

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:15-CV-23438-GAYLES

**SALEH ALI SANYYEN ALSHAAR and his wife,
MAHA SHABAN AHMAD ALFALOUGI;
MUSHTAQ HAKEEM JUMAAH and his wife,
GHAIIDAA ABDULWAHID JUMAAH;
GHAIIDAA SHAKIR MAHMOOD, individually
and as personal/legal representative of the ESTATE OF
MAJID FADIL DARWEESH and on behalf of his survivors; and
NADIA HAKEEM JUMAAH, individually
and as personal/legal representative of the ESTATE OF
MUSTAFA ABDULWAHID JUMAAH and on behalf of his survivors,**

Plaintiffs,

v.

ISLAMIC REPUBLIC OF IRAN,

Defendant.

ORDER

THIS CAUSE comes before the Court following a bench trial that took place on September 16, 2019. After careful consideration of the evidence and testimony presented, the Court makes the following findings of fact and conclusions of law.

On September 11, 2015, Plaintiffs¹ brought this action, pursuant to the Foreign Sovereign Immunities Act's ("FSIA") Terrorism Exception, 28 U.S.C. § 1605A, seeking compensatory and

¹ Plaintiffs are: (1) Saleh Ali Sanyyen Alshaar ("Mr. Alshaar"); (2) Mr. Alshaar's wife, Maha Shaban Ahman Alfalougi ("Mrs. Alfalougi"); (3) Mushtaq Hakeem Jumaah ("Mr. Hakeem Jumaah"); (4) Mr. Hakeem Jumaah's wife, Ghaidaa Abdulwahid Jumaah ("Mrs. Jumaah"); (5) Majid Fadil Darweesh's ("Mr. Darweesh") widow, Ghaidaa Shakir Mahmood ("Ms. G. Shakir Mahmood"), on behalf of herself and as personal/legal representative of Mr. Darweesh's estate and on behalf of his survivors; and (6) Mustafa Abdulwahid Jumaah's ("Mr. Abdulwahid Jumaah") widow, Nadia Hakeem Jumaah ("Ms. N. Hakeem Jumaah"), on behalf of herself and as personal/legal representative of Mr. Abdulwahid Jumaah's estate and on behalf of his survivors.

punitive damages against Defendant Islamic Republic of Iran (“Iran”) based on an improvised explosive device (“IED”) attack that occurred in Iraq on September 13, 2005 (“IED Attack”). Plaintiffs allege that Iran provided training, equipment, and material support to insurgent groups in Iraq relative to the use of IEDs against Americans, private contractors, and individuals working with Americans.

Plaintiffs served Iran through diplomatic channels on September 6, 2016, in accordance with 28 U.S.C. §1608(a)(4). On February 3, 2017, there having been no appearance entered or papers filed by Iran within the time required, the Clerk entered a default against Iran in accordance with Federal Rule of Civil Procedure 55(a) and 28 U.S.C. §1608(d). On September 16, 2019, the Court held a bench trial where Plaintiffs presented the testimony of several witnesses (Mr. Alshaar, Mrs. Alfalougi, Mr. Hakeem Jumaah, Ms. N. Hakeem Jumaah, Ms. G. Shakir Mahmood, and Colonel Stuart Harris (“Col. Harris”)) and documentary evidence to support their claims. Iran did not appear and therefore presented no defense. Accordingly, the Court accepts as true Plaintiffs’ uncontroverted factual allegations. *Alejandre v. Republic of Cuba*, 996 F. Supp. 1239, 1243 (S.D. Fla. 1997) (citing *Thomson v. Wooster*, 114 U.S. 104 (1885)).

I. FINDINGS OF FACT

A. The IED Attack

On the date of the IED Attack, Mr. Darweesh, Mr. Abdulwahid Jumaah, Mr. Hakeem Jumaah, and Mr. Alshaar (collectively, “Victims”) were working in and near Basra, Iraq as United States government contractors with RONCO Consulting Corporation (“RONCO”). RONCO was performing a United States contract that supported United States’ humanitarian demining efforts in Iraq. The mines presented a danger and a hazard to United States troops, contractors, and innocent Iraqi civilians. Mr. Alshaar was head of the armed security detail for a vehicle convoy

(“Convoy”) whose mission was to travel from the RONCO base in Al Zubair to the American embassy in Basra, Iraq, which was about 40 km away, pick up supplies and fuel, and return to the RONCO base. The RONCO base was located approximately 50 km from the Iranian border.

