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 In Propria Persona

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 NORTHERN DISTRICT OF CALIFORNIA

**In the United States District Court  
 For the District of Northern California  
 San Francisco Division**

Rev. Josephenie E. Robertson, M.T.T., individually, )  
 and in her capacities as a member of the Traditional )  
 Royal Authority and representative of the Miskitu )  
 Indigenous Nation and non-American citizens; And, )  
 all other Miskitu Indigenous peoples; )

Plaintiff(s), )

v. )

The Republic of Nicaragua, Daniel Ortega, Rosario )  
 Murillo, Sandinista Party, Infinity Energy Resources, )  
 Inc.; )  
 Defendants. }

Civil Case No. 3:17-cv-00852-JST

COMPLAINT AS AMEND

Jury Trial Demanded

The Plaintiff(s)<sup>1</sup>, Reverend Josephenie E. Robertson appearing in Propria Persona, respectfully submits my Complaint As Amend, including but not limited to, reserving the right to amend this complaint as a class action complaint subject to the Court's ruling that this amended complaint cures the deficiencies outlined in the Court's June 26<sup>th</sup>, 2017 order with the

<sup>1</sup> The Plaintiff Ercell Hendy Twaska Fleurima joins this complaint as amend, subject to the Court's clarification of the June 26<sup>th</sup>, 2017 order and *sue sponte* approval. During oral proceedings the Court afforded Plaintiff Ercell Hendy Twaska Fleurima to proceed in Propria persona and recognized her position as a traditional royal authority based upon the evidence of a General Power of Attorney. The Plaintiffs recognize the Court decision that solely afforded the claims of Plaintiff Rev. Josephenie E. Robertson, M.T.T. to proceed forward, but the plaintiffs are unsure of the status and position by the Court regarding Plaintiff Fleurima and requested via a motion for reconsideration and clarification of this person. No decision on those pleadings has been made.

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 COMPLAINT (AS AMEND)

exception of securing counsel<sup>2</sup>, and hereby submits this Complaint as amend, against Defendants the Republic of Nicaragua, Daniel Ortega, Rosario Murillo, the Sandinista Party and Infinity Energy Resources, Inc., as follows:

### SUMMARY OF THE COMPLAINT

1. The Plaintiff annexes, absorbs, and applies Paragraphs 1 through 30 of the Original Complaint filed in this Honorable Court and further Summarizes the Complaint in order to cure the deficiencies detailed in the Court's Order of June 26<sup>th</sup>, 2017 as follows:

#### Miskitu Government's Historical Background

2. The history of the Miskitu nation predates Christopher Columbus. Their struggle to regain their rights to exist as a nation among the world's nations has been drowned out with publicly disseminated false information released by many of our most prestigious in order to quell their claims and human rights abuses originated with a simple papal decree issued against the New World peoples and nations. Unraveling the mysteries of the Miskitu Kingdom is as simple as looking at the facts with an open mind in order to establish a natural conclusion based upon facts rather than fiction.

3. In 1502, during the third voyage of Christopher Columbus, his son Fernando described the Miskitu people as "**almost Negroes in color**<sup>3</sup>," while Columbus believed them to be "great sorcerers" and "very terrible."

4. For those readers who are into Central American portraits and glyphs they would find pictures of both black and white inhabitants of Central America such as found at the **Xultán Palace**<sup>4</sup> of in Belize dating back to 800 A.D. Besides the Olmec era in Central Americans that

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<sup>2</sup> The Plaintiff has moved the Court for reconsideration regarding the appointment of Counsel, in consideration that we have cured all but this one deficiency by the Complaint as amend, and upon the basis of lawyers who have been contacted have respectfully declined or have requested substantial retainers that are beyond our financial capabilities.

<sup>3</sup> <https://muse.jhu.edu/article/41050>

<sup>4</sup> [http://realhistoryww.com/world\\_history/ancient/Meso\\_America.htm](http://realhistoryww.com/world_history/ancient/Meso_America.htm)

displays black features in their stone monuments, there are **Mayan glyphs**<sup>5</sup> on Chama vases depicting the Mayan rulers greeting black personages. Furthermore, ***there are eyewitness accounts of seeing black people in Meso-America*** at the time of the Spanish arrival, such as what Fernando Columbus as described.

5. The Northern Nahuatl-speaking Indians of Aztec Mexico who accompanied the Spanish to the Moskitu kingdom referred to the Miskitu as ***“chontal”*** or ***“foreigner”*** because they were of different human races than the Aztec and Mayan civilizations. .

6. Contrary to the Spanish first contact with the Miskitu peoples, the British when establishing the Providence Island colony found the Miskitu people and King quite amicable to their assimilation with the Miskitu peoples. This British colony was established in the Miskitu Kingdom in the year of 1631 by English Puritans. John Pym instructed the captain of the expedition, Sussex Cammock, to venture to Cape Gracias a Dios located in the Miskitu Kingdom ***to “endear yourselves with the Indians and their commanders...”***

7. One English trader who visited the Miskitu Kingdom in 1699 detailed how the people lived in harmony and as equals, except during expeditions where at that time the Miskitu people submitted to their ***“commanders and kings”***.

8. Contrary to mainstream media suggesting that the black people of Central America were somehow shipwrecked slaves, we find as a natural conclusion that these “black people” were already there at the time of Christopher Columbus. Not only were these ***first “black Americans”<sup>6</sup> in Meso-America prior to the Spanish***, but these people were part of a kingdom of diverse peoples that entertained commanders and kings prior to any treaty with the British. These black people of Central America were part of the 12 tribes that make up the Miskitu Kingdom who held various titles and positions in their government.

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<sup>5</sup> <http://bafsudralam.blogspot.com/2015/02/>

<sup>6</sup> August 8<sup>th</sup>, 2017 Motions For Reconsideration of the Court’s Order and to Appoint Counsel and/or Clarification Attachment 5,6 & 7 – Photographs & glyphs of “black Meso-Americans  
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9. **Maps**<sup>7</sup> showing the Viceroyalty of New Spain, ca 1650 identify the regions of Central America that Spain claimed, yet the Miskitu Kingdom of the Caribbean coast that stands out on those maps as being under the “strong control” of Great Britain.

10. The British influence cannot be denied of having a major impact on the Miskitu Coast from the 1600’s to the beginning of the Treaty of Friendship and Alliance with the Miskitu kingdom that was signed on March 16, 1740 between King Edward I of the Miskito Nation and the British.

11. From that point in time on, the British used as the instrumentality as a method of “indirect rule” entering continuous treaties that effected the Miskitu people without their consent, even after the British relinquished their position of authority over the Miskitu nation in a treaty between Spain at the **Convention of London in 1786**. It is very noteworthy indeed that the British referred to the Miskitu nation as the “**Country of the Mosquitos**.”<sup>8</sup> This treaty did not confer sovereignty of the Miskitu country to the dominion of Spain, but rather afforded Great Britain to “evacuate its people” in exchange for Belize.

12. Please take Judicial Notice that when Great Britain and Spain signed the Convention of London on July 14, 1786 to evacuate the Miskitu Kingdom, it is very noteworthy indeed that the Miskitu Coast was indeed recognized by both Spain and Great Britain by the very wording of the Convention. Please also take Judicial Notice of Article 1, referred to the territory to be evacuated as “**the Country of the Mosquitos**” clearly the express and explicit language of the Convention recognized Miskitu sovereignty.

13. Many inferences can be made on why Great Britain continued to negotiate on behalf of another country that it abandoned in 1786, yet recognized along with Spain as a sovereign nation.

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<sup>7</sup> August 8<sup>th</sup>, 2017 Motions For Reconsideration of the Court’s Order and to Appoint Counsel and/or Clarification Attachment 8 -1650 Map

<sup>8</sup><https://www.cambridge.org/core/journals/americas/article/evacuation-of-the-mosquito-shore-and-the-english-who-stayed-behind-17861800/C3C415630F45B38FEE01002B12AF6DBB>

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14. It is very noteworthy indeed, that the United States secured its right to be a nation among nations, three years earlier from this very same source, Great Britain, as memorialized in the **1783 Treaty of Paris**<sup>9</sup>. If the United States of America were to deny the Miskitu Kingdom<sup>10</sup> royal government as illegitimate then so too, would be an international natural conclusion that the United States too, would be classified as a “bastard nation” with no legitimate foundation or basis for nationhood.

