

No.: _____

IN THE
SUPREME COURT OF THE UNITED STATES

VICTORIA ELIA KALDAWI
Petitioner (Pro se)

vs.

STATE OF KUWAIT,
MINISTRY OF INTERIOR,
MAJOR GENERAL FAHED AHMAD AL-FAHED,
MAJOR GENERAL ABDULLAH ABDUL-RAHMAN AL-FARES,
MAJOR GENERAL ABDUL-RAHMAN AL-SUHEIL,
And DOES 1-10 inclusive,
Respondent(s)

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS - 9TH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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July 4, 2018

QUESTIONS PRESENTED

I, hereby, Victoria Elia Kaldawi (Petitioner-Appellant-Plaintiff Pro se), present to your Honorable Great Judges of The Supreme Court of the United States, Washington DC, my Writ of Certiorari, against Unjust Unlawful Dismissal Judgements, as I beseech you and plead to your hearts, for your Honors, that all who review my Petition for my Life Case, to Stand by Me as if I am your Daughter or Sister, as I have been battling with My Universal Cry for Justice, for 23 years FOR PEACE & JUSTICE to prevail from: USA (Land of Liberty & Justice to All, One Nation under God) & Ally State of KUWAIT, Pearl of the Gulf, & for 4 years in US Federal Courts Representing Myself, facing many Denials and Unlawful Dismissals, after 23 years of Denial from State of Kuwait who avoided sending the Certificates re proof of Service with disregard to the Hague Convention, after 4 Mail Attempts to Serve by Petitioner Victoria thru US Federal Court-LA., as I am seeking Reconciliation and Remedies for My VIOLATED HUMAN RIGHTS, as An INNOCENT INJURED OPRESSED US Citizen VICTIM of many Crimes against Humanity, Torture, and Cruel, Inhuman and Degrading Treatment committed against me on July 4, 1995, as This is my Last Resort for Justice, under your Honors Wise Just Men & Women of God, Leaders of Justice in the Supreme Court of Law.

I, Victoria Elia Kaldawi (“Petitioner Pro se”), a Loyal US Citizen of Lebanese Origin, Christian - Catholic Woman of God, born in Kuwait on Feb. 26 (Its Liberation, though Kuwait doesn’t give any birth rights or residency to any foreign born there), where my Late Parents lived happily for 30 years, as my late Dad Elia 1924-2016 (known as Abu Nassif) worked for Kuwait Airways 22 years, till

we Immigrated to USA in 1986, and reside in Los Angeles, California.

Why I wasn't Rescued by US Embassy in Kuwait, as on JULY 4th 1995 (USA Independence Day), while All Americans were celebrating our Independence Day, when I, US Citizen, was forcibly KIDNAPPED & ABDUCTED ILLEGALLY by Respondents 3 Kuwaiti Agents (UNDER THE COLOR OF LAW) (who work for Respondent Ministry of Interior by orders of Respondents Supervisors Al-Fahed & Al-Fares), when I was preparing joyfully to attend the celebration of our USA Independence Day invited by US Ambassador Ryan Crocker, from my home-rented apartment in Kuwait, where I operated my work while I was involved in Commercial activity after Liberation doing business in a post-Gulf war reconstruction in Kuwait (as a Consultant, Representing American Companies to do Business in Kuwait specialized in Mines cleaning and Oil, and I Published for Respondent State of Kuwait "Kuwait International Directory 1994 – Economic, Investment & Touristic"- 400 pages (200 pictures) in English & Arabic Languages as I established "Victoria International Trading Co.". I was brutally TORTURED, ASSAULTED, SLANDERED, PERSECUTED and DETAINED for Four Days and Nights UNLAWFULLY for no legal reason with acts of Libel & Slander, in a dark cell on floor, then I was DEPORTED to Lebanon instead of my Home USA. All just because I Said No and refused to do business anymore with an Evil Bad Former Kuwaiti Partner Respondent Al-Fahed, who betrayed me & denied all my commission fees of \$250K Commission after I had signed in 3 months an \$11 million Contract 1992 for Mine Cleaning for US Company in Kuwait, then he asked the 3 American consultants I introduced and signed contract for with my own efforts, while they were kidnapped in Iraq for a month,

to hang up on me and they did. He kept threatening me after I published Kuwait Directory, and as I became a prominent public figure in Kuwait 1994-1995, as my Mission to spread Love and Peace, started publicly in Kuwait (Appendix C-19).

Sadly the US Embassy in Kuwait didn't rescue me, as their Foreign Service National Consular & other officers abandoned me to get persecuted in collusion and in conspiracy with unlawful Kuwaitis, favoring political powers of money and oil over a Human Life of a US Citizen's life, as they didn't exercise their due care to perform their Mandatory Discretionary duties to protect and rescue me as a Victim US Citizen abroad, though I was registered with the US Embassy and was known, and though they were notified & knew about me, from day one, so they partnered in crime, though they usually rush to help other US Citizens in trouble abroad, even ones who were guilty of drunk driving, or on drugs, etc.. I was very hurt, broken & shocked when they forsake me.

Respondents 3 Agents in this case destroyed, ruined & shattered my life in every way, killed me alive brutally, bleeding till today. I was injured harshly and hurt in every way, physically, emotionally & financially and I was traumatized with PTSD as I suffered for many years with my family and my beloved late parents suffered with me. I lost my health & finances, my goodwill, and my Kuwait Book Profits, as they jeopardized & damaged all I have worked hard for clean money & my Goodwill.

I hereby present my Questions for review to Your Honorable Judges:

For JUSTICE to PREVAIL from The Supreme Court of the United States, WDC, based on USA Federal Laws and Statues, and International Human Rights Laws and Treaties that apply to this case, as well based on Humanitarian Laws of Love and Mercy for Humanity, which are above all Man's Laws that Rule our Hearts.

I. Why this Court has Jurisdiction to Rule for Entry of Default against Respondents Foreign State of Kuwait and its Instrumentality Ministry of Interior, then Rule for Default Judgement Against all Respondents, if they don't answer, as they were served per Hague Convention, based on Title 28 U.S.C. §1608 (e), and based on the Federal Statues and Laws and Authorities presented in this Writ of Certiorari. Respondents State of Kuwait and its Ministry of Interior are Not Entitled to Immunity pursuant to Exceptions to Foreign Sovereign Immunities Act (FSIA) of 1976 that apply to claims alleged in this action:

A. JASTA which was enacted By US Congress in Sept. 28, 2016, in God's Timing, and for Supreme Court to hold that RETROACTIVE APPLICATION APPLIES to JASTA, in this case, that the FSIA applies retroactively, and even though the crimes alleged and torture happened to Petitioner, was carried out far from the USA, as in 2004, the Supreme Court held in Altmann v. Republic of Austria, 541 U.S. 677, 691, 124, S.Ct.2240-2249 (2004):

Per 28 U.S.C. § 1605B (b)(2); 28 U.S.C. § 1605B (a)(1); 28 U.S.C. §1605B (c) 28 U.S.C. § 1605A (a)(1) & § 1605A (a)(2)(A)(ii)(I). As well Terrorism Exception to the Jurisdictional Immunity of a Foreign State as JASTA authorizes federal courts to exercise personal jurisdiction over any foreign state's support for acts of International Terrorism against a U.S. national or property regardless of whether such state is designated as a state sponsor of terrorism or not, as when Petitioner Victim at the time when alleged crimes occurred was a National of the United States; as "International Terrorism" is defined in 18 U.S.C. § 2331, applies with Torture, and Respondent State of Kuwait as Pearl of the Gulf, is not and will

never be on list of countries of States Sponsors of Terrorism, as well as Kingdom of Saudi Arabia, who is currently sued in US Federal Courts with Jurisdiction, per New Law JASTA, as in many cases: Burnett v. Kingdom of Saudi Arabia, 1:03-cv-09849-GBD Document 741 (3/17/17), and others mentioned below in Reasons I-A.

B. Commercial Activity Exception 28 U.S.C. § 1605 (a)(2) & 28 U.S.C. §1603 (a), (b), (d) and (e), as Petitioner's Commercial Activity with State of Kuwait had an Ongoing Effect in USA; and

II. Why The Supreme Court of US have Jurisdiction to rule for Default Judgement against the 3 Individual Former Retired Agents Respondents Al-Fahed, Al-Fares and Al-Suheil (who entered Default per court order on Feb. 17, 2016 (Appendix B-4), and were served properly per Hague Service Convention as requested by court, with Motion Documents, Memorandum of Points and Declaration, on May 19, 2016, 2016 Dkt.72 (Appendix-C-6) by Federal Express served and delivered same day to all with proof of Service filed in court, pursuant to 28 U.S.C. § 1608(a)(2) and (b)(2)] and (c)(2), and they failed to reply in 60 days:

A. Per The Torture Victims Protection Act of 1991 (“TVPA”), S.REP.NO.102-249, at 5; H.R.REP.NO.102-367, note (TVPA; Pub. L. No. 102-256, H.R. 2092, 106 Stat. 73 (enacted March 12,1992), (Pet. App. 97a-99a), (Appendix C-1), amended the ATS 28 U.S.C. 1330: provides and extends Civil Remedies to individuals US. Citizens who are victims of torture abroad by persons acting in an official capacity of any foreign nation. As Torture definition is per 18 U.S. Code § 2340. TVPA Petitioner claimant Victoria exhausted all “adequate and available” remedies in the State of

Kuwait, country where the offense occurred. **Re Touch and Concern, No such requirement applies to the TVPA, only to ATS.**

Petitioner Victoria may continue to bring TVPA claims against foreign defendants for torts committed outside the United States. In this Case, Petitioner Victoria asserts that the Statue of limitations period by TVPA of 10 years IS SUBJECT TO EQUITABLE TOLLING LAW, where the court applies common law principles of equity to extend the time for the filing of a lawsuit. as in this case: Petitioner/Plaintiff Victoria has been, mentally incompetent, traumatized with PTSD, and The Respondent/Defendants are not physically present in a the States. See **Hilao v. Estate of Marcos, 103 F.3d 767, 773 (9th Cir. 1996)** (citing S. Rep. No. 249, 102d Cong., 1st Sess., at 11 (1991)) ; see also **Jean v. Dorelien, 431 F.3d 776, 780 (11th Cir. 2005)**.

TVPA 1991 (Appendix C-1) is a statute that allows for the filing of civil suits in the United States **as it creates a federal cause of action against an individual who have committed or aided and abetted acts of Torture** under actual or apparent authority, or Under Color of Law, while acting in an official capacity for any foreign nation, against a US Citizen, as held in the Supreme court case of ***Dianna Ortiz v. Guatemala*** - Case 10.526, Report No. 31/96, Inter-Am.C.H.R., OEA/Ser.L/V/II.95 Doc.7 rev. at 332 (1997).

Petitioner Victoria contends that the **Three named individual Respondents: Al-Fahed, Al-Fares & Al-Suheil** who **committed alleged crimes against Petitioner Victoria, Under Color of Law, are Retired Former Agents, who no longer work for the government of Kuwait, who were agents of the State of Kuwait at the time the herein damages were incurred, so they have No sovereign immunity** as held in the Supreme Court case of ***Samantar v. Yousuf, (2010) 560 US***

at 305, 315-316, 130 S.Ct. 2278, 2287-2289] that the FSIA does not provide immunity to individual Former Foreign Officials sued for conduct undertaken in their official capacities.

B. United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, of which a. and c. constitute Federal Common Law, GA RES.39/46, ANNEX, 39 UN GAOR SUPP (no 51) at 197, UN Doc. A 39/51 (1984) entered into force June 26, 1987, particularly articles 1, 2 and 16. (Appendix C-2)

III. This Human Rights Case is Not Time Barred based on:

A. The State Tort Law Claims asserted in Petitioner Victoria's Complaint against all Respondents IS NOT TIME BARRED, though Petitioner Victoria filed the Claims 19 years after the alleged Crimes, and though there is no Statute of Limitation under the FSIA and JASTA.

B. The 10 year statute of limitations under the Torture Victim Protection Act (TVPA) may be equitably tolled in exceptional circumstances in which parties are prevented in some extraordinary way from exercising their rights per 28 U.S.C. §1330.

C. Because such alleged Claims in Petitioner Victoria's Case are CRIMES AGAINST HUMANITY committed against Petitioner, so Due to IMPREScriptibility: The non-applicability of statutory limitations to war crimes and crimes against humanity, the waiving of time-bars on legal actions that has become a core principle of human rights thought: it is applied to fight impunity (by prosecuting perpetrators of serious crimes until their deaths) and to protect human dignity (by granting their victims and society at large a right to the truth).

