

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JOHN GREGORY LAMBROS,  
Plaintiff,

DEMAND FOR TRIAL BY  
JURY

CIVIL ACTION NO. 19-cv-1929

Removed from: Superior Court  
Of the District of Columbia,  
Case No. 2017-CA-000929-B  
Judge: Florence Y. Pan

Vs.

FEDERATIVE REPUBLIC OF BRAZIL, et al.,  
Defendants.

AFFIDAVIT FORM

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PLAINTIFF LAMBROS' MOTION TO DENY DEFENDANTS "MOTION TO SET  
ASIDE THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA'S ENTRY  
OF DEFAULT" - SUBMITTED TO THIS COURT ON JULY 5, 2019.

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1. COMES NOW, Plaintiff - Movant JOHN GREGORY LAMBROS, (Hereinafter "MOVANT"), Pro Se, and requests this Court to construe this filing liberally. See, HAINES vs. KERNER, 404 U.S. 519, 520-21 (1972) and DENY defendants "MOTION OF DEFENDANTS THE FEDERATIVE REPUBLIC OF BRAZIL AND THE STATE OF RIO DE JANEIRO OF THE FEDERATIVE REPUBLIC OF BRAZIL TO SET ASIDE THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA'S ENTRY OF DEFAULT", filed on July 5, 2019.

2. In support of this request plaintiff relies upon the record in this case and the following facts that are submitted in affidavit form herein.

3. In support of this request, I state the following as true and correct pursuant to Title 28 USC 1746.

### **PRELIMINARY STATEMENT - HISTORY OF CASE - BACKGROUND**

4. Minnesota businessman John Gregory Lambros was arrested on May 17, 1991, in Rio de Janeiro, Brazil by DEA and Brazilian Federal Police on the August 21, 1989 U.S. Parole Violation Warrant. He was not allowed an initial hearing by a judge as to his restraint of liberty after arrest – 72 hours by law in Brazil – 48 hours after arrest in U.S. and was transported to a torture interrogation center in Brasilia, Brazil 58 days later.
5. Movant Lambros was illegally transported to Brasilia, Brazil by August 1991 and was informed that he was arrested due to a U.S. Parole Commission Warrant dated August 21, 1989. DEA Agent Terryl Anderson testified before U.S. Magistrate Judge Jonathan Lebedoff on December 9, 1992, stating that he arrested Movant Lambros on May 17, 1991, pursuant to a parole violation warrant.
6. Movant was placed within a depatterning cell, depatterned, tortured daily, forced implanted with brain control implants that monitor and control Movant's mental functions, thoughts, deeds to this day. **PROOF OF IMPLANTS:** On July 17, 1992, Movant was x-rayed as to the

existence of brain control implants that torture him daily, that monitor and control Movant's mental functions, thoughts, deeds and force involuntary religious servitude. See, RADIOLOGIC CONSULTATION REQUEST/REPORT, Federal Medical Center, U.S. Bureau of Prisons, Rochester, Minnesota, dated July 22, 1992, of John Gregory Lambros, which states, "In the lateral views there appears to be clusters of punctate radiopaque foreign bodies ...". Signed by Dr. William C. Wells, M.D.. Of interest, the report was stamped "COPY NOT TO BE RELEASED." The x-ray and report are available at: [www.Lambros.Name](http://www.Lambros.Name).

7. On or about August 15, 1991, Movant Lambros went before Brazilian Supreme Court Justice Carlos Velloso, as to his extradition in U.S. vs. LAMBROS, CR-4-89-82, from the U.S. District Court for the District of Minnesota. This is the first time Movant Lambros had been seen by a Brazilian Judge since his arrest on May 17, 1991. Justice Velloso informed Movant Lambros his extradition request by the United States was based upon the May 17, 1989 indictment, CR-4-89-82, that listed nine (9) counts and Movant was charged in Counts 1, 5, 6, 8, and 9. **Movant was informed that the U.S. Parole Commission WARRANT - that he was arrested on - was not a crime in Brazil and he would not be extradited on it.** The U.S. Embassy attorney agreed with Movant's attorney's and Justice Velloso that the August 21, 1989 U.S. PAROLE COMMISSION WARRANT WAS NOT A CRIME IN BRAZIL. Please note that all counts, except for Count Nine (9) (**NOT A CRIME IN BRAZIL AND MOVANT NOT EXTRADITED ON SAME**), carried sentences of either MANDATORY LIFE WITHOUT PAROLE OR MAXIMUM LIFE SENTENCES WITHOUT PAROLE:

- a. Count 1: MANDATORY LIFE WITHOUT PAROLE;

- b. Count 5: Maximum life imprisonment without parole;
- c. Count 6: Maximum life imprisonment without parole;
- d. Count 8: Maximum life imprisonment without parole;
- e. Count 9: Brazilian Supreme Court **DID NOT EXTRADITE MOVANT ON THIS**

**COUNT, AS IT IS NOT A CRIME IN BRAZIL.**

8. The above sentences may be confirmed from the **NOVEMBER 16, 1992, "PLEA AGREEMENT AND SENTENCING GUIDELINES RECOMMENDATIONS,"** letter from U.S. Attorney Thomas B. Heffelfinger and Douglas R. Peterson, Assistant U.S. Attorney to Movant Lambros' attorney Charles W. Faulkner, stating "Enclosed please find the government's written plea proposal consistent with our discussions within the last ten days." Also, Attorney Faulkner's letter with copy of the plea agreement and the November 16, 1992, dated November 17, 1992 to Movant Lambros stating, "**The agents would prefer you go to trial and get life.**" All three of the above documents may be reviewed in PDF format at: [www.Tort.Lambros.Name](http://www.Tort.Lambros.Name).
9. Movant Lambros' torture increased after his August 15, 1991 hearing with Justice Velloso, the guards wanting me to waive extradition hearings. The U.S. Embassy visited and was advised of my torture to no avail. It is Movant's belief that the torture was due to the fact the Brazilian Constitution prohibits any penalty of life (Article 5, Clause XLVII,b) and Article 75 of the Brazilian Criminal Code, limits the maximum sentence in Brazil to thirty (30) years. See, STATE OF WASHINGTON, vs. MARTIN SHAW PANG, 940 P.2d 1293, 1353 (Washington Supreme Court,