15. The Spanish took this “treaty” with the British as affording their right to the plunder and conquest of the Miskitu Kingdom under the ordination of nations by the Catholic Pope’s papal decree. The Spanish did not want any direct negotiations with the Miskitu Kingdom and referred to them as savages and unable to govern themselves. But even among themselves with the strongest desire to control this region, conflicts arose after 1803 between the new nations of Columbia and Nicaragua, as well as the British “overseers” of the transition assuring both recognition of the Miskitu royal family and self-rule in their region.

16. Nicaragua claimed the Miskitu coast as part of the *Audiencia of Guatemala* (please see attached maps)<sup>11 12</sup>. However, the map clearly shows the Miskitu Coast under British control. Additionally, the Spanish Royal Order of 20 November 1803 and the Decree of 5 July 1824 gave this disputed kingdom, not to Nicaragua, but Columbia.

17. During this era of time, the United States in 1823 announced to the world a new doctrine, called the “**Monroe Doctrine**”<sup>13</sup> warning the European nations to avoid any further colonization in the New World of North and South America. And the topic of serious discussion since the

<sup>9</sup> [https://en.wikipedia.org/wiki/Treaty\\_of\\_Paris\\_%281783%29](https://en.wikipedia.org/wiki/Treaty_of_Paris_%281783%29)

<sup>10</sup> Please see; Nicholas Rogers, "Caribbean Coast Borderland: Empire, Ethnicity, and the Exotic on the Mosquito Coast", *Eighteenth-Century Life*, 26:3, 2002, pp. 117-38, p. 117; Marc Rangel, *Memories of Mosquitia*, Bloomington, Xlibris Corporation, 2009; Wolfgang Gabbert, "The Kingdom of Mosquitia and the Mosquito Reservation: Precursors of Indian Autonomy?", in Luciano Baracco (ed.); *National Integration and Contested Autonomy: the Caribbean Coast of Nicaragua*, New York, Algora Publishing, 2011, pp. 11-38, p. 13; According to Gabbert, other settlements included those in Belize and Black River. Gabbert, "The Kingdom of Mosquitia and the Mosquito Reservation," p. 13; And, [https://www.academia.edu/23639390/Regaining\\_Pre-colonial\\_Sovereignty\\_The\\_Case\\_of\\_Miskitu\\_Resistance](https://www.academia.edu/23639390/Regaining_Pre-colonial_Sovereignty_The_Case_of_Miskitu_Resistance)

<sup>11</sup> <http://www.zum.de/whkmla/histatlas/centramerica/nica1850.gif>

<sup>12</sup> <http://www.zum.de/whkmla/histatlas/centramerica/centram182140.gif>

<sup>13</sup> [https://en.wikipedia.org/wiki/Monroe\\_Doctrine](https://en.wikipedia.org/wiki/Monroe_Doctrine)

1820s, in both the United States and Nicaragua was talk of the construction of a canal where Nicaragua was long a favored location

18. Meanwhile, the Spanish, as well as other nations, including the United States envisioned an inter-oceanic canal running through the Miskitu kingdom from the Atlantic to the Pacific oceans. New treaties during the 1800's were signed between Nicaragua and Great Britain regarding the future of Miskitu kingdom, as well as treaties between the United States and Great Britain regarding this very same region and America's vision of an inter-oceanic canal known as the Clayton-Bulwer Treaty of 1850 that assured United States dominion over any canal built.

19. But there was a problem! The United States Congress in a similar manner as the Nicaraguan Congress discredited the Miskitu people as savages and unable to govern themselves in order to negotiate with Nicaragua. However, both the United States and the Miskitu nation were ordained from the same source, Great Britain. If the United States were to reject the terminology of Great Britain regarding the Miskitu Coast as an illegitimate nation, the so too would the United States condemn itself as a lawful nation among nations. The inclusion of the Miskitu territory into the **Clayton-Bulwer Treaty** as a separate and sovereign region along with Nicaragua and Costa Rica compelled the United States to recognize the legitimacy of the Miskitu nation to ensure its dominion over any future canal, regardless if the recognition was in word only and not action.

20. In the mid-1800's both the Nicaraguan Congress as well as the United States Congress during the debate of the Clayton-Bulwer treaty dehumanized and demonized the Miskitu people as incapable of governing themselves and reduced these people to being savages and barbarians, which was quite the contrary to the reality of these people. The Britain however, refused to surrender its protectorate over the Mosquito Coast, which the United States believed fell under the provisions of the treaty requiring the United States to in effect recognize the Miskitu Kingdom as a sovereign nation. This can be found in excerpts from the treaty.



21. During negotiations with Great Britain, the express and explicit degrading of the Miskitu people was explicitly quoted by the Nicaraguan government into their negotiations as translated into English;

***“If the government of the republic declares its opinion that the tribe of Mosquito Indians is an exhausted and degenerate race, incapable of education and development, and that therefore the talents and presumptions required for self-government are lacking (Réponse, pp. 4, 9),”***

Then, this Court needs no further information to assess the racist and supremacy opinions being entertained from that era.

**Clayton-Bulwer Treaty of 1850**

22. The Clayton-Bulwer Treaty of 1850 states verbatim ***with emphasis*** on the express and explicit Treaty words that acknowledge that the Miskitu coast is a sovereign nation among nations, in pertinent part states:

***Article 1***

*The governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, **the Mosquito coast**, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either teas or may have, to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, **the Mosquito coast**, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess, with any State or government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.*

***Article III.***

*In order to secure the construction of the said canal, the contracting parties engage, that, if any such canal shall be undertaken upon fair and equitable terms, **“by any parties having the authority of the local government or governments through whose territory the same may pass...”***

***Article VI.***

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*“The contracting parties in this convention engage to invite every State with which both or either have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other,...”*

**Article VII.**

*It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the governments of the United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, “the consent of the local authorities”, and on such principles.*

23. In early 1894, Nicaragua under President José Santos Zelaya invaded and seized the Caribbean Miskitu nation, occupying Bluefields and deposing Miskitu Prince Robert Henry Clarence, on 12 February 1894, only to be forced out in July by British and American intervention. When foreign forces withdrew a month later, Nicaragua launched a second invasion, forcibly removing all American and British residents to Managua.

24. The Miskitu nation was forcibly divided into three Nicaraguan departments, that are legal issues and not political issues, one of which controlled the San Juan River to Lake Nicaragua and was the proposed canal route. This department was removed from the autonomous Miskitu territory and annexed directly to the Nicaraguan republic.

25. From 1912 to 1933 the United States occupied both Nicaragua and the Miskitu Coast, in order to protect American lives and business from Nicaraguan government of President José Santos Zelaya. On May 27, 1910, U.S. Marine Corps<sup>14</sup> Major Smedley Butler arrived on the Miskitu Coast with 250 Marines, for the purpose of providing security in Bluefields.

26. In the 1980’s the United States under President Ronald Reagan realizing the Communist takeover of Nicaragua by the Sandinistas resulted in American recognition of the Miskitu people as “freedom fighters” where the United States provided military aid to the Miskitu people who were allied with the Contras. The Miskitu people had endured torture, rapes, plundering of their natural resources and genocide at the hands of the Sandinistas.