IV. Your Honorable Judges, what would you do? God Forbids, if what happened to me Petitioner-Appellant-Plaintiff Victoria, of all these horrible crimes alleged in this case of kidnapping, torture and persecution, etc., had happened to your honor yourself, or to your loved one: your daughter or your Mother or wife or sister? The Girl and Daughter is Very Precious to her Family and is the pride of her Family and her Community. **What would a Godly Person do if an evil one attacks and hurts his own & kill her alive?**

Please Let us adhere with the Laws of God of Love and Mercy for Humanity above all Material, Oil and Money favors, and all human wrong influences and ungodly actions, against all prejudice and discrimination, as Justice prevails when We Do Onto Others as We Want Them To Do Onto US, for What Goes Around Comes Around, and Anyone who supports a Crime or Torture is a Partner in Crime, and Carries the Sin of Such Crime. Our God who is our Just Ruler gives time to the Unjust but Never Forsakes & Judges all according to our Deeds, as I believe and hope in judging over cases, we first pray and seek God and his intuition and blessings.

V. Where is Liberty & Justice to all in USA, One Nation under God, for ALL USA Citizens? We are here in the USA court for Justice to prevail against all Political and Money and Oil Favors, Aren't we all and each one of us is human and equal in front of God and are important to our family and community and country. If I was Caucasian, or daughter of a Sheikh, would I be helped more and would have been rescued by US Embassy in Kuwait, even Kuwaitis wouldn't have dared to hurt me.

I am from Beloved USA Nation of Liberty, One Nation under God, and from Lebanon Paradise on Earth", and I was born in Kuwait, Pearl of the Gulf. I am from Paradise Lebanon, of Phoenician Great Civilization, the Homeland of the Message of Love & Peace and many Saints, where the First Law School was established, and the Origin of many Prominent Humanitarians & Artists like Danny Thomas, Jubran Khalil Jubran, The Monk (Tony Shalhoub), Casey Kasem, and Great Dr. Charles Habib Malik of Lebanon, (1906 - 28 December 1987) who was a Lebanese academic, diplomat, and philosopher. He served as the Lebanese representative to the United Nations, President of the thirteenth re session of the General Assembly, the President of the Commission on Human Rights and the United Nations General Assembly, a member of the Lebanese Cabinet, a national minister of Education and the Arts, and of Foreign Affairs and Emigration, and theologian. He was responsible for the drafting and adoption of the 1948 Universal Declaration of Human Rights. Chairman of the Assembly's Social and Humanitarian Committee, in the hammering out and adoption of the Universal Declaration of Human Rights in Paris.

VI. Where Do I Belong Safe Home? We immigrated to USA, considered the Mother of the World, LAND OF LIBERTY AND JUSTICE TO ALL, as a Lebanese Citizen born in Kuwait, happy to settle for a secure home, with rights to all, with great hopes for a brighter future, away from wars in Lebanon then, and to belong as Christians to a Godly nation. God Bless America my home sweet home that I love and cherish. But I don't know yet where do I belong safe home, though my home is USA? Isn't it "What happens or hurts One American, hurts and affects all Americans". I. We had enough of Prejudice, and enough of Religious and political

discrimination, etc. We are One under One God. Aren't we all and each one of us is human and equal in front of God and are important to our family and community and country & as we US Citizens are valuable, from every color.

USA and American people have great unique powerful influence on the world and all world issues, wars and treaties, Peace and Media, etc.

I don't want to hurt no one and I do not wish to jeopardize good relations of USA & Kuwait. I Love Kuwait, and I Love Good Godly Kind Kuwaiti people, and if few were bad and hurt me secretly and illegally, still there is a Divine Role for Kuwait & Kuwaitis, and USA with my Mission to spread Love & Peace, Truth & Justice, and I need to seek Kuwaitis and your Honorable kindness and generosity in this matter so we can resolve my case successfully. I just need my Justice with Love and Respect to all.

VII. If Governments seek to hold human rights abusers accountable, as the perpetrators have been protected by governments which instigate and condone such abuses and by the all-too-common acceptance of male violence against women as despite of many gross human rights abuses, many of the men responsible for these or for countless similar crimes against women around the world has been brought to justice in home country. In USA, there are many cases where women were able to seek one form of justice, they sued the perpetrators of these vicious crimes in U.S. federal courts, even though the rapes and torture were carried out far from the United States. Since 1980, in a remarkable series of cases, the U.S. federal courts have repeatedly upheld the right of victims of human rights abuses to sue those responsible

for their ordeal. Other applicable Int'l cases that ruled for justice for Plaintiffs

Victim women who won in different International courts in England, Kuwait, Egypt:

In England: *Janan George Harb Vs Saudi Royal Family* (2015) Case No: A3/2014/2316. She was the wife of Late Husband King Fahed of Kingdom of Saudi Arabia, but was deported for her Christian ethnic background and then property taken from her.

in Kuwait: *Farhat v. Kuwait*, (12-1993), A Petition filed with The United Nations Commission on Human Rights, Pursuant to Resolution 1503 (dec.3, 92) submitted by Beth Stephens & Jennifer Green, Center For Constitution Rights, NY, USA. The horrible abuse inflicted upon Naimat Farhat including rape and other sexual assault, a gunshot wound to the head, and the terrible experience of hearing the gunshots which killed her father and brother, constitute torture under int'l law.

Case in Egypt: *Suzan Tamim v. Talaat* (2012) An Egyptian court has handed a billionaire, who ordered the killing of his pop-star lover, a reduced sentence of 15 years after an earlier trial sentenced him to death.

VIII. It is important to share this fact, as I give thanks to God Lord Jesus Christ Holy Spirit, and I have strong faith that he is with me in this case governed by Power of Love, in God's will & in his timing, God who is Love, the Compassionate, Merciful and Just Ruler, who inspired as a baptized Christian from Holy Spirit Intuition granted to me, to enable me to prepare all legal documents submitted by myself with minor consulting: Docket # 1 to # 99 in US Federal Court & Docket # 1 to 25 in US Court of Appeals 9th Circuit, and this Petition for Writ of Certiorari.

IX. In every Filing, I give Honor and Remember My Angel Late Mom Georgette, who was an amazing True Saint, who is the One who encouraged To Battle and Seek my Rights for Justice, and she pursued our coming to America for secured future after she spent 30 years in Kuwait away from her homeland Lebanon for work and better life for us. We sacrifice harder life than normal, we faced a lot of crimes in our lives and malpractice, lost many homes and finances, etc. We contribute our talents and expertise with great love and appreciation, to give in return, to the country that opens its door for us, as we did to Kuwait and USA. If we're given the money and land then we give back to you our Loyal Love and Devotion, our life and talents to help make a difference as we become one. Also my kind mom and dad taught us to love and respect all people and appreciate the land and country we live in, Kuwait and USA always. We live in harmony with all races and religions, with our neighbors & friends, in Kuwait, Lebanon and here in USA.

Your Honorable Judges, I am a Godly Christian Faithful Peacemaker Woman, and I suffered a precious lifetime of my youth years since 1995, Wounded from all these crimes alleged, and since I filed Sept. 2014, I am battling for my Justice, with all filings and to serve 5 times all Defendants in Kuwait, which cost me thousands of dollars. Respondent Kuwait ignored all served Pleadings and Motion Documents influenced by Kuwaiti Government's intervention in US Federal Courts to dismiss my case? All Crimes committed against Petitioner Victoria were committed under Color of Law, but No One is above the Law, in USA Courts of Justice.

There is a Haven of more than one Key US Federal Law to a Just Resolution for my life case under all the Federal Statutes of the United States of America, International Treaties, the Just Human Rights Laws & as Truly (Nation of Liberty & Justice to All-One Nation Under God), that apply to my case re Exceptions of FSIA against a Foreign Nation as Respondent State of Kuwait & Its Ministry of Interior who are Not Immune pursuant to all mentioned Laws & Points in my Petition that would grant me Justice with just award and compensation for all my injuries, pain & Suffering, since 23 years to help me regain what is remaining of my life.

Petitioner Victoria presented all proper Evidence that should be satisfactory to the Court, in all Appendices A, B, and C, which include: Letter from US Embassy in Kuwait, Airline Ticket used for Deportation, and Petitioner Victoria US Passport, then all documents as proof of my Commercial Activity with State of Kuwait.

LIST OF PARTIES

All Parties appear in the Caption of the Case on the Cover Page.

	<u>TABLE OF CONTENTS</u>	<u>Page</u>
QUESTIONS PRESENTED	ii	
TABLE OF AUTHORITIES CITED	xvi	
CASES	xviii	
STATUTES AND RULES	xx	
OPINIONS BELOW	1	
JURISDICTION	1	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	2	
STATEMENT OF THE CASE	9	
FACTS	11	
PROCEDURAL HISTORY	13	
REASONS FOR GRANTING THE WRIT	17	
I. THE MEMORANDUM INVOLVES IMPORTANT ISSUES DEMANDING NATIONAL UNIFORMITY ON WHICH THE PANEL'S DECISION DIRECTLY CONFLICTS WITH AUTHORITATIVE DECISIONS OF THE US SUPREME COURT AND OTHER US DISTRICT COURTS	18	
A. NEW LAW JASTA	21	
B. COMMERCIAL ACTIVITY	27	
II. THE PANEL'S DECISION OVERLOOKED APPLICABLE FEDERAL LAWS THAT ASSERT US COURT'S JURISDICTION RE EXCEPTIONS TO FSIA AGAINST 3 INDIVIDUAL RESPONDENTS	30	
A. THE TORTURE VICTIMS PROTECTION ACT OF 1991 ("TVPA")	31	
B. THE UNITED NATIONS CONVENTION AGAINST TORTURE	33	
III. THE US COURT HAVE OVERLOOKED THE FACTS THAT INVOLVES A QUESTION OF EXCEPTIONAL IMPORTANCE THAT THIS HUMAN RIGHTS CASE IS NOT TIME BARRED	35	
IV. THE COURT DISREGARDED MY DOCUMENTED PROOF OF SERVICE TO ALL RESPONDENTS PER HAGUE CONVENTION	36	
V. COURT OVERLOOKED FACTS NECESSARY PER FEDERAL RULES FOR PETITIONER TO AMEND REQUEST FOR RELIEF	38	
CONCLUSION	39	

INDEX TO APPENDICES		Page
APPENDIX A-1:	Mandate of the United States Court of Appeals–9th Circuit, Dt. May 16, 2018 Dkt.25.	1
APPENDIX A-2:	Court Order of United States Court of Appeals – 9th Circuit, Dt. May 8, 2018 Dkt.24.	1
APPENDIX A-3:	Memorandum Deposition of US Court of Appeals–9th Circuit, Dt. December 26, 2017 Dkt.18.	1, 18
APPENDIX B-1:	Opinion of the United States District Court – Los Angeles, Dt. March 17, 2017, Dkt.94.	1
APPENDIX B-2:	Court Order Dt. August 2, 2016, Dkt. 78.	16
APPENDIX B-3:	Court Order Dt. March 10, 2016, Dkt.55, To Show Cause..	15
APPENDIX B-4:	Court Order Dkt.52, Entry of Default of 3 Respondents	14, 15
APPENDIX B-5:	Court Order Dt. Dkt.51, To Show Cause Re Dismissal..	14
APPENDIX C-1:	The Torture Victims Protection Act of 1991 (“TVPA”)	vi, 31, 32
APPENDIX C-2:	Legal Addendum by Lawyer Victor Conde Dt. May 10, 2004	viii
APPENDIX C-3:	Cover Pages of Article re Case & Press Release in Media.	
APPENDIX C-4:	Complaint First Pg filed in US District Court-L.A.Sept.18,2014	9, 13
APPENDIX C-5:	Proof of Service Pleading to Respondents by FedEx	5-14, 2015 8, 14
APPENDIX C-6:	Proof of Service of Motion Docs	Dkt.72 May 10, 2016 vi, 2, 34
APPENDIX C-7:	Websites of Minister of Foreign Affairs & Interior Served	37
APPENDIX C-8:	Letter from the US Embassy in Kuwait dt. March 1, 1997.	
APPENDIX C-9:	Plaintiff Victoria USA Passport with Deportation&Airline Ticket	
APPENDIX C-10:	Invitation to US Embassy 7-4,95 & Veterans Day in Kuwait.	
APPENDIX C-11:	Two Awards Certificates to Victoria from NRCC 2003	
APPENDIX C-12:	Letter from the White House to Victoria dt. June 28, 2004	
APPENDIX C-13:	Letter from US Dept. of State to Victoria dt. July 26, 2004.	
APPENDIX C-14:	Letter to Secretary General Kofi Annan, dt. May 12, 2004.	
APPENDIX C-15:	Letter to Kuwait Officials by Lawyer Victor Conde Jan.28, 2005.	
APPENDIX C-16:	Authorization Letter from Ministry of Information, for Petitioner Victoria to Publish Yearly Edition of “Kuwait International Directory 1994”.	
APPENDIX C-17:	Cover of Published “Kuwait Int’l Directory 1994” by Petitioner	

APPENDIX C-18: First Page “Kuwait Int’l Directory-1994” published by Victoria

APPENDIX C-19: Petitioner Victoria Logo for Love and Peace in Kuwait Directory.