1997). All parties, Movant's attorney's, Brazilian Supreme Court and the U.S. Embassy and legal counsel knew the statute Lambros was indicted under only allowed MANDATORY LIFE WITHOUT PAROLE and maximum sentences of life without parole. In PANG, the Supreme Court of Brazil ruled he COULD NOT be extradited on four (4) counts of murder in the first degree, approving extradition only on one (1) count of arson in the first degree to the State of Washington.

10. In October 1991, **FRANCISCO TOSCANINO** had been arrested in Brazil on or about August 4, 1989 and transported to the torture interrogation facility Movant Lambros was being held within, the same facility FRANCISCO TOSCANINO had been tortured and interrogated while the U.S. Government and the U.S. Attorney for the Eastern District of New York received reports in January 1973. Furthermore, during his period of torture and interrogation a member of the U.S. Department of Justice, Bureau of Narcotics and Dangerous Drugs was present at one or more intervals and actually participated in portions of the interrogation, as he was denied sleep for days at a time – as was Movant Lambros. See, **U.S. vs. FRANCISCO TOSCANINO, 500 F.2d 267, 269-270 (2<sup>ND</sup> Cir. 1974).**
  
11. Toscanino and Lambros compared information as to the torture Lambros was receiving and the best options possible for Lambros not to be killed by the police, as the U.S. Embassy **WOULD NOT ASSIST LAMBROS**. In fact, the U.S. Embassy and the DEA covered-up the fact that FRANCISCO TOSCANINO WAS IN THE SAME SIX (6) CELL BLOCK AS LAMBROS AND LAMBROS

**WAS IN THE SAME CELL THAT TOSCANINO WAS HELD AND TORTURED BACK IN 1973.** Movant Lambros was even given an **INCREASED SENTENCE** for stating the facts in this paragraph to the trial court in the United States. See, September 8, 1995 "ORDER" by the Eighth Circuit Court of Appeals, U.S. vs. LAMBROS, 65 F.3d 698, 701 (8<sup>TH</sup> Cir. 1995). When the Court reviewed the U.S. District Court's record and findings of U.S. District Judge Diana E. Murphy stating, "Although a **SPECIFIC FINDING ON THE QUESTION WHETHER LAMBROS HAD BEEN TORTURED WITH AMERICAN COMPLICITY WOULD HAVE BEEN PREFERRED,** the state of the record obviates the need for remand. First, as discussed below, Lambros' testimony is **UNBELIVEABLE BECAUSE HE PERJURED HIMSELF IN OTHER REGARDS AT TRIAL, AND IT IS ALSO FANTASTIC.** (For instance, Lambros maintains that he was **HELD IN THE SAME BRAZILIAN CELL WHERE THE MISTREATMENT ALLEGED IN U.S. vs. TOSCANINO, 500 F.2d 267 (2<sup>nd</sup> Cir. 1974), OCCURRED, AND EVEN ASSERTS THAT HE MET TOSCANINO THERE."** Also, please note that two DEA Agents from Brazil testified and were consulted as to Lambros' allegations and informed the Court that **FRANCISCO TOSCANINO WAS NEVER IN THE SAME FACILITY AS LAMBROS FROM OCTOBER THRU DECEMBER 1991. Id. at 701.**

12. **PROOF THAT FRANCISCO TOSCANINO AND MOVANT LAMBROS WERE IN THE SAME SIX (6) CELL BLOCK IN BRASILIA, BRAZIL FROM OCTOBER 20, 1991 THRU DECEMBER 31, 1991:** On October 20, 1991, the Sunday newspaper article from CAMPINAS, (Sao Paulo, Brazil) entitled "MAFIOSO DA CAMORRA PRESO SOFREU TORTURAS NA DITADURA" by Jose Francisco Pacola, states **FRANCISCO TOSCANINO** is currently being held at the Federal Police Station in Brasilia, Brazil awaiting extradition to Italy. The above article was mailed to Movant Lambros by the son

of **FRANCISCO TOSCANINO** – Maxime Toscanino – on February 12, 1996, thru Attorney Jeff Orren. Maxime stated that his father FRANCISCO TOSCANINO was in a maximum security prison near Naples, Italy and offered the name of his father’s attorney during his extradition to Italy in 1991 – **Dr. Julio Cardella, Rua General Osorio, 939, CAMPINAS SAO PAULO, BRAZIL AND PHONE NUMBER.** The above article is available at Movant Lambros’ website:

**[www.Lambros.Name](http://www.Lambros.Name)**.

13. **U.S. EMBASSY COVER-UP OF TORTURE AND FACT TOSCANINO STAYED IN SAME CELL BLOCK WITH LAMBROS: JANUARY 11, 1993,** U.S. Federal Judge Diana E. Murphy issued a **SUBPOENA FOR MARGARET MURPHY, COUNSEL GENERAL, AMERICAN EMBASSY BRASILIA, BRAZIL** to appear on January 14, 1993, in the U.S. District Court, District of Minnesota, Courtroom Three (3) at 9:00 a.m. with **“ANY AND ALL RECORDS RELATING TO JOHN LAMBROS.”** FOIA records indicate that the U.S. Embassy in Brasilia, Brazil received the **SUBPOENA** on January 11, 1993. **MARGARET MURPHY DID NOT APPEAR AT THE TRIAL OF JOHN LAMBROS ON JANUARY 14, 1993.** The \$64,000 question is, why didn’t Judge Murphy or the U.S. Attorney issue a **“MATERIAL WITNESS WARRANT” FOR THE ARREST OF MARGARET MURPHY?** The January 11, 1993 **“SUBPOENA”** may be reviewed on Movant Lambros’ website: **[www.Lambros.Name](http://www.Lambros.Name)**. You may also GOOGLE: **“DOWNLOAD JUNE 19, 1996 LETTER AND SUBPOENA FOR MARGARET MURPHY HERE IN PDF”**.

14. **BOTTOM LINE: LAMBROS WAS TORTURED AND IMPLANTED IN BRAZIL** – The U.S. Government only cares about covering-up any possible **“AMERICAN COMPLICITY”**! See, Paragraph 11 above, **“Although a specific finding on the question whether Lambros had been TORTURED WITH AMERICAN COMPLICITY WOULD HAVE BEEN PREFERRED, ...”** This action involves acts within Brazil, that have carried forward to the United States due to Movant’s extradition. Therefore, the United States has never stated that Movant Lambros **WAS NOT TORTURED IN BRAZIL**, only stating he was **not** tortured with **“AMERICAN COMPLICITY”**!!!!
15. Margaret Murphy, Counsel General, American Embassy Brasilia, Brazil visited Movant Lambros at least one (1) time while being held within the Federal Police Station in Brasilia, Brazil – torture interrogation center. Lambros informed Murphy of this torture and she also knew **FRANCISCO TOSCANINO** was being held in the same row of six (6) cells as Movant Lambros. Murphy informed Movant Lambros that she did not believe that the Supreme Court of Brazil would enforce the Brazilian Constitution and laws of no life sentence and/or maximum sentence of thirty (30) years in Movant Lambros’ extradition, as Lambros **DID NOT UNDERSTAND HOW HE COULD BE EXTRADITED FROM BRAZIL, AS BRAZIL CAN NOT CHANGE THE LAWS IN THE UNITED STATES, AS HIS MANDATORY LIFE SENTENCE WITHOUT PAROLE AND MAXIMUM SENTENCES OF LIFE ARE DICTATED BY 21 U.S.C. 841, STATUTORY LIMITS AND SENTENCING.** Movant Lambros asked Muphy if the Brazilian Constitution and laws **ALLOWS “DISCRIMINATION” AGAINST FOREIGN CITIZENS IN BRAZIL?** Murphy would **not** respond to Movant, as she held her head down!!
16. For an overview and memorandum of law regarding Brazil’s discrimination against foreign citizens in Brazil, by John Gregory Lambros, please GOOGLE: **“WHETHER BRAZIL’S CONSTITUTION ‘DISCRIMINATES’ AGAINST FOREIGN CITIZENS IN BRAZIL, WHEN THEY ARE**



**NOT ENTITLED TO THE SAME CONSTITUTIONAL RIGHTS – FUNDAMENTAL AND ORGANIC LAW OF THE NATION – THAT BRAZILIAN’S ENJOY?”**. Also available at: [www.Lambros.Name](http://www.Lambros.Name).

17. **APRIL 30, 1992:** The Brazilian Supreme Court **GRANTED IN PART** the extradition of Movant Lambros to the United States in U.S. vs. LAMBROS, CR-4-89-82, District of Minnesota, in extradition case No. 539-1. The Justices decided, however, by majority of votes, that Movant Lambros should be **PROSECUTED AND TRIED IN THE U.S. ONLY FOR CHARGES** (A) one count of conspiracy to possess with intent to distribute and to distribute more than five kilograms of cocaine, in violation of 21 U.S.C. 846; (B) three (3) counts of possession with intent to distribute cocaine and aiding abetting such possession, in violation of 21 U.S.C. 841(A)(1) and 841(B)(1)(b) and 18 U.S.C. 2; **AND NOT FOR** (C) one (1) count of Travel in Interstate Commerce in carrying out illegal activity; i.e., the distribution of cocaine, in violation of 18 U.S.C. 1952(A)(3) and 1952(B)(1).
  
18. **APRIL 30, 1992:** The Brazilian Supreme Court **DID NOT GRANT EXTRADITION ON THE AUGUST 21, 1989 “WARRANT” BY THE U.S. PAROLE COMMISSION, THAT MOVANT WAS ARRESTED ON BY DEA AGENT TERRYL ANDERSON IN BRAZIL ON MAY 17, 1991.** This “WARRANT” clearly stated Movant was to serve 5,357 days (14 ½ years). For an excellent overview as to why the Treaty of Extradition Between Brazil and the United States does not allow extradition of U.S. Parole Commission Warrants, review Movant Lambros’ letter to Johanna Markind, Assistant General Counsel, U.S. Parole Commission, dated December 12, 2014. The December 12, 2014 letter may be downloaded in PDF Format at: [www.Lambros.Name](http://www.Lambros.Name).
  
