

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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COURTNEY LINDE, et al.	:	
	:	
Plaintiffs,	:	Case No. CV 04 2799 (BMC)(VVP) and all
	:	related cases <sup>1</sup>
-against-	:	
	:	
ARAB BANK, PLC,	:	
	:	
Defendant.	:	

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**PLAINTIFFS' PROPOSED AMENDMENTS TO JOINT PRE-TRIAL ORDER  
PURSUANT TO COURT'S JULY 8, 2014 ORDER**

**1. FULL CAPTION OF THE ACTION**

**See above.** The names of those Plaintiffs who are included in the first trial were attached as **Exhibit A** to the parties' July 1, 2014 Joint Pre-Trial Order (the "Original PTO").

**2. TRIAL COUNSEL**

The names, addresses (including firm names), telephone and fax numbers of trial counsel are as follows:

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<sup>1</sup> *Little, et al. v. Arab Bank, PLC*, No. CV-04-5449 (E.D.N.Y. 2004) (BMC)(VVP); *Almog, et al. v. Arab Bank, PLC*, No. CV-04-5564 (E.D.N.Y. 2004) (BMC)(VVP); *Coulter, et al. v. Arab Bank, PLC*, No. CV-05-365 (E.D.N.Y. 2005) (BMC)(VVP); *Afriat-Kurtzer, et al. v. Arab Bank, PLC*, No. CV-05-388 (E.D.N.Y. 2005) (BMC)(VVP); *Bennett, et al. v. Arab Bank, PLC*, No. CV-05-3183 (E.D.N.Y. 2005) (BMC)(VVP); *Roth, et al. v. Arab Bank, PLC*, No. CV-05-3738 (E.D.N.Y. 2005) (BMC)(VVP); and *Weiss, et al. v. Arab Bank, PLC*, No. CV-06-1623 (E.D.N.Y. 2006) (BMC)(VVP).

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*Almog, Afriat-Kurtzer, and Lev Trial Counsel*

**(b) For the Defendant:**

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**3. SUBJECT MATTER JURISDICTION**

[UNCHANGED]

**4. SUMMARY OF CLAIMS AND DEFENSES**

*(A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.)*

**PLAINTIFFS' SUMMARY OF CLAIMS WHICH REMAIN TO BE TRIED**

Each Plaintiff's claim arises under §2333(a) of the ATA. Each Plaintiff alleges that he or she was injured by reason of acts of international terrorism as that term is defined under 18 U.S.C. §2331(1), and each Plaintiff's injuries arise from one of the following attacks that occurred in the State of Israel, or in the West Bank or Gaza Strip, each of which is alleged to have been perpetrated or facilitated by the Foreign Terrorist Organization (FTO) Hamas:

- March 28, 2001 – Suicide Bombing at Neve Yamin.
- June 1, 2001 – Suicide Bombing at the Dolphinarium in Tel Aviv.
- August 9, 2001 – Suicide Bombing at Sbarro in Jerusalem.
- December 1, 2001 – Suicide Bombings on Ben Yehuda Street.
- December 12, 2001 – Attack on Bus No. 189 at Emmanuel.
- March 7, 2002 – Suicide Attack at Atzmona.

- March 10, 2002 – Suicide Bombing at Café Moment.
- March 27, 2002 – Suicide Bombing at the Park Hotel, Netanya.
- May 7, 2002 – Suicide Bombing at the Sheffield Club, Rishon Le-Zion.
- September 19, 2002 – Suicide Bombing on Bus No. 4, Allenby Street.
- June 18, 2002 – Suicide Bombing on Bus No. 32-A, Patt Junction, Jerusalem.
- July 31, 2002 – Bombing of the Frank Sinatra Cafeteria at Hebrew University.
- January 29, 2003 – Shooting Attack on Road 60.
- March 5, 2003 – Suicide Bombing on Bus No. 37, Haifa.
- March 7, 2003 – Shooting Attack in Kiryat Arba.
- April 30, 2003 – Suicide Bombing at Mike’s Place, Tel Aviv.
- May 18, 2003 – Suicide Bombing on Bus No. 6, French Hill, Jerusalem.
- June 11, 2003 – Suicide Bombing on Bus No. 14A, Jaffa Road, Jerusalem.
- June 20, 2003 – Shooting Attack on Road 60.
- August 19, 2003 – Suicide Bombing on Bus No. 2, Jerusalem.
- September 9, 2003 – Suicide Bombing at Café Hillel, Jerusalem.
- October 22, 2003 – Shooting Attack in Tel Rumeida.
- January 29, 2004 – Suicide Bombing on Bus No. 19, Jerusalem.
- September 24, 2004 – Mortar Attack on Neve Dekalim.

Plaintiffs allege that Defendant is liable to each of them under §2333(a) because Arab Bank violated §2339B (prohibiting providing material support to FTOs). Plaintiffs allege that the Bank provided material support to Hamas with a culpable state of mind, and that the Bank’s conduct was both a cause-in-fact and a proximate cause of their injuries. Plaintiffs allege that the Bank transmitted material support to Hamas through multiple channels over many years, in an

amount, at a time, and with a state of mind that rendered it a proximate cause of their injuries, and that it was foreseeable that providing such material support would result in injury and/or death to the Plaintiffs. In sum, the material support comprised:

- Maintaining accounts and providing services to Hamas leaders, operatives, and their families.
- Providing material support to organizations belonging to Hamas.
- Maintaining and facilitating a death and dismemberment benefit plan for the Saudi Committee for the Support of the Intifada Al Quds that included making payments to Hamas members, prisoners, operatives, and their families. Although not all of the persons to whom Arab Bank transmitted payments were Hamas members, Plaintiffs allege that the Saudi Committee for the Support of the Intifada Al Quds conspired with Hamas in determining who would receive payments under the program.
- Facilitating payments sponsored by a (later) U.S.-designated organization controlled by Hezbollah to the families of so-called ‘martyrs’ through a Gaza-based organization named Al-Ansar.

