drummond mine, and a contingent of bodyguards. For the AUC, Jorge 40 was present, along with Tolemaida, and several other AUC members. At this meeting, Adkins and Araujo approved a payment to the AUC on behalf of Drummond for the assassination of the top leaders of the Drummond union, including Locarno and Orcasita. Locarno and Orcasita were murdered by the AUC on March 12, 2001. The union leaders were pulled off a company bus on their way home from their shift in the Drummond mine and executed by the AUC. Tolemaida was in charge of the operation, following the orders of Jorge 40, and one of Tolemaida's key commanders, Samario, participated as well.

190. Rafael Garcia, the former DAS official, stated under oath that in early 2001, when he was working as political adviser to the AUC, he traveled to Valledupar along with Jorge Castro Pacheco of Ariguani, a municipality in Magdalena, Colombia. Jorge Castro Pacheco served as the representative for Jorge

40. Garcia attended a meeting at the Hotel Sicarare in Valledupar with Jorge Castro Pacheco, who, at the time of the meeting worked for Roberto Perez, a Senator from Sucre, Colombia. Also in attendance was Guillermo Sanchez Quintero, who at the time was Mayor of Ariguani, and Alfredo Araujo, who was Drummond's Director of Community Relations. At this meeting, Garcia witnessed Araujo give Jorge Castro Pacheco a suitcase filled with money. Araujo and Jorge Castro Pacheco talked openly about the purpose of this money - to take violent measures against union workers at Drummond. Garcia heard Araujo say to Jorge Castro Pacheco that the money was to be given to Jorge 40 to carry out the killings of certain union leaders at Drummond. It was clear from things said in this conversation that the plan to violently attack the union leaders had been made some time before and had been a matter of discussion between Araujo and Jorge 40. Araujo specifically said that he wanted the AUC's "help with these guys that were causing problems." Garcia specifically recalls the names Orcasita and Locarno mentioned as targets by Araujo.

191. At a subsequent meeting in early May 2001, Adkins and Araujo met again with the top leaders of the AUC, including Jorge 40, Tolemaida, Don Luis, and several AUC operatives who worked closely with Jorge 40, including Kener, El Chino, El Toro, Samario, Machoman, and 05. The meeting was held at a farm on

the road between Bosconia and Plato. In front of the entire group, including Adkins and Araujo, Jorge 40 congratulated Tolemaida for the successful operation of executing the two Drummond union leaders Locarno and Orcasita.

192. At this meeting Drummond, through Adkins and Araujo, made an agreement with Jorge 40 to make an additional large cash payment to the AUC of approximately \$1.5 million (U.S.) and regular monthly payments of approximately \$100,000 (U.S.) to continue to support the AUC's Northern Block so that it could continue to attack and destroy the FARC. This additional funding was to allow the Northern Block to maintain a permanent base and to continue its ongoing and successful war against the FARC. Once again, the Drummond representatives, including Adkins and Araujo, directed that the AUC focus be on the towns in or around the Perija Mountains and near or along Drummond's rail line where the FARC had a presence.

193. With the ongoing support from Drummond, the AUC's Northern Block continued to confront the FARC in the areas around the Drummond rail line, and in the process, continued to terrorize, displace and murder innocent civilians who lived in or around the Perija Mountains and near or along Drummond's rail corridor or near the mining facilities and other Drummond

facilities.

194. All of the decedents described herein were among those murdered by the AUC's Northern Block during the course of its war with the FARC in the areas in and around Drummond's facilities. Drummond is responsible for establishing a major front of the AUC, the Northern Block, in Cesar and Magdalena, and providing the funds to arm and mobilize the AUC troops that ultimately terrorized the innocent civilians in the area of Drummond's facilities and murdered the relatives of the Plaintiffs herein.

195. As to the fourth element, Drummond's acts had a substantial effect upon the success of the criminal venture, the AUC's war crimes, including extrajudicial killings of the Plaintiffs' decedents. Both El Tigre and Samario have provided statements that, but for Drummond's infusion of support, the AUC's Juan Andres Alvarez Front would have remained a small band of 20 poorly-armed men without the means to accomplish their mission. Drummond's funds, and only Drummond's funds, allowed the Front to expand to nearly 200 men and to purchase arms, equipment and supplies to attack the FARC in the towns in or around the Perija Mountains and near or along Drummond's rail corridor. The expanded and well-armed and supplied Front

then was responsible for the executions of Plaintiffs' decedents.