19. The law is very clear that the Supreme Court of Brazil **could not legally extradite Movant Lambros**, as the only penalty Movant could receive for Count 1 was MANDATORY LIFE WITHOUT PAROLE [the penalty Lambros received] and MAXIMUM LIFE SENTENCES ON COUNTS 5, 6, AND 8. In the United States and Brazil, **ONLY CONGRESS CAN PRESCRIBE A PENALTY FOR A**

**GIVEN CRIME.** It is beyond the judiciary's duties to prescribe the statutory penalty. See, U.S. vs. EVANS, 333 U.S. 483, 495 (1948). Therefore, Movant Lambros does not believe the Supreme Court of Brazil could legally grant his extradition, with the **RESTRICTION** of Movant not remaining under the United States custody for **MORE THAN THIRTY (30) YEARS.** See, Brazil's Constitution does not allow **LIFE IMPRISONMENT – Article 5, Clause XLVII(b) – AND BRAZILIAN CRIMINAL CODE, ARTICLE 75, LIMITS MAXIMUM PRISON SENTENCES TO THIRTY (30) YEARS. ARTICLE XI,** of the Treaty of Extradition between Brazil and the U.S. states: “The determination that extradition based upon the requested therefore should or should not be granted shall be **MADE IN ACCORDANCE WITH THE DOMESTIC LAW OF THE REQUESTED STATE [Brazil], ...**” See, PANG, at 1358.

20. If the Brazilian Supreme Court had the authority to **TRUMP CONGRESS' LEGISLATIVE AUTHORITY REGARDING CONSTITUTIONAL RIGHTS AND BRAZILIAN LAWS,** the Brazilian Supreme Court also **DENIED MOVANT LAMBROS ACCESS TO THE FOLLOWING LIST OF INTERNATIONAL, BRAZILIAN, AND U.S. LAWS, THAT HAVE BEEN APPLIED TO OTHER EXTRADITION CASES TO THE U.S.:** This is only a list and supported by reference in the extradition of MARTIN SHAW PANG from Brazil to the State of Washington. See, STATE OF WASHINGTON vs. PANG, 940 P.2d 1293 (Washington, 1997):

- a. **DOCTRINE OF SPECIALTY:** PANG, at 1321.
- b. **DOCTRINE OF DUAL CRIMINALITY:** PANG, at 1322-23.
- c. **DOUBLE PUNISHMENT FOR THE SAME ACT, A BIS IN IDEM – MUTATIS MUTANDIS – PRINCIPLE OF ABSORPTION:** PANG, at 1338-39. Basically, Movant Lambros **COULD NOT** of been extradited for **COUNTS 5, 6, 8, AND 9 – AS THE COUNTS ARE INCLUSIVE WITHIN THE COUNT ONE (1) CONSPIRACY COUNT – THE COUNT MOVANT LAMBROS RECEIVED THE MANDATORY LIFE WITHOUT PAROLE ON.**

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d. PRINCIPLE OF SUBSIDIARITY: PANG, at 1341. Subsidiarity is implied when the crime defined by one of the rules is an **ELEMENT** or a legal circumstance of another crime. Again, a drug **CONSPIRACY** contains the **ELEMENTS** of the underlying counts of 21 U.S.C. 841 single counts.

e. ARTICLE 77 DECREES: PANG, at 1349. Extradition will not be granted when the fact motivating the request is not considered a crime in Brazil.

21. The D.C. Court of Appeals cited, U.S. vs. EVANS, 333 U.S. 483, 486 (1948), “defining the crime and fixing the penalty is a **LEGISLATIVE FUNCTION**,” “[i]t is not permissible for the trial court to **INSERT THE MISSING PROVISION**.” See, MOTEN vs. U.S., 81 A.3d 1274, 1276-77 (D.C. App. 2013). Also see, U.S. vs. BOGLE, 689 f. Supp. 1121, 1134-35 (S.D. Fla. 1988)(“...., it has remained indisputable, as Chief Justice Marshall wrote many years ago, that ‘the power of punishment is vested in the **LEGISLATIVE, NOT IN THE JUDICIAL DEPARTMENT. IT IS THE LEGISLATURE, NOT THE COURT, WHICH IS TO DEFINE A CRIME, AND ORDER ITS PUNISHMENT.**’ U.S. vs. WILTBERGER, 18 U.S. (5 Wheat.) 76, 95 (1820)...”)(collecting cases including U.S. vs. EVANS).

## **FACTS:**

22. I John Gregory Lambros am the pro se Plaintiff in the above-entitled matter and I am familiar with the file, records and pleadings in this matter.

23. Plaintiff Lambros is proceeding FORMA PAUPERIS, as granted by the Honorable J. Wertheim, Superior Court of the District of Columbia, Civil Division, on February 10,

2017.

24. Defendants attorneys attempt to **HOODWINK** this Court within the "MEMORANDUM OF POINTS AND AUTHORITY ... TO SET ASIDE THE ENTRY OF DEFAULT BY THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA AND IN OPPOSITION TO PLAINTIFF'S MOTION FOR ENTRY OF A DEFAULT JUDGMENT", by declaring at least five (5) times that PLAINTIFF LAMBROS HAS FAILED TO SERVE DEFENDANTS, AS REQUIRED BY FSIA, and devoting over eight (8) pages of alleged support. See, Pages 1, 3, 9, 10, 11, 12, 16, and 22 of the "MEMORANDUM OF POINTS AND AUTHORITY." **The simple truth is Plaintiff Lambros served Defendants via Crowe Foreign Services, who shipped the complaint in this action on August 18, 2017 and Defendants received the complaint on October 6, 2017, as confirmed by UPS International.** Crowe Foreign Services has been on the cutting edge of serving process and obtaining evidence in foreign countries for over 30 years. **International service is all they do.** The following facts will assist this court to understand that all necessary material to effectuate service under applicable international law has been followed and Defendants have responded to Plaintiff Lambros complaint on January 11, 2019, with thousands of pages of return documents from the Brazilain Courts, representing the completion of the service requested upon both Defendants in accordance with Title 28 U.S.C. 1608(a)(2). Plaintiff will attach exhibits offering Brazilian Court documents confirming from defendants, as to service of process in this action, as two (2) letters of ROGATORY were issued, one serving process on the State of Rio de Janeiro and the other serving process on the Federal Government of Brazil:

- A. State of Rio de Janeiro, Letter of Rogatory 12537.
- B. Federative Republic of Brazil, Letter of Rogatory 12540.