APPENDIX C-20: Victoria’s Dedication pages to Kuwait Liberation Day, pg 17.

APPENDIX C-21: Victoria’s Welcoming to Kuwait in Directory page 22.

APPENDIX C-22: Victoria’s Photos doing Press Conference for Kuwait Directory, & presenting it to Former Lebanese President & Prime Minister.

APPENDIX C-23: Page 57 Ministry of Foreign Affairs, his Highness Sheikh Sabah.

APPENDIX C-24: Page 73 Ministry of Interior.

APPENDIX C-25: Page 75 Ministry of Information.

APPENDIX C-26: Letter from Minister of Communications, Electricity & Water.

APPENDIX C-27: Letter from Former Minister of Electricity & from Central Bank.

APPENDIX C-28: Letter from Former Minister of Commerce & Industry

APPENDIX C-29: Certificate from Chamber of Commerce.

APPENDIX C-30: Advertising Contract between Plaintiff & Kuwaiti Govt. Companies

APPENDIX C-31: Advertising of Victoria International Trading Co. in Book.

APPENDIX C-32: Advertising of Kuwait Airways (2 pages) Govt. owned.

APPENDIX C-33: Advertising of United Arab Shipping Co., Govt. owned.

APPENDIX C-34: Advertising of Industrial Investment Co., Govt. owned.

APPENDIX C-35: Advertising of Livestock Transport, Govt. owned.

APPENDIX C-36: Advertising of Burgan Bank, Govt. owned & Al-Fahed Co.

APPENDIX C-37: Letter from Kuwait Chamber of Commerce ordering 5 copies.

APPENDIX C-38: Letter from Kuwait Fund ordering 100 copies of Kuwait Directory.

APPENDIX C-39: Letter of Appreciation to Victoria from Deputy Head of Kuwaiti Senate

APPENDIX C-40: Letter of Appreciation to Victoria from Minister of State for Cabinet Affairs

APPENDIX C-41: Letter of Appreciation to Victoria from Ministry of Public Works

APPENDIX C-42: Business Contract with Respondent Al-Fahed dt. June 1, 1991.

APPENDIX C-43: Victoria’s Father Elia Kaldawi Affidavit dt. April 7, 2016, 3 Pages.
Father Elia photos receiving Reward for 22 years at KAC.

APPENDIX C-44: Photos of Victoria’s work coaching children in Elementary Schools in LA.

TABLE OF AUTHORITIES CITED

<u>CASES</u>	<u>Page(s)</u>
<i>911 Plaintiffs v. Kingdom of Saudi Arabia</i> , 1:03-md-01570-GBD-SN et al	27
<i>Aasheim et al v. Kingdom of Saudi Arabia et al.</i> 1:17-cv-05471 (7/19/2017)	27
<i>Abtello et al v. Kingdom of Saudi Arabia et al.</i> , 1:17-cv-05174 (7/10/2017)	27
<i>Abedhajajreh v. Kingdom of Saudi Arabia</i> , 1:17-cv-06123 (2017)	27
<i>Aiken et al v. Kingdom of Saudi Arabia</i> , 1:17-cv-00450 (1/20/2017)	27
<i>Altmann v. Republic of Austria</i> 541 US 677, 691, 124, S.Ct.2240-2249 (2004)	v, 21
<i>Argentine Republic v. Amerada Hess Shipping Corp</i> 488 US 428, 434, 109 S. Ct. 683, 688 (1989)	20
<i>Arrowood Indemnity Company et al v. Kingdom of Saudi Arabia</i> , 1:17-cv-03908 (5/23/2017)	27
<i>Ashton et al v. Kingdom of Saudi Arabia</i> , 1:17-cv-02003 (March 2017), US Federal court	26
<i>Big Sky Network Canada, Ltd. v. Sichuan Provincial Government</i> , 533 F.3d 1183 (10th Cir. 2008)	30
<i>Burnett et al v. The Islamic Republic of Iran et al</i> 1:15-cv-09903, (Dec.18,2015)	26
<i>Burnett v. Kingdom of Saudi Arabia</i> 1:03-cv-09849-GBD, 741 (3/7/2017)	vi, 24, 26
<i>Cf. Republic of Argentina v. Weltover, Inc.</i> , 504 U.S. 607,611,618-620 (1992)	30
<i>Desimone v. Kingdom of Saudi Arabia</i> , 1:17-cv-00348 (1/18/2017)	27

Dianna Ortiz v. Guatemala

Case 10.526, Report No. 31/96, (1997) vii, 32

Eitel v. McCool,

782 F.2d 1470, 1471-72 (9th Cir. 1986) 30, 35

Filártiga v. Peña-Irala,

630 F.2d 876 (2d Cir. 1980) 32

Hilao v. Estate of Ferdinand E. Marcos,

978 F.2d 493, 499, No. 95-16779 (9th Cir. 1992-1996) vii, 32

Pepsi Co v. Cal. Sec. Cans,

238 F. Supp. 2d 1172, 1177 (C.D. Cal. 2002) 35

Philip Morris USA v. Castworld Prods., Inc.,

219 F.R.D. 494, 499 (C.D. Cal. 2003) 35

Samantar v. Yousuf,

560 U.S. 305 & 130 S.Ct. 2278 (2010) vii, 35

The Underwriting Members of Lloyd's Syndicate 53 et al. v. K. Saudi Arabia,

1:17-cv-02129-UA (3/23/2017) 24

United World Trade, Inc. v. Mangyshlakneft Oil Production Ass'n,

33 F.3d 1232 (10th Cir. 1994) 30

Other International Cases:

Case in England:

Janan George Harb v. Saudi Royal Family

2015) A3/2014/2316. (2015)

Case in Kuwait:

Farhat v. Kuwait,

(12-1993), A Petition filed with The United Nations Commission on Human Rights, Pursuant to Resolution 1503 (dec.3, 92)

Case in Egypt:

Suzan Tamim v. Talaat (2012) An Egyptian court has handed a billionaire, who ordered the killing of his pop-star lover, a reduced sentence of 15 years after an earlier trial sentenced him to death.

STATUTES AND RULES

FEDERAL STATUTORY AUTHORITIES	Page
18 U.S.C. § 2331 (1)(A)&(B)(i) & (C), (2), (3),	v, 3, 21, 22, 24
18 U.S.C. § 2333 (a)	3. 22
18 U.S.C. § 2340	vi, 26, 31
18 U.S.C. § 3559 (c)(2)(E)	3, 24
28 U.S.C. § 1330 (a), (b)	3, 20, 29
28 U.S.C. § 1331	3
28 U.S.C. § 1332 (a)(2)&(4)	3
28 U.S.C. § 1332 (c) & (e).....	3, 29
28 U.S.C. § 1350	vi, viii, 4, 23, 31, 32, 36
28 U.S.C. § 1603 (a), (b) & (d)	vi, 3, 16, 20, 27
28 U.S.C. § 1603 (e)	vi, 4, 27, 29
28 U.S.C. § 1604	3, 19
28 U.S.C. § 1605 (a)(2)	vi, 4, 27, 30
28 U.S.C. § 1605A (a)(1)	v, 3, 22, 23
28 U.S.C. § 1605A (a)(2)(A)(ii)(I)	v, 3, 22, 23
28 U.S.C. § 1605B (a)(1)	v, 3, 22
28 U.S.C. § 1605B (b)(2)	v, 3, 22
28 U.S.C. § 1605B (c)	v, 3, 22
28 U.S.C. § 1606	20, 38
28 U.S.C. § 1607	3, 19, 20
28 U.S.C. § 1608 (a)(2), (b)(2), (c)(2).....	3, 8, 14, 20
28 U.S.C. § 1608 (a)(3)	3, 37
28 U.S.C. § 1608 (d)	2, 3
28 .S.C. § 1608 (e)	v, 3, 18, 19
<u>Other:</u>	
- United Nations Convention against Torture	viii, 5, 26, 33
- The Torture Victim Protection Act (TVPA) 1991	vi, vii, 4, 31, 32, 36
- Universal Declaration of Human Rights (1948)	5
- The Restatement (Third) of Foreign Relations Law of the United States	6, 7
- The law of State Responsibility for injury to aliens drafted by the <u>International Law Commission</u> (ILC) in August 2001	8
- Peremptory norms of international law (jus cogens)	8

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a Writ of Certiorari issue to review the Judgment below.

OPINIONS BELOW

The **Mandate** of the United States Court of Appeals – 9th Circuit, Dt. **May 16, 2018** Dkt.25 appears at **Appendix: A-1**, and the **Order**, Dt. **May 8, 2018** Dkt.24 appears at **Appendix: A-2 & Memorandum Disposition** Dt. **December 26, 2017** Dkt.18-1 appears at **Appendix: A-3** to this petition and they are all **[X] are unpublished**.

The **Opinion** of the United States District Court – Los Angeles, Dt. **March 17, 2017**, Dkt.94 appears at **Appendix B-1** to this petition and is **[X] is unpublished**.

JURISDICTION

The date on which the United States Court of Appeals - 9th Circuit Decided and Denied my case was on **December 26, 2017** Dkt.18-1 at **Appendix A-3**. (Motion was filed by Petitioner Victoria on 12/27/2017 to extend time to file Petition for Rehearing En Banc until 04/30/2018).

[X] A timely Petition For Rehearing En Banc was Denied by the United States Court of Appeals - 9th Circuit on **May 8, 2018** Dkt.24, and a copy of the order denying rehearing appears at **Appendix A-2**.

The jurisdiction of this Supreme Court of The United States - WDC is invoked under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Victoria (Petitioner-Pro se) filed a Timely Petition for Rehearing En Banc on April 9, 2018 Dkt.21, of Memorandum Dkt.18 on Dec. 26, 2017 by US Court of Appeals-9th Circuit, Honorable Circuit Judges Wallace, Silverman and Bybee; and filed a Timely Notice of Appeal on March 22, 2017 Dkt.96, of Final Judgment Dkt.94 on March 17, 2017 by Originating US District Court-Los Angeles, Honorable Judge John A. Kronstadt, who ruled and denied all my Applications and dismissed my Case with Prejudice.

THIS SUPREME COURT OF THE UNITED STATES – Washington DC HAS JURISDICTION OVER SUBJECT MATTER of Petitioner's Action and all claims against all Respondents: State of Kuwait and its Ministry of Interior, Al-Fahed, Al-Fares, Al-Suheil and Does 1-10, pursuant to Several Federal Statutes in USA that explicitly contemplate private enforcement and per International Human Rights Laws, to Enter Default against Respondents Foreign State of Kuwait and its Political subdivision Ministry of Interior, as its agency and instrumentality, who are not Immune re FSIA Exceptions that apply to my claims, who were served properly per Hague Convention with other Respondents, on May 13, 2015 Dkt. 32, to be Served: Motion Documents like other 3 Respondents Al-Fahed, Al-Fares and Al-Suheil who entered Default by court order Feb.17, 2016 Dkt.52 (Appendix B-4) & were served Motion Documents on May 19, 2016 Dkt.72. Then if all served Motion Documents don't reply in 60 days, as pursuant to 28 USC Part IV, Chapter 97 § 1608 (d) - Service; time to answer; default, then Rule for Default Judgement against all Respondents, because all the crimes alleged were executed against Petitioner Victoria, Under the Color of Law, by Respondent State of Kuwait Former Agents who worked for Respondent Ministry of Interior

I. Per applicable Federal Statues: 28 U.S.C. § 1330 (a) Actions against Foreign States as District Courts have original jurisdiction..... (as defined in 28 U.S.C. § 1603(a) Definitions of “Foreign State”, 28 U.S.C. § 1603 (b) “Agency or Instrumentality”; 28 U.S.C. § 1330 (b) Have Personal Jurisdiction.... ; With Proof of Service per 28 U.S.C. § 1608 (a)(2) Upon a Foreign State.; 28 U.S.C. § 1608 (a)(3) Foreign Service; 28 U.S.C. § 1608 (b)(2) Service upon an Agency or Instrumentality of a Foreign State; 28 U.S.C. § 1608 (c)(2) ... per signed and returned Postal Receipt.; 28 U.S.C. § 1608 (d) ...re Serving an answer to pleadings within Sixty Days...; 28 U.S.C. § 1608 (e) re Judgement By Default against a Foreign State or an Agency or Instrumentality...; 28 U.S.C. § 1331 Federal Questions re Jurisdiction of District Courts...; 28 U.S.C. § 1332 (a)(2) Jurisdiction re Citizens...; 28 U.S.C. § 1332 (a)(4) Jurisdiction re Foreign State...; 18 U.S.C. § 2333 (a) The Anti-Terrorism Act of 1990 (the "ATA"); 28 U.S.C. § 1604; 28 U.S.C. § 1607; and Hague Conference on Private International Law, and other International treaties.