The Convoy left the RONCO base at 7:00 a.m. Mr. Alshaar was seated in the middle of the second row of one of the Jeeps in the Convoy. Mr. Hakeem Jumaah was driving. Mr. Abdulwahid Jumaah was in the right front passenger seat. Mr. Darweesh was directly behind Mr. Alshaar. They were all RONCO employees working in the scope of their employment while performing operations as part of RONCO’s United States contract. They made it to the United States Embassy without any incident, loaded up their fuel and supplies, and headed back to the RONCO base in the Convoy (which now included vehicles that belonged to the United States or coalition forces). Their vehicle was last in the Convoy.

On the way back to the RONCO base, about 5 km before they would have reached the base, an IED discharged without warning from the median to the left of the Jeep and exploded underneath the middle of the Jeep. Mr. Alshaar testified that from his military and weapons training, he recognized the smell of C-4 explosive. Immediately before the IED went off, Mr. Alshaar reported seeing four or five individuals who were dressed in black and wearing masks.

Upon the initial explosion, Mr. Hakeem Jumaah and Mr. Abdulwahid Jumaah opened the right door and left the vehicle. Because Mr. Alshaar could not open his door, he jumped out of the vehicle from the window placing his hand on top of the vehicle to balance. The high temperature from the flames burned his hand. After Mr. Alshaar rolled away from the vehicle about two or three meters, the vehicle exploded. Per protocol, other individuals who were part of the Convoy piled all four Victims on top of each other in another vehicle and took them to Al-Shuiba British Hospital (“Al-Shuiba”). The IED Attack killed Mr. Darweesh and Mr. Abdulwahid Jumaah

(collectively, “Decedents”) and severely injured Mr. Hakeem Jumaah and Mr. Alshaar (collectively, “Survivors”). Mr. Abdulwahid Jumaah’s death certificate indicates that he died on September 14, 2005, one day after the IED Attack. Mr. Darweesh’s death certificate indicates that he died on September 20, 2005, seven days after the IED Attack. Mr. Alshaar and Mr. Hakeem Jumaah suffered severe injuries that are discussed *infra*.

B. Iran’s Role in the IED Attack

Col. Harris, a retired Colonel of the United States Marine Corp who is now working in the private sector for a United States government security contractor, provided expert testimony at the bench trial that, based on his knowledge of Iran’s use of IEDs and of the circumstances surrounding the IED Attack, Iran sponsored the IED Attack.²

² Col. Harris has an extensive background in the United States military. Before becoming a Colonel, Col. Harris served as a lieutenant and as a platoon leader and progressed to company command during Operation Desert Storm and to Battalion Commander in Operation Iraqi Freedom. He served under General James Mattis, and he finished his military career in 2007, working at the Department of State in various positions: Deputy Director of the Office of Weapons Removal and Abatement, Senior Marine Advisor to the Secretary of State, and Director of Humanitarian Mine Action Program Worldwide. He described his current position as follows: “to learn, understand, and advise senior government officials in the Washington [D.C.] area, and also over in Iraq on threats that IEDs, improvised devices . . . and [militias’] tactics, techniques, and procedures used against our troops and our coalition partners in the Iraqi Security Forces and the Iraqi people.” [ECF No. 43 at 42].

At the time of the IED Attack, Col. Harris was serving in the Department of State as the Deputy Director of the Office of Weapons Removal and Abatement. In that position, Col. Harris supervised and managed the performance of a RONCO task order to conduct demining and landmine removal under RONCO’s contract with the United States government. He testified that the RONCO work that he was overseeing furthered United States interests in the region and helped keep Americans and American troops safer. Col. Harris identified the United States government contract that was awarded to RONCO and under which the Victims were working. He was familiar with the subcontracting process that led to RONCO’s hiring of the Victims. RONCO representatives notified Col. Harris of the IED Attack shortly after it occurred. In late September 2005, Col. Harris wrote condolence letters to the Victims and their families.

Based on Col. Harris’ experience, including his supervision and management of the RONCO task order to conduct demining in Iraq and his knowledge of both the RONCO contract under which

Col. Harris testified that the IED Attack was Iranian-sponsored based on the: (1) strategic location of Basra in Iraq as the only place where Iraq touches the ocean, thereby facilitating the shipping; (2) close proximity of the IED Attack to the Iranian border; (3) close proximity of the IED Attack to known Iranian terrorist training routes; (4) presence in the Basra area of Iranian-sponsored groups, including the Sheik Al-Fartusi led Jahisa Al-Mahdi Army; (5) complex nature of the described IED; (6) method of attack; and (7) type of explosive materials. He testified that in the area of RONCO operations where the Victims worked, there were no threats to the workers from Al-Qaeda or Sunni groups; rather, the threats were from Iranian-sponsored militias. He testified that one of the attack methods frequently used by Iranian militias around the time of the IED Attack was the use of IEDs directed at American forces, coalition forces, and United States government contractors.