See, **EXHIBIT A.** (April 18, 2018, Petion from Marcelo Mello Martins, State Prosecutor for the State of Rio de Janeiro, Brazil)

25. June 27, 2017: The Honorable Judge F. Pan issued an "ORDER" stating that she signed all necessary material to effectuate service under applicable international law, including the Inter-American Convention on Letters Rogatory and the Additional Protocol to the Inter-American Convention on Letters Rogatory and "ORDERED" the Clerk to affix the seal of the Court and mail the forms to Plaintiff Lambros and Crowe Foreign Service, the agent for service of process, acting in Plaintiff's behalf. Both Plaintiff and Crowe Foreign Service received the mailing.

26. "On August 18, 2017, the documents in this case, with signed Inter-American Convention forms and Portuguese translations of all, were forwarded to the U.S. Central Authority for final transmission to the Central Authority for Brazil, to be served upon the **Federative Republic of Brazil** and the **State of Rio de Janeiro of the Federative Republic of Brazil** in accordance with the Inter-American Convention and the laws of Brazil." See, "DECLARATION OF CELESTE INGALLS", dated February 6, 2019, paragraph 3.

27. JANUARY 14, 2019: Crowe Foreign Services received "Proof of Service" from both defendants in this action, from the Central Authority for Brazil and the Brazilian courts with the Brazilian Court issued documentation detailing the action taken with respect to the above requests to serve the **Federative Republic of Brazil** and the **State of Rio de Janeiro of the Federative Republic of Brazil**.

28. **Defendant Federative Republic of Brazil:** Defendant Brazil responded within the Letter Rogatory No. 12,540, with a decision by Judge Rapporteur and signed by Appellate Judge Laurita Vaz, Chair of the Appeal Court of Brazil, that "The Office of the General Counsel for the Federal Government by way of the Office of its Attorney General, opposes granting rogatory remedy ..." The Court stated the reasons offered by the General Counsel and Office of Attorney General are correct as to Plaintiff's "request [for] compensation from the Federal Republic of Brazil for the initial amount of

**US\$ 100,000,000,000.00 (one hundred billion US dollars)**, for the alleged illegality practiced in the process of his extradition to the United States of America, which was authorized by the Federal Supreme Court, as well as for an act of torture that he supposedly suffered during the period of his imprisonment in Brazil, which includes a fanciful narrative about 'brain controlling implants.'”

29. Judge Rapporteur and Vaz also stated, “The foreign request is in conflict with the **immunity** of the Brazilian State. The nature of the act practiced by the Brazilian State is a determining factor as regards the adoption of the aforesaid **immunity**.”

30. **Judge Rapporteur and Vaz state Plaintiff has JURISDICTION IN BRAZIL TO FILE THIS ACTION???????** “It should be pointed out that, in order to resolve the controversy in question and in order to repair the alleged damage to the victim, **the action that is in dispute should be filed before the Brazilian Judiciary.** In fact, the request in this letter rogatory cannot be taken as a mere communication of a procedural act, but rather as a summons by one foreign country of another, to respond to the legal demand, **in which it is protected by its immunity to foreign jurisdiction for any act of empire.**” **This is not true.** Plaintiff will respond to the issue of **IMMUNITY** later in this motion.

31. **Defendant State of Rio de Janeiro of the Federative Republic of Brazil:** Defendant **State of Rio de Janeiro** responded within the Letter Rogatory No. 12,537, with a decision by Judge Rapporteur and signed by Appellate Judge Laurita Vaz, Chair of the Appeal Court of Brazil, that “The State of Rio de Janeiro **opposes granting rogatory remedy,** within the terms of the objection of ....., with the argument that the Appealability of the commission is contrary to the sovereignty and public order of the Brazilian state.”

32. **Judge Rapporteur and Vaz state: “The State of Rio de Janeiro and the Federal Public Prosecutor’s Office are right.”**

33. **Judge Rapporteur and Vaz also stated:** That Plaintiff Lambros “request [for] compensation from the Federal Republic of Brazil for the initial amount of **US\$ 100,000,000,000.00 (one hundred billion US dollars)**, for the alleged illegality practiced in the process of his extradition to the United States of America, which was authorized by the Federal Supreme Court, as well as for an act or torture that he supposedly suffered during the period of his imprisonment in Brazil, which includes a fanciful narrative about ‘brain controlling implants.’”, within Defendant **State of Rio de Janeiro** response to Letter Rogatory No. 12,537.

34. **Again, Judge Rapporteur and Vaz state Plaintiff has JURISDICTION IN BRAZIL TO FILE THIS ACTION??????** “It should be pointed out that, in order to resolve the controversy in question and in order to repair the alleged damage to the victim, **the action that is in dispute should be filed before the Brazilian Judiciary.** In fact, the request in this letter rogatory cannot be taken as a mere communication of a procedural act, but rather as a summons by one foreign country of another, to respond to the legal demand, **in which it is protected by its immunity to foreign jurisdiction for any act of empire.** **This is not true.** Plaintiff will respond to the issue of **IMMUNITY** later in this motion.