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<sup>14</sup> [https://broom02.revolvy.com/topic/Occupation%20of%20Nicaragua&item\\_type=topic](https://broom02.revolvy.com/topic/Occupation%20of%20Nicaragua&item_type=topic)  
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27. In President Ronald Reagan's speech<sup>15</sup> before Congress he stated in pertinent part:

*"These were hardly the actions of a nation implacably hostile to Nicaragua. Yet, the Government of Nicaragua has treated us as an enemy. It has rejected our repeated peace efforts. It has broken its promises to us, to the Organization of American States and, most important of all, to the people of Nicaragua.*

*No sooner was victory achieved than a small clique ousted others who had been part of the revolution from having any voice in the government. Humberto Ortega, the Minister of Defense, declared Marxism-Leninism would be their guide, and so it is.*

*The Government of Nicaragua has imposed a new dictatorship. It has refused to hold the elections it promised. It has seized control of most media and subjects all media to heavy prior censorship. It denied the bishops and priests of the Roman Catholic Church the right to say Mass on radio during Holy Week. It insulted and mocked the Pope. It has driven the Miskito Indians from their homelands, burning their villages, destroying their crops, and forcing them into involuntary internment camps far from home. It has moved against the private sector and free labor unions. It condoned mob action against Nicaragua's independent human rights commission and drove the director of that commission into exile.*

*In short, after all these acts of repression by the government, is it any wonder that opposition has formed? Contrary to propaganda, the opponents of the Sandinistas are not diehard supporters of the previous Somoza regime. In fact, many are anti-Somoza heroes and fought beside the Sandinistas to bring down the Somoza government. Now they've been denied any part in the new government because they truly wanted democracy for Nicaragua and they still do. Others are Miskito Indians fighting for their homes, their lands, and their lives.*

*The Sandinista revolution in Nicaragua turned out to be just an exchange of one set of autocratic rulers for another, and the people still have no freedom, no democratic rights, and more poverty. Even worse than its predecessor,"*

*And,*

*"And, fourth, we will support dialog and negotiations both among the countries of the region and within each country. The terms and conditions of participation in elections are negotiable..."*

28. Instead, President Reagan relied and recognized America's jurisdiction and involvement in Nicaragua and the Miskitu Coast, if any support for the U.S. position exists, it is to be found in

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<sup>15</sup> <https://reaganlibrary.archives.gov/archives/speeches/1983/42783d.htm> - Address Before a Joint Session of the Congress on Central America April 27, 1983 - Note: President Reagan spoke at 8:04 p.m. in the House Chamber of the Capitol. He was introduced by Thomas P. O'Neill, Jr., Speaker of the House of Representatives. The address was broadcast live on nationwide radio and television.

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the law of human rights, which both predated and postdated the statist conceptions of border impermeability reflected in Article 2(4) of the UN Charter. [FN11]<sup>16</sup>

29. The United States clearly recognizes the Miskitu people as a legal entity that has the right to be afforded access to this Court. **President Reagan and Costa Rican President Oscar Sanchez<sup>17</sup>** was involved in the peace plan that ended the civil war between the Sandinistas and Contras clearly giving the Miskitu people the right to redress any loopholes before this Court with respect to that accord.

30. The 2013 United States Supreme Court decision in *Kiobel v. Royal Dutch Petroleum Co.*, 133 S.Ct. 1659 (2013),<sup>18</sup> saying it was presumed not to cover foreign conduct unless the claims sufficiently “touch and concern” the US and leaves the door open for the plaintiffs and/or their counsel to entertain this lawsuit.

31. Contrary to this Court’s findings, a New York lawyer, by the name of Kenneth McCallion in the case of *Vekuui Rukoro v. Federal Republic of Germany*<sup>19 20</sup> did **NOT** have to prove the Namibian tribal leaders were recognized by the United States or most of the class action plaintiffs resided in the United States when successfully filing the complaint in the U.S. District Court and successfully litigating that case. We used that case as our template to assure we met all of the criteria to properly proceed. Therefore, we the plaintiffs believe that this issue can be successfully litigated by a lawyer attaching himself to this case, or we need clarification as to the explicit and express deficiencies the Court indicates in its June 26, 2017 order. However, we also believe we have corrective the deficiencies mentioned in the Court’s order regarding these issues and now have met the burden of proof regarding both recognition and jurisdiction.

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<sup>16</sup><http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1134&context=facultyworkingpapers>

<sup>17</sup> <http://paradisecostarica.typepad.com/my-blog/2017/02/costa-rica-leader-wins-nobel-prize-for-peace-plan-by-serge-schmemann-.html>

<sup>18</sup> *Kiobel*, Individually and on Behalf of her Late Husband *Kiobel*, et al. v. *Royal Dutch Petroleum Co.*, et al., Certiorari to the United States Court of Appeals for the 2<sup>nd</sup> Circuit No. 10-1491. Argued February 28, 2012—Reargued October 1, 2012—Decided April 17, 2013 Petitioners, Nigerian nationals residing in the United States.

<sup>19</sup> *Rukoro et al v. Federal Republic of Germany* 1:17-cv-00062 (2017) Cause: 28:1350 Alien Tort Claims Act

<sup>20</sup> [https://www.pacermonitor.com/public/case/20287073/Rukoro\\_et\\_al\\_v\\_Federal\\_Republic\\_of\\_Germany#](https://www.pacermonitor.com/public/case/20287073/Rukoro_et_al_v_Federal_Republic_of_Germany#)  
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32. Recently, this Nicaraguan vision of an inter-oceanic canal has again taken its toll against the Miskitu people on a larger scale of genocide, torture and plundering the natural resources by extra-judicial killings, forcibly seizing farms, as well as forced relocations, as the Sandinistas have secured Chinese foreign aid to finally construct the canal but at the expense of the Miskitu people's suffering and loss of their homeland to new colonists sent in to the region as a method of forced assimilation. They are using the UN Global Compact funds to facilitate the atrocities against the Miskitu people on a larger scale than was entertained during the prior Sandinista-Contra war.

33. Now, for the first time, the problems of the Miskitu nation come before a United States District Court where the Republic of Nicaragua is being confronted with allegations of genocide, torture, and the plundering of natural resources<sup>21</sup>. The case was filed by one of the Miskitu royal family members, the Reverend Josephenie E. Robertson, M.T.T. and is seeking class action certification upon the plaintiffs securing counsel, where the outcome of this precedent setting case could very well change the map of Central America.

34. Reverend Robertson is also known as the "Matriarch of the Miskitu nation" who was forced into leaving her Miskitu homeland as a refugee under threat of death by the Nicaraguan government. She has written a book entitled, **"Yapti Tasbia – The Miskitu Motherland,"** ISBN: 978-1-300-87730-1 that explores the historical Miskitu culture and the present political climate of the Miskitu peoples. She seeks a peaceful resolution for her people versus advising her people to prepare again, for war.

35. At the present time, we, the plaintiffs are reviewing the Nicaraguan concessions of Miskitu territory to international corporations including Canadian and American companies, for the extraction of millions of dollars worth of oil, natural gas, gold, silver and other precious minerals, and other natural resources. Yet, not one single penny of those royalties has been

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<sup>21</sup><https://www.csmonitor.com/World/Americas/2012/0228/Land-disputes-trigger-old-racial-tensions-on-Nicaragua-s-Mosquito-Coast>

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provided for the benefit of the Miskitu peoples, who have no voice in the negotiations as guaranteed under international treaties and peace accords.

36. I hereby identify Defendant Infinity Energy Resources, Inc. who together made agreements to act together for concessions from the Miskitu territories, with the Defendants with the intent of unlawfully appropriating our natural resources without any form of compensation or profit sharing, nor affording the Miskitu traditional authorities to participate in those negotiations, and subsequently removing all profits from the Miskitu territory to the United States knowing their actions would result in severe economic harm and well being of the Miskitu peoples, who already have been severely traumatized by the Nicaraguan defendants. The Infinity representatives turned a blind eye to the Miskitu people suffering in poverty, pain, and other hardships while splitting the financial rewards of their natural resources with the Sandinista government.

37. In 1957, the Plaintiff Josephenie E. Robertson, M.T.T.'s family was destroyed when her brothers and uncles were killed by the Somoza Nicaraguan Government and by the order of the Miskitu Council of Elders and her family, she was appointed to take staff as the traditional authority of the Miskitu peoples. She traveled from town to town proclaiming the full rights and independence of the Miskitu nation. She was arrested and sent to jail in Managua, where she was treated cruelly. She was arrested again in 1960 under government orders and was put in front of a firing squad. She was given the option to be exiled permanently, imprisoned indefinitely or face death.

