

protectorate of the United States scheduled for independence in a few years, as his first duty station. He arrived there in January 1941.

2. When the Japanese attacked the Philippines on December 7, 1941, First Lieutenant Rosen was appointed the Plans and Operations Officer of the 2nd Battalion, 88th Field Artillery (Philippine Scouts). Directly after the Japanese attack, Rosen was ordered to move his battalion onto Bataan where he fought on numerous defensive lines and generally provided firing support for the 57th infantry (Philippine Scouts). After 69 days as First Lieutenant, Rosen was promoted to the rank of Captain. Captain Rosen took command of "Easy" Battery of his same battalion.

3. The retreat of the American forces to Bataan was foreseen by the U.S. military in "War Plan Orange." Knowing that the Philippines Islands were militarily indefensible, the plan called for a retreat to Bataan where the jungles afforded excellent cover for a defense of indefinite duration. However, an integral part of War Plan Orange was the ability of the U.S. Navy to supply food and munitions to the defenders on Bataan. But the Japanese attack on Pearl Harbor immobilized the U.S. Navy in the Pacific, making it impossible to ship supplies to the Philippines. It was just a matter of a few months before Captain Rosen's field-artillery battalion ran out of high explosive shells. More importantly, like all the troops on Bataan, Rosen and his men were dangerously low on medicine and foods. Rosen's troops were reduced to one-quarter rations.

4. It was militarily impossible to keep fighting. On April 9, 1942, Major General Edward P. King, surrendered to the Japanese forces.

5. Upon surrender, Rosen joined the other soldiers, sailors, airmen and marines on a 65 mile forced march from Bataan to San Fernando; this march has become known as the infamous "Death March." The Death March was conducted in the intense tropical heat of the rain forest, yet Rosen and the others were not allowed food or water. Anyone who left the line of marchers, even just to relieve himself, was bayoneted. The road from Bataan was strewn with thousands of dead soldiers and civilians, many of whom had been decapitated.

6. At San Fernando, the Japanese informed Rosen and the others that they were not POWs but instead were considered "captives." As a result, the Japanese said that the POWs would not be afforded the protection due to them by international law. Captain Rosen

received no consideration because of his rank, even though international law clearly provided for special treatment (and special responsibilities) for officers. The Japanese designation of “captives” for military personnel was without foundation in international law.

7. Shortly after arriving at San Fernando, Rosen and many others were forced into a small freight car with no ventilation. They were packed in so tightly that those who suffocated to death could not fall down. The train took Rosen and the other prisoners to Capas where they were unloaded and forced to march six more miles to Camp O’Donnell.

8. Camp O’Donnell was originally an American and Philippine installation and had been slated to house a division of 10,000 to 12,000 Philippine Army troops. However, the construction of the Camp had never been completed, and now more than 55,000 prisoners were placed there. The camp lacked water and sanitation facilities for so many prisoners. Eventually the prisoners had to set up a special ward in their overflowing barracks for the extremely ill. This ward was nicknamed the “Zero Ward,” as that was regarded as the probability of ever leaving this part of the barracks alive. There was little medicine or equipment to treat sick patients, thus almost all who fell ill never recovered. Rosen was once a patient of this ward, but was one of the extremely lucky, and very few, to ever walk out.

9. The Americans were kept at Camp O’Donnell for two months, and the Filipinos slightly longer. During this short stay, about 1,500 Americans and 26,000 Filipinos died of disease and starvation. The dead were buried by the forced labor of the prisoners in mass graves.

10. On June 8, 1942, Rosen was moved to Camp Cabanatuan. Then, five months later, in November of 1942, Rosen was sent to the Davao Penal Colony on the southern island of Mindanao where he was forced to plant, weed and harvest rice. He also farmed, lumberjacked and did other hard labor under extremely harsh conditions. Rosen suffered from malaria, wet and dry beri beri, scurvy, pellagra, dysentery, dengue fever, colony fever, and semi-blindness.

11. In 1944, when the American forces began to retake the Philippines, Rosen was one among 1,619 Americans loaded on the unmarked Japanese ship known as *the Oryoku Maru*. The lack of identification of the ship was in violation of the laws of war. Rosen and

600 other men were forced into a 30 by 50 foot hold at the bottom of the ship. Not only was the hold crowded with hundreds more men that it could fit, it was pitch black and bore no sanitary facilities. Little food and water was handed down by the Japanese which meant that most prisoners received nothing at all.