In 2004, Defendant moved to dismiss the *Linde* Plaintiffs’ Complaint pursuant to Fed. R. Civ. P. 12(b)(6). In a decision reported at *Linde v. Arab Bank plc*, 384 F. Supp. 2d 581 (E.D.N.Y. 2005), the Court largely denied Defendant’s motion. However, the Court dismissed Count Five (violation of the reporting requirements in 18 U.S.C. §2339B(a)(2)) and Count Eight (intentional infliction of emotional distress) of the First Amended *Linde* Complaint.<sup>2</sup> *See also Linde v. Arab Bank Plc*, 353 F. Supp. 2d 327 (E.D.N.Y. 2004) (denying *Linde* Plaintiffs’ request for preliminary relief on ground that 18 U.S.C. §2339B(a)(2) did not provide implied private right of action). In 2005, Defendant moved to dismiss the *Almog* and *Afriat-Kurtzer* First Amended Complaints pursuant to Fed. R. Civ. P. 12(b)(6). In a decision reported at *Almog v. Arab Bank*

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<sup>2</sup> These claims were paralleled in Count Seven (intentional infliction of emotional distress) of the *Litle* Complaint; and Counts Five and Eight of the *Coulter* Complaint.

*plc*, 471 F. Supp. 2d 257 (E.D.N.Y. 2007), the Court largely denied Defendant's motion to dismiss the ATA claims contained therein on the same grounds as the 2005 *Linde* decision.

On April 24, 2013, the Court, in a bench ruling incorporated herein by reference, largely denied Arab Bank's motion for summary judgment pursuant to Fed. R. Civ. P. 56, concluding that triable material issues of fact existed concerning Defendant's state of mind, whether each attack could be attributed to Hamas, and whether the Bank's conduct was causally related to each Plaintiff's injury. The Court dismissed Plaintiffs' claims premised on aiding-and-abetting violations of other criminal statutes, concluding that the Second Circuit Court of Appeals' decision in *Rothstein v. UBS AG*, 708 F.3d 82 (2d Cir. 2013) prohibits such claims. In a subsequent separate Order dated May 10, 2013 (ECF No. 944), also incorporated herein by reference, the Court dismissed Plaintiffs' claims premised on civil (or common law) conspiracy, holding that in the wake of *Rothstein* and other relevant federal precedent, it was overwhelmingly likely that the Second Circuit would conclude that separate claims for conspiring to violate other criminal statutes were also barred. As such, the following claims for relief in the First Amended *Linde* Complaint were dismissed on April 24, 2013:

- Count One (Aiding And Abetting the Murder, Attempted Murder and Serious Bodily Injuries to United States Citizens in Violation of 18 U.S.C. § 2332(A); 18 U.S.C. § 2332(B); 18 U.S.C. § 2332(C) and 18 U.S.C. § 2333); and
- Count Two (Conspiracy to Commit Murder and Attempted Murder of United States Citizens in Violation of 18 U.S.C. §2332(B) and §2333).

At the April 24, 2013 oral argument, the Court inquired of Plaintiffs' counsel whether or not Plaintiffs intended to pursue the First Amended *Linde* Complaint's seventh claim for relief ("Committing Acts of International Terrorism in Violation of 18 U.S.C. §2333"). Plaintiffs have determined that they do not intend to pursue this claim, because: (1) it is redundant of Plaintiffs' other remaining claims; and (2) violations of §§2339A-C of the ATA are themselves acts of

international terrorism under §2331(1) for which liability attaches. *See Goldberg v. UBS AG*, 690 F. Supp. 2d 92, 111-14 (E.D.N.Y. 2010) (Trager, J.) (collecting cases). Thereafter, in a July 8, 2013 letter to the Court, Plaintiffs advised the Court that they would not pursue claims against the Defendant for its alleged violations of 18 U.S.C. §2339A (First Amended *Linde* Complaint Count Three) and 18 U.S.C. §2339C (First Amended *Linde* Complaint Count Six).

As such, the following claim for relief set forth in the First Amended *Linde* Complaint remains for trial:

Count Four - Violation of 18 U.S.C. § 2339B(1) (knowingly providing material support or resources to a foreign terrorist organization, or attempting or conspiring to do so, with either (1) knowledge that the organization is a designated terrorist organization (as defined in subsection (g)(6)), (2) that the organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act), or (3) that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989)).

**(b) Defendant’s Statement of Defenses**

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**5. STATEMENT OF DAMAGES**

*(A brief statement of the categories and amounts of damages claimed or other relief sought.)*

[LEFT INTENTIONALLY BLANK]

**7. TRIAL OF THE CASE**

**(a) Plaintiffs’ Statement**

Plaintiffs believe that this case should be tried by a jury. Plaintiffs believe that the trial will take approximately 15-20 trial days, depending on certain evidentiary rulings by the Court. The majority of exhibits identified by Plaintiffs are transactional documents, most of which will be presented to the jury via summary exhibits pursuant to Fed. R. Evid. 1006. Many of Plaintiffs’ remaining exhibits will be offered to substantiate the contents of demonstratives. Likewise, Plaintiffs do not anticipate ultimately calling or, with respect to designated deposition testimony, providing to the jury the testimony of all 42 witnesses they have listed below at trial,

but will be guided by evidentiary rulings the Court makes in connection with, *e.g.*, the admissibility of Israeli convictions of Hamas operatives for perpetrating the attacks at issue. The majority of the witnesses identified by Plaintiffs pertain to proving attribution for each of the 24 attacks, and thus will be narrow in scope. Plaintiffs further identified 17 current or former Arab Bank employees whose designated deposition testimony is each modest in length and often less than 15 minutes in time. Thus, Plaintiffs believe the case can be tried in a reasonable timeframe of approximately 15-20 trial days.