38. The plaintiff(s) has suffered severe and unconscionable injury and torment from the threats of death, imprisonment, loss of loved ones, as well being a young mother as having her child ripped from her arms. Horrified and severely traumatized by the destruction of her family, she endured torment and torrential tears for years, never knowing where her baby was, or if he was still alive, yet, she strove on all costs in the never ending hope of family unification and restoration of her destroyed homeland. The psychological torment was enhanced when being placed in the traditional authority as the selected custodian, by her people, who would properly

administrate, appropriate, as well as distribute the basic necessities for the joys of life and their well-being for her people, only to be psychologically brutalized and in despair from a foreign land with her people's pleas for help during the Sandinistas campaign of torture, both psychological and physical, genocide, murdering and raping her nations women and girls, extrajudicial killings, and the horrible effects of extreme losses, that were both dramatic and traumatic for her and every single person who had to deal with the Sandinistas, yet forced into a position of inability has cause severe injury and pain. The Plaintiff, indeed suffered mental anguish and injury.

39. The plaintiff, with her own monies, and help from churches has because of her position as the Matriarch of the Miskitu peoples, delivered humanitarian aid and food to her people, because she is who she is, the Matriarch of the Miskitu people; And, no one can take that away from her.

#### PARTIES

40. Plaintiff Rev. Josephenie E. Robertson, M.T.T. is the Matriarch of the Miskitu Nation, Miskitu Peoples (Twelve Tribes) and a traditional royal representative of the Miskitu Government-in-Exile, which is the sole recognized legal entity representing the overwhelming majority of the Miskitu peoples in Nicaragua and worldwide.

41. Defendant the Republic of Nicaragua ("Nicaragua") is a sovereign state and a federal representative democratic republic reconstructed and governed by Daniel Ortega, Rosario Murillo and the Sandinista Party as a result of a civil war, which is responsible for the genocide of the Miskitu peoples being the successor to the Spanish establish form of Nicaraguan government established in 1821 and continued to President Anastasio Somoza Debayle's overthrow in 1979. Defendants Republic of Nicaragua, Daniel Ortega, Rosario Murillo and the Sandinista Party engaged in the taking and expropriation of Miskitu territories, lands, natural resources, waters, livestock, and other property without compensation in violation of international law are named individually and jointly.



42. Defendant the Republic of Nicaragua is a member of the United Nations and a party to the Convention on the Prevention and Punishment of the Crime of Genocide ("Genocide Convention"), which was adopted by the General Assembly of the United Nations on December 9, 1948, and which became effective on January 12, 1951. Defendant Republic of Nicaragua acceded to the convention on the prevention and punishment of the crime of genocide, when said Defendant deposited its government's instrument of accession to the "treaty" on January 29, 1952 as the 33rd state to ratify, accede or accept the convention on genocide. Nevertheless, the Republic of Nicaragua, Daniel Ortega, Rosario Murillo and the Sandinista Party have denied that its mistreatment of the twelve tribes of the Miskitu peoples constitutes a genocide, even though the factual and historical record clearly reflects that the Defendant's conduct falls squarely within the generally accepted and statutory definition of genocide.

43. In addition, the Republic of Nicaragua voted for and is a signatory to the U.N. Declaration on the Rights of Indigenous Peoples, adopted by the U.N. General Assembly on September 13, 2007 ("Declaration"), which explicitly provides, at Article 11 (2):

***States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.***

In addition, Article 18 of the Declaration provides as follows:

***Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision making institutions.***

44. Nevertheless, despite the incalculable cultural, intellectual, religious and spiritual losses that the Miskitu peoples have suffered, the Republic of Nicaragua, Daniel Ortega, Rosario Murillo, and the Sandinista Party has systematically and categorically excluded the lawful representatives of the indigenous Miskitu peoples established under the following doctrines and international treaties, including but not limited to, the 1860 Treaty of Managua, that recognized the Miskitu monarchy as the lawful representatives from negotiations between the

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Republic of Nicaragua, other international nations, businesses, and entities relating to their horrific mistreatment during the colonial period, subsequent Nicaraguan governments, during civil wars and to the present day, with to Miskitu representation in international governments and businesses negotiations where they has steadfastly refused to even consider making any reparations or compensation to the Miskitu peoples for the catastrophic losses that they have suffered and are suffering.

45. Defendant Infinity Energy Resources, Inc. (Mr. Stanton E. Ross, President & CEO) located at 11900 College Blvd., Suite 310; Overland Park, KS 66210; Website: <http://www.ifnyoil.com>; Phone: (913) 948-9512; Email: [info@ifnyoil.com](mailto:info@ifnyoil.com) Is an American independent energy company through its wholly-owned subsidiaries, engaged in the acquisition, exploration, development and production of natural gas and oil in the United States, in the Autonomous Miskitu Territory and Nicaragua who has willfully and maliciously civilly conspired with the other defendants to appropriate Miskitu natural resources (oil and gas) without affording the Miskitu representatives to participate in the negotiating process, or receive compensation or profit sharing laundering their profits in the United States at the expense of deprivations and suffering of the Miskitu peoples, where their international lawyers are aware of existing international treaties requiring our participation failed by neglect and omission to do so, in the furtherance of higher profits for their company.

46. The plaintiffs reserve the right to amend this complaint identifying other American and International companies and businesses doing business in the Autonomous Miskitu territories as they becomes known.

#### **JURISDICTION AND VENUE**

47. This Court has subject matter and jurisdiction over this matter pursuant to 28 U.S.C. § 1332 in that there is complete diversity of citizenship between the parties.

48. This Court has subject matter and jurisdiction over this matter pursuant to the Federal Tort Claims Act (FTCA), 28 U.S.C. Secs. 1346 and 2671-2680 for civil conspiracy, intentional infliction of emotional distress, and related claims.



49. This Court has subject matter and jurisdiction over this matter pursuant in pertinent part, to Article 5 of No. 5224, The Treaty of Friendship, Commerce and Navigation between the United States of America and the Republic of Nicaragua, signed at Managua, on 21 January 1956<sup>22</sup> which states:

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**Article V**

***1. Nationals and companies of either Party shall be accorded national treatment and most-favored-nation treatment with respect to access to the courts of justice and to administrative tribunals and agencies within the territories of the other Party, in all degrees of jurisdiction, both in pursuit and in defense of their rights. It is understood that companies of either Party not engaged in activities within the territories of the other Party shall enjoy such access therein without any requirement of registration or domestication.***

50. This Court has jurisdiction pursuant to 42 U.S. Code § 1985 - Conspiracy to interfere with civil rights (3) Depriving Persons of Rights or Privileges in conjunction with 18 U.S.C. 956 (conspiracy in the U.S. to commit certain violent acts overseas) and of 18 U.S.C. §1956 that applies to conspiracies to launder and to the underlying laundering offense alike.

51. The claims sufficiently “touch and concern” the US and leaves the door open for the plaintiffs and/or their counsel to entertain this Court to have both venue and jurisdiction in this lawsuit pursuant to Kiobel v Royal Dutch Petroleum Co.,<sup>23</sup>.

50. This Court also has federal question subject matter jurisdiction pursuant to 28 U.S.C. § 1331, in that the genocide and unlawful takings claims under international law asserted herein arise under 28 U.S.C. § 1350 (Alien Tort Statute) and, in the case of the plaintiffs who are U.S. residents and citizens, under federal common law, which incorporates international law.

52. This Court has jurisdiction pursuant to The Torture Victim Protection Act of 1991 (TVPA; Pub. L. 102–256, H.R. 2092, 106 Stat. 73, enacted March 12, 1992) is codified at note following 28 U.S.C. § 1350 (2006); that is, in a note immediately following the codification of the Alien Tort Statute. In contrast with that latter statute – which, as discussed supra § III.E.1, refers

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<sup>22</sup> <https://treaties.un.org/doc/Publication/UNTS/Volume%20367/v367.pdf>

<sup>23</sup> *Kiobel, Individually and on Behalf of her Late Husband Kiobel, et al. v. Royal Dutch Petroleum Co., et al.*, Certiorari to the United States Court of Appeals for the 2<sup>nd</sup> Circuit No. 10-1491. Argued February 28, 2012—Reargued October 1, 2012—Decided April 17, 2013 Petitioners, Nigerian nationals residing in the United States. Rev. Josephenie E. Robertson, M.T.T., v. The Republic of Nicaragua, et al., Case No. 3:17-cv-00862-JST COMPLAINT (AS AMEND)



broadly to “a tort ... committed in violation of the law of nations or a treaty of the United States” – the Torture Victim Protection Act provides a civil remedy for just two international law torts. Those two torts are: Torture and Extrajudicial killing.