At the bench trial, Col. Harris recognized the photograph of the Jeep involved in the IED Attack, which was badly damaged from the explosion. He also testified that based on the Survivors' description of the IED used in the IED Attack, he understood it to be a sophisticated device with remote controlled detonation. Col. Harris explained that it was common knowledge to those working in and near Basra in September 2005 that Iran was behind these types of IED attacks in the area where the IED Attack occurred. Indeed, Col. Harris confirmed that military personnel on the ground and United States government contractors had captured other Iranian-backed actors employing these same types of IEDs as described in the IED Attack and had uncovered numerous caches of Iranian explosives used for IEDs.

the Victims were working and of the circumstances surrounding the IED Attack, the Court recognizes Col. Harris as an expert under Federal Rule of Evidence 702. *See generally Owens v. Republic of Sudan*, 864 F.3d 751, 787 (D.C. Cir. 2017), *certified question answered*, 194 A.3d 38 (D.C. 2018) (discussing the “crucial importance” of expert witnesses in terrorism cases).

C. Plaintiffs' and Decedents' Injuries Sustained as a Result of the IED Attack

Mr. Alshaar and Mrs. Alfalougi

Mr. Alshaar, now 58 years old, was 43 years old at the time of the IED Attack. Mr. Alshaar has a University degree in military studies and has extensive non-combat military experience in the Jordanian army from which he retired as a Lieutenant Colonel. On the date of the IED Attack, Mr. Alshaar was a RONCO employee. Mr. Alshaar was rushed from the scene to Al-Shuiba for medical treatment. He was later transported to a hospital in Amman, Jordan. His injuries included amputation of the toes from his right foot, a right knee fracture, meniscus and ACL tears, fractured right thumb, burns, and shrapnel. Mr. Alshaar testified that the IED Attack left his hand bleeding for six months. He underwent surgery to repair his knee, including the insertion of hardware and a second surgery to remove the screws and plates. He also underwent multiple surgeries for the removal of shrapnel. Mr. Alshaar has received extensive physical therapy and continues to get follow up treatment for pain.

In addition to his physical injuries, Mr. Alshaar has suffered extreme emotional distress, embarrassment, anxiety, and depression. Mr. Alshaar testified that there is a negative stigma in his culture towards individuals with physical disfigurements. When he removes his shoes and socks to pray at his community mosque, he feels the eyes of those around him focused on his injured, disfigured foot, and he feels ashamed of his injury. As a result of the physical and mental injuries Mr. Alshaar suffered in the IED Attack, his ability to communicate with and to relate to his wife and children has been adversely affected.

Mr. Alshaar has been married to Mrs. Alfalougi for 29 years, and they have eight children. Mrs. Alfalougi testified that Mr. Alshaar was an ideal husband and father before the IED Attack. Though he and his wife were inseparable and were deeply in love, Mr. Alshaar has changed as a

result of the IED Attack, their relationship has fallen apart, and today he and his wife spend most of their time living apart. The day of the IED Attack, Mrs. Alfalougi received a phone call from a friend advising her that her husband's Convoy has suffered an explosive attack. Mrs. Alfalougi was first able to visit Mr. Alshaar at the medical facility in Amman, Jordan. Ashamed, he did not want his wife to see his injuries. She broke down crying when she saw him in the hospital. At the bench trial, she corroborated that the IED Attack changed her husband. She also corroborated the negative toll it took on their marriage and on Mr. Alshaar's relationship with his children. She testified that she eventually moved two hours away by vehicle from her husband to a very hot place in a small village that is infected with insects rather than to live with him.

Mr. Hakeem Jumaah and Mrs. Jumaah

Mr. Hakeem Jumaah, now 41 years old, was 26 years old at the time of the IED Attack. The day of the IED Attack, he was rushed from the scene to Al-Shuiba. He was later moved to a hospital in Amman, Jordan. He sustained burns and severe injuries throughout his body. He suffered severe blast injuries to his right leg and his buttocks. His buttocks injuries were so severe that he required a temporary colostomy which was in place for three months. He had an amputation below the knee of his right leg. He had abdominal surgery and surgery on his left arm and hand. He has permanent nerve damage and does not have full use of his left hand. He has multiple pieces of shrapnel still lodged in his pelvic region, including in his urinary track.

He testified about the emotional problems he suffered after the injuries. There were a lot of issues with his children. They were scared of his amputation and his other wounds. He lost the ability to work or engage in physical activities he used to enjoy. His psychological records reflect that, even to this day, he suffers from depressed mood, lack of concentration, excessive worry, and insomnia. He continues to have problems with urinary tract infections and bleeding because of the

shrapnel. His medical providers have found him to be 100% disabled. He testified about the impact this incident and his injuries have had on his marital life and that his wife, Mrs. Jumaah, suffers because of the IED Attack. Rather than a partner, his wife is more of a caregiver to him. Rather than being the man of the house, working to support his family, he feels humiliated that he cannot work and depends on the charity of others for his family to survive. He has become withdrawn and avoids even leaving his house. Mrs. Jumaah did not testify at the bench trial.