**(b) Defendant's Statement**

[LEFT INTENTIONALLY BLANK]

**8. CONSENT TO TRIAL BY MAGISTRATE JUDGE**

[UNCHANGED]

**9. STIPULATIONS OR STATEMENTS OF FACT OR LAW WHICH HAVE BEEN AGREED TO BY ALL PARTIES**

No additional stipulations have been agreed to by the parties at this time.

**10. FACT AND EXPERT WITNESS LIST**

*(A list of names and addresses of all witnesses, including possible witnesses who will be called only for impeachment or rebuttal purposes and so designated, together with a brief narrative statement of the expected testimony of each witness. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown.)*

**(a) Plaintiffs' Listing of Witnesses**

**(i) Case-In-Chief Fact Witnesses**

**A. Current and Former Arab Bank Employees, Officers, and Directors (by deposition designation)<sup>3</sup>**

- ***Mr. Shukry Bishara***

Address: Unknown.

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<sup>3</sup> Because at the present time it is not clear whether Defendant will agree that any witness called live may be called live in the opposing party's case in chief without regard to the geographic limitations of trial subpoenas issued pursuant to Fed. R. Civ. P. 45, Plaintiffs reserve the right to amend this initial designation to advise whether a witness will be called live, and, if so, whether that witness's deposition testimony will be introduced solely for impeachment purposes. Plaintiffs also refer to Defendant for the location information of each witness.

Mr. Bishara testified in both his personal capacity and as Arab Bank's Fed. R. Civ. P. 30(b)(6) corporate designee regarding Arab Bank's corporate donations between 2000 and 2004 in support of the Second Intifada and the activities of the Bank's former Chairman in support of the Second Intifada. At the time of his deposition in November 2010, Mr. Bishara resided in the Kingdom of Jordan. He served as Arab Bank's Chief Banking Officer during part of the relevant period. Plaintiffs will introduce Mr. Bishara's testimony concerning his personal knowledge regarding the Beirut account of senior Hamas leader (and Specially Designated Global Terrorist) Osama Hamdan, and his sworn declaration to this Court on that subject. Plaintiffs will also introduce Mr. Bishara's testimony concerning Arab Bank's awareness during the relevant period of Hamas's status as a terrorist organization that committed terrorist acts. Plaintiffs will also introduce Mr. Bishara's testimony regarding various documents that Arab Bank produced (including documents pertaining to the Saudi Committee for the Support of the Intifada al Quds) ("Saudi Committee"), and Mr. Tayseer Sadeq's active role running Arab Bank's compliance operations in the Palestinian Territories during the relevant period.

- ***Mr. Theodore Scholtz***

Address: Unknown.

Mr. Scholtz was Assistant Vice President for Operations at Arab Bank New York during the relevant period. Mr. Scholtz resides and works in the State of New York. Plaintiffs will introduce Mr. Scholtz's testimony regarding Arab Bank's New York branch's payment systems (and their interface and relationship with other of Arab Bank's global payment systems), the codes and contents of wire transfer systems, and explanations of terms and references in wire transfer documents, including whether the documents indicate that certain accountholders appear to be Arab Bank customers, and/or whether the documents indicate that Arab Bank facilitated funds transfers to identifiable individuals or organizations.

- ***Mr. Tayser Sadeq***

Address: Unknown.

Mr. Sadeq served as Financial Controller and Manager for Arab Bank's branches in Ramallah and its Chief Compliance Officer during the relevant time period. At the time of his deposition in May 2007, Mr. Sadeq resided in the city of Jenin in the West Bank. Plaintiffs will offer Mr. Sadeq's testimony concerning Arab Bank's knowledge of Hamas, Hamas leaders, and Hamas organizations. Plaintiffs will also offer Mr. Sadeq's testimony regarding Arab Bank's conduct in connection with the Saudi Committee for the Support of the Intifada Al Quds, and payments facilitated by Arab Bank to individuals or entities alleged to be connected to, or part of, Hamas.

- ***Mr. Abdel Hamid Shoman***

Address: Unknown.

Mr. Shoman served as Arab Bank's Chairman and Chief Executive Officer until 2012, when he was replaced by Mr. Sabih al-Masri. At the time of his deposition in May 2010, Mr. Shoman resided in the Kingdom of Jordan. Plaintiffs will offer Mr. Shoman's testimony regarding Arab Bank's stated view of the State of Israel as "the occupying enemy" and other similar views Arab Bank expressed in its annual reports. Plaintiffs will also introduce Mr. Shoman's testimony regarding Arab Bank's knowledge concerning Hamas, Hamas leaders and organizations, and other Palestinian organizations, entities, and programs alleged to be connected to terrorism or terrorist organizations, including donations made by Arab Bank employees to programs intended to support the Second Intifada. Plaintiffs will also offer Mr. Shoman's testimony regarding statements set forth in the official biography of Arab Bank's former Chairman and CEO, Abdul Hamid Shoman (Mr. Shoman's grandfather).

- ***Mr. Ghalib Hantoly***

Address: Unknown.