196. According to Samario, “[w]ith these new men and arms [acquired with Drummond’s funds], we were able to have real success in defeating the FARC in the towns along the Drummond rail route. By the time I was captured on April 9, 2005, we had largely been successful in destroying the FARC in these areas and driving many of the FARC’s supporters out of the region.” **Exhibit 16** at ¶ 16.

197. As to the fifth and final element, Drummond was aware that its acts assisted the specific extrajudicial killings alleged herein. As alleged in ¶¶ 103-21, *supra*, Drummond had specific knowledge that the AUC would, when directed by Drummond to attack specific villages, destroy the FARC and its supporters, and pacify the villages. The AUC would execute innocent civilians, like Plaintiffs’ decedents, because that is how the AUC operated. This method of operation was precisely what Drummond expected to receive for its support that was directly earmarked for men, arms and supplies to allow the AUC to have the capacity to attack the FARC in the villages where Plaintiffs’ decedents were executed.

198. Drummond, through Alfredo Araujo, provided targets for the AUC’s attacks on towns along the Drummond rail corridor. Plaintiffs’ decedents were

executed because Drummond specifically directed the AUC to these areas.

199. When Drummond met again with the AUC leaders in May 2000, the AUC demonstrated with a specific report to Drummond what its funds were accomplishing. At subsequent meetings between Adkins, Araujo, and other Drummond managers, the AUC leaders reported on their progress against the FARC. On at least three occasions, in May and November 2000 and May 2001, Drummond re-confirmed its payment arrangements with the AUC following discussions of progress made in the AUC's effort to destroy the FARC.

200. In September 2001, the AUC was designated a terrorist organization by the U.S. State Department. This was widely publicized in both the U.S. and Colombia. Drummond officials knew of this designation. Knowing of the AUC's status as a terrorist organization, Drummond continued to provide it with substantial support for five additional years, until April 2006.

201. According to both Samario and El Tigre, on several occasions, during the course of the meetings between Drummond and the AUC on the progress of the war against FARC, Araujo provided specific names of suspected FARC guerrillas to be executed. On each of these occasions, the AUC executed the individuals named by Araujo. According to Samario, "even the unionists we killed for

Drummond we killed because Alfredo Araujo Castro, who had an important position with Drummond, told me that they were leftist guerrillas who were helping the FARC. We were not common murderers. We were the vanguard of the nation's fight with the FARC and its supporters.”

202. According to Samario, many of the executions in the area of Drummond's operations were carried out based on orders from Araujo: “I estimate that there were 40 or more people that Tolemaida directed me to execute based on information from Drummond that they were FARC members or supporters. That information always came to us through Araujo or his friend Jaime Blanco to Tolemaida. Further, there were hundreds more we executed as part of our own information and operations, and consistent with our direction from Drummond to wipe out the FARC in these areas [along the rail corridor].” These killings were all in furtherance of the overall funding and collaboration plan Defendant Drummond approved.

203. A former soldier in the Popa Battalion stationed on the Drummond property, Edwin Guzman, stated under oath that the chief of security for Drummond at the mine property, retired Colonel Rodriguez, met regularly with Samario and with alias, “Cebolla,” two paramilitary commanders. Rodriguez gave information to these

commanders and encouraged them to do more to pursue the guerrillas that were attacking the rail lines. Further, as previously alleged, Drummond made its own arrangement to funnel large amounts of unrestricted funds to the Colombian military, including the Popa Battalion, which then passed the funds on to its military collaborator, the AUC. Former commander of the Popa Battalion during the time Drummond was financing the Colombian military, Colonel Hernan Mejia Gutierrez, is currently in a Colombian military prison charged with collaborating with the AUC and participating in the “false positives” scheme with the AUC.