53. This Court further has jurisdiction pursuant to *Smith v. Socialist People's Libyan Arab Jamahiriya*, 886 F. Supp. 306, 315 (E.D.NY1995). Also in *Filartiga v. Pena-Irala*, 630 F.2d 876 (2d Cir. 1980), the Second Circuit's landmark 1980 decision in *Filartiga v. Pena-Irala*, which held that victims of human rights abuses in other countries could use the statute to sue the perpetrators of the abuse in U.S. courts in association with the Court's inherent power of discretion and further sustained in *Sosa v. Alvarez-Machain*, 542 U.S. 692 (2004); *Id.* at 729. In that case, a Mexican citizen was suing another Mexican citizen for the latter's involvement in a kidnapping that occurred in Mexico at the behest of the U.S. government. The Court held that a "narrow class of international norms today" could be brought under the ATS, subject to "vigilant door keeping" by the lower courts. And finally in support of jurisdiction and the Court's inherent power of discretion, I respectfully submit that an American Court can concern itself with aliens outside of the United States if there is "torture, brutality or similar outrageous conduct." *Lujan v. Gengler*, 510 F.2d 62, 65 (2d Cir.), cert. denied, 421 U.S. 1001 (1975). Comity affords U.S. Federal prosecution.

54. This Court also has subject matter and personal jurisdiction over defendants the Republic of Nicaragua, Daniel Ortega, Rosario Murillo, the Sandinista Party and Infinity Energy Resources, Inc. under the Foreign Sovereign Immunities Act, since this case involves genocide and an unlawful taking and expropriation of property without compensation in violation of international law. 28 U.S.C. § 1605(a)(3). It is undisputed that genocide itself is a violation of international law. See, e.g., *Tel-Oren v. Libyan Arab Republic*, 726 F.2d 774, 791 n.20 (D.C. Cir. 1984) (Edwards, J., concurring); accord, *Abelesz v. OTP Bank*, 692 F.3d 638 at 675-76 (7th Cir. 2012). The Restatement (Third) of the Foreign Relations Law of the United States § 712(1) states that, as here, a country (state) is responsible under international law for injury resulting from a taking by the state of the property of a national of another state that (a) is not for a

public purpose, or (b) is discriminatory, or (c) is not accompanied by provision for just compensation.

55. Congress has also authorized aliens to bring federal common law tort actions in federal courts for violations of the law of nations to avoid the diplomatic problems that may otherwise result from adjudication of these civil claims in state courts. See, e.g., Anne-Marie Burley [Slaughter], *The Alien Tort Statute and the Judiciary Act of 1789: A Badge of Honor*, 83 *Am. J. Int'l L.* 461, 481-82 (1989); William R. Casto, *The Federal Courts' Protective Jurisdiction Over Torts Committed in Violation of the Law of Nations*, 18 *Conn. L. Rev.* 467, 468-69 (1985-1986); and 2 *Emmerich de Vattel, Law of Nations*, ch. 6 §§ 71-72 (Joseph Chitty, trans. and ed., T. J. W. Johnson & Co. 1867) (1758) (the law of nations provides a private remedy for foreigners injured by violations of international or domestic law and is an essential means of reducing friction between nations.). Therefore this Court has jurisdiction pursuant to 28 U.S. Code § 1605A(6)(7) - Terrorism exception to the jurisdictional immunity of a foreign state and 18 U.S. Code § 2333(a) - Civil remedies.

56. In addition, the takings of property alleged herein has a sufficient connection to genocide such that they amount to takings “in violation of international law.” 28 U.S.C. § 1605(a)(3). Indeed, the alleged takings did more than effectuate genocide or serve as a means of carrying out genocide. See *Abelesz*, 692 F.3d at 675-76. Rather, the expropriations were themselves genocide. Since the wrongfully taking of Miskitu properties was inextricably linked to the mass killings and genocide of these peoples, plaintiffs’ property-based claims fall squarely within the FSIA’s expropriation exception. See *Phoenix Consulting Inc. v. Republic of Angola*, 216 F.3d 36, 40 (D.C. Cir. 2000). Such expropriations, therefore, constitute “tak[ings] in violation of international law.” 28 U.S.C. § 1605(a)(3).

57. The legal definition of genocide thus unquestionably encompasses the mass extermination and systematic expropriation of Miskitu lands, waters, natural resources, livestock and other property alleged in this case. The Convention on the Prevention of the Crime of Genocide (Genocide Convention), art. 2, Dec. 9, 1948, 78 U.N.T.S. 277, adopted by the United Nations in



the immediate aftermath of World War II and ratified or acceded to by nearly 150 nations (including the United States), defines genocide as follows:

*[A]ny of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; [or] (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part...*

58. This definition of genocide is “generally accepted for purposes of customary [international] law.” Restatement (Third) of the Foreign Relations Law of the United States §702 cmt. d. It appears not only in the Genocide Convention itself, but also in numerous other international treaties. See, e.g., Rome Statute of the International Criminal Court art. 6, July 17, 1998, 2187 U.N.T.S. 90; Statute of the International Tribunal for Rwanda art. 2 (1994); Statute of the International Criminal Tribunal for the Former Yugoslavia art. 4 (1993). The offense of genocide under U.S. domestic law uses the same definition. See 18 U.S.C. § 1091(a).

59. This Court also has personal jurisdiction over the foreign defendant pursuant to Fed. R. Civ. P. 4(k)(2) with respect to conspiring with American companies overseas inclusive of the **Respondeat Superior Doctrine** Please see Wilson v. United States, 989 F.2d 953, 958 (8th Cir. Mo. 1993), notwithstanding President Reagan agreed to go along with the civil war peace treating yet, citing “loopholes” that he wasn’t comfortable with.

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60. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over claims brought under the common law and laws of the State of California.

61. Venue properly lies in this Judicial District pursuant to 28 U.S.C. §1391(b) and (c). Furthermore, there is no foreign independent or impartial forum in which to bring this action.

#### STATEMENT OF FACTS

**62. Plaintiff Rev. Josephenie E. Robertson, M.T.T. states by amending the Original Complaint in order to cure the deficiencies outlined by the Court on June 26<sup>th</sup>, 2017 as follows:**

A. The Nicaraguan government has previously and continuously systematically “cherry-picked” Miskitu people as representatives that are in association with the Sandinista government who have absolutely no authority whatsoever, except to make Nicaragua’s position “appear legitimate” in recognizing the Miskitu Kingdom and the needs of the Miskitu people, all the while, the Sandinistas are plundering the territory to meet its own needs as shown by a letter from the **“Consejo de Ancianos de la Nacion Comunitaria Moskitia,”**<sup>24</sup> to the Reverend Josephenie E. Robertson, M.T.T. which is an organization sponsored by the Sandinista government.

B. **Please take Judicial Notice**, as it is very noteworthy indeed, that this Nicaraguan government sanctioned entity refers to the plaintiff as a **“member of the hereditary royal family of the Miskitu nation”** (translated into English) and she is addressed as **“Her Excellency”**. This document can be naturally concluded as “royal recognition” of the plaintiff.

C. In 1957, the court has seen an ancient photograph as one of the previous exhibits of Reverend Josephenie E. Robertson **holding the royal Miskitu staff**<sup>25</sup> just prior to her detention by Nicaraguan authorities who subjected her to threats of death versus exile, as well as the government illegally seizing her child, a son<sup>26</sup> to assure compliance to leave her nation or die.