Mr. Hantoly served as Arab Bank's Gaza branch manager, and testified in his personal capacity as well as a Fed. R. Civ. P. 30(b)(6) corporate designee regarding Arab Bank's Gaza operations. As of the time of his November 2010 deposition, Mr. Hantoly resided in the Gaza Strip. Plaintiffs will offer Mr. Hantoly's testimony regarding Arab Bank's suspicious activity monitoring and internal/external reporting, as well as its conduct regarding account opening and monitoring. Furthermore, Plaintiffs will also offer Mr. Hantoly's testimony regarding Arab Bank's knowledge of Hamas, Hamas leaders, and Hamas organizations.

- ***Mr. Baker Alomari***

Address: Unknown.

Mr. Alomari's work history with Arab Bank is extensive. He has served as Arab Bank's: Jenin Branch Manager (2005-present); head of the Jenin Branch's Credit Facilities Department (1996-2004); and head of Ramallah regional headquarters' Individual Credit Facilities Department (2004-2005). At the time of Mr. Alomari's May 2010 deposition he resided in the city of Jenin in the West Bank. Plaintiffs will offer Mr. Alomari's testimony that he was aware of Hamas, Palestinian Islamic Jihad, and the Al Aqsa Martyrs Brigades and knew of their presence in Jenin. Plaintiffs will also introduce Mr. Alomari's testimony that he was made well aware of the violence involved with the Intifada.

- ***Mr. Brian David Billard***

Address: New Windsor, New York.

Mr. Billard was the Controller and Head of Compliance for Arab Bank's New York Branch between 2000 and 2003. Plaintiffs will offer Mr. Billard's testimony regarding his

role and responsibilities within Arab Bank. Plaintiffs also will offer Mr. Billard's testimony concerning the Saudi Committee, and will introduce Mr. Billard's testimony regarding former Hamas "Prime Minister" Ismail Haniyeh, other Hamas members, and their interactions with Arab Bank.

- ***Mr. David Blackmore***

Address: West Midlands, United Kingdom.

Mr. Blackmore was the Head of Regulatory Compliance, Europe and the first Money Laundering Reporting Officer for Arab Bank's operations in the United Kingdom. Plaintiffs will offer Mr. Blackmore's testimony that he knew that: Hamas was a terrorist organization during the relevant time period; Hamas was designated a Specially Designated Terrorist in 1995; the London branch of Arab Bank held accounts for various Palestinian Zakat Committees; and the U.S.-designated chief Hamas fundraiser, Interpal, held an account at the Kensington Branch that was closed prior to the U.S. designation due to terrorism financing suspicions. Plaintiffs will also introduce Mr. Blackmore's testimony that the sentiment reflected in pamphlets entitled 'The Destroyed Villages of Palestine' was inappropriately political for the UK market and that he, and his chief executive, Mr. Beighton, refused to utilize those resources within the UK.

- ***Mr. Mazen Abu Hamdan***

Address: Unknown.

Mr. Hamdan was Regional Manager for Arab Bank's branches in the Palestinian Territories beginning in July 2002 and continuing throughout the remainder of the relevant period. At the time of his November 2009 deposition, Mr. Hamdan resided in Amman, Jordan, and also maintained a residence in the city of Ramallah in the West Bank. Plaintiffs will introduce Mr. Hamdan's testimony that he was the principal person responsible for the Bank's operations in the Palestinian Territories. Plaintiffs may further introduce testimony that in his supervisory role, Mr. Hamdan was aware of: the Saudi Committee and the Bank's processing of Saudi Committee transactions, the Second Intifada in the Palestinian Territories and the attendant risks of terrorism financing, and Hamas's actions during the Second Intifada.

- ***Mr. Sabih Al-Masri***

Address: Unknown.

Mr. Al-Masri became a member of Arab Bank's Board of Directors in 1998, and currently serves as its Chairman. He also served on the Bank's audit committee during the relevant time period. At the time of his December 2006 deposition, Mr. Al-Masri resided in Amman, Jordan. Plaintiffs will introduce Mr. Al-Masri's testimony about terrorist financing risks during the Second Intifada, his knowledge of the Saudi Committee and the Arabic term for "martyrdom operations," as well as Hamas's terrorist

activities during the relevant time period. In connection with Mr. Al-Masri's status as Chairman of the Board of Palestine Telecommunication Corp., Plaintiffs will also introduce his testimony about his role in its Social Responsibility Fund, including its donations to various activities in the Palestinian Territories.

- ***Mr. Fazwan Shukri***

Address: Unknown.

Mr. Shukri was Head of Global Operations for the Bank during the relevant period, and testified as Arab Bank's Fed. R. Civ. P. 30(b)(6) corporate designee concerning Arab Bank's activities involving the Saudi Committee. At the time of his April 2007 deposition, Mr. Shukri resided in Amman, Jordan. Plaintiffs will introduce Mr. Shukri's testimony concerning those activities of the Bank, including its communications with the Saudi Committee, Arab National Bank, and third parties (including alleged Hamas organizations in the West Bank and Gaza Strip), and its analysis and processing of transactions originating from the Saudi Committee and/or its beneficiaries.

- ***Mr. George Kawwas***

Address: Unknown.

Mr. Kawwas was the Branch Manager of Arab Bank's Bethlehem branch beginning in 1997 and continuing throughout the relevant period. At the time of his May 2010 deposition, Mr. Kawwas resided in the town of Bethlehem in the West Bank. Plaintiffs will introduce Mr. Kawwas's testimony concerning his responsibilities as branch manager in the Palestinian Territories, including his attendance at branch manager group meetings, and reports he received concerning large customers of his branch. Plaintiffs may also introduce Mr. Kawwas's testimony concerning account-opening procedures for his branch, as well as KYC procedures for existing customers. Plaintiffs will also offer his testimony as to how his branch allegedly processed wire transfers and his knowledge of the Second Intifada (and Hamas's role in the Intifada).