II. Per Applicable Exceptions to Foreign Sovereign Immunities Act of 1976(FSIA):

A. JASTA: 28 U.S.C. § 1605B (b)(2) Responsibility of Foreign States; 28 U.S.C. § 1605B (a)(1) Definitions of terms: “international terrorism” as defined in 18 U.S.C. § 2331 (1)(A), (B)(i), (ii), (iii) (“Kidnapping” as defined in (18 U.S.C. § 3559(c)(2)(E)) & 18 U.S.C. § 2331 (C) “Occur outside the US”, 18 U.S.C. § 2331 (2) “National of the United States”, 18 U.S.C. § 2331 (3) “Person”); 28 U.S.C. § 1605B (c) Claims by Nationals of the United States; 28 U.S.C. § 1605A (a)(1) No Immunity: Foreign State is not immune...in which money damages are sought..., 28 U.S.C. § 1605A

(a)(2)(A)(ii)(I) Terrorism exception to the jurisdictional immunity of a foreign state when Claimant or Victim at the time of act described occurred was a National of the United States; As of 1996, No Immunity for claims for “money damages” for “personal injury or death” caused by Torture, ...or the provision of material support for the same: 3. Either the victim or the claimant must have been a U.S. national.

B. Commercial Activity Exception: 28 U.S.C. § 1605 (a)(2) General exceptions to the jurisdictional immunity of a foreign state; 28 U.S.C. § 1603 (d) Definitions of “Commercial Activity”; 28 U.S.C. § 1603 (e) “Carried on by Foreign State”, as Petitioner’s Commercial Activity with State of Kuwait had Ongoing Effect in USA and Per applicable Federal Laws;

III. Per: The Torture Victims Protection Act of 1991 (“TVPA”), Pub. L. 102-256, Mar. 12, 1992, 106 Stat. 73 (28 U.S.C. 1350 note) which amended the Alien Tort Statute (ATS) to apply to US Citizens, and per Equitable Tolling that applies.

IV. Per International Human Rights Instruments Legally Binding upon Kuwait, as there is no possible justification in Kuwaiti Law for Petitioner’s expulsion, and it was not a matter of Kuwaiti national security, the arrest, kidnapping, arbitrary and incommunicado detention, which constituted Continuing violations of Various International Human Rights norms, violated by Respondent State of Kuwait and binding upon it, as per conventional or customary international law, as Respondent State of Kuwait has ratified and became a state party to the following Three International Human Rights Treaties on March 8, 1996:

- a. International Covenant on Civil and Political Rights: G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976;
- b. International Covenant of Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force Jan. 3, 1976;
- c. United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, of which a. and c. constitute Federal Common Law, GA RES.39/46, ANNEX, 39 UN GAOR SUPP (no 51) at 197, UN Doc. A 39/51 (1984) entered into force June 26, 1987, particularly articles 1, 2 and 16.

V. Per Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948); Articles 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,... in terms of its "hard core" human rights norms: Right to Liberty and security of person; Right to be free from inhuman and degrading treatment and punishment; Right to be free from arbitrary detention; Right to Procedural due process of law, with access to a court and a lawyer to represent Victim and challenge the validity of the arrest; Right to freedom of movement; Right to freedom of association; Right to freedom of information to find out the reasons for her arrest and expulsion; Right to be free from forcible expulsion without legal justification; Right to privacy and home life; Right to own and peacefully enjoy her personal property; Right to equality before the law, in that Petitioner Victoria was not treated as a Kuwaiti would have been treated; Right to be free from discrimination against a non-Kuwaiti citizen; Right to work and earn a living and engage in lawful business; Right to freedom of speech and expression, that is, to communicate with other people to seek help when Petitioner Victoria

was arrested; and Right to communicate with and seek help from US Embassy in Kuwait under the Vienna Convention on Consular Affairs.

VI. **Kuwait's gross violations of the human rights of its noncitizen population violated several of the most fundamental principles of international law.** These violations are subject to review under the procedures established by Resolution 1503, which authorizes complaints by individuals who have evidence of a "consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms.", **Economic and Social Council Resolution 1503 (XLVIII), 48 U.N. ESCOR (No. 1A) at 8, U.N. Doc. E/4832/Add.1 (1970).** Such violations include "all human rights and fundamental freedoms recognized in widely ratified international conventions." **Center for Human Rights, United Nations Office-Geneva, *Human Rights Fact Sheet No. 7: Communications Procedures.* (1989).** The government of Kuwait bears responsibility for egregious violations of the fundamental international law protections against summary execution, torture and cruel, inhuman or degrading treatment, discrimination based on national origin, and gender-based discrimination.

The Respondents State of Kuwait and Its Ministry of Interior are Legally Responsible under International Law for Petitioner Victoria's ordeal and for such gross human rights violations, for the attack on Petitioner Victoria and for the pattern of Kidnapping, Torture and other abuses suffered, and for its failure to investigate or punish those responsible. **Its Violations of important principles of International Law, applies for this Action and for Petitioner's Demand For Justice: as a Government is held legally responsible for any violations of fundamental international norms committed by its representatives.** See, e.g., Restatement (Third), §701, 702 and 711:

"The Restatement (Third) of the Foreign Relations Law of the United States contains three sections specifically dealing with the international law of human rights.

§ 701. Obligation to Respect Human Rights A state is obligated to respect the human rights of persons subject to its jurisdiction (a) that it has undertaken to respect by international agreement; (b) that states generally are bound to respect as a matter of customary international law (§ 702); and (c) that it is required to respect under general principles of law common to the major legal systems of the world.

§ 702. Customary International Law of Human Rights A state violates international law if, as a matter of state policy, it practices, encourages, or condones:

(c) the murder or causing the disappearance of individuals,
(d) Torture or other cruel, inhuman, or degrading treatment or punishment,
(e) Prolonged arbitrary detention,
(f) systematic racial discrimination, or
(g) a consistent pattern of gross violations of internationally recognized human rights. 2 Lastly, in section 703 the remedies available to nation states and individuals in the event of a state's breach of its human rights obligations as stated in sections 701 and 702, are set forth. § 703. Remedies of Violation of Human Rights Obligations (1) A state party to an international human rights agreement has, as against any other state party violating the agreement, the remedies generally available for violation of an international agreement, as well as any special remedies provided by the agreement. (2) Any state may pursue international remedies against any other state for a violation of the customary international law of human rights (§ 702). (3) An individual victim of a violation of a human rights agreement may pursue any remedy provided by that agreement or by another applicable international agreement. 3 These three sections are contained

§ 711. State Responsibility for Injury to Nationals of Other States A state is responsible under international law for injury to a national of another state caused by an official act or omission that violates (a) a human right that, under § 701, a state is obligated to respect for all persons subject to its authority."

The prohibitions against torture and summary execution are considered by the world community to be "peremptory norms of international law", also known as "jus cogens" norms. This means that these standards are mandatory, are binding on all nations, and must be enforced by all governments, even when in conflict with local law. See the Vienna Convention on the Law of Treaties, Articles 53, 64 and the Restatement of the Foreign Relations Law of the United States (Third) (1987) § 102, Sources of Int'l Law:

Comment k: Peremptory norms of international law (jus cogens). Some rules of international law are recognized by the international community of states as peremptory, permitting no derogation. These rules prevail over and invalidate international agreements and other rules of international law in conflict with them. Such a peremptory norm is subject to modification only by a subsequent norm of international law having the same character. It is generally accepted that the principles of the United Nations Charter prohibiting the use of force (Comment h) have the character of *jus cogens*. See § 331(2) and Comment e to that section.

And Per Note 7: Whether a general principle common to national legal systems is appropriate for absorption by international law may depend on the development of international law. For example, there is now substantial international law on human rights (this Restatement, Part VII), and it is plausible to conclude that a rule against torture is part of international law, since such a principle is common to all major legal systems. See § 702(d); § 701, Reporters' Note 1.

VII. The law of State Responsibility for injury to aliens drafted by the International Law Commission (ILC) in August 2001, which states that:

“When the state breaches these rights and obligations it acquires and the legal consequences of that violation by its unlawful treatment of aliens (or foreign nationals, corporations etc., it commits an ‘internationally wrongful act’, then [3] the State is required to make reparations for its international wrongdoing., as it is under an international obligation not to ill-treat any foreign nationals present in its territory and any violation of this obligation will incur international responsibility. Denial of Justice is one such mistreatment including wrongful arrest or detention and lack of due diligence such as when a foreign national is denied due process of law;”

All Respondents were served properly the Pleadings pursuant to 28 U.S.C. § 1608 (a)(2) and (b)(2)] and (c)(2), per Hague Service Convention with proof of Service by FedEx on May 13, 2015 Dkt.32, (Appendix C-5) though Kuwait never returned the Certificates as required. A party may effect service of judicial or extrajudicial documents by mail. See FRCP 4(f)(2)(c)(ii) (“[U]sing any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt.”).

According to Resolution 1 (XXIV) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in Petitioner Victoria's Case, **no effective domestic remedies in Kuwait are available to the Petitioner.**

Petitioner Victoria has no other recourse but The Supreme Court of the United States – WDC, to seek Justice, and as filed Case in the US Court of Appeals 9th Circuit, and the United States District Court of Los Angeles, where I reside as a US Citizen.

STATEMENT OF THE CASE

This Petition for Writ of Certiorari is an Appeal **AGAINST UNJUST UNLAWFUL WRONG RULING of Denying and Dismissing my case by US Court of Appeals 9th Circuit, by Mandate Dt. May 16, 2018 Dkt. 25, and by Court Order, Dt. May 8, 2018 Dkt.24 & by Memorandum Disposition Dt. December 26, 2017 Dkt.18-1 and by US District Court – Los Angeles, Final Judgement Dt. March 17, 2017 Dkt.94, in reply to my Supplemental Brief Dk.90 October, 3, 2016, who Dismissed Petitioner Victoria's Case with Prejudice and ordered that my Application and Motion are Denied and all my claims are Dismissed with Prejudice: as my Application for Entry of Default as to Kuwait and its Ministry of Interior is Denied, and these parties are Dismissed with Prejudice; and my Motion for Default Judgement against Respondents: Al-Fahed, Al-Suheil and Al-Fares are Denied, and all my claims against these parties are Dismissed with prejudice.**

Petitioner Victoria Pro Se, filed on September 18, 2018, since 4 years, as Complaint advances Ten claims from crimes committed against me, against all Respondents-Appellees-Defendants: (i) “Torture, Cruel Inhuman and Degrading Treatment”; (ii) “Kidnapping & Illegal Abduction”; (iii) Assault; (iv) Battery; (v) “Denial of Right to Consular Access in Violation of the Vienna Convention on Consular Relations”; (vi) “Arbitrary Arrest & Incommunicado Detention”; (vii) “Libel & Slander - Defamation of Personal Reputation & Business Goodwill”; (viii) “Denial of Procedural Due Process of Law in Criminal Proceedings”; (ix)

“Wrongful Expulsion without Due Process of Law”; and (x) “Continuing Violations of International Human Rights Laws and Instruments Binding upon Kuwait, and 15 Various Violations of Universal Recognized Human Rights”,

These actions arose from commercial activity engaged in between Petitioner and the State of Kuwait and its agents. The actions of the State of Kuwait caused effects in the United States in continuing injuries and damages to Petitioner which she experienced in the United States and for putting false information and accusations in Petitioners' records since 1994 till today, showing Petitioner as "Unwanted for Administrative Reasons", on both records of the Immigration Department and the Ministry of Interior, to cover up their wrongful acts, to make it appear she had done wrong and she is unwanted to prohibit her from entering Kuwait again.

The Respondent State of Kuwait has failed to respond to Petitioner Victorias' repeated attempts to discuss my demands, to seek Justice and reconciliation for 23 years, instead it made every effort to thwart Petitioners' attempts with conspiracy lies and false accusations by government officials, to hide and ignore their crimes. The highest levels of Respondent Kuwaiti government are complicit in such claims, so its Abdication of Responsibility is untenable.