D. The United States government was well aware of the Plaintiff Reverend Josephenie E. Robertson’s position as part of the “Miskitu royal family” when she sought and was granted refugee status/political asylum in the United States. This acknowledgement of Ms. Robertson, as a member of the Miskitu royal family, along with many other Miskitu royals seeking refuge was reaffirmed by the United States Mission<sup>27</sup> to the United Nations in 1984.

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<sup>24</sup> Motions For Reconsideration of the Court’s Order and to Appoint Counsel and/or Clarification Attachment 1 – Three Page Letter Recognizing the Plaintiff’s Rev. Robertson’s Miskitu Royal Status

<sup>25</sup> If the Court has not seen this photograph, the Plaintiff will provide the photograph for judicial review.

<sup>26</sup> My son’s statement of being forcibly removed from his mother has been previously submitted to the Court.

<sup>27</sup> Motions For Reconsideration of the Court’s Order and to Appoint Counsel and/or Clarification Attachments 2 & 3 – Letters from the United States Mission to the United Nations dated 1984.

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E. The Miskitu Government in Exile, as represented by **Mr. Robert Henry Clarence**<sup>28</sup> registered their entity with the United States, as we recall, in the State of Delaware via incorporation.

F. The Defendants have not shown that the United States State Department has not recognized, nor granted diplomatic or Consular immunities to the plaintiffs. However, the United States in granting the plaintiffs refuge in the United States has done just that, providing refuge and immunity versus returning the plaintiffs to Nicaragua for their “alleged crimes” which would have been subjecting them to a death sentence exclusively for being the legal representatives of the Miskitu people! Additionally, the United States Congress recognized Mosquitia as an independent sovereign Aboriginal tribe in the Congressional Globe of 1800.<sup>29</sup>

G. At the very moment, the Miskitu Kingdom autonomous government handed the royal staff to the Reverend Josephenie E. Robertson; this position entitled her to the royal position and legal representative authority, custodian, guardian, and trustee of the Miskitu territories, natural resources, and well-being of her people, as well as negotiates on their behalf. It is very unique indeed, that she did not abdicate her position of authority, but was rather forced into exile under threats of death and harm to her family. The term, “**government-in-exile**” is a valid term to definite the situation of the Miskitu Royal family, regardless if it is a personal royal family description of the situation or a government recognized situation. The facts are the United States granted members of the royal family refuge affording them recourse of their inherent rights of self-government as well as negotiating on behalf of their people, as their custodian, either explicitly or by de facto.<sup>30</sup>

H. It is our contentions before this Honorable Court, that it is the Miskitu royal family that bears the responsibility of holding all Miskitu territory in trust as well as assuring the wellbeing and safety for their peoples, not some group that is appointed or created by the Sandinistas on the basis of financial gains or under threats of torture and genocide that circumvent the legitimate

<sup>28</sup> Motions For Reconsideration of the Court’s Order and to Appoint Counsel and/or Clarification Attachment 4 - Letter from the United Nations to Mr. Robert Henry Clarence residing in Berkeley, California.

<sup>29</sup> That news article was submitted as an Attachment to the August 8<sup>th</sup>, 2017 Motion for Reconsideration and Clarification.

<sup>30</sup> <http://thelawdictionary.org/de-facto/> (Black’s Law Dictionary)

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government negotiations for the Miskitu people. Including but not limited to, the denial of her (the plaintiff's) basic human rights as well as her legal right as the traditional authority on behalf of the Miskitu people to protect and negotiate on behalf of her people and the national resources of the Miskitu nation has caused the plaintiff and the entirety of her people severe and irreparable injury by the defendants, and all of them, to this day.

63. Plaintiff Rev. Josephenie E. Robertson, M.T.T. states that I was granted refugee status by the United States of America from the turmoil that evolved in the Miskitu Kingdom since 1898 on a continuous manner until the present day. I am a member of the Miskitu Royal Family and is also known among my people as the Matriarch of the Miskitu Nation. I am also a present member of the Miskitu Government in-Exile, which is now located in the United States.

64. Plaintiff Rev. Josephenie Hendy Hebbert Clarence Tawaska De- Robertson, states I am the Matriarch of the Miskitu Nation, was born in Silver City, Mosquitia on December 10th, 1943. I grew up with my mother, the Crown Princess of Miskitu Nation and father, originally from Sudan. Her parents and the elders taught me the oral history of our nation (in the past, my grandfather, Sir. Andrew Hebbert Sumito Sumu, had a library containing books on the history of the nation but Somoza had it burned down. My home was filled with love and respect--a stark contrast to the oppression and neglect by ruling governments both in Nicaragua and Honduras.

65. My mother was a midwife and holistic healer who traveled from town to town helping those in need. She was a homeopathic practitioner, who learned from her mother, the natural remedies created from herbs, barks, berries, vines, trees, roots and other flora. She knew the correct combinations and required mixtures for curing people just like her mother did. She also loved to read, write, and sing. Her family is the heirs of the Miskitu Kingdom. We have rightful claims to all its mineral resources such as gold, silver, pearls, mahogany, cedar, rubber, and lumber.

66. In 1957 my brothers and uncles were killed by the Somoza Nicaraguan Government and by the order of the Council of Elders and family I was appointed to take staff. From town to town I proclaimed the full rights and independence of my nation. I was arrested and sent to jail  
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in Managua, where I was with treated cruelly. Rather than deterring my efforts, it deepened my conviction and I continued awakening my people to their rights.

67. I was arrested again in 1960 under government orders and was put in front of a firing squad. I was given the option to be exiled permanently, imprisoned indefinitely or face death.

68. From 1894 to present, the Nicaraguan governments have murdered, recruited, threatened, bribed, or exiled Miskitu leaders and members of the Royal family trying to keep the majority of the people oppressed. They would prefer the Miskitu people to have no sense of ancestry, dignity, or history. I chose to be exiled so that I could continue fighting for my people. I was given 72 hours to leave my remaining family and friends in Mosquitia/Miskitu. I fled to Guatemala.

69. The Miskitu peoples and Council of Elders maintain communications with me, informing me on the horrible conditions and terrible plight of our Peoples in Honduras and Nicaragua. Being informed that our people are being forced from their homes by Colonos; Chinese people are without notice coming into their homes; our Miskitu men being murdered and our women and girls being raped while still being denied medical treatment and food, our Miskitu Government in-Exile in association with American and Canadian food banks that was packaged and shipped from Canada and sent as humanitarian aid to our people in 2016. Our Council of Elders report that the Defendants are providing concessions to Miskitu natural resources from Canadian, American, Norwegian and Chinese businesses with no compensation to our Miskitu peoples.

70. The Miskitu Council of Elders has continually sought lawful government contact and communications with the Miskitu royal family and government in exile to the present day.

71. The Republic of Nicaragua, represented by Daniel Ortega, and the Sandinista political group, have continually ignored the lawful Miskitu government, nor has consulted with the Miskitu government in exile with respect to the basic human rights of the Miskitu peoples. Instead, they appoint their own people to councils claiming Miskitu representation while at the same time, appropriating land and the natural resources of the Miskitu people. These acts have been and

are accomplished by forced relocations of people and villages with no accommodations or compensation, rape, murder, torture, genocide, and withholding medicines and food. The United States afforded military aid to the Miskitu people in protection of their basic human rights during the Contra-Sandinista war. Yet, while insisting on a peace treaty, that treaty has not addressed any grievances of the Miskitu people nor afforded its lawful government to address those grievances and protect the Miskitu people under the international treaties regarding the Miskitu kingdom.

72. The Republic of Nicaragua presently is compelling the Miskitu people under duress to sign documents of compensation payments from the government in the payment of pigs, chickens and sheets of zinc. Miskitu divers and their widows receive \$20 compensation for their losses.

73. The Miskitu government in exile this year 2016 delivered humanitarian aid to the Miskitu peoples while encountering extreme difficulties by the Nicaraguan government who were concealing the atrocities now being implemented against the Miskitu peoples.

74. During the Spanish colonialism, up to the present day, the Spanish colonists and their Nicaraguan counterparts were offered the idea that they were white people, that they were superior people, allowed to engage in intentional governmental acts with an inability to equate or understand the depth of the violence against the Miskitu peoples in the category of genocide, as they believe that they were born to rule. Racism has a colonial tradition in Nicaragua, and to limit it conceptually to pre-Sandinista era means that the defendants are unable to actually address the depths of it.