- ***Mr. Assad Saleh***

Address: Unknown.

Mr. Saleh was the Head of Arab Bank's Central Incoming Transfer Unit in Ramallah from 1997-2005, and thereafter joined the Bank's supervisory operations in Ramallah. At the time of his November 2009 deposition Mr. Saleh resided in Jamma'in, in the greater Nablus area in the West Bank. Plaintiffs will introduce Mr. Saleh's testimony concerning Arab Bank's processing wire transfers during the relevant time period, including those originated by the Saudi Committee. Plaintiffs will also introduce Mr. Saleh's testimony concerning his participation in correspondence exchanged with Arab National Bank (where Mr. Saleh had previously worked) pertaining to the Saudi Committee and his knowledge of the Second Intifada.

- ***Mr. Mohammad Al-Tahan***

Address: Jerusalem, Israel.

Mr. Al-Tahan has worked for Arab Bank since 1975 and has been a manager since 1996. He was the Manager of Operations in the Palestinian Territories from 1999-2004. At the time of his May 2007 deposition Mr. Al-Tahan maintained residences in Amman, Jordan and Jerusalem. Plaintiffs will introduce Mr. Al-Tahan's testimony that he had notice and knowledge regarding the Second Intifada and the violence involved with it from a variety of sources throughout the relevant time period. Plaintiffs will also introduce Mr. Al-Tahan's testimony that he was aware that Arab Bank in the Palestinian Territories was effectuating transfers sent from Arab National Bank on behalf of the Saudi Committee in Support of the Al Quds Intifada. Plaintiffs will also offer Mr. Al-Tahan's testimony that he personally received lists of outward transfers to be paid for martyrs, and that Arab Bank asked Arab National Bank for information about charities associated with the Saudi Committee in Support of the Al Quds Intifada. Plaintiffs will also offer Mr. Al-Tahan's testimony as to how family members of martyrs received notice and how they claimed monies by presenting proper documentation at the branch.

- ***Ms. Teresa Pacheco***

Address: Unknown.

Ms. Pacheco originally joined Arab Bank as a secretary in 1991. She eventually became a Supervisor of Compliance in the private banking section at Arab Bank New York. She resigned her position in October of 2004. Plaintiffs will offer Ms. Pacheco's testimony that while working for Arab Bank she attended multiple conferences in her capacity as the Supervisor of Compliance and that she retained information and materials from these conferences which she shared with her superiors at Arab Bank regarding a variety of topics including terrorism financing, terrorist organizations, and correspondent banking.

- ***Ms. Rabab Safiddiene***

Address: Unknown.

This witness (whose identity is confidential per Court order) was designated a Rule 30(b)(6) corporate designee for Defendant regarding the Beirut account of senior Hamas leader (and Specially Designated Global Terrorist) Osama Hamdan, including testimony concerning Mr. Shukri Bishara's sworn declaration to this Court concerning that account. Plaintiffs will offer the witness's testimony concerning payments processed for the benefit of "Hamas," which were approved by a senior Arab Bank official in Beirut.

- ***Mr. Mohammed Dabbour***

Address: Amman, Jordan.

Mr. Dabbour is the Director of Regulatory Compliance of Arab Bank, a position he has held since 2007. From 1995 through 2002, Mr. Dabbour, a certified public accountant, was one of Defendant's principal external auditors, and was thereafter employed at a Jordanian affiliate of Deloitte & Touche and oversaw Deloitte's audit of all of Arab Bank's branches in Jordan, including its Amman headquarters. At the time of his November 2010 deposition, Mr. Dabbour resided in Jordan. Plaintiffs will offer Mr. Dabbour's testimony concerning his understanding of Hamas, Palestinian terrorist organizations, and the risks presented to financial institutions and Defendant by such organizations. Plaintiffs will also present Mr. Dabbour's testimony concerning Defendant's account, customer, and transaction profiling and monitoring conduct, including Arab Bank's KYC conduct. In addition, Plaintiffs will present Mr. Dabbour's testimony concerning inclusion of specific individuals and entities on Arab Bank blacklists. Plaintiffs will also present Mr. Dabbour's testimony in response to questions posed by Plaintiffs concerning the identities of particular accountholders, including Mr. Dabbour's refusal to answer such questions on the grounds of foreign bank secrecy and privacy laws.

#### **B. Fact Witnesses With Knowledge of the 24 Attacks**

- ***Mr. Yitzhak Arogety***

Address: Jerusalem, Israel.

Mr. Arogety witnessed and was injured in the terror attack at Hebrew University in Jerusalem on July 31, 2002. As a university employee, he was having lunch at the campus cafeteria when there was an explosion. Later, he discovered that he personally knew and had met the terrorist who had planted the bomb at the cafeteria and was a contract worker at the university. Mr. Arogety will testify about facts he knows as an eyewitness to the attack, the identity of the terrorist and location where the terrorist planted the explosives.

- ***Mr. Steven Averbach (de bene esse video testimony)***

Mr. Averbach died on June 3, 2010. His estate and his surviving family members are Plaintiffs in the first trial. On May 18, 2003, Mr. Averbach was on a bus heading to work when a terrorist dressed as an observant Orthodox Jew boarded the bus. Mr. Averbach believed it likely that the individual was in fact a suicide bomber. When Mr. Averbach reached for his handgun, the terrorist blew himself up, killing seven people and seriously injuring 20, including Mr. Averbach. Plaintiffs will present Mr. Averbach's testimony in which he described his background and experience, and testified about the facts he knows as an eyewitness and victim of the attack.