12. On December 14, 1944, the unmarked ship was bombed by U.S. Navy airmen. During the night of the bombing many prisoners died; some went mad drinking urine and blood. On December 16, the Navy bombers came back and finished off the *Oryoku Maru*. Captain Rosen managed to jump off the burning and sinking ship and swim ashore, only to be rounded up by the Japanese.

13. Rosen and the other survivors of the *Oryoku Maru* were then taken to Olongapo Naval Station where they suffered for six days in the burning sun on a tennis court. On the first three days, Rosen and his companions were given no food. For the next three days the prisoners were allowed one and a half teaspoons of raw rice per day.

14. Rosen and the other prisoners were then taken by crowded boxcar to Lingayen Gulf where they were placed aboard the *Enoura Maru*. On January 1, 1945, the ship arrived in Takao Harbor in Formosa where it remained for several days. On January 9, 1945, the *Enoura Maru* was attacked by U.S. Navy airmen and completely destroyed with great losses to both American and Japanese life. In this attack, Rosen was severely wounded in his ankle and side.

15. Again, all survivors were rounded up by the Japanese, but this time they were placed aboard another ship, the *Brazil Maru*. On this ship, Americans died and were thrown overboard at a rate of 30 to 40 per day.

16. On January 28, 1945, the *Brazil Maru* arrived in Moji, Japan with approximately 400 of the original 1,619 American prisoners. When Rosen was taken off the ship he was weighed by the Japanese. Rosen's recorded weight was 40 kilos, or 88 pounds; Rosen's normal weight was 155 pounds.

17. In April 1945, Rosen was transferred to Jinsen prison camp in Korea where he was finally liberated on September 8, 1945.

18. Colonel Rosen eventually recovered from his wounds, starvation and numerous diseases, and continued his service in the United States Army. Col. Rosen retired in

December of 1970 after over 34 years of service to his country. He is currently Vice President of the Center for Internee Rights, Inc.

19. Plaintiff Ethel Blaine Millett joined the United States Army on November 22, 1940, as a nurse a rank equivalent to Second Lieutenant, at the age of 25. She was sent to Manila, The Philippines, in June 1941. Clark Airfield, sixty miles north of Manila, was bombed by the Japanese Air Force on December 7, 1941 (the local date was December 8th). Nurse Blaine (her maiden name) was transferred to Bataan. Along with 20 other nurses, she was selected to be sent to Australia by PBY, an amphibious craft.

20. The PBY capsized, and the nurses, including Nurse Blaine, sought refuge in Mindanao. But on May 11, 1942, they were captured by the Japanese and transported to various hospitals and camps, ending up in the Santo Tomas camp on September 9, 1942. There she worked under difficult conditions as a nurse to the thousands of prisoners. Her meals consisted of a rice gruel for breakfast and, for dinner, watery rice with a local vegetable and a trace of meat. If she was working in the building known as the “hospital,” she also received a lunch of rice gruel. This diet caused Nurse Blaine and others in the camp to have an intestinal obstruction the next year, 1943. Nurse Blaine’s obstruction had to be removed surgically. An American doctor, one of the captured persons at Santo Tomas, performed the surgery.

21. Nurse Blaine and other internees were eventually liberated from the Philippines, and she remained in the army of the United States until May, 1947.

22. The people of Japan constitute a sovereign nation which does business in the United States. “Japan,” the name for this sovereignty of the people of Japan, came into being upon the execution of the San Francisco Peace Treaty of 1951 (the “1951 Treaty”) with the United States of America and other Allied Powers.

Jurisdiction and Venue

23. Jurisdiction is based on 28 USC § 1330 in that this is an action against a foreign state which falls within an exception to sovereign immunity under the Foreign Sovereign Immunities Act, 28 USC §§ 1602-11.

24. Venue is properly laid in this district under 28 USC § 1391(b) and as a federal cause of action under the law of the United States, 28 USC § 1602 (“courts of the United States”).

Class action allegations

25. The named plaintiffs bring this action pursuant to Fed. R. Civ. P. 23 on behalf of a class consisting of all United States citizens injured or killed as a result of Japan’s criminal war of aggression commencing with a Japanese surprise attack on Pearl Harbor on December 7, 1941, and culminating with the cease-fire on September 2, 1945. Plaintiffs fall into five subclasses:

(a) Members of the United States armed services who lost their lives during World War II in the Pacific campaign. This number is officially estimated at 174,275 plus an additional 13,851 members of the United States armed services who died while interned as prisoners of war, plus an additional 3,033 service personnel missing in action. These persons are represented in the present action by their next-of-kin or by their estates.