All Committed crimes and Tortious acts described herein against me Victoria ("Petitioner-Pro se") were committed and executed by Respondents: State of Kuwait by & through its Agents, officials, employees of Its Instrumentality the **Ministry of Interior**, by Three assigned Kuwaiti Intelligence Service Agents under the color of law, one known as **Respondent Al-Suheil (promoted from a Colonel)**, by order from their Supervisors: Respondents Al-Fahed and Al-Fares, who All are Former Retired

Kuwaiti Government Officials, as a result of their lies, false representations and allegations; and while acting in their official capacity, planned, instigated, ordered, authorized, and incited agents, officials, and employees of the government of Kuwait to arbitrarily detain, torture, mistreat and expel Petitioner Victoria as a foreign national based on falsely alleged violations of Kuwaiti law, and in callous disregard for my rights under both Kuwaiti law and international human rights law, and aided and abetted and conspired with such agents, officials, and employees in their commission of such abuses, without giving me access to a court or any rescue help from the US Embassy Officers in Kuwait, or any Due Process of Law.

Other than Persecution of Petitioner Victoria while in Kuwaiti government custody in Kuwait; **Deprivation of Private Property; Interference with my Business Contracts and Prospective Business Interest and Advantage**, as they deprived me of my business and property without compensation, with **Defamation & Destruction of my Personal Good Reputation and Business Goodwill & Disparagement of my Good Reputation as a single woman as records in Kuwait were falsified to reflect False Horrible Accusations and Information with False Lies** (sadly to mention: with the worst False Record: Prostitution and unwanted for security reasons) & other Unknown false security related comments & information on me in my records with their Immigration Department in Kuwait, to make it appear that I had done wrong and I am unwanted to prohibit me from entering Kuwait again

FACTS Relevant to Issues Submitted for Review:

I was kidnapped as a US Citizen Victim Christian Lebanese Brunette Woman in Kuwait on July 4th 1995 4 days persecuted and tortured, and Sadly the US

Embassy Didn't Rescue Me though they knew where I was, in conspiracy, favoring money and oil, they partnered in crime.

When I was screaming for help, they ran away with me as the two agents told me then that they didn't want anyone to see what they're doing to me. The Guard of cell wondered what I was doing there as my file was clean. And when I cried I am an American Citizen with rights and you can't do this to me, how dare you, they made it worse, created a false file with fabricated false claims against me to make it appear that I had committed a crime.

Then I was forcibly deported on Saturday July 8, 1995 to Lebanon instead of USA (where I reside with my parents in Los Angeles, California), with no money or enough winter clothes, as I couldn't take all my belongings or my clothes with me.

After 6 months of sickness and suffering alone in Lebanon, I returned back home in the United States on Christmas Eve December 24, 1995, to my eager awaiting loving kind Late Parents my Mother and Father, in Trauma with PTSD. My ordeal continued to have significant and lasting physical & emotional effects until today's date. I, Petitioner-Appellant-Plaintiff Victoria was injured harshly as I became psychologically disabled and incapable, I got sick and I was traumatized and suffered from PTSD (Post-Traumatic Stress Disorder), as a result of all crimes committed against me, of this tragic and painful harsh incident, which ruined and shattered my life, deteriorated my health, and ruined my good reputation and professional career, and I lost a lot, as I lost my health and finances, my good will and my Kuwaiti Book profits. They killed me alive brutally. I suffered greatly since 23 years from the actions of the Kuwaiti government. My family and my beloved late parents suffered with me in every way, and lived this painful tragedy

with me for all these years. All I had worked for and all I did for years to succeed with my work with my goodwill was shattered by this unlawful, arbitrary, and retaliatory expulsion from Kuwait.

I am still deeply scarred by this trauma from these unlawful and despicable acts as all crimes caused me severe mental harm, irreparable injury, damage and loss, and were very harmful to me in every way. I needed treatment to deal and heal from PTSD and all horrible effects of such trauma.

As a result of Respondents' actions, I, ("Petitioner-Appellant") Victoria lost thousands of copies of my book "Kuwait Int'l Directory 1994", which I could not sell or take with me, so I could not recover my investment and expenses of publishing the Directory, and I lost financially and lost substantial income from other pending business contracts and I was prevented from completing other business contracts, all for having done nothing wrong.

PROCEDURAL HISTORY:

Petitioner Victoria, an Innocent Wounded Victim US Citizen Woman, proceeded with a Civil Action against State of Kuwait and filed my Complaint representing myself (Pro Se) on September 18, 2014 Dkt.3, Case#2:14-cv-07316 in US District Court –Los Angeles, naming as Respondents-Defendants-Appellees: the Foreign State of Kuwait as a Sovereign and Its Kuwait Ministry of Interior as its Instrumentality, as well as Three Former Retired Officials Kuwaiti Agents, who got promoted in their positions to Major-General after they retired, Major-General Fahed Ahmad Al-Fahed ("Al-Fahed"), Major-General Abdullah Abdul-Rahman Al-Fares ("Al-Fares"), and Major-General Abdul-Rahman Al-Suheil ("Al-Suheil"), and Does 1-10, who worked for Ministry of Interior, when crimes were committed under color of Law on

July 4th, 1995, against Petitioner Victoria, and Defendant Jawad Hussain Meerza.

- **All Respondents were served properly all Pleadings pursuant to 28 U.S.C. § 1608 (a)(2) and (b)(2)] and (c)(2), per Hague Service Convention with proof of Service by Federal Express on May 13, 2015 Dkt.32, (Appendix C-5) and documented proof by Telephone Conversation, with Director of Kuwait Central Authority.**
- **Petitioner Victoria filed First Proposed Order & Request for Consideration of Honorable Judge John Kronstadt to Proceed and Rule for a Default Judgement on Dec. 7, 2015 Dkt 46;**
- **Subsequently, the Court, *sua sponte*, issued an Order on February 17, 2016 Dkt.51 to Show Cause (“OSC”) why these unserved parties should not be dismissed due to Plaintiff’s lack of prosecution. (Appendix B-5)**
- **On February 17, 2016 Dkt.52 (Appendix B-4) per US District Court- Los Angeles order, Defaults were entered against Three Defendants-Appellees only: to Al-Fahed, Al-Fares and Al-Suheil, and Petitioner Victoria was directed to file a noticed motion for the entry of a default judgment as to each on or before March 18, 2016. Dkt.51. The same order denied Petitioner’s request for entry of default as to the remaining Defendants-Appellees: State of Kuwait, the Ministry of Interior and Meerza -- because Plaintiff had not shown that each had been served with the Complaint.**
- **Petitioner Victoria filed a timely Second Response to the OSC on February 26, 2016 Dkt.53 to Court to Show Cause per Court Order Dkt.51 why the Three Defendants-Appellees: The State of Kuwait, the Ministry of Interior and Jawad Hussain Meerza should not be dismissed as Defendants-Appellees in this action, as Plaintiff presents and shows reasons & proof that There Was No Lack of Prosecution;**

- **Petitioner Victoria filed a Third Response on March 14, 2016 Dkt.57 as per court order March 10, 2016 Dkt.55 (Appendix B-3), to The OSC to Provide Proof of Proper Serving to Respondents: The State of Kuwait & Ministry of Interior & Jawad Hussain Meerza, and Why They Should not be dismissed, as they were served the Pleadings properly;**
- **Petitioner Victoria filed on April 7, 2016 Dkt.61 a Fourth Request: An Application for Entry of Default as to Kuwait, the Ministry and Meerza.**
- **Petitioner Victoria filed on April 19, 2016, Dkt.64 a Motion for Default Judgment as to Al-Fahed, Al-Fares and Al-Suheil;**
- **On April 21, 2016 Dkt.66, Court granted Petitioner Victoria to serve Default Judgement Motion on Each Respondent and then to file Proof of Service.**
- **Petitioner Victoria served her application to listed Respondents in two languages by May 5, 2016, Dkt.69 ;**
- **Petitioner Victoria filed a Fifth Request on May 13, 2016 Dkt.71, re my Application for Entry of Default against the State of Kuwait, its Ministry of Interior and Mr. Jawad Hussain Meerza, since the court order Dkt.52 was for partial Entry of Default by Clerk to 3 Respondents only;**
- **Petitioner Victoria filed a request for oral argument on May 25, 2016, Dkt.74.**
The request was granted.
- **A hearing on Application and Motion was held on July 21, 2016. Dkt.75. At the hearing, the Application & Motion were DENIED, with written Order to follow. Dkt.76;**
- **Petitioner Victoria, in response to an issue raised by the Court, submitted on July 29, 2016 Dkt.77, a copy of a judgment issued in a prior proceeding in the United States District Court, District of Columbia, Case No. 05-01385 UNA;**

- On August 2, 2016 Dkt.78 (Appendix B-2), the Court issued an Order that identified certain deficiencies in Plaintiff's pleadings, and required Plaintiff to submit a supplemental brief that addressed them. In the August 2 Order, Plaintiff was advised that if she did not show the basis for any viable claim, this action could be dismissed with prejudice. *Id.* at 2;

- Petitioner Victoria filed the requested ("Supplemental Brief") 40 pages, on October 3, 2016, Dkt.90, per court order, 7 days after JASTA was issued by US Congress in God's timing, after court approval of extension of time, in full compliance as ordered by Judge, and I presented answers to all 5 points. I also confirmed to Honorable Judge John A. Kronstadt that I can amend my Complaint as needed pursuant to applicable Laws and points he questioned as I remove attorney fees from my Request for Relief, as it is not applicable;

- Transcript was filed on 9-4, 2016 Dkt.86.

- On March 17, 2017, I was denied justice with Final Judgment Dkt.94 by Originating US District Court-Los Angeles, Honorable Judge John A. Kronstadt (in reply to Petitioner's Supplemental Brief on October, 3, 2016, for entry of Default Judgement against Govt. of Kuwait & its Ministry Of Interior, per all applicable US Federal laws and Exceptions to FSIA (Foreign Sovereign Immunities Act) that apply to my case), who ruled that my Application and Motion are Denied and all my claims are Dismissed with Prejudice.

- Defendant Individual Jawad Hussain Meerza was dismissed per court order 3-17, 2017 Dkt.94 (III(A)(2), and (per Petitioner Victoria's request to court 10-3,2016 Dkt.90;

- On March 22, 2017, Petitioner Victoria Elia Kaldawi, Pro Se, filed my Timely

Appeal Dkt.96, in the US Appellate Court 9th Circuit.

- **On June 18, 2017, Dkt.6, Petitioner Victoria submitted Statement that Appeal should go forward 22 pages.**
- **On Oct. 24, 2017, Dkt.12, Petitioner Victoria submitted Opening Brief 55 pgs.**
- **On December 26, 2017, Dkt.18, US Court of Appeals 9th Circuit filed Memorandum Dismissing My Case.**
- **On December 27, 2017, Dkt.19, Petitioner Victoria filed a motion for Petition of Rehearing En Banc, and filed Petition on April 9, 2018, Dkt. 21.**
- **On May 8, 2018, Dkt. 24, Us Court of Appeals denied Petition for Rehearing En Banc. On May 16, 2018, Dkt. 25, US Court of Appeals issued Mandate.**

REASONS FOR GRANTING THE PETITION

I, Victoria Elia Kaldawi (“Petitioner-Pro se”) hereby, respectfully request a Petition for Writ of Certiorari, from your Honorable Judges of the Supreme Court of the United States – WDC, as the Victim of alleged crimes and gross violations of International Human Rights Laws. This is My Last Only Resort as I have no other recourse to seek Justice for my case with REMEDIES and relief for all my Injuries and all my pain and suffering, for Damages inflicted upon a US citizen and my business venture, to vindicate my rights, to uphold respect for US and International Law, and to deter future women abuses, but only the Supreme Court of The United States – WDC, to help me resolve my case for Victory of Justice and Liberty, against the Criminal Acts and Injustice to me, as a USA Citizen and against all officials or leaders who think they can hurt innocent

people and commit crimes under the Color of Law, and get away with it, but No One is above the Law, for the following Reasons For Justice to Prevail in USA:

I. The memorandum Involves Important Issues Demanding National Uniformity, on which the Panel's Decision Directly Conflicts with Authoritative Existing Opinions and Decisions of the US Supreme Court and other US District Courts and Courts of Appeal that have addressed the issue re Exceptions to Foreign Sovereign Immunities Act that apply to this Case, each of which must be concisely stated, and Dismissal of my case was WRONG, UNLAWFUL & INCORRECT on the merits of my case, as stated in the memorandum Deposition, Dkt.18 Dt. Dec. 26, 2017, filed by court on Next Day of Christmas (Appendix A-3) with Unlawful Untrue Statements, as stated that:

“Victoria Elia Kaldawi appeals pro se from the district court’s judgment dismissing her claims against the sovereign defendants for lack of subject matter jurisdiction and denying her motion to enter default judgment and dismissing her claims against the individual defendants”; and Judged that “the US District Court properly dismissed Kaldawi’s claims against the sovereign defendants for lack of subject matter jurisdiction because Kaldawi failed to establish an exception to the sovereign defendants’ immunity under the FSIA, and per 28 U.S.C. § 1608 (e) (“No judgment by default shall be entered by a court of the United States against a foreign state unless the claimant establishes his claim or right to relief by evidence satisfactory to the court.”).