**ADDITIONAL DOCUMENT PROVING “PROOF OF SERVICE”  
TO BOTH DEFENDANTS**

35. MARCELO MELLO MARTINS, State Prosecutor stated within his one (1) page document dated April 18, 2018, “The State of Rio de Janeiro, in the case of Letter

Rogatory 12537, comes respectfully to request that the attached document be added to it and to **reiterate for the exequatur to be denied.** Also, "Given the defendant duplicity, **two letters rogatory were issued, one SERVING PROCESS ON THE STATE, AND THE OTHER SERVING PROCESS ON THE FEDERAL GOVERNMENT.**" "**The letter SERVING PROCESS ON THE FEDERAL GOVERNMENT IS NUMBER 12540; AND THAT OF THE STATE IS NUMBER 12537.**" See, **EXHIBIT A.**

36. **JURISDICTIONAL IMMUNITY:** State Prosecutor Marcelo Mello Martins also stated "Both letters rogatory went for an opinion to be issued by the Attorney General's Office, and both merited an opinion as to the **INVALIDITY of the claim in view of the obvious JURISDICTIONAL IMMUNITY.** See, **EXHIBIT A.**

37. The above referred documents were delivered to the Superior Court of the District of Columbia, Civil Division in Portuguese and English, with a "Declaration of Celeste Ingalls", on February 8, 2019 for filing in this action - 2017-CA-929-B. Also, Celeste Ingalls offered testimony to Judge Pan on February 8, 2019, as to the content of the documents, as ordered by the Honorable Judge F. Pan on January 25, 2019.

### **DEFENDANTS WAIVED DEFENSE OF JURISDICTION IMMUNITY**

38. Treaty of Extraditions are **SELF-EXECUTING.** "Extradition treaties by their nature are **DEEMED SELF-EXECUTING..**" See, United States of America vs. Rafael CARO-QUINTERO, et al, 745 F.Supp. 599, 607 (C.D. Calif. 1990).



39. Brazil has **WAIVED** its sovereign immunity when it signed the Extradition Treaty with the US. Proof of same is offered within: Lois FROLOVA vs. UNION OF SOVIET SOCIALIST REPUBLICS, 761 F.2d 370, 376-377, FootNote 9:

"In Part II of this opinion, we discussed the international agreement exception found in 28 U.S.C. Sec. 1604. In the context of waiver of immunity by treaty, sections 1605(a)(1) and 1604 obviously overlap to some extent. If an international agreement is **SELF-EXECUTING** and may therefore be the basis of an action under Sec. 1604--that is, if it creates rights enforceable by **PRIVATE litigants**--then, in addition, it almost certainly **WAIVES sovereign immunity** under Sec. 1605(a)(1), **thus PROVIDING a dual basis for DISTRICT COURT jurisdiction**. For purposes of this opinion, however, we need not define the interrelationship between the two sections because it is clear that neither the United Nations Charter nor the Helsinki Accords implicitly waives the Soviet Union's immunity from suit" (emphasis added)

**THE ABOVE IS COPY OF FOOTNOTE 9, from FROLOVA.**

40. Please note Plaintiff Lambros was expecting this argument and included the above defense within his original complaint that was sent to Brazil. See, **paragraph 60, Page 18.**

41. **TREATY WITH BRAZIL, DECEMBER 12, 1828 - ARTICLE XII:** Brazil and the United States have a treaty that **accords Americans and Brazilians access to U.S. Courts**, equivalent to that provided American citizens. See, **TREATY OF AMITY, COMMERCE, AND NAVIGATION**; December 12, 1828, ARTICLE XII: "Both the contracting parties promise and engage formally to give their special protection to the persons and property of the citizens and subjects of each other, of all occupations, who may be in their territories, **subject to THE JURISDICTION OF THE ONE OR THE OTHER**, TRANSIENT OR DWELLING THEREIN, **LEAVING OPEN AND FREE TO THEM THE TRIBUNALS OF JUSTICE FOR THEIR JUDICIAL INTERCOURSE, ON THE SAME TERMS WHICH ARE USUAL AND CUSTOMARY WITH THE NATIVES**

**OR CITIZENS AND SUBJECT OF THE COUNTRY IN WHICH THEY MAY BE, IN DEFENSE FOR THEIR RIGHTS, SUCH ADVOCATES, SOLICITORS, NOTARIES, AGENTS AND FACTORS, AS THEY MAY JUDGE PROPER IN ALL THEIR TRIALS AT LAW.** See, CONSTRUTORA NORBETO OBERBRECHT S.A. vs. GE, 2007 U.S. Dist., LEXIS 79219 (S.D.N.Y., 2007). Plaintiff Lambros offered this information to this Court and Defendants within his Complaint on page 17 and 18, paragraph 57. It appears Defendants must have selective reading skills. Plaintiff also incorporates paragraph 78(f), page 24, within his complaint in this action, as to legal opinions supporting Plaintiff's right to sue in his "**PREFERRED FORUM**", as per the language within the **TREATY OF AMITY**, December 12, 1828 - ARTICLE XII.

42. **TREATY OF EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF BRAZIL, May 29, 1961 - ARTICLE XI:** States extradition shall be made in accordance with the DOMESTIC LAW OF THE REQUESTED STATE, and the person whose extradition is desired shall have the right to use such remedies and recourse as are authorized by such law.