(b) United States armed services personnel and civilian citizens of the United States who were injured, physically or mentally or both, during World War II in the Pacific theatre. This number is officially estimated at 194,299 exclusive of interned prisoners of war.

(c) American citizens, both civilians and members of the United States armed services, who were interned in prison camps by Japan during World War II under conditions of slave labor, malnutrition, torture, brutality, arbitrary abuse, and in some cases as subjects of illegal medical experimentation, all in violation of the international laws of war. This category comprises 36,200 United States military prisoners of war, and 13,996 United States civilian prisoners of war. Within this category, 13,851 members of the United States armed services died during their interment as prisoners of war, and 1,536 United States citizen-civilians died during their interment as prisoners of war.

(d) Members of the United States armed services whose physical injuries or post-traumatic stress syndrome or other psychological illnesses, sustained in the Pacific

theatre during World War II, did not become manifest until after the war or after their tour of duty. Since the number of such persons is not included among the official casualty statistics of World War II, they are herein estimated to number about 100,000 to 200,000 persons.

(e) The next-of-kin and/or estates of all persons mentioned in paragraphs (a), (b), (c) and (d) who are now deceased, including 11,135 civilians who had been interned by Japan as prisoners of war and who survived the war but are now deceased, and 17,161 military personnel who had been interned by Japan as prisoners of war and who survived the war but are now deceased..

26. The members of the class and subclasses are so numerous that joinder is impracticable. There are approximately 437,025 to 600,000 members of the class including those represented by their next-of-kin and/or estates.

27. All the key questions of law in this class action are common to all members of the class. Among those questions are:

(a) Whether the defendant committed tortious acts by waging a criminal war of aggression against the United States;

(b) Whether the tortious acts were wanton and reckless because they constituted war crimes;

(c) Whether the San Francisco Peace Treaty of 1951 waived the plaintiff class members' rights to sue for damages against Japan;

(d) Whether any statute of limitations bars the plaintiff class members' claims.

28. All the significant questions of fact in this class action are common to all members of the class. The only significant questions are:

(a) Whether at least some plaintiff class members suffered damages as a result of Japan's waging of war. (It is expected that the defendant will not place this factual allegation in issue.)

(b) Whether any person claiming damages in this class action is in fact a member of the class. This question can be decided administratively under the supervision of the court if and when the court awards damages in this litigation.

29. The named plaintiffs' claims of liability on the part of Japan are typical of and no different from the claims of all class members. It is expected that Japan's defenses to the claims of liability will be typical across all members of the class and sub-classes.

30. The named plaintiffs will fairly and adequately represent the class members' interests. Plaintiffs through their named attorneys have retained, and are in the process of continuing to retain, competent counsel experienced in the prosecution of claims of this nature.

31. The common questions of law and fact predominate over questions affecting only individual class members. Class action treatment is superior to any alternatives for the fair and efficient adjudication of the controversy, because the individual class members could not afford to litigate their claims against the second largest economy in the world. In addition, the class definition is similar to that of other classes certified in the past in cases of alleged wartime reparations, and this class action should present no unusual problems of management or notice.

32. The determination of specific individuals' damages for pain, suffering, injuries, loss of future earning power, and fatalities, is not a subject of this litigation. Damages are herein claimed in the aggregate. The future distribution of damages to individual members of the class, based on their specific injuries, will be handled administratively under the general supervision of the court or its designate.

Treaty Background

A. The Conditional Grant of Sovereignty to the People of Japan

33. Between the cease-fire of September 2, 1945, and the entering into a treaty of peace on September 8, 1951, "Japan" was simply the geographical designation of a territory occupied by the Allied Powers and governed by the United States under military law. Japan had been adjudicated in 1948, by the International Military Tribunal for the Far East, to have planned and waged a war of aggression in violation of the international law of war.

34. September 8, 1951, representatives of the people of Japan and the United States, together with 46 Allied Powers other than the United States, executed the treaty of peace,

entitled The San Francisco Peace Treaty of 1951. The 1951 Treaty both declared the cessation of the state of war between Japan and the Allied Powers (Art. 1(a)), and constituted a transfer of sovereignty over the territory of Japan (as newly specified in the Treaty) from the Allied occupation power to the Japanese people (Art. 1(b)).