- ***Mr. Nachum Babkoff***

Address: Tel Aviv, Israel (Yarkon region police station).

As a police officer, Mr. Babkoff saw the immediate aftermath of the terror attacks at: (1) the Dolphinarium in Tel Aviv on June 1, 2001; and (2) Bus No. 4 on Allenby Street in Tel Aviv on September 19, 2002. Mr. Babkoff will testify about facts he knows as an eyewitness to the immediate aftermath of those two attacks, including a detailed description of each attack scene. As a police officer, Mr. Babkoff will also testify about his investigation of facts about those two attacks.

- ***Mr. Shuki Brif***

Address: Bene-Beraq, Israel.

As a volunteer for Zaka (a humanitarian organization that assists in disaster relief, and, *inter alia*, collects human remains following terrorist attacks to ensure the deceased receives a proper Jewish burial), Mr. Brif saw the immediate aftermath of the terror attacks at: (1) Sheffield Club, Rishon LeTzion, on May 7, 2002; (2) Mike's Place, Tel Aviv on April 30, 2003; (3) Bus #4 Tel Aviv, on September 19, 2002; and (4) Dolphinarium, Tel Aviv on June 1, 2001. As a Zaka volunteer, Mr. Brif arrived to the attack sites not long after the attacks in order to collect the remains of the bodies and bring them to proper burial. Mr. Brif will testify about facts he knows as an eyewitness, including a detailed description of each attack scene.

- ***Ms. Ora Cohen***

Address: Jerusalem, Israel.

Ms. Cohen was riding with her family on Bus No. 2 in Jerusalem when it exploded. Ms. Cohen, her former spouse and five children were injured in the attack, which took place on August 19, 2003. Ms. Cohen will testify about what she saw at the attack, including certain identification signs with relation to the suicide bomber as well as to his boarding station and location within the bus.

- ***Ms. Osnat Dudu***

Address: Jerusalem, Israel.

Ms. Dudu witnessed and was injured in the terror attack at Café Hillel in Jerusalem on September 9, 2003. Ms. Dudu was working at the time as a manger in Café Hillel when she noticed a suspicious-looking person who turned out to be the suicide bomber. Only a few seconds after she noticed him, a huge explosion occurred. Ms. Dudu will testify about the facts she knows as an eyewitness, as well as discuss the appearance of the suicide bomber.

- ***Mr. David "Dudi" Bar***

Address: Kfar Saba, Israel.

As a police officer, Mr. Bar observed the immediate aftermath of the terror attack at Mike's Place in Tel Aviv on April 30, 2003. Mr. Bar will testify about facts he knows as an eyewitness to the immediate aftermath of the attack, including a detailed description of the attack scene and personal knowledge he acquired concerning the terrorists. As a police officer who conducted an investigation about the attack, Mr. Bar read, reviewed, and relied upon police and forensic reports in connection with his investigation. He will testify about the sequence of events, identity of the terrorists, type of explosive that was used, and damage that was caused during the attack

- ***Mr. Joshua Faudem***

Address: Denver, Colorado.

Mr. Faudem witnessed and was injured in the terror attack at Mike's Place in Tel Aviv on April 30, 2003. He is a Plaintiff in the first trial. Mr. Faudem was at the pub during the explosion. He will testify about facts he knows as an eyewitness, as well as identification marks of the suicide bomber and personal knowledge he obtained as part of the documentary film he prepared concerning the attack and its aftermath.

- ***Mr. Eugene Goldstein***

Address: Lake Worth, Florida.

Mr. Goldstein witnessed and was injured in the shooting attack that took place on Route 60 on June 20, 2003. He is a Plaintiff in the first trial. Mr. Goldstein will testify as an eyewitness to the scene of the attack and aftermath.

- ***Ms. Inbal Rose***

Address: Ella, Israel.

Ms. Rose was an eyewitness who saw the immediate aftermath of the terror attacks at: (1) Café Moment on March 9, 2002; and (2) Sbarro Pizzeria on August 9, 2001. Ms. Rose will testify about facts she knows as an eyewitness to the immediate aftermath of those two attacks, including a detailed description of each attack scene.

- ***Mr. Ovadia Sa'ar***

Address: Kiryat Haim, Israel.

Mr. Sa'ar was an eyewitness to the attack that took place on Bus No. 37 in Haifa on March 5, 2003. Mr. Sa'ar was driving a bus when he heard a very loud explosion that shook his own bus. He will testify as an eyewitness about the scene of the attack, the condition of the bus, and discuss the appearance of the suicide bomber.

- ***Ms. Yael Shahar***

Address: Netanya, Israel.

Ms. Shahar was working as a waitress on the evening of the attack that took place at Park Hotel, Netanya on March 27, 2002. Ms. Shahar will testify as an eyewitness to the scene of the attack and aftermath, and testify about the appearance of the suicide bomber.

- ***Ms. Sarri Singer***

Address: New York, New York.

Ms. Singer witnessed and was injured in the attack that took place on Bus No. 14A in Jerusalem on June 11, 2003. She is a Plaintiff in the first trial. Ms. Singer will testify as an eyewitness to the scene of the attack and aftermath.

- ***Dr. Micha Shamir***

Address: Mevaseret Tzion, Israel.

Dr. Shamir witnessed the attack that took place at Sbarro Pizzeria in Jerusalem on August 9, 2001. Dr. Shamir was near the restaurant when the attack occurred and, since he is a doctor, he provided assistance to the injured victims. Dr. Shamir will testify as an eyewitness to the scene of the attack and aftermath.

- ***Ms. Altea Steinherz***

Address: Jerusalem, Israel.