The final decisions why US District Court Order Dkt.94 Dt. 03/17/2017, Denied Petitioner Victoria’s Application & Motions and Dismissed all my Claims with Prejudice, are incorrect and for WRONG FALSE REASONS mentioned by court who REVERSED DOCUMENTED FACTS of my case WITH False Statements against the Truthful events and facts, and Proper Serving of all documents and Motions to all Respondents:

“Application for Entry of Default as to Kuwait and its Ministry of Interior is Denied, and these parties are Dismissed with Prejudice; and my Motion for Default Judgement against Defendants-Appellees Al-Fahed, Al-Suheil and Al-Fares are Denied, and all my claims against these parties are Dismissed with prejudice”.

Re Application for Entry of Default as to Kuwait and its Ministry of Interior,
I, Petitioner Victoria, confirm in my Petition and rely on all Exceptions to the FSIA mentioned in this petition and contend that each establishes a basis for The US Supreme Court and US Federal Courts to have Subject Matter Jurisdiction over Claims alleged in this Case, as Respondents: State of Kuwait and Its Ministry of Interior ARE NOT IMMUNE, based on General Exceptions to the Foreign Sovereign Immunity of Foreign States such as JASTA, COMMERCIAL ACTIVITY with Respondents & Torture. As I establish my claim and right to relief by evidence satisfactory to the court per "FSIA: 28 U.S.C. §1608 (e).

Under the FSIA, Per Section 28 U.S.C. §1604. Immunity of a foreign state from jurisdiction:

“Subject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections §1605 to §1607 of this chapter.”

In this Case, Respondents: The State of Kuwait is a “Foreign State” with its ministry of Interior which is considered an “Agency or instrumentality of a foreign state”, Pursuant to **28 U.S.C. § 1603(a) and (b):** The Foreign Sovereign Immunities Act (FSIA) gives District Court original jurisdiction over nonjury civil actions against a foreign state in which the foreign state is not entitled to Immunity.” So Respondents State of Kuwait and its Ministry of Interior are not immune from the jurisdiction of the courts of the United States and of the States as several statutorily defined exceptions apply 28 U.S.C. § 1605-1607;

As Per 28 U.S.C. § 1330 (a) Actions against Foreign States; confers jurisdiction on district courts to hear suits brought by United States Citizens when a Foreign State is not entitled to Immunity, and it confers that Federal Courts are authorized to exercise personal jurisdiction over a foreign state upon proper service of process as per [28 U.S.C. § 1330 (b)]:

“(a) The district courts shall have original jurisdiction without regard to amount in controversy of any nonjury civil action against a foreign state as defined in section 28 U.S.C §1603(a) of this title as to any claim for relief in persona with respect to which the foreign state is not entitled to immunity either under sections 28 U.S.C §1605–§1607 of this title or under any applicable international agreement.

(b) Personal jurisdiction over a foreign state shall exist as to every claim for relief over which the district courts have jurisdiction under subsection (a) where service has been made under section 1608 of this title.

(c) For purposes of subsection (b), an appearance by a foreign state does not confer personal jurisdiction with respect to any claim for relief not arising out of any transaction or occurrence enumerated in sections 1605–1607 of this title.”

Under the statute, subject-matter jurisdiction together with valid service equals personal jurisdiction, as in Petitioner Victoria’s Case, All Respondent were served properly by Federal Express Dkt.32, that was delivered to the Kuwait Ministry of Justice on May 14, 2015 Dkt.3, with Proof of Service, pursuant to 28 U.S.C. § 1608 (a)(2), (b)(2), (c)(2), but failed to reply after Six months, per Hague Service Convention.

Foreign State’s liability under the FSIA, 28 U.S.C § 1606 Extent of Liability:

“As to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances;” but a foreign state except for an agency or instrumentality thereof shall not be liable for punitive damages;”

As in case: [Argentine Republic v. Amerada Hess Shipping Corp. (1989) 488 US 428, 434, 109 S. Ct. 683, 688], and where it applies, federal courts have subject matter jurisdiction even where the parties are not diverse and the underlying claims do not present

a federal question.) As documented in the Civil Procedure before Trial (The Rutter Group California Practice Guide: [2:380].

I, Petitioner Victoria assert Jurisdiction which authorizes US Federal Civil Suit against Respondents: Foreign State of Kuwait and its Ministry of Interior re Federal Laws and Exceptions to Foreign Sovereign Immunities Act (FSIA) that DEFINITLY apply to my case against Wrong Ruling of US Federal Court Dkt.94:

“There are no such allegations in the Complaint. Even if the Complaint could be construed to claim that Plaintiff has continued to suffer some injury while in the United States, those injuries are due to action that occurred in Kuwait. Nor is there any allegation that Defendants participated in acts of terrorism as defined by 18 U.S.C. § 2331. For these reasons, this JASTA exception to sovereign immunity does not apply in this action.”

A. JASTA (JUSTICE AGAINST SPONSORS OF TERRORISM ACT), applies in this action, a New Bill enacted by US Congress on Sept. 28, 2016, S. 2040 - 114th Congress Pub. L. No. 114-222, 130 Stat. 852 () per JASTA § 3(a), in God’s Timing for my case, an Act to Deter Terrorism, and provide Justice for Victims, Then for Supreme Court to hold that RETROACTIVE APPLICATION APPLIES to JASTA, in this case, that the FSIA applies retroactively, and even though the crimes alleged and torture happened to Petitioner, was carried out far from the USA, as in 2004, the Supreme Court held in Altmann v. Republic of Austria, 541 U.S. 677, 691, 124, S.Ct.2240-2249 (2004) that the FSIA applies retroactively. That case involved a claim by the descendants of owners of famous paintings against the Austrian government for return of those paintings, which were allegedly seized during the Nazi era. as a consequence of Altmann v. Republic of Austria, 541 US 677 (2004); for lawsuits filed after the enactment of the FSIA (1976), FSIA standards of immunity and its exceptions apply, even where the conduct that took place prior to enactment of the FSIA; &

Pursuant to 28 U.S.C. § 1605B (b)(2); 28 U.S.C. § 1605B (a)(1); 28 U.S.C. § 1605B (c) 28 U.S.C. § 1605A (a)(1) & § 1605A (a)(2)(A)(ii)(I). As well Terrorism Exception to the Jurisdictional Immunity of a Foreign State as JASTA authorizes federal courts to exercise personal jurisdiction over any foreign state's support for acts of International Terrorism against a U.S. national regardless of whether such state is designated as a state sponsor of terrorism or not, as when Petitioner Victim at the time when alleged crimes occurred was a National of the United States; as "International Terrorism" is defined in 18 U.S.C. § 2331, applies with Torture and Respondent State of Kuwait as Pearl of the Gulf, is not & will never be on list of countries of States Sponsors of Terrorism, as Kingdom of Saudi Arabia, who is currently sued in US Federal Courts with Jurisdiction, per JASTA

Per 28 U.S.C. § 1605B (b)(2):

(b) Responsibility of Foreign States.—A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which money damages are sought against a foreign state for physical injury to person or property or death occurring in the United States and caused by—

(2) a tortious act or acts of the foreign state, or of any official, employee, or agent of that foreign state while acting within the scope of his or her office, employment, or agency, regardless where the tortious act or acts of the foreign state occurred.

Per 28 U.S.C. § 1605B (a)(1):

(a) Definition.—In this section, the term "international terrorism"—

(1) has the meaning given the term in section 2331 of title 18, United States Code;

Per 28 U.S.C. § 1605B (c):

(c) Claims by Nationals of the United States.— Notwithstanding section 2337(2) of title 18, a national of the United States may bring a claim against a foreign state in accordance with section 2333 of that title if the foreign state would not be immune under subsection (b).

Per The Anti-Terrorism Act (the "ATA" per 18 U.S.C. § 2333 (a) Civil remedies:

(a) ACTION AND JURISDICTION "Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the

United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees".

As per Doe v. Bin Laden, et al., No. 09-4958 (2d Cir. 2011) US Court of Appeals 2nd Circuit, remanded and affirmed the case to US District Court for Southern District of N.Y..

Per 28 U.S.C. §1605A - Terrorism exception to the jurisdictional immunity of a foreign state, The terrorism exception found in 1605A applies to torts committed abroad, 28 U.S.C. § 1605A (a)(1) and 28 U.S.C. § 1605A (a)(2)(A)(ii)(I):

"(a) In General.— (1) No Immunity.— A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case not otherwise covered by this chapter in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources for such an act if such act or provision of material support or resources is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency.

(2) Claim heard. — The court shall hear a claim under this section if—

(A) (ii) the claimant or the victim was, at the time the act described in paragraph (1) occurred— (I) a national of the United States;

(iii) in a case in which the act occurred in the foreign state against which the claim has been brought, the claimant has afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with the accepted international rules of arbitration;"

(Sec. 5) It establishes exclusive federal court jurisdiction over civil claims under this bill. It authorizes the Department of Justice (DOJ) to intervene in civil proceedings to seek a stay. A court may grant the stay if the Department of State certifies that the United States is engaged in good-faith discussions with the foreign state to resolve the civil claims.

(Sec. 7) This bill's amendments apply to a civil claim:

"(1) pending on or commenced on or after enactment."

(5) the term "National of the United States" has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); (7) the terms "Torture" have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note). (Added Pub. L. 110-181, div. A, title X, § 1083 (a)(1), Jan. 28, 2008, 122 Stat. 338.)"

It confirms that jurisdiction can be based on a sovereign entity's actions undertaken abroad (not just in the United States), and predicated on acts undertaken by a sovereign entity's agent (not just an employee, official, or alter-ego).

JASTA authorizes federal courts to exercise personal jurisdiction over any foreign state's support for acts of International Terrorism against a U.S. national or property regardless of whether such state is designated as a state sponsor of terrorism or not:

All current cases in US District Courts in USA are against Kingdom of Saudi Arabia, which is not on the list of States Sponsors of Terrorism by the U.S. State Department as such states presently include only Iran, Sudan, North Korea and Syria, so Neither State of Kuwait, who is not on this list, and never will be, so this case vs. Respondent Kuwait, is lawful per all applicable federal laws.

As defined in 18 U.S.C. § 2331 – Crimes and Criminal Procedure, Definitions:

- “(1) the term “International Terrorism” means activities that (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;
- (B) appear to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and (C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;
- (2) the term “national of the United States” has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;
- (3) the term “person” means any individual or entity capable of holding a legal or beneficial interest in property;”

Per 18 U.S.C. § 3559(c)(2)(E) the term “kidnapping” means an offense that has as its elements the abduction, restraining, confining, or carrying away of another person by force or threat of force.

Claims have taken on additional significance as a result of the recent enactment of the JASTA: *Burnett v. Kingdom of Saudi Arabia*, Case 1:03-cv-09849- GBD Document 741 (3/17/17), and 9/11 Plaintiffs: *The Underwriting Members of Lloyd's*

Syndicate 53 et al. v. Kingdom of Saudi Arabia, 1:17-cv-02129-UA in US Southern District Court -New York (3/23/2017).

JASTA as codified at 28 U.S.C. § 1605B, requires only some “reasonable connection” between Respondents’ actions and Petitioners’ injuries, 162 Cong. Rec. at S2845 (May 17, 2016) (Sen. Cornyn) (citing case law affirming “reasonable connection” standard), a flexible standard that may be met based on a showing of “**tortious act or acts**” attributable to the Defendant. JASTA § 3(a) (enacting 28 U.S.C. § 1605 B (b)(2)).

As per associated case: 1:03-md-01570-GBD-SN et al v. Kingdom of Saudi Arabia, in U.S. District Court, Southern District of New York (Manhattan), U.S. Judge George Daniels on March 28, 2018, rejected Defendant’s Saudi Arabia bid to dismiss lawsuits. He said that plaintiffs’ allegations “narrowly articulate a reasonable basis” for him to assert jurisdiction over Saudi Arabia under JASTA, a 2016 federal law. Daniels previously dismissed plaintiffs’ claims against Saudi Arabia in 2015, **but new life was breathed into my claims against Kuwait, and into plaintiffs’ claims against Saudi Arabia after Congress signed JASTA into law in 2016.**

JASTA “incorporates traditional principles of vicarious liability and attribution, including doctrines such as respondent superior, agency and secondary liability,” thus confirming that a foreign state is subject to jurisdiction and liability for tortious acts of employees and agents at every level acting within the scope of their employment or agency. 162 Cong. Rec. at S2845 (May 17, 2016) (Sen. Cornyn).