35. The 1951 Treaty established Japan as a sovereign nation, with defined territory and the authority to make additional treaties. In common with many other treaties of peace, the 1951 Treaty contained provisions of two types: those that are executed by virtue of the signing of the treaty itself, such as permanent transfers of land, and those that impose various conditions upon the defeated power's newly constituted sovereignty by virtue of its acceptance of the peace terms of the treaty. Among the latter in the 1951 Treaty are: Japan's obligation to place some named islands under the trusteeship system of the United Nations (Art. 3); Japan's obligation to accept any of its prewar treaties designated by the Allied Powers within a year (Art. 7); Japan's obligation to carry out the sentences imposed by the International Military Tribunal for the Far East upon Japanese nationals imprisoned in Japan (Art. 11); to comply with the war reparations provisions contained in Article 14; and to extend to the parties to the 1951 Treaty all greater advantages that might be given by Japan in the future in a separate peace settlement to any State which was not a party to the 1951 Treaty (Art. 26).

B. The Alleged Waiver of Reparations

36. Article 14(a) of the 1951 Treaty provides:

It is recognized that Japan should pay reparations to the Allied Powers for the damages and suffering caused by it during the war. Nevertheless, it is also recognized that the resources of Japan are not presently sufficient, if it is to maintain a viable economy, to make complete reparation for all such damages and suffering and at the same time meet its other obligations.

Japan paid partial war reparations "by making available the services of the Japanese people in production, salvaging and other work for the Allied Powers," and by ceding to the Allied Powers its rights in certain property within their jurisdiction subject to various exceptions (Art. 14(a)).

37. Article 14(b) of the 1951 Treaty provides:

Except as otherwise provided in the present Treaty, the Allied Powers waive all reparations claims of the Allied Powers, other claims of the Allied Powers and their nationals arising out of any actions taken by Japan and its nationals in the course of the prosecution of the war, and claims of the Allied Powers for direct military costs of occupation.

38. Although Japan and the United States have consistently taken the position that Article 14(b) of the 1951 Treaty waived the claims of American nationals against Japan, Japan knew or should have known when signing the Treaty that the United States lacked power under the Constitution of the United States to waive the claims of any private citizen. Under international law, signatories to treaties are charged with knowledge of the basic constitutional powers of other signatories, and that a signatory cannot promise something that his own nation forbids him from promising under the manifest provisions of its Constitution. William Howard Taft (former President), sole arbitrator, *The Tinoco Arbitration (Great Britain v. Costa Rica)*, October 18, 1923. Japan knew or should have known that a waiver by the United States of the claims of its nationals would violate the Takings Clause of the Fifth Amendment, unless the United States paid “just compensation” for the value of those claims. Since payment by the United States of Japan’s obligations was out of the question, Japan knew or should have known in fact that the claims of American nationals were not, and could not be, legally waived by Article 14(b).

39. Letters that have been kept as secret documents of state since 1951 and have only recently been declassified, prove that Japan was fully aware that Article 14(b) of the 1951 Treaty did not legally waive the individual claims of American nationals. During the negotiations in San Francisco of the 1951 Treaty, the representative of The Netherlands refused to sign the Treaty if it purported to waive the private claims of Dutch nationals against the Japanese. By a secret exchange of correspondence, recently declassified, the Premier of Japan, Shigeru Yoshida, wrote to Dirk V. Stikker, the Dutch Minister of Foreign Affairs: “it is my Government’s view that Article 14(b) as a matter of correct interpretation does not involve the expropriation by each Allied Government of the private claims of its nationals.” Japanese Delegation to San Francisco, Letter Dated September 8, 1951. The representative of The Netherlands considered this contemporaneous interpretation of the 1951 Treaty by Japan as sufficient to preserve the private

claims of Dutch nationals against Japan, and thereupon signed the Treaty. Prime Minister Shigeru Yoshida thereupon signed the 1950 Peace Treaty on behalf of Japan. Five years later, in 1956, Japan paid \$10,000,000 to the Netherlands.