Ms. Steinherz witnessed and was injured in the Ben Yehuda bombings that took place on December 1, 2001. She is a Plaintiff in the first trial. Ms. Steinherz will testify as an eyewitness to the scene of the attack and aftermath.

- ***Mr. Eyal Tam***

Address: Israel.

Mr. Tam will testify that he arrived while the terrorist attack at Gush Katif was taking place on March 7, 2002; that he had been called to the scene of the attack a short while after the terrorist began engaging in gunfire; and that he personally shot the terrorist. Mr. Tam will also describe the location of the attack, the position of the terrorist, and the ammunition used during the course of the attack.

- ***Ms. Efrat Weiss***

Address: Jerusalem, Israel.

As a journalist, Ms. Weiss came to and observed the immediate aftermath of the terror attacks at: (1) Café Hillel, Jerusalem, on September 9, 2003; (2) Café Moment on March 9, 2002; (3) Hebrew University, Jerusalem, on July 31, 2002; and (4) Ben Yehuda St., Jerusalem, on December 1, 2001. She will testify about facts she knows as an eyewitness, including a detailed description of each attack scene. As a journalist, Ms. Weiss will also testify about her investigation and reporting of facts about these attacks.

- ***Mr. David Wilder***

Address: Kiryat Arbah, Israel.

As a journalist, Mr. Wilder arrived at and observed the immediate aftermath of the terror attack at Tel Romeda on October 22, 2003. Upon his arrival to the scene of the attack, Mr. Wilder found the body of the dead terrorist, took photographs of the terrorist's body and can identify the terrorist's body in those photographs. Mr. Wilder will testify about facts he knows as an eyewitness to the immediate aftermath, including a detailed description of the scene, as well as the dead terrorist and identification marks. As a journalist, Mr. Wilder will also testify about his investigation and reporting of facts about that attack.

### **C. Additional Fact Witnesses**

- ***Mr. Colin Hames***

Address: Jerusalem, Israel.

Mr. Hames will testify regarding his role in the civil administration in Judea and Samaria, the data collection and analysis performed by the civil administration in Judea and Samaria during the years 2000-2004 and the chain of custody of certain documents seized by the IDF from organizations in the course of Operation Defensive Shield.

### **(ii) Case-In-Chief and Rebuttal Expert Witnesses**

- ***Mr. Ronni Shaked***

Address: P.O. Box 85759, Mevasseret Zion, Israel 90805.

Mr. Shaked worked for the Israel Security Agency ("ISA") between 1969 and 1982, rising to the rank of Commander of the Jerusalem Sector and Commander of the Ramallah Sector. In a February 6, 2013 Order reported at *Linde v. Arab Bank plc*, 922 F. Supp. 2d 316 (E.D.N.Y. 2013), Mr. Shaked was admitted as an expert witness for these cases. *Id.* at 330-31. At trial Mr. Shaked will provide expert testimony concerning:

- (1) whether Hamas was involved in the recruiting, planning and perpetration of each of the 24 attacks at issue in this trial;

- (2) the methods and channels Hamas employs to claim credit for terrorist attacks, and the reasons Hamas openly acknowledges its involvement in, and/or perpetration of, terrorist attacks;
- (3) the methods the ISA and other Israeli law enforcement agencies and offices utilize to investigate, document, and report upon terrorist attacks, including attribution of attacks to particular terrorist organizations;
- (4) Hamas's ideology and Charter, and their role in planning and carrying out terrorist attacks;
- (5) Hamas's infrastructure and chain of command, and their role and relationship to Hamas's paramilitary organizations;
- (6) the organization and structure of Hamas's paramilitary organizations; and
- (7) the methods Hamas utilizes to design and deploy an economic support system to recruit and/or replace paramilitary operatives.

- **Mr. Evan Kohlmann**

Address: New York, NY.

Mr. Kohlmann is a private international terrorism consultant who specializes in tracking Al-Qaeda, Hamas, and other terrorist movements. Mr. Kohlmann has been admitted as an expert witness in these cases. *Linde*, 922 F. Supp. 2d at 331-32. At trial Mr. Kohlmann will provide expert testimony regarding:

- (1) Hamas's primary websites and internet forums, setting forth their provenance<sup>4</sup> and explaining Hamas's strategy and practice in using them, particularly with respect to claiming credit for terrorist attacks that it has committed; and
- (2) Whether Hamas's public claims of responsibility for the 24 attacks giving rise to the Plaintiffs' injuries are authentic, credible and reliable.

- **Mr. Nelson Everhardt**

Address: 6015 Leeson Lane, Charlotte, NC 28270.

Mr. Everhardt is President of Everhardt & Associates, LLC, an independent consulting firm specializing in proactive compliance solutions for the financial services industry. He previously served as Senior Vice President and Corporate Compliance Executive for Bank of America. In a May 28, 2013 Order (ECF No. 954, referred to herein as the "May 28 Order") Mr. Everhardt was admitted as an expert witness in these cases. At trial Mr.

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<sup>4</sup> Including Arab Bank account records relied upon by Mr. Kohlmann, as set forth in his Expert Report.

Everhardt will provide expert testimony defining and explaining certain banking concepts, terminology and processes jurors are unlikely to be familiar with. He will provide an overview of account-opening procedures and customer identification procedures, explain terminology such as KYC policies, “Fedwire,” “SWIFT,” and “CHIPS,” and explicate basic banking concepts such as correspondent banking and suspicious transaction reporting. He will also testify as to what a SAR is, and what he understands the term “suspicious activity” to be.

- **Mr. Wayne Geisser**

Address: 150 South Independence Mall, West Philadelphia, PA 19106.