43. **DOING BUSINESS IN BRAZIL, by Brazilian Attorney PINHEIRO NETO,** (1991) offers an excellent overview into **THE BRAZILIAN LEGAL SYSTEM.** Attorney PINHEIRO NETO'S book is in english and published by Matthew Bender & Company. Of interest is the following: (1) "In the field of **CRIMINAL LAW**, the principle IN DUBIO PRO REO (**i.e. any doubt shall be resolved in favor of the defendant**) has been fully recognized and applied by the courts. See, §1.133.

44. The 1988 new constitution of the Federative Republic of Brazil (Republica Federative do Brasil) clearly states within Title II, Fundamental Rights and Guarantees, Chapter I, Individual and Collective Rights and Duties, **ARTICLE 5:**

Article 5. - **All persons are equal before the law**, without any distinction whatsoever, **and Brazilians and foreigners resident in Brazil are assured of inviolability of the right to life, to liberty, to quality, to security and to property, on the following terms:**

III: no one shall be submitted to torture or to inhuman or degrading treatment;

IV: the expression of thought is free, and anonymity is forbidden;

V: **the right to answer is ensured**, in proportion to the offense, besides compensation for property or moral damages or damages to the image;

X: the privacy, private life, honor and image of person are inviolable, and the right to **COMPENSATION for property or moral damages resulting from the violation thereof is ensured;**

XXXIX: there is no crime without a previous law which defines it, nor is there any punishment without a previous legal imposition;

XL: THE PENAL LAW SHALL NOT BE RETROACTIVE, EXCEPT TO THE BENEFIT OF THE DEFENDANT; (How can the Treaty of Extradition Between the United States of America and the United States of Brazil, signed on January 13, 1961, be legal?)

XLI: **the law shall punish any discrimination against fundamental rights and liberties;**

XLVII: **there shall be NO SENTENCE: b) of life imprisonment;** e) which is cruel.

IXXIV: the State shall provide full and gratuitous legal assistance to whoever proves not to have sufficient funds;

**LXXV: THE STATE SHALL INDEMNIFY A PERSON CONVICTED BY A JUDICIAL ERROR, AND ALSO A CONVICT WHO REMAINS IMPRISONED LONGER THEN THE PERIOD ESTABLISHED IN THE SENTENCE;**

**LXXVII: Paragraph 2. - The rights and guarantees established in this Constitution DO NOT PRECLUDE others arising out of the regime and the principles adopted by it, or out of INTERNATIONAL TREATIES TO WHICH THE FEDERATIVE REPUBLIC OF BRAZIL IS A PARTY.**

45. Plaintiff Lambros reminds the court **that even though the decision not to honor the laws and constitution of Brazil was made in Brazil**, by the Supreme Court of Brazil and Defendants, Defendants **communicated its illegal decision** within the legal opinion for Plaintiff's extradition to the Harry S Truman Building, the headquarters of the United States Department of State. **It is located in Washington, D.C., 2201 C St NW, Washington, DC 20520.** It is well settled that a breach of contract constitutes a **"DIRECT EFFECT."** **Also, the "EFFECT" of the illegal extradition process was felt in the United States of America, as Plaintiff received a sentence of MANDATORY LIFE WITHOUT PAROLE, a sentence not possible under Brazil's Constitution.** See, Chapter I, Individual and Collective Rights and Duties, **ARTICLE 5: XLVII: there shall be NO SENTENCE: b) of life imprisonment; e) which is cruel.** The Supreme Court of Brazil and Defendants in this action, were **contractually obligated** to enforce the laws and Constitution of Brazil during the extradition process of Plaintiff Lambros to the United States of America. **Defendant's were free to limit the terms of Plaintiff's sentence and/or prosecute Plaintiff in Brazil to a sentence of no more than ten (10) years, but did not do so.** In Brazil, conspiracy to distribute cocaine is specifically addressed in law No. 6368, Article 14, **and carries a sentence of 3 to 10 years.**

**DEFENDANTS "PROPOSED" ORDER TO THIS COURT SHOULD  
BE DENIED - FILED ON JULY 5, 2019.**

46. Defendants attorneys Foley Hoag LLP - four in total - included a proposed order for this Court to sign that mistakenly stated that the **CLERK** for the Superior Court of the District of Columbia, Civil Division entered DEFAULT in this action. The Honorable Judge Pan issued an ORDER as to the DEFAULT in this action.

47. Defendants attorneys request this Court to GRANT Defendants' Motion to vacate the **Clerk [Judge Pan's issued order]** of the D.C. Superior Court's Entry of Default pursuant to Fed. R. Civ. P. 55(c) and DENY Plaintiff's Motion for Final Judgment by Default against Defendants. Plaintiff believes the facts and legal cite sources offered by Plaintiff **does not** allow this Court to vacate Judge Pan's ORDER for ENTRY OF DEFAULT in this action and May 15, 2019 ORDER stating that the "**status hearing scheduled for July 5, 2019, is converted to an EX PARTE PROOF HEARING (FOR DAMAGES).**

**ARE DEFENDANTS ATTORNEYS - FOLEY HOAG LLP - ATTEMPTING  
TO AVOID A MALPRACTICE LAWSUIT FOR NOT DEFENDING  
DURING THE "ENTRY OF DEFAULT" MOTION PROCESS?????**

48. Is Plaintiff Lambros being used as a **SCAPEGOAT**, due to Foley Hoag LLP lack of defending Defendants during the "ENTRY OF DEFAULT" process within the Superior Court of the District of Columbia? An attorney's failure to file an answer resulting in a court's entry of default can constitute a **basis for a malpractice suit**. See Kaempe v. Meyers, 367 F.3d 958, 966 (D.C. Cir. 2004) (stating that allowing entry of default

judgment against a client by an attorney is an example of an act or omission that is "so obvious that the trier of fact can find negligence [by the attorney] as a matter of common knowledge"); Hamilton v. Needham, 519 A.2d 172, 174-75 (D.C. 1986) (noting that "**permitting entry of default against a client" is an example of negligence in a legal malpractice action**); Lockhart v. Cade, 728 A.2d 65, 68 (D.C. 1999)(stating that "entry of a default operates as an admission by the defaulting party that there are no issues of liability") (internal quotation marks omitted). See, Ross vs. Continental Cas. Co., 420 B.R. 43, United States District Court, District of Columbia (2009).