40. Moreover, under Article 26 of the 1951 Treaty, which establishes a most-favored nation clause in favor of the treaty parties, Japan has, subsequent to 1951, entered into eleven separate peace settlements with various nations. Included in these settlements were payments for the pain and suffering of individual persons to be made to those persons. Indeed, in the peace settlement of 1955 with Switzerland, Japan explicitly ratified the payments to various Swiss individuals that were made in 1949, two years prior to the 1951 Treaty. Article II of the 1955 Treaty between Japan and Switzerland provides:

The government of Japan agrees to the action which the Swiss government took in 1949 to take over Swiss francs 2,426,693 from Japanese deposits and used and distributed as settlement for personal injuries which Swiss nationals experienced in WWII from the Japanese. This money was paid strictly to persons.

Japan settled for \$20,000,000 with Burma in 1954; with Indonesia in 1958 for \$223,080,000; with the Philippines for \$25,000,000; in 1956; and with Vietnam for \$39,000,000.

41. Accordingly, plaintiffs, as a matter of law, have claims that have not been waived, not only because of the contemporaneous interpretation of Article 14(b) provided by the Japanese Premier, but also because Japan knew, or had an international legal obligation to know, that the United States could not waive those claims without paying an equivalent amount to the American nationals, and moreover because Japan in fact paid wartime claims to individuals, in 1949 to Switzerland by later ratification, and subsequent to 1951 to other nations for payment to their nationals, all as specified in and subject to Article 26 of the 1951 Treaty

COUNT I- Intentional Tort

42. Plaintiffs repeat the averments of ¶¶ 1-41, as if fully set forth.

43. On December 7, 1941, Japan launched a surprise attack on the United States at Pearl Harbor, in the territory of Hawaii. This war of aggression was in clear violation of international law and international treaties. In 1948, the International Military Tribunal for the Far East

delivered its judgment which included a statement that “no more grave crimes can be conceived of than a conspiracy to wage a war of aggression or the waging of a war of aggression, for the conspiracy threatened the security of the peoples of the world, and the waging disrupts it.”

Tokyo War Crimes Trial: The Complete Proceedings of the International Military Tribunal for the Far East, vol. 20, at p. 49769 (R. John Pritchard & Sonia M. Zaide, eds., 1981). Twenty-three Japanese leaders were convicted of the crime of conspiracy to wage a war of aggression, and of this number, twenty-one were convicted of waging a war of aggression. The Tribunal declared and in open court read in full its verdicts on the individual accused persons on Friday, 12 November 1948. *Id.* at pp. 49783-49851.

44. Waging a war of aggression in violation of the conventional and customary international laws of war is a criminal act that constitutes an intentional tort against the victims of the war. The members of the class in the present action were subjected to pain and suffering in combat; extreme brutality; arbitrary stabbing, beating, and maiming; torture; starvation; medical experimentation; chemical and biological experimentation; denial of medical supplies; and other wanton acts of extreme and deliberate criminality.

45. The victims of these criminal acts are entitled monetary damages in compensation for their injuries, pain, suffering, disease, loss of organs and appendages, post-traumatic stress syndrome, and death. Many who survived the war have incurred increased medical bills, reduction of earning power, and shortened life expectancies. Under customary international law binding on all nations, and under general principles of law recognized by all civilized nations, a breach of an international obligation gives rise to a duty to make restitution in an adequate form. *Chorzow Factory Case*, Permanent Court of International Justice, Ser. A, No. 9, p. 21 (1927).

46. The international law of war crimes, international humanitarian law, and the customary international law of state responsibility and restitution for damages, are all part of the law of the United States, applicable in any American court of competent jurisdiction. *The Paquete Habana*, 175 U.S. 677 (1900). At the end of World War II, the Supreme Court said: “We do not make the laws of war but we respect them so far as they do not conflict with the commands of Congress or the Constitution.” *Application of Yamashita*, 327 U.S. 1 (1946).

COUNT II- War Crimes

47. Plaintiff repeats the averments of ¶¶ 1-46, as if fully set forth.

48. On December 7, 1941, Japan was bound to observe numerous international conventions setting forth the laws of war. The following international treaties were all signed by the Emperor of Japan at The Hague on October 18, 1907:

(a) CONVENTION FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES;

(b) CONVENTION RELATIVE TO THE OPENING OF HOSTILITIES;

(c) CONVENTION RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND;

(d) CONVENTION RESPECTING THE RIGHTS AND DUTIES OF NEUTRAL POWERS AND PERSONS IN CASE OF WAR ON LAND;

(e) CONVENTION RELATING TO THE STATUS OF ENEMY MERCHANT SHIPS AT THE OUTBREAK OF HOSTILITIES.