75. They supported and still support their inhumane brutal logic while profiting from international business ventures by subjecting and exploiting Miskitu peoples, their natural resources, with plundering the wealth, compelling forced labor and relocations, murders and rapes with force as rationalization to their right to possess Miskitu soil and territory.

76. There is a deeper racist and xenophobic mindset in Nicaraguan history and present day thought towards the Miskitu peoples and that is why we are here today!



**CLASS ACTION ALLEGATIONS<sup>31</sup>**

77. Plaintiffs are U.S. citizens and aliens who bring this action on behalf of themselves and all other U.S. and non-U.S. citizens who are, or who are direct descendants of, and members of the Miskitu (12 tribes) indigenous peoples.

78. This action may be properly maintained as a Class action pursuant to Rule 23, Federal Rules of Civil Procedure, in that the exact number of the members of the Class is not known to Plaintiffs but it is estimated that the Class is so numerous that joinder of individual members herein is impracticable. This action may be properly maintained as a Class action pursuant to Fed. R. Civ. P. Rule 23(b)(1) in that the prosecution of separate actions by or against individual members of the Class would create a risk of adjudications with respect to individual members of the Class which would, as a practical matter, be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests. This action may be properly maintained as a Class action pursuant to Fed. R. Civ. P. Rule 23(b)(2) as the parties opposing the Class have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

79. There are also questions of law and fact common to the Class which predominates over questions affecting individual members, including:

(a) Did the Republic of Nicaragua colonial authorities, subsequent Nicaraguan governments, Daniel Ortega, and the Sandinista Party design and implement an intentional policy and practice to exterminate the Miskitu people?

(b) Did the Republic of Nicaragua colonial authorities, subsequent Nicaraguan governments, Daniel Ortega, and the Sandinista Party systematically expropriate, and aid and abet the expropriation, of Miskitu lands, territories, natural resources, waters, livestock and other properties?

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<sup>31</sup> Subject to the Court ruling that the Plaintiff has cured the deficiencies identified in the Court's June 26<sup>th</sup>, 2017 order.

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(c) Did the Republic of Nicaragua colonial authorities, subsequent Nicaraguan governments, Daniel Ortega, and the Sandinista Party implement, aid and abet, and authorize a policy and practice of systematic rape of Miskitu women and girls?

(d) Did the Republic of Nicaragua colonial authorities, subsequent Nicaraguan governments, Daniel Ortega, and the Sandinista Party implement, aid and abet and authorize a policy and practice of forcing Miskitu men, women and children into involuntary servitude and forced/slave labor?

(e) Did the Republic of Nicaragua colonial authorities, subsequent Nicaraguan governments, Daniel Ortega, and the Sandinista Party incarcerate the surviving Miskitu people into concentration camps under inhumane and sub-human conditions, without adequate food, water, clothing, shelter, medical care and other basic requirements and tools for survival, at Tasba Pri, Sangilaya and other "relocation" centers also known as "concentration" camps?

(f) Did the Republic of Nicaragua colonial authorities, subsequent Nicaraguan governments, Daniel Ortega, and the Sandinista Party permit and aid and abet the public display of Miskitu corpses and skulls in a misguided and ghoulish effort to establish that indigenous Miskitu peoples were "incapable of governing themselves" as (inferior or barbarians humans) and that the Spanish heritage was superior?

(g) Has the Republic of Nicaragua colonial authorities, subsequent Nicaraguan governments, Daniel Ortega, and the Sandinista Party intentionally "marginalized" and excluded Miskitu leadership and representatives from any negotiations regarding the genocide and wrongful expropriation of their property, natural resources, livestock, waters, and territories in violation of the U.N. Declaration of the Rights of Indigenous Peoples?

(h) Did the Defendant Infinity Energy Resources, Inc. knowingly conspire with the defendants to willfully and maliciously deny the plaintiff(s) from negotiating and participating in the appropriation of their natural resources resulting in harm and injury?



80. The claims of the named Plaintiffs are typical of the members of the Class and they will be able to fairly and adequately protect the interests of the Class. The named Plaintiffs have no interests antagonistic to the interests of other members of the Class.

#### **COUNT I**

##### **(Violations of International Law Under the Alien Tort Statute and The Torture Victim Protection Act of 1991, 28 U.S.C. § 1350, Federal Common Law and The Law of Nations)**

81. Plaintiffs repeat, reallege, annex, apply, and absorb the foregoing paragraphs of this Complaint as though fully set forth herein.

82. The Republic of Nicaragua, President Ortega, the Sandinista Party's and Infinity Energy Resources, Inc. horrific mistreatment of the Miskitu peoples during the Nicaraguan colonial period to the present day, including but not limited to the mass killings intended to exterminate the Miskitu peoples, the systematic rape and abuse of Miskitu women and girls, the taking and expropriation of lands, territories, natural resources, waters, livestock, and other property without compensation and in furtherance of said Defendant's genocidal policies, including the December 1981 herding and forcibly relocation of Miskitu survivors into concentration camps, the exploitation of surviving Miskitu people as forced/slave laborers, and the use of Miskitu corpses and skulls for public display, constituted genocide under international law.

83. In addition, The Republic of Nicaragua, as the lawful governmental authority during the colonial-annexation period of 1860 to 1894, is liable for aiding and abetting Nicaragua settlers, colonists and residents of the Miskitu Kingdom in the confiscation of lands, territories, natural resources, waters, livestock, and other property from the Miskitu peoples in violation of international law, the systematic rape of Miskitu girls and women by said Nicaraguan civilian and military personnel, and the unlawful use of Miskitu men and children as forced/slave laborers.

84. The Republic of Nicaragua, Daniel Ortega, the Sandinista Party and Infinity Energy Resources, Inc. are also liable to plaintiffs and the plaintiff class for its violations of the U.N. Declaration of the Rights of Indigenous Peoples, in that it has refused to recognize that the

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lawful representatives of the indigenous Miskitu peoples, as defined by international treaties and have a right to participate in negotiations relating to the genocidal policies and practices of the Republic of Nicaragua authorities during the colonial period, the defendants refusal to recognize the right to self-determination of the Miskitu peoples, and the refusal to even consider the issue of reparations and compensation to the Miskitu for the catastrophic abuses that they were forced to endure.

85. The Republic of Nicaragua, Daniel Ortega, and the Sandinista Party are liable to the non-U.S. plaintiffs and plaintiff class members for damages under the Alien Tort Statute, 28 U.S.C. §1350, and The Torture Victim Protection Act of 1991 (TVPA; Pub. L. 102–256, H.R. 2092, 106 Stat. 73, enacted March 12, 1992), in an amount to be determined at trial.

86. The Republic of Nicaragua, Daniel Ortega, and the Sandinista Party are is liable to the U.S. plaintiffs and plaintiff class members for these violations of international law under federal common law, which incorporates international law, in an amount to be determined at trial.

## COUNT II (Conversion)

87. Plaintiffs repeat, reallege, annex, apply, and absorb the allegations as set forth in the foregoing paragraphs of this Complaint as though fully set forth herein.

88. The Republic of Nicaragua, Daniel Ortega, Infinity Energy Resources, Inc. and the Sandinista Party's confiscation and unlawful taking of the lands, territory, natural resources, waters, livestock and other property of the Miskitu peoples without compensation constituted a conversion under common law and California state law.

89. The Republic of Nicaragua, Daniel Ortega, Infinity Energy Resources, Inc. and the Sandinista aiding and abetting of the confiscation and unlawful taking of the lands, territory, natural resources, waters, livestock and other property of the Miskitu peoples without compensation by Nicaraguan nationals, colonists and by international concessions to others from the colonial period to the present day constitutes a conversion under common law and California state law.



90. As a result, plaintiffs and all Miskitu members of the Class were deprived of their property, lands, territories, natural resources, waters, livestock and its use and enjoyments, and any interest and provides which could have been earned thereon.