204. Drummond’s role in the expansion and support of the AUC’s Northern Block was a major factor in the AUC’s success in its war with the FARC in Cesar. Drummond had a shared purpose with the AUC in destroying the FARC, and but for Drummond’s major support for that shared purpose, the AUC’s forces in or around the Perija Mountains and near or along the Drummond rail line would have remained a small band of 20 poorly-armed men without the means to accomplish their mission. Drummond’s intent is a question of fact, but Plaintiffs’ allegations herein demonstrate Drummond had no reason to provide millions of dollars to the AUC other than accomplishing their shared purpose of defeating and destroying the FARC.

205. As a further example that Drummond and the AUC had a specific shared purpose of using violent means to exterminate leftist guerrillas suspected of being associated with the FARC, both Adkins and Alfredo Araujo met with the top leaders of the AUC and directed that the AUC assassinate the two top union leaders at Drummond, Valmore Locarno Rodriguez (hereinafter Locarno) and Victor Hugo Orcasita Amaya (hereinafter Orcasita). Locarno and Orcasita were murdered by the AUC on March 12, 2001, after being pulled off a company bus.

206. The meeting between Adkins, Araujo, another Drummond executive, and the AUC leaders was in November 2000. The meeting occurred at the entrance to Drummond's mine in La Loma at approximately 2 p.m. Adkins and Araujo were also accompanied by Jaime Blanco and a contingent of bodyguards. For the AUC, Jorge 40 was present, along with Tolemaida, and several other AUC members. At this meeting, Adkins, on behalf of Drummond, approved a payment to the AUC for the assassination of Locarno and Orcasita. Also present was Jaime Blanco's head of security, Jairo Jesus Charris Castro.

207. In early 2001, another meeting was held to make the payment from Drummond to the AUC for the execution of the union leaders. Rafael Garcia, a high official of the Colombian government, was present at this meeting. He was Director

of the computer system office of the Colombian Administrative Department of Security (Spanish Acronym: DAS). DAS is, among other things, responsible for providing security to Colombian state institutions and individuals. As is common with many government officials, Garcia also worked with and supported the AUC. He served as the AUC's political adviser. While serving at the DAS, he also acted as liaison between DAS Director Jorge Noguera and the AUC Northern Block leader, Jorge 40. The AUC and the DAS worked closely together, in Garcia's words, "to further their joint mission of ridding Colombia of leftist guerrillas."

208. The early 2001 Drummond meeting occurred when Garcia was working as political adviser to the AUC. Garcia traveled to Valledupar in Cesar Province, along with Jorge Castro Pacheco, who was a government official in Ariguani, a municipality in Magdalena, Colombia. Also in attendance were Guillermo Sanchez Quintero, who at the time was Mayor of Ariguani and Araujo. Garcia witnessed Araujo give Jorge Castro Pacheco a suitcase filled with money. Araujo and Jorge Castro Pacheco talked openly about the purpose of this money – to execute the union leaders at Drummond. Garcia heard Araujo say to Jorge Castro Pacheco that the money was to be given to Jorge 40 to carry out the killings of certain union leaders at Drummond. This conversation made

clear that the plan to violently attack the union leaders had been made some time before and had been discussed between Araujo and Jorge 40. Araujo specifically said that he wanted the AUC's "help with these guys that were causing problems." Garcia specifically recalls the names Orcasita and Locarno mentioned as targets by Araujo.

209. In furtherance of this agreement, on March 12, 2001, Locarno and Orcasita were pulled off a company bus on their way home from their shift in the Drummond mine and executed by the AUC. Tolemaida was in charge of the operation, following the orders of Jorge 40, and one of Tolemaida's key commanders, Samario, participated as well. At a subsequent meeting in early May 2001, Adkins and Araujo met again with the top leaders of the AUC, including Jorge 40, Tolemaida, alias "Don Luis," who was Jorge 40's chief financial officer, and several AUC operatives who worked closely with Jorge 40, including "Kener," "El Chino," "El Toro," "Samario," "Machoman" and "05." The meeting was held at a farm on the road between Bosconia and Plato. In front of the entire group, including Adkins and Araujo, Jorge 40 congratulated Tolemaida for the successful operation of executing the two Drummond union leaders Locarno and Orcasita.