## **CONCLUSION AND RELIEF REQUESTED:**

49. Plaintiff Lambros' "DEFAULT JUDGMENT" entered by Judge Pan should remain in place and this Court should grant Plaintiff Lambros' "MOTION TO REMAND" this action back to the Superior Court of the District of Columbia.

50. If this Court ORDERS that this action should proceed within the United States District Court for the District of Columbia, Plaintiff Lambros requests that an "EX PARTE PROOF HEARING (Damage Hearing) be held, as Judge Pan's "ENTRY OF DEFAULT" operated as an admission by defendants that there are no issues of liability, but leaves the issue of damages unresolved until entry of judgment. Plaintiff Lambros has no further obligation to prove liability, as of this writing, as the May 15, 2019 ORDER by Judge Pan stating that the "**status hearing scheduled for July 5, 2019, is converted to an EX PARTE PROOF HEARING (FOR DAMAGES) - DOES NOT ALLOW IT.**" See, LOCKHART vs. CADE, 728 A.2d 65 (District of Columbia Court of Appeals, March 4, 1999). Also, Plaintiff Lambros believes fundamental fairness is an issue and he will be **prejudiced** by this courts unexpected departure from the terms of Judge Pans' ORDER of ENTRY OF DEFAULT and EX PARTE PROOF HEARING and may be entitled to redress. See, Lockhart vs. Cade, 728 A.2d 65, 69 (D.C. 1999)(reversing

judgment of trial court because a party was **prejudiced** by having to prove liability as well as damages at a "hearing on damages").

51. **APPOINTMENT OF COUNSEL**: Plaintiff Lambros is proceeding FORMA PAUPERIS, as granted by the Honorable J. Wertheim, Superior Court of the District of Columbia, Civil Division, on February 10, 2017. Plaintiff believes the assistance of Attorney Jeffrey S. Gutman, a professor of Clinical Law at the George Washington University Law School and author of "**An Empirical Reexamination of State Statutory Compensation for the Wrongly Convicted**" would prove to be an excellent person to assist Plaintiff and this court during ex parte proof hearings and/or a jury trial for damages. Professor Gutman is well known to this court, as to his representation of Donald Gates, Kirk Odom, Santae Tribble, and Cleveland Wright, whose wrongful convictions served as the guiding narrative to the above mentioned article published within the **Missouri Law Review, Volume 82, Issue 2**.

52. Defendants Motion to set aside the Superior Court of the District of Columbia's ENTRY OF DEFAULT ORDER, should be DENIED.

53. Defendants request to have Plaintiff Lambros' Motion for final judgment by Default against Defendants denied - **SHOULD NOT BE GRANTED**, as Plaintiff will be **prejudiced** by having to prove liability as well as damages at a "hearing on damages".

54. I JOHN GREGORY LAMBROS states the above information is true and correct under the penalty of perjury, as per Title 28 USC 1746.

EXECUTED ON: July 12, 2019

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John Gregory Lambros, Pro Se

[www.Lambros.Name](http://www.Lambros.Name)

STJ-Electronic Petition (PET) 00204511/2018 received on 4/19/2018 12:25:53



Her Excellency, Appellate Judge and Chair of the Superior Court of Justice

The State of Rio de Janeiro, in the case records of Letter Rogatory 12537, comes respectfully to request that the attached document be added to it and to reiterate the request for the exequatur to be denied.

In the same lawsuit filed in the United States, the State, now the applicant, and the Federal Government were indicated as defendants.

Given the defendant duplicity, two letters rogatory were issued, one serving process on the State, and the other serving process on the Federal Government.

The letter serving process on the Federal Government is number 12540; and that of the State is number 12537.

Both letters rogatory went for an opinion to be issued by the Attorney General's Office, and both merited an opinion as to the invalidity of the claim in view of the obvious JURISDICTIONAL IMMUNITY.

The opinion of the Attorney General's Office on this letter rogatory, number 12537, in which the State is petitioned, stated that it declared the petition should be rejected, within the terms of the statement set out in letter rogatory number 12540.

It turns out that the opinion on Letter 12540, which in fact provides the reasoning [behind this rejection], was not attached to this letter rogatory, that is, to Letter Rogatory 12537,

Thus, in order to clarify the meaning and scope of the manifestation of the Public Prosecutor in this case, the State requests that the opinion referred to on pages e-STJ 1295, that is, the opinion set out in Letter Rogatory 12,540, be attached, and reiterates its request for this claim to be declared invalid, as in fact the Federal Prosecution Office did.

Brasília, April 18, 2018

Marcelo Mello Martins  
State Prosecutor

Electronic document e-Pet No. 2971102 with a digital signature  
Signed by MARCELO ROCHA DE MELLO MARTINS: 31760066168 No. Certified series:  
66711628169767614916420117984630027312  
Id time stamp: 3640229 Date and time: 19/04/2018 12:25:53hs.

Electronic petition attached to the case on 4/23/2018 at 15:46:25 by user: GABRIEL TORRES BRAGA

EXHIBIT A.