In addition, the Emperor of Japan signed the following international treaty at Geneva on July 27, 1929:

(f) CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND OTHER POWERS RELATING TO PRISONERS OF WAR.

49. Japan violated repeatedly and often each and every one of these conventions in the course of its conduct of military hostilities during World War II. *Judgment, International Military Tribunal for the Far East* (1948). Plaintiff Rosen, for instance, was subjected to brutal and inhumane treatment, including that on the infamous “Bataan Death March.” In addition, he was forced to contribute his labor to the Imperial Japanese war machine. The effects of repeated violations of the laws of war affected all American citizens directly or indirectly in the Pacific theatre. Those American soldiers, sailors, and Marines who may not have been the specific victims of war crimes were indirectly affected because they had to maintain constant vigilance that even the most elementary of humanitarian restraints could be violated at the whim of the Japanese armed forces. They participated in a war where all the rules were broken by the Japanese aggressors. The American experience in the war against Japan has been aptly called

“Hell in the Pacific.”

50. Even though the waging of aggressive warfare was itself a criminal act (§§ 43-44) the violation of specific rules for the conduct of warfare (“war crimes”) aggravates and magnifies the deaths and injuries, physical and psychological, inflicted during World War II upon all the members of the class by the armed forces of Japan.

51. The treaties listed in § 48 were all signed and ratified by the United States of America and constitute part of the supreme law of the land under Article 6 of the Constitution.

Fairness, Justice and Limitations

52. Article 14 of the San Francisco Peace Treaty of 1951 provides:

(a) It is recognized that Japan should pay reparations to the Allied Powers for the damage and suffering caused by it during the war. Nevertheless it is also recognized that the resources of Japan are not presently sufficient, if it is to maintain a viable economy, to make complete reparation for all such damage and suffering and at the same time meet its other obligations.

As a result of the fifty years’ grace period that Japan has enjoyed because the class members have held off the filing of their claims, Japan has repeated the benefit of having sufficient capital to embark upon a sustained economic recovery from World War II. Japan’s economy has grown spectacularly in the past 50 years so as to earn the popular label “economic miracle.” If the claims herein had been asserted against Japan in 1951 measured in 1951 dollars, the claims in the aggregate would have impoverished, perhaps permanently, the people of Japan. Instead, Japan today enjoys the status of the world’s second largest economic power. Even when measured in the dollars of 2001, the aggregate claims being asserted herein totaling one trillion dollars constitute less than one per cent of Japan’s total national wealth including its overseas holdings. A different measure shows that one trillion dollars today constitutes less than three months’ worth of Japan’s current gross domestic product. The successful prosecution of these claims today would therefore have a trivial impact upon the wealth of Japan compared to the devastating impact that the claims would have had if they had been prosecuted after World War II.

53. There is no statute of limitations applicable in the present case. If there had been a

statute of limitations, the present claims would have had to be brought earlier in time, and the earlier they would have been brought the greater the economic damage that would have been caused to the defendant. Thus the passage of 55 years for the prosecution of these claims has worked to Japan's immense economic benefit.

54. Japan is estopped to plead any limitations period due to its consistent statements and actions, including decisions of its domestic courts, citing Article 14(b) of the 1951 Peace Treaty as a legal reason for rejecting all claims of United States citizens for war damages. Yet as pleaded above in ¶¶ 39-44, Japan knew and acknowledged at the time of the signing of the 1951 Peace Treaty that the claims of United States citizens for war damages were not legally waived by the Treaty.

55. The damages caused by Japan's illegal war of aggression that began on December 7, 1941, can now be paid in full with minor effect upon the Japanese economy, and certainly trivial effect if compared to the devastating impact upon that economy if Japan had been required to pay damages in 1951, even as calculated in 1951 dollars. Because of the delay, the 437, 025-plus members of this class action or their next-of-kin or estates are entitled to damages as measured by comparable jury awards in the United States today for comparable injuries suffered by victims of intentional, wanton, and criminal torts.

WHEREFORE, plaintiffs, on behalf of themselves and all others similarly situated, pray for judgment against Japan in the amount of \$1,000,000,000,000, together with the costs of this action and such other and further relief as is just.

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