210. Although there are now numerous witnesses who have testified in

Colombia about the role of Drummond and Adkins and Araujo, as well as Jaime Blanco, in the murders of the union leaders, no serious action has been taken against Drummond or any of the individuals. Blanco's body guard, Charris, was recently sentenced to 30 years in prison for his very minor role in the executions in a classic example of using a less powerful fall guy. Likewise, Blanco was recently sentenced for his role in the union murders based in part on the Charris testimony, but none of the Drummond officials also implicated by Charris, including Garry N. Drummond, Augusto Jimenez, Araujo and Adkins, have been charged. The Court that sentenced both Charris and Blanco did order that these Drummond officials be investigated for their roles in the murder of the union leaders. During the years between the murders and the arrest of Charris, Drummond provided him with substantial financial support in exchange for his silence and promised him further support and asylum in the U.S. Based on Charris' testimony and other AUC witnesses, Blanco himself was ultimately charged for his role in the murders and was recently convicted. Blanco has joined Charris in stating that high-level Drummond officials, including Garry Drummond, Augusto Jimenez, Araujo and Adkins, were directly involved in the murders.

211. Tolemaida, who all concerned agree was the head of the AUC

operation to execute the union leaders at Drummond's request, was a fugitive in hiding in Venezuela when the AUC demobilization began. According to reports from Charris and others, Drummond provided Tolemaida with approximately one million U.S. dollars that he was to use to support himself in Venezuela and to keep him and his execution team quiet about Drummond's role in the murders, as well as Drummond's role in the other violence that the AUC visited upon the towns in or around the Perija Mountains and near or along the Drummond rail corridor. Tolemaida kept most of the money for himself when he fled to Venezuela. In December 2009, Tolemaida was captured in Venezuela and was extradited to Colombia, where he is now in custody at the Picota prison outside Bogota. He has through intermediaries attempted to bribe or threaten those who have given evidence of Drummond's collaboration with the AUC. According to other AUC members, in exchange for Drummond's support, he provided an August 11, 2011 declaration claiming that Drummond had no role in the AUC's financing. He has since recanted this denial when faced with the loss of benefits under the Justice and Peace process.

212. Drummond's shared mission with the AUC also extended to providing direct and substantial assistance to the AUC's drug trafficking

operations. Although the exact participants in the scheme are not yet known, Drummond's coal barges were used to transport cocaine from Colombia to the U.S. and Europe, and in fact drugs were found on Drummond's barges in its Colombian port. The AUC used drug revenues to support its troops, buy equipment, and generally maintain the AUC's Northern Block. Further, Drummond's coal barges served to transport cocaine to the U.S. and Europe.

213. All the forms of direct and indirect support Drummond provided to the AUC were specifically intended to further the joint purpose of eliminating the FARC and its supporters from the areas in and around the towns that lined the Drummond rail line.

Drummond Conspired With the AUC to Commit Extrajudicial Killings

214. Plaintiffs incorporate by reference paragraphs 1 through 213 of this Complaint as is set forth herein.

215. In *Cabello v. Fernandez-Larios*, 402 F.3d 1148, 1159 (11th Cir. 2005), the Eleventh Circuit held that the three elements for conspiracy are: (1) "two or more persons agreed to commit a wrongful act," (2) Defendants "joined the conspiracy knowing of at least one of the goals of the conspiracy and intending to help

accomplish it,” and (3) “one or more of the violations was committed by someone who was a member of the conspiracy and acted in furtherance of the conspiracy.” See *Balcero* Order at 22.

216. As to the first element, based on ¶¶ 70,74,89,92, and 103, *supra*, which are incorporated herein by reference, the AUC was formed based on agreement between its leaders, government backers, and private supporters, to attack areas where the FARC had strongholds. The express purpose of the AUC’s mission was to use violent means, including war crimes and extrajudicial killings, to accomplish its mission.

217. As to the second element, based on ¶¶ 91-92, *supra*, which are incorporated herein by reference, Drummond at first declined to join the AUC and support its mission, but no later than 1997 formally agreed to join the AUC’s mission of eradicating the FARC using violence that amounted to war crimes, including extrajudicial killings.

218. As to the third element, based on ¶¶ 114-159, *supra*, which are incorporated herein by reference, both the AUC and Drummond committed acts in furtherance of the conspiracy. The agreement was that Drummond would fund and direct the AUC’s war efforts in the areas in and around the Drummond rail line.