All crimes alleged were executed against Petitioner Victoria Elia Kaldawi, who was a US Citizen at time when crimes were committed against her, that happened in Kuwait outside the US, and continued its direct effect in the US, by Government

of Kuwait Employees and Agents under the color of law, which all caused Personal Injury to Petitioner, and are considered “Terrorism” too as defined:

“Acts of unlawful violence, which is the systematic use of violence (terror) as a means of coercion for political purposes. It refers only to those violent acts that are intended to create fear (terror); are perpetrated for a religious, political, or ideological goal; and deliberately target or disregard the safety of non-combatants (civilians)”.

The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which is currently in force since 26 June 1987, provides a broad **definition of Torture**, Article 1.1 of the **UN Convention Against Torture**, noted in II-B of this Petition, page 33.

And per 18 U.S.C. § 2340, contains the **Definition of Torture** in which is only applicable to persons committing or attempting to commit torture **outside of the United States**.

As used in this chapter—

(1) “**Torture**” means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

Torture is the act of deliberately inflicting severe physical or psychological pain and injury to a person to one who is physically restrained or under the torturer's control or custody and unable to defend against what is being done to them.

JASTA cases: Ashton et al v. Kingdom of Saudi Arabia, 1:17-cv-02003 (March 2017) US Federal court; and Case Burnett v. Kingdom of Saudi Arabia, 1:03-cv-09849-GBD in US District Court of the Southern District of New York against the kingdom. “JASTA, very explicitly and for the first time, allows conduct abroad to be considered” says Michael D. Goldhaber, U.S. correspondent for the International Bar Association; Burnett et al v. The Islamic Republic of Iran et al, 1:15-cv-09903, (Dec.18,2015) “as a judge in the US has issued a default judgement requiring Iran to pay

more than \$6bn to victims of the September 11, 2001 attacks that killed almost 3,000 people, court filings show. Ruling in the case - Thomas Burnett, Sr et al v. The Islamic Republic of Iran et al - finds "the Islamic Republic of Iran, the Islamic Revolutionary Guard Corps, and The Central Bank of the Islamic Republic of Iran" liable for the deaths of more than 1,000 people as a result of the September 11 attacks" Judge George B Daniels of the Southern District Court of New York wrote; Aasheim et al v. Kingdom of Saudi Arabia et al. No. 1:17-cv-05471 (7/19/2017); Arrowood Indemnity Company et al v. Kingdom of Saudi Arabia, 1:17-cv-03908 (5/23/2017); Abtello et al v. Kingdom of Saudi Arabia et al., 1:17-cv-05174 (7/10/2017); Aiken et al v. Kingdom of Saudi Arabia, 1:17-cv-00450 (1/20/2017); Desimone v. Kingdom of Saudi Arabia, 1:17-cv-00348 (1/18/2017); Abedhajajreh v. Kingdom of Saudi Arabia, 1:17-cv-06123 (2017); 911 Plaintiffs v. Kingdom of Saudi Arabia, 1:03-md-01570-GBD-SN et al; On February 7, 2017, the Second Circuit Court of Appeals granted the joint motion for Vacatur and remand in all respects, and remanded the cases in issue "for further proceedings in light of Congress's enactment of the JASTA."

B. COMMERCIAL ACTIVITY EXCEPTION applies Per 28 U.S.C. § 1605 (a)(2) & 28 U.S.C. §1603 (a), (b), (d) & (e), to claims alleged in this action:

As Petitioner Victoria asserts that Respondents State of Kuwait and Its Instrumentality Ministry of Interior are not immune from this Court's Jurisdiction under the Foreign Sovereign Immunities Act of 1976 (FSIA), as Petitioner's Commercial Activity with State of Kuwait had an Ongoing Direct Effect in USA for all my physical injuries, pain, and suffering, in that Petitioner Victoria a US Citizen, was engaged in commercial activity with the State of

Kuwait and its instrumentalities and agents and with Respondent Al-Fahed, and the harm to Petitioner Victoria occurred as a part of that commercial activity, as stated: "Foreign Governments aren't immune in actions based upon commercial activities outside the US that have a direct effect in this Country",

My allegations are sufficient to establish the basis for applying the commercial activity exception. THERE ARE MANY FALSE WRONG STATEMENTS BY COURT, AGAINST THE TRUTH, THOUGH I HAD ATTACHED ALL RELATED PROOFS OF MY COMMERCIAL ACTIVITY WITH THE GOVERNMENT OF KUWAIT, with USA materially benefited directly and financially from this commercial Re-Construction Activity of Petitioner Victoria, whose sources were: my intervening between Kuwait Government and US Corporations with business contracts, as I went to Kuwait with contracts signed by US Companies and Respondent Al-Fahed who is a Government Agent too, to represent American companies to clean mines on Kuwait Land and other Trading Business; as well I was Authorized by Respondent Kuwait Ministry of Information (Appendix C-20) for Yearly Publishing of "Kuwait International Directory 1994 – Economic, Investment & Touristic" 400 pages, 200 pics, in two Languages English & Arabic, by Respondent State of Kuwait to distribute it worldwide, including USA, where Petitioner Victoria had offer to sell over 3,000 of Kuwait International Directory to US Trade office in Washington DC; as well most of the Advertising Contracts in the Directory were with Kuwaiti Government owned Corporations such as Kuwait Airways (2 pages), Arab Shipping Co., Industrial Investments Co., Burgan Bank, and I placed an ad for Respondent Al-Fahed for his Trading Co. with authorization from his Gen. Manager.

“Kuwait International Directory 1994” was purchased by Respondent Kuwaiti Government owned entities such as Kuwait Fund for Arab Economic Development, Kuwait Chamber of Commerce & Industry, Kuwait Airways, Kuwait University, Kuwait TV, etc. and by many Foreign Embassies in Kuwait.

So the harm to Petitioner Victoria occurred as a part of that commercial activity, as stated Foreign Governments are not immune in actions based upon commercial activities outside the US that have a direct effect in this country. The effect by Respondents in Petitioner Victoria’s Case is foreseeable, which appears in sections 1330, 1391(f), 1441(d), and 1602 through 1611, of Title 28, United States Code (Pub. L. 94-583; 90 Stat. 2891). (Sec. 28 U.S.C.1608 (a), Foreign Sovereign Immunities Act of 1976, Pub. L. 94-583; sec. 4, 63 Stat. 111, as amended (22 U.S.C. 2658)) [42 FR 6367, Feb. 2, 1977] Title 22 published on 2014-04-01. “A corporation wholly owned at least 50% by a foreign Government is normally treated as an “instrumentality” of that government as:

Per Section §1603:

“(a) A “foreign state”, except as used in section 1608 of this title, includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined in subsection (b).

(b) An “agency or instrumentality of a foreign state” means any entity: (1) which is a separate legal person, corporate or otherwise, and (2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and (3) which is neither a citizen of a State of the United States as defined in section 1332 (c) and (e) of this title, nor created under the laws of any third country.

(d) A “commercial activity” means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

(e) A “commercial activity carried on in the United States by a foreign state” means commercial activity carried on by such state and having substantial contact with the United States.

Per 28 U.S.C. § 1605 (a)(2) Commercial Activity Exception:

“(a) A foreign state is not immune from the jurisdiction of courts of the United States or of the States in any case—

(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States.

Each of these clauses are independently sufficient to establish an exception to the FSIA, as in *Cf. Republic of Argentina v. Weltover, Inc.*, 504 U.S. 607, 611, 112 S. Ct. 2160, 119 L. Ed. 2d 394 (1992) (“respondents relied only on the third clause of § 1605(a)(2) to establish jurisdiction”), and the US Supreme Court ruled that **an effect was direct** in The United States if it followed as an immediate consequence of the defendant’s activity. Thus, state substantive law is controlling on most issues of liability in FSIA cases, as in *Big Sky Network Canada, Ltd. v. Sichuan Provincial Government*, 533 F.3d 1183 (10th Cir. 2008); *United World Trade, Inc. v. Mangyshlakneft Oil Production Ass’n*, 33 F.3d 1232 (10th Cir. 1994), *Bodoff v. Islamic Republic of Iran*, 907 F. Supp. 2d 93, 100 (D. D.C. 2012).

II. The Panel’s decision with Council’s Judgement overlooked and misunderstood the Facts of my case re applicable Federal Laws and Exceptions to FSIA that assert Court’s Jurisdiction against 3 Individual Respondents Al-Fahed, Al-Fares and Al-Suheil, as stated in Memorandum Dkt#18:

“..Dismissal of Kaldawi’s claims against Al-Fahed, Al-Suheil and Al-Fares for lack of personal jurisdiction was proper because Kaldawi did not establish that these defendants had “certain minimum contacts” with California “such that the maintenance of the suit did not offend the traditional notions of fair play and substantial justice”. *Love*, 611 F.3d at 609 (citation and internal quotation marks omitted)....”The district court did not abuse its discretion in denying Kaldawi’s motion to enter default judgment against these defendants for the same reason. See *Tuli*, 172 F.3d at 712 (it is proper to avoid entry of default judgment if there is no personal jurisdiction over a defendant); *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986) (standard of review).

A. Based on The Torture Victims Protection Act of 1991 (“TVPA”),
S.REP.NO.102-249, at 5; H.R.REP.NO.102-367, note (TVPA; Pub. L. No. 102-256, H.R.
2092, 106 Stat. 73 (enacted March 12,1992), (Pet. App. 97a-99a), and amended the ATS
28 U.S.C. 1330: (Appendix C-1), as it provides and extends Civil Remedies to
individuals US. Citizens who are victims of Torture abroad by persons acting in
an official capacity of any foreign nation, and similar to U.S. Code § 2340, it defines

“(b) TORTURE.—For the purposes of this Act—

(1) the term “torture” means any act, directed against an individual in the offender's custody or physical control, by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on that individual for such purposes as obtaining from that individual or a third person information or a confession, punishing that individual for an act that individual or a third person has committed or is suspected of having committed, intimidating or coercing that individual or a third person, or for any reason based on discrimination of any kind;”

The TVPA 1991 is a statute that allows for the filing of civil suits in the United States as it codifies private rights of action for torture and enhances remedy; as it creates a federal cause of action against an individual who have committed or aided and abetted acts of Torture under actual or apparent authority, or Under Color of Law, while acting in an official capacity for any foreign nation, against a US Citizen Abroad; as claims under the TVPA may only be brought against persons who acted under the actual or apparent authority of a foreign nation; TVPA claimants must exhaust all “adequate and available” remedies in the country where the offense occurred. Touch and Concern requirement doesn't apply to the TVPA as in ATS, so plaintiffs may continue to bring TVPA claims against foreign defendants for torts committed outside the United States. Petitioner Victoria may continue to bring TVPA claims against foreign defendants for torts

committed outside the United States. In this Case, Petitioner Victoria asserts that the Statute of limitations period by TVPA of 10 years IS SUBJECT TO EQUITABLE TOLLING LAW, where the court applies common law principles of equity to extend the time for the filing of a lawsuit. So it may be equitably tolled in exceptional circumstances in which parties are prevented in some extraordinary way from exercising their rights per 28 U.S.C. §1330, as in this case: Petitioner/Plaintiff Victoria has been, mentally incompetent, traumatized with PTSD, and The Respondent/Defendants are not physically present in a the States.

Tolling is “a legal doctrine that allows for the pausing or delaying of the running of the period of time set forth by a statute of limitations, such that a lawsuit may potentially be filed even after the statute of limitations has run. Although grounds for tolling the statute of limitations vary by jurisdiction, common grounds include: The plaintiff has been deemed mentally incompetent, The defendant is not physically present in a state.”

See Hilao v. Estate of Marcos, 103 F.3d 767, 773 (9th Cir. 1996) (citing S. Rep. No. 249, 102d Cong., 1st Sess., at 11 (1991)); and Jean v. Dorelien, 431 F.3d 776, 780 (11th Cir. 2005).

1991 Act re LIABILITY:

“Any individual who, (1) subjects an individual to torture shall, in a civil action, **be liable for damages to that individual:**

(a) makes clear that it creates liability under U.S. law where under "color of law, of any foreign nation" an individual is subject to torture or "extra judicial killing," and (b) extends its remedy not only to aliens but to any "individual," thus covering citizens of the United States as well."

As held in the Supreme court case of Dianna Ortiz v. Guatemala - Case 10.526, Report No. 31/96, Inter-Am.C.H.R., OEA/Ser.L/V/II.95 Doc. 7 rev. at 332 (1997); The legislative history makes clear that the TVPA was designed to strengthen and expand the ATCA, lessening the danger that the judiciary might reject the Filártiga v. Peña-Irala, 630 F.2d 876 (2d Cir. 1980), court's interpretation of the ATCA and extending coverage to claims by U.S. citizens.