Mr. Geisser is a Certified Public Accountant, Certified Valuation Analyst, and Certified Fraud Examiner, who is certified in Financial Forensics by the American Institute of Certified Public Accountants (“AICPA”). He previously served as Branch Chief in the Securities and Exchange Commission’s (“SEC”) Division of Enforcement. The Court previously approved Mr. Geisser as a summary expert witness. *Linde*, 922 F. Supp. 2d at 333-34. At trial Mr. Geisser will summarize and analyze certain transactional records Arab Bank produced in discovery, processed through its New York branch and/or initiated on behalf of the Saudi Committee, and present summary evidence under Fed. R. Evid. 1006, and/or pedagogical devices under Fed. R. Evid. 611(a).

- **Dr. Matthew Levitt**

Address: 1828 L Street, NW, Suite 1050, Washington, DC 20036.

Dr. Levitt previously served as Deputy Assistant Secretary for Intelligence and Analysis at the Treasury Department, and as an Intelligence Research Specialist in the Federal Bureau of Investigation’s (“FBI”) International Terrorism Intelligence Unit. He is currently a Senior Fellow and Director of the Stein Program on Terrorism, Intelligence and Policy at The Washington Institute for Near East Policy (“WINEP”), and Professorial Lecturer in International Relations and Strategic Studies at Johns Hopkins University’s School of Advanced International Studies (“SAIS”). Dr. Levitt has been admitted as an expert witness in these cases. *Linde*, 922 F. Supp. 2d at 324-25. At trial Dr. Levitt will offer expert testimony regarding Hamas’s creation and organizational structure, including its leadership and network of social institutions known as the *da’wa* (all of those discussed having maintained accounts with Arab Bank) with a particular emphasis on the international donor network that funds Hamas’s *da’wa* (most of which either maintained accounts with Arab Bank or processed funds transfers to Hamas through Arab Bank). Dr. Levitt will also be prepared to offer testimony rebutting the opinions of Defendant’s expert witnesses Dr. Beverly Milton-Edwards and Mr. Jonathan Benthall, focusing on methodological, sourcing, and research errors and inconsistencies that, in Dr. Levitt’s opinion, render their opinions and testimony unreliable.

- **Mr. Arieh Spitzen**

Address: Jerusalem, Israel.

Mr. Spitzten previously served as head of the Palestinian Affairs Department (“PAD”) in the Coordinator of Government Activities in the Territories (“COGAT”), part of the Israeli Ministry of Defense. Mr. Spitzten has been admitted as an expert witness for these cases. *Linde*, 922 F. Supp. 2d at 322-24. At trial Mr. Spitzten will offer expert testimony which:

- (1) identifies and discusses senior Hamas leaders who maintained accounts at Arab Bank and cumulatively received millions of dollars in funds to their accounts;
- (2) explains that specific Arab Bank institutional customers, including al-Mujama al-Islami – Gaza (the Islamic Center – Gaza), al-Jam’iya al-Islamiya – Gaza (the Islamic Society – Gaza), al-Salah Islamic Society – Gaza, and al Nur Prisoner Society – Gaza are key Hamas institutions in the Gaza Strip;
- (3) explains the Saudi Committee’s relationship with Hamas and the Union of Good (the latter an SDGT that constitutes a primary Hamas fundraising mechanism via an umbrella of foreign fundraisers);
- (4) identifies and discusses financial payments Arab Bank facilitated on behalf of the Saudi Committee to:
  - a. Hamas terrorists directly (and terrorists from other groups);
  - b. Hamas suicide bombers’ families (and suicide bombers’ families from other groups);
  - c. The families of so-called “martyred” Hamas terrorists (and so-called “martyred” terrorists from other groups); and
  - d. The families of Hamas prisoners and terrorists belonging to other terrorist groups; and
- (5) explains how Hezbollah’s al-Shahid Foundation provided direct financial benefits through the al-Ansar Society – via Arab Bank – to suicide bombers’ families and the families of other so-called martyrs associated with various terrorist groups.

**(b) Defendant’s Listing of Witnesses**

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**11. AMENDED DESIGNATION OF DEPOSITION TESTIMONY AND OBJECTIONS**

*(A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.)*

Plaintiffs have withdrawn testimony for two (2) rebuttal experts (Dr. Kuran and Mr. Winer), and reduced the overall number of witnesses by withdrawing 12 individuals who Plaintiffs previously listed in in the Original PTO, including de-designating three (3) Arab Bank witnesses, portions of whose deposition transcripts Plaintiffs had previously designated.

Attached as **Exhibit C** are the Plaintiffs' **revised** designations of deposition testimony, color-coded as follows: Plaintiffs' designations of case-in-chief testimony (green) and cross designations (purple); and Defendant's designations of case-in-chief testimony (yellow) and cross-designations (orange). Please note that Plaintiffs have not removed cross-designations – even when we have withdrawn Plaintiffs' designations – because Defendant has not yet had an opportunity to review the revised designations and determine which cross-designations are no longer necessary.

## **12. EXHIBIT LISTS**

1) Attached as **Exhibit A** is Plaintiffs' Revised Case-in-Chief Trial Exhibit List. Exhibit A includes objections Defendant previously submitted to Plaintiffs' prior Case-in-Chief Trial List.

2) Attached as **Exhibit B** is Plaintiffs' Revised Trial Exhibit List For Purposes of Impeachment or Rebuttal. Exhibit B includes objections Defendant previously submitted to Plaintiffs' Trial Exhibit List For Purposes of Impeachment or Rebuttal.

Dated: July 18, 2014

Respectfully submitted,

/s/ Gary M. Osen \_\_\_\_\_

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