Both parties fulfilled their obligations under the agreement.

219. The coordination and funding meetings between the AUC and Drummond served to monitor, renew, refine and otherwise ensure that the parties continued to meet their obligations under the agreement. These meetings and the ongoing monthly funding provided by Drummond demonstrates that Drummond was satisfied that the AUC was meeting its specific obligations under the agreement made between the parties. This arrangement continued, according to Samario, until approximately April 2006, when the leaders of the AUC's Northern Block formally demobilized.

220. In addition to the meetings between Drummond and the AUC that allowed Drummond to receive updates on the progress of the AUC's war against the FARC, Drummond's own security staff, including Adkins and his employees and agents, gathered detailed intelligence on executions and other acts of violence carried out by the AUC in furtherance of Drummond's agreement with the AUC. Adkins made regular reports and briefings to the officers of Drummond based in Alabama, including Garry N. Drummond and Mike Tracy.

221. Alfredo Araujo met with the AUC leaders frequently due to his personal friendships with Jorge 40, Tolemaida and Jaime Blanco. On several

occasions, Araujo provided names of persons to be executed in furtherance of the agreement between Drummond and the AUC to eliminate persons suspected of being members or supporters of the FARC. As previously alleged, Araujo provided at least 40 names to the AUC of persons to be executed as suspected guerrillas in furtherance of the agreement between Drummond and the AUC. Further, according to Samario, hundreds of other civilians were murdered as the plan AUC implemented in its agreement with Drummond to destroy the FARC and pacify the towns in or around the Perija Mountains and along or near the rail corridor. Plaintiffs' decedents were among those killed as part of the AUC's operations funded by Drummond.

The AUC Acted as Drummond's Agent When it Committed Extrajudicial Killings

222. Plaintiffs incorporate by reference paragraphs 1 through 221 of this Complaint as is set forth herein.

223. The elements of agency are that (1) Drummond had a relationship with the AUC; (2) in committing the acts alleged, the AUC was acting on Drummond's behalf and under its control; and (3) the executions of the Plaintiffs' decedents were

within the scope of the relationship. *See Balcerio* Order at 26 n. 19.

224. As to the first element, based on ¶¶ 114-59, *supra*, which are incorporated herein by reference, Drummond entered into a specific agreement with the AUC that Drummond would provide substantial support to the AUC to purchase weapons and supplies to equip at least 165 new men for the Northern Block. In exchange, the AUC would pursue the FARC and destroy its strongholds in the towns in or around the Perija Mountains and near or along the Drummond rail line.

225. As to the second element, based on ¶¶ 114-59, *supra*, which are incorporated herein by reference, Drummond provided specific direction to the AUC on the towns to be attacked, and in some cases, the people to be executed. The hundreds of innocent civilians who were executed in the towns in or around the Perija Mountains and near or along the Drummond rail corridor, including Plaintiffs' decedents, were killed in the AUC's attacks on the towns that Drummond identified as places to be attacked and pacified.

226. As to the third element, based on ¶¶ 95 and 159, *supra*, which are incorporated herein by reference, all of the Plaintiffs' decedents were killed by the AUC's Northern Block in furtherance of its operations on behalf of Drummond in the towns in or around the Perija Mountains and near or along the railroad corridor.

All of the Plaintiffs' decedents herein were killed by the AUC's Northern Block. The Justice and Peace process is ongoing, but all of the Plaintiffs' decedents have either been officially declared to be a civilian victim of the civil conflict, or they were in fact killed during the course of the civil conflict. All of the executions of the Plaintiffs' decedents occurred after Drummond made its first agreement with the AUC as described herein.

227. Drummond's ongoing regular payments to the AUC from approximately 1997-April 2006, with full knowledge by Drummond of the specific acts of violence and terror committed each month by the AUC in the areas in and around the Drummond rail line, constitutes ratification of these acts.

The AUC Was Acting Under Color of the Authority of the Colombian Government

228. Plaintiffs incorporate by reference paragraphs 1 through 227 of this Complaint as is set forth herein.

229. Drummond ensured close cooperation from the Colombian military by hiring influential military officers for its security operations. In all cases, these military officers also had a relationship with or were supporters of the AUC. As previously alleged, General (ret.) Rafael Peña Ríos was the head of security for

Drummond in Colombia and was openly supportive of the AUC's mission of eliminating leftist guerrillas.