91 As a result, the plaintiff(s) and all Miskitu members of the Class suffered conditions of captivity that were characterized by torture, psychological torment, threats of execution, prolonged and intentional disregard for her well-being in which she faced threats of dire consequences for herself and child who was held captive for not cooperating in attempting to exercise her rights as the lawful traditional authority as her people's custodian and right to negotiate or compelled to leave her nation and people.

92. The Republic of Nicaragua, Daniel Ortega, and the Sandinista Party are liable to the plaintiffs and plaintiff class for such damages in an amount to be determined at trial.

93. Plaintiffs and other Class members are also entitled to the return of the assets and property that was looted and confiscated directly by the defendant, or which was aided and abetted by the defendant, in an amount to be determined at trial.

**COUNT III**  
**(Unjust Enrichment)**

94. Plaintiffs repeat, reallege, annex, apply, and absorb the allegations as set forth in the foregoing paragraphs of this Complaint as though fully set forth herein.

95. By its seizure, international concessions, use and retention of the property, natural resources, waters, livestock looted from the plaintiffs and Class members, through its aiding and abetting of others to convert plaintiffs' property, natural resources, waters, livestock and by its refusal and failure to return said looted assets to their rightful owners, defendants improperly deprived plaintiffs and other Class members of their property.

96. Areas Awarded for Oil Exploration and Exploitation Caribbean Offshore of Nicaragua: 13 657 km<sup>2</sup> - 3 325 km<sup>2</sup> 2 268 km<sup>2</sup> unlawfully appropriated for Infinity Energy Resources, Inc.

The Defendant's business websites<sup>32</sup> indicated, "Introduction Petroleum Potential in Nicaragua is documented by oil and gas indications and also by existence of good traps in both margins. This makes the potential good to attract the investment of the petroleum industry. The exploration activities are regulated by the Law 286, "Ley Especial de Exploración y Explotación de Hidrocarburos" and its regulation, Decree No.43-98, and also by other laws and norms relative with exploration activities." There is no mention of participation in the negotiations with the Miskitu traditional authorities.

97. The Defendants at this very moment of litigation, in an attempt to avoid liability to the plaintiff and deceive the world, to assure complicity with the Sandinista government, in that they have presently installed a new "king of the Miskitu nation" who is literally a "pretender to the Miskitu "throne" on June 18<sup>th</sup>, 2017 namely, (The King of the oompa loompas - Hector Williams Padilla).

98. Plaintiffs and other Class members are therefore entitled to recover damages in an amount to be determined at trial.

#### **COUNT IV (Accounting)**

99. Plaintiffs repeat, reallege, annex, apply, and absorb the allegations set forth in the foregoing paragraphs of this Complaint as though fully set forth herein.

100. Plaintiffs and Plaintiff class members are entitled to an accounting from the Republic of Nicaragua, Daniel Ortega, Infinity Energy Resources, Inc. and the Sandinista Party for the losses that they suffered for the confiscation of their lands, territories, waters, natural resources, livestock and other properties in violation of international law.

#### **COUNT V (Declaratory Judgment)**

101. Plaintiffs repeat, reallege, annex, apply, and absorb the allegations set forth in the foregoing paragraphs of this Complaint as though fully set forth herein.

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<sup>32</sup> <http://slideplayer.com/slide/2812984/> - <http://www.otcmarkets.com/stock/IFNY/profile> - [http://www.rigzone.com/news/oil\\_gas/a/34314/Infinity\\_Engages\\_Advisor\\_to\\_Explore\\_Options\\_for\\_Nicaragua\\_Concessions](http://www.rigzone.com/news/oil_gas/a/34314/Infinity_Engages_Advisor_to_Explore_Options_for_Nicaragua_Concessions)

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102. Plaintiffs and Plaintiff class members are entitled to an Order declaring that defendant's exclusion of Plaintiffs, as the legitimate and lawful representatives of the Miskitu indigenous peoples, from current negotiations regarding the subject matter of this Complaint, is a violation of Plaintiffs' rights under international law, including the U.N. Declaration on the Rights of Indigenous People.

103. Pursuant to 28 U.S. Code § 1746(2), I, the Reverend Josephenie Robertson, M.T.T., declare under penalty of perjury that I have provided the information and read the aforementioned Complaint As Amend, annexing, applying and absorbing those specifics to this statement, believing the foregoing contents herein are true and faithfully correct and is respectfully submitted.

#### **JURY TRIAL DEMAND**

104. Plaintiffs demand a jury trial on all issues so triable.

WHEREFORE, plaintiffs respectfully request that this Court:

- (a) Certify this as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure;
- (b) Order that the undersigned attorneys are designated as class counsel, until such time as counsel is appointed and/or plaintiffs secure counsel;
- (c) Adjudge and decree that defendants' conduct as described herein was in violation of international law, federal statutory and federal common law, and the laws of the State of California, U.S.A;
- (d) Enjoin and restrain defendants from continuing to exclude plaintiffs and other traditional and lawful representatives of the Miskitu peoples from participation in discussions and negotiations regarding the subject matter of this Complaint, in violation of plaintiffs' rights under the U.N. Declaration on the Rights of Indigenous People to self-determination for all indigenous peoples and their right to participate and speak for themselves regarding all matters relating to the losses that they have suffered;
- (e) Temporarily Enjoin and restrain disbursement of defendants international funds from being released sufficient to cover pending compensation claims trial and remedy, and outcome of this complaint pending a permanent injunction at trial freezing the Republic of Nicaragua international funds until judgment compensation is satisfied.

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- (f) Award damages to the plaintiffs and Class members under the Alien Tort Statute, the Torture Victim Protection Act, and federal common law for the damages sustained by plaintiffs and the plaintiff class as a result of the violation of international law, including the Genocide Convention and the U.N. Declaration on the Rights of Indigenous Peoples;
- (g) Award damages to the plaintiffs and Class members for all common and state law violations, including Conversion and Unjust Enrichment;
- (h) Direct that the defendants conduct an accounting of the value of the lands, territories, natural resources, waters, livestock and other properties confiscated and taken from the Miskitu peoples;
- (i) Order that a Constructive Trust be established with regard to all lands, territories, natural resources, waters, livestock and other property that was looted from plaintiffs and other Class members, and the profits derived therefrom;
- (j) Award plaintiff(s) and other Class members punitive damages for the emotional trauma, suffering and pain, in an amount sufficient to punish defendants for their flagrant and outrageous violations of international law and to deter such future conduct; and
- (k) Award plaintiffs the costs of bringing this action, including the payment of reasonable attorneys' fees; and
- (l) Grant such other and further relief as this Court deems just and proper.

**Respectfully submitted, as sewn to, this 21<sup>st</sup> day of August 2017, in the City and County of San Francisco, California, United States of America.**

**REV. JOSEPHENIE E. ROBERTSON, M.T.T.  
IN PROPRIA PERSONA**

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**Rev. Josephenie E. Robertson, M.T.T.  
Matriarch of the Miskitu Nation  
1557 Jackson St. #301  
Oakland, CA 94612 - U.S.A.  
Telephone: 510.410.1144  
Email: ercell@miskitunation.org  
In Propria Persona**



**Certification of Service**

I, the Rev. Josephenie E. Robertson, M.T.T., and/or Ercell Fleurima, are the co-Plaintiffs in the above entitled case. I am over the age of 18. On the date listed below, I mailed a true copy of this document, "Complaint As Amend" to the United States District Court, Office of the Filing Clerk of the Court, at the address of 450 Golden Gate Avenue, San Francisco, CA 94102-3489 on August 21<sup>st</sup>, 2017. The newly identified Defendant Infinity Energy Resources, Inc. (Mr. Stanton E. Ross, President & CEO) - 11900 College Blvd, Suite 310 - Overland Park, KS 66210  
Email: info@ifnyoil.com will be properly served Summons and Complaint As Amend separately.

True copies were mailed to the Defendants counselors in this case, this same date, at the addresses of:

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Tele: 617-832-1000  
Counsel for the Defendants

Respectfully submitted, as sewn to, this 21<sup>st</sup> day of August 2017



Ercell Fleurima - Signature



Rev. Josephenie E. Robertson - Signature