B. Based on the UNITED NATIONS CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT or Punishment (UNCAT), GA RES.39/46, ANNEX, 39 UN GAOR SUPP (no 51) at 197, UN Doc. A 39/51 (1984), which **constitute Federal Common Law** that the U.S. had ratified and entered into force June 26, 1987, and The TVPA is held to carry it out, as it is an international human rights treaty, that aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or punishment around the world, and Respondent State of Kuwait has ratified and became a state party on March 8, 1996, as per its Articles:

Article 1.1 of the Convention defines torture as:

“For the purpose of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him, or a third person, information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in, or incidental to, lawful sanctions.”

Article 2 Ban on Torture:

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. **No exceptional circumstances whatsoever**, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. **An order from a superior officer or a public authority may not be invoked as a justification of Torture.”**

Article 16 Ban on cruel, inhuman, or degrading treatment or punishment:

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion."

All Crimes against Petitioner Victoria constituted Continuing violations of Various International Human Rights norms, violated by Respondent State of Kuwait and binding upon it, under both Conventional and Customary International Law.

Court Clerk per F.R.Civ.P.55(a) ordered the Entry of Default on Feb.17, 2016 Dkt.52 (Appendix B-4) against Only 3 Respondents who are Former Retired Kuwaiti Agents: Al-Fahed, Al-Fares and Al-Suheil:

The US District Court stated: "Plaintiff is advised that the filing of proof(s) of service, which Indicates proper service in full compliance with the Hague Convention and the Federal Rules of Civil Procedure, on or before February 26, 2016, will be deemed a satisfactory response to the Order to Show Cause. The request for entry of default is GRANTED and default is entered against the Served Defendants-Appellees: General Fahed Ahmad Al-Fahed, Abdullah Abdul-Rahman Al-Fares and Abdul-Rahman Al-Suheil. Plaintiff's Request for entry of default judgment is DENIED, without prejudice to its renewal through a noticed motion served on each of the Served Defendants-Appellees. Any such motion shall be filed on or before March 18, 2016."

All 3 Respondents Al-Fahed, Al-Fares and Al-Suheil, were served properly with Motion Documents, Memorandum of Points and Declaration, on May 19, 2016, 2016 Dkt.72 (Appendix C-6) by Federal Express served and delivered same day to all with proof of Service filed in court, pursuant to 28 U.S.C. § 1608(a)(2) and (b)(2)] and (c)(2), but all 3 served Respondents failed to reply in 60 days, per Hague Service Convention with proof of delivery, So Court should have Ruled for Default Judgement against all Respondents at same time, but only after Court orders Entry of Default against Respondents: State of Kuwait and Its Ministry of Interior, who are not immune in this case per Applicable Exceptions to FSIA.

Petitioner Victoria contends that All of the named individual Respondents: Al-Fahed, Al-Fares & Al-Suheil who committed alleged crimes against Petitioner Victoria, Under Color of Law are Retired Former Agents, all who no longer work for the government of Kuwait, and who were agents of the State of Kuwait at the time the herein damages were incurred, has No sovereign immunity as held in the Supreme Court case of Samantar v. Yousuf, (2010) 560 US at 305, 315-316, 130 S.Ct. 2278, 2287-2289] that the FSIA does not provide immunity to individual foreign officials sued for conduct undertaken in their official capacities.

US District Court asserted in its Final Judgement: "Plaintiff has satisfied the procedural requirements of Local Rule 55-1. Default was entered against Al-Fahed, Al-Suheil and Al-Fares ("Defendants") on February 17, 2016. Dkt.52. ...Finally, notice of the Motion has been served on Defendants. Dkt.64 at 2; Dkt.69; Dkt.70."

Then Court asserted as in b) *Eitel* Factors (1) Possibility of Prejudice:

"As a result of the failure of Defendants to appear or participate in this litigation, Plaintiff will suffer prejudice if a default judgment is not entered. Thus, absent its entry, Plaintiff would be left without a remedy. Philip Morris USA v. Castworld Prods., Inc., 219 F.R.D. 494, 499 (C.D. Cal. 2003) ("Plaintiff would suffer prejudice if the default judgment is not entered because Plaintiff will be without other recourse for recovery."); Pepsi Co v. Cal. Sec. Cans, 238 F. Supp. 2d 1172, 1177 (C.D. Cal. 2002) ("If Plaintiffs' motion for default judgment is not granted, Plaintiffs will likely be without other recourse for recovery."). Therefore, the first *Eitel* factor weighs in favor of granting the Motion."

US District Court referenced to Seven Eithel Factors in its final Judgement that the Fifth, Sixth and Seventh Factor weighs in favor of granting the motion and slightly in favor of entering the requested Judgement: Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986), to decide for Ruling to Enter Default Judgement against Respondents that mostly support Petitioner Victoria's Case.

III. The Court have overlooked the Facts of this Case as the Proceeding involves a Question of Exceptional Importance that:

This Human Rights Case is Not Time Barred based on:

A. The State Tort Law Claims asserted in Petitioner Victoria's Complaint against all Respondents IS NOT TIME BARRED, though Petitioner Victoria filed the Claims 19 years after the alleged Crimes, and though there is no Statute of Limitation under the FSIA and JASTA.

B. The 10 year statute of limitations under the Torture Victim Protection Act (TVPA) may be Equitably Tolled in exceptional circumstances in which parties are prevented in some extraordinary way from exercising their rights per 28 U.S.C. §1330, as in this case, Petitioner Victoria wasn't able to file, as explained above in II A.

C. Because such alleged Claims in Petitioner Victoria's Case are CRIMES AGAINST HUMANITY committed against Petitioner, so Due to IMPRESCRIPTIBILITY: The non-applicability of statutory limitations to war crimes and crimes against humanity, the waiving of time-bars on legal actions that has become a core principle of human rights thought: it is applied to fight impunity (by prosecuting perpetrators of serious crimes until their deaths) and to protect human dignity (by granting their victims and society at large a right to the truth).

IV. The Court Disregarded My Documented Proof of Service Which Proved That All Respondents Were Properly Served Pleadings and Summons on same day and disregarded all the proper applicable Laws:

Petitioner Victoria explained: Service of process on foreign states and foreign state-owned agencies and instrumentalities is governed by the Foreign Sovereign Immunities Act (FSIA). The United States is a party to treaties on service of process, the Hague Service Convention, and that is how all Respondents were served in this Case.

Based on 28 U.S.C. > Title 28. Part IV > Chapter 97, §1608 (a)(3), Named Respondent State of Kuwait was served through its Representative who works on behalf of State of Kuwait. His Excellency Deputy Prime Minister and present Minister of Foreign Affairs Sheikh Sabah Al-Khaled Al-Hamad Al-Sabah, Ministry of Foreign Affairs, <http://www.mofa.gov.kw/En/Pages/default.aspx>, and Named Respondent Ministry of Interior was served thru its Representative current Deputy Prime Minister and Minister of Interior, His Excellency Lt. Gen. (ret.) Sheikh Khaled Jarrah Al-Sabah, <https://www.moi.gov.kw/portal/venglish/>. I Enclosed the updated Website page of the Government of Kuwait Present and Past: <http://www.pm.gov.kw/council-ministers.aspx> (Appendix C-7)

“Service is effected by sending a copy of the summons, complaint, and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned.”

Based on RULE 4 OF Federal Rules of Civil Procedure: Commencing an Action; Service of Process, Pleadings, Motions and Orders:

(j) **Serving a Foreign, State, or Local Government.**

(1) *Foreign State.* A foreign state or its political subdivision, agency, or instrumentality must be served in accordance with 28 U.S.C. §1608.

(2) *State or Local Government.* A state, a municipal corporation, or any other state-created governmental organization that is subject to suit must be served by:

(a) **Delivering a copy of the summons and of the complaint to its chief executive officer;**

Petitioner Victoria enclosed to court, the documented Email Letter to me translated below from Arabic, from the **Head of the Supreme Judicial Council, Judge Faisal al Al-Murshed of Kuwait**, at Justice Palace, on June 15, 2015, as It proves that the Council of Ministers were informed about Victoria’s Case as it was presented to them. I only

received his one Kind Letter reply from One Just Kind Kuwaiti: He's such a great Judge, who was very respectful and compassionate to me when I spoke with him twice by phone. The Head of Supreme Judicial Council in Kuwait wrote me:

"To Sister Victoria, God help be with you, Peace greetings, I express my apology for what you faced of hurt and pain, as I pray to God to reward you with goodness, good health, long life and happiness. I asked the under Secretary, the Head of International Relations Dept. at Kuwait Ministry of Justice Mr. Zakaria Al-Ansari and asked him to cooperate with you and help with your case, and I was informed that your case was presented to the Council of Ministers, and I advise you not to consider the Head of State the Amir as a Defendant, for he works through his ministers."

But none of the Respondents had appeared in this action and they failed to reply after Six months of Service of Pleadings; with the Certificates as required by Hague Convention, as Respondent State of Kuwait & Its Minister of Interior didn't sign the proof of service for 2 years with disregard to Hague Convention, though they were served 3 times, last on May 14, 2015, Summons & Complaint to its, Kuwait Central Authority, thru Mr. Zakaria Al-Ansari, the Head of International Relations Department.

V. The Court have overlooked the Facts of this Case as it is necessary under Federal Rules that Victoria (Petitioner-Pro se) amend complaint and request for Relief, as court addressed without using this as a wrong reason to dismiss my case.

As I, Petitioner Victoria, am prepared to Amend the Prayer for Relief and remove no. 3-d: For reasonable Attorneys' Fees and Costs of Suit, according to proof, as requested by court, to ascertain to all pertaining laws, and amend my Request for Compensatory Damages only, without punitive damages, per Foreign State's liability under the FSIA, 28 U.S.C § 1606 Extent of Liability.

I pray for your Honorable Judges Ruling to be awarded Justice for all I prayed for in my Request for Relief, for Victory of Justice under your Wings Honorable Judges of US Supreme Court-WDC, and based on all the Laws stated above in this Petition, so that Respondents would adhere to all my demands:

My Request for Relief, I pray to prove my innocence and my good will, to compensate me for all their wrongdoing, in favor of Petitioner Victoria Elia Kaldawi, to be entitled as I pray for Compensatory Damages:

- a. For Personal Injury: Pain and Suffering, Trauma, Post-traumatic stress disorder (PTSD), Emotional Distress and Psychological Disability: US \$ 12,000,000
- b. For Loss of Tangible & Intangible Personal Property US \$ 800,000;
- c. For Loss of Business Income: For Loss of Profits from Business Contracts and Commissions, Book Sales and yearly scheduled publishing of directory for Kuwait & for other countries, and missing copies of Book: US\$ 5,000,000.

CONCLUSION

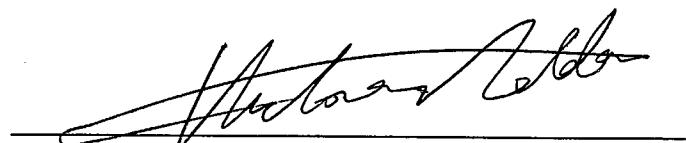
THE PETITION FOR A WRIT OF CERTIORARI SHOULD BE GRANTED,
for all the Lawful reasons stated above, that I explained in my Petition, as I, Victoria Elia Kaldawi (Petitioner) respectfully Request and pray for your Just Ruling Honorable Judges of the US Supreme Court. I sincerely hope and have faith that your Honorable Prominent Judges are the only ones who can resolve my case to grant me Justice and Reconciliation. I need your kind Rescue Help and support, to be Lead Pioneers in Supporting Human & Woman Rights, I hope I am Justified with Fair Resolution to my case under your Honors' Wings.

I am always thankful and very grateful to your Honorable Judges of the Supreme Court of the United States -WDC, to the United States Court of Appeals 9th Circuit, and US District Court-Los Angeles, and All Clerks who filed & reviewed my Lawful Case For Justice as a USA Citizen Woman Victim of many crimes, for all your kind help and support, consideration and cooperation.

I pray to God Lord Jesus Christ Holy Spirit with Mother Mary Prayers and all Saints, to BLESS USA; The SUPREME COURT of the UNITED STATES-WDC; YOUR HONORABLE JUDGES; CLERKS & ALL who helped me with my case, to fill your hearts with all the Love, Peace, Joy and Mercy to help me with my Case Victoria v. State of Kuwait, and all Other Cases for Justice.

I wish that USA & The Supreme Court of the United States - Washington DC and Kuwait, won't forsake me ever and please rescue me this time and help me resolve. Please Restore My Justice.

Respectfully submitted, in Torrance, California, USA



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Date: July 4, 2018