230. During most or all of the time in which Plaintiffs' decedents were executed, the head of security at the Drummond mine was Colonel (ret.) Luis Carlos Rodriguez, who had good relations with both the military from the Popa Battalion stationed on the Drummond property, but also with the leaders of the AUC in that area, particularly Samario and Cebolla. According to one soldier in the Popa Battalion, Colonel Rodriguez coordinated the activities of the regular military and the AUC.

231. One major way that the Popa Battalion assisted the AUC was to take civilians who had been executed by the AUC and dress them in guerrilla uniforms to legitimize or "legalize" the murders. There were 300 soldiers from the Popa Battalion stationed at a base on the Drummond property near the mine and were there to protect both Drummond's property as well as its personnel, in particular, its U.S. personnel who live on their own compound with 24-hour military protection. Drummond provided supplies, food and funds for the troops to be stationed there.

232. As previously alleged in ¶¶ 66-87, *supra*, which are incorporated herein by reference, the Colombian government had a direct role in setting up the AUC to

serve as a special branch of the Colombian military that was unconstrained by the Geneva Convention and other rules of war.

233. Further, as previously alleged in ¶ 87, *supra*, which is incorporated herein by reference, in a September 13, 1995 memo, Adkins reported to Mike Tracy that he had been approached by a military commander from the Cordoba Battalion to have Drummond join other companies in supporting the formation of a paramilitary unit to pursue guerrilla units in the area of Drummond's operations.

234. The specific AUC units that ultimately formed within the Northern Block and the Juan Andres Alvarez Front were thus initially formed, according to Adkins, through the direct participation of a Colombian military officer, who openly sought the assistance of Drummond to support this special force of the Colombian military. According to several AUC commanders, including El Tigre and Samario, the Colombia military had a direct role in providing funds to the AUC to support AUC operations around the Drummond facility.

235. Once the AUC's Northern Block became functional in the areas in and around the Drummond rail line, the Colombian military operated in a cooperative fashion. According to AUC Commander El Tigre, the understanding was that "the Colombian army provided the stationary guards for Drummond's property. The

AUC's role was to hunt and destroy the FARC and its sympathizers." El Tigre and Samario both served as AUC coordinators with the Colombian military stationed on Drummond's property.

236. With respect to the La Popa Battalion's practice of assisting the AUC by creating "false positives," the specific troops assigned to the Drummond facilities, and paid by Drummond to be there, utilized this practice from their base on the Drummond property. One member of that battalion, Edwin Guzman, has testified under oath that he was ordered by his superiors while serving in the Drummond security units to put guerrilla uniforms on civilians executed in and around the Drummond facilities by the AUC.

237. Because the Colombian military helped to create the AUC, including the Northern Block, and then the specific military units of the La Popa Battalion based on Drummond's property cooperated and coordinated with the AUC, and provided direct funding to the AUC, the AUC units of the Northern Block were acting under color of law, either because they were engaged in joint action with the Colombian military or were in a symbiotic relationship with the Colombian military.

238. Plaintiffs have suffered damages, including emotional harm, loss of

companionship, and loss of financial support, as a result of the murders of their relatives. Plaintiffs seek compensatory and punitive damages in amounts to be ascertained at trial for the harm they have suffered individually as a result of the murders of their relatives.

VIII. DEMAND FOR JURY TRIAL

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

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the Court to:

- (a) enter judgment in favor of Plaintiffs' TVPA claims against Defendant Drummond;
- (b) award Plaintiffs compensatory and punitive damages;
- (c) grant Plaintiffs equitable relief, permanently enjoining Defendant Drummond from further engaging in human rights abuses against Plaintiffs and other members of their communities in and around the Drummond facilities in Colombia;
- (d) award Plaintiffs the costs of suit including reasonable attorneys' fees; and

(e) award Plaintiffs such other and further relief as the Court deems just under the circumstances.

Respectfully submitted this 3rd day of June 2019.

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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2019, I caused the foregoing to be electronically filed with the Clerk of Court using the CM/ECF system which will send notification of the filing to the following:

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