Ms. N. Hakeem Jumaah and Mr. Abdulwahid Jumaah

Ms. N. Hakeem Jumaah is the widow of Mr. Abdulwahid Jumaah, who was killed in the IED Attack. She is 32 years old. She was 17 years old and Mr. Abdulwahid Jumaah was 22 years old when they were married. She described her husband as a student who was working for RONCO to try to earn a living. He was a kind, loving, funny, and energetic person. He was deeply religious. Shortly after they were married, they were thrilled to learn that Ms. N. Hakeem Jumaah was expecting their first child. Just four days after they welcomed their son, her husband was killed in the IED Attack.

At first, the family kept the news from her as she was still recovering from giving birth. She overheard her father-in-law one morning screaming “my son is dead!” She was devastated at the loss of her husband. It has taken a serious toll on her mental health. She described how difficult it has been for her son to grow up without a father. Ms. N. Hakeem Jumaah has never overcome the severe emotional difficulties that have plagued her since her husband was killed. She testified that she is still in love with her husband and misses him every day. She never remarried nor had another romantic relationship. She testified that she is her deceased’s husband’s legal representative, and as such petitioned the probate courts in her country for a division of her

husband's property at the time of his death. She brings this action on her own behalf, as legal representative of her husband, and on behalf of her minor son, M.M.A.A.H.

Ms. G. Shakir Mahmood and Mr. Darweesh

Ms. G. Shakir Mahmood is the widow of Mr. Darweesh, who was killed in the IED Attack. She is 50 years old. They were married when she was 16 years old and her husband was 17 years old. She learned she was pregnant shortly after they got married, and they were overjoyed. They soon welcomed their daughter, Shahad. She described Mr. Darweesh as a good provider, a man with a beautiful personality, and a great sense of humor. He loved life. He loved soccer and had many friends. He was a responsible dependable man, and she felt protected by him.

The family was very happy when Mr. Darweesh got his job with RONCO. She testified that one night when her husband did not come home from work, some friends told her that he had been in an accident. She assumed that he might have been injured, but she was devastated to learn that he was dead. She testified that she went crazy and walked out onto the streets screaming when she heard the news. She was tormented to see the damage done to his body in the IED Attack. When her daughter found out the news, all they did was cry all the time. Tragically, her daughter died just about three to four months following Mr. Darweesh's death. Ms. G. Shakir Mahmood never remarried and never had a romantic relationship since her husband's death. She testified that she is her deceased's husband's legal representative, and as such petitioned the probate courts in her country for a division of her husband's property at the time of his death. She brings this action on her own behalf, and as the legal representative of her husband.

II. CONCLUSIONS OF LAW

A. Jurisdiction and Liability Under the FSIA's Terrorism Exception

1. *The Court has Jurisdiction Over Plaintiffs' Claims*

District courts have original jurisdiction over all civil actions arising under the laws of the United States, 28 U.S.C § 1331, and over suits against foreign states not barred by sovereign immunity, § 1330. In the Eleventh Circuit, the FSIA is “the exclusive source of subject matter jurisdiction over all civil actions against foreign states.” *Alejandre v. Telefonica Larga Distancia de Puerto Rico, Inc.*, 183 F.3d 1277, 1282 (11th Cir. 1999). The Court therefore only has subject matter jurisdiction in an action against a foreign state if one of the FSIA statutory exceptions to foreign state immunity applies. *Weinstock v. Islamic Republic of Iran*, No. 17-23272-CIV, 2019 WL 1507255, at *2 (S.D. Fla. Apr. 5, 2019) (citing *Calzadilla v. Banco Latino Int'l*, 413 F.3d 1285, 1286 (11th Cir. 2005)).

Plaintiffs brought this action against Iran, pursuant to the FSIA's Terrorism Exception to foreign state immunity, which provides, in pertinent part:

[A] foreign state shall not be immune from the jurisdiction of courts of the United States . . . in any case . . . in which money damages are sought against a foreign state for personal injury or death that was caused by . . . extrajudicial killing

§ 1605A(a)(1). To bring suit against a foreign state under the FSIA's Terrorism Exception, plaintiff must prove that personal injury or death was caused by an “extrajudicial killing.” *Id.* Congress adopted the definition of that term from the Torture Victim Protection Act of 1991, 28 U.S.C. § 1350(Section 3)(a) (the “TVPA”). § 1605A(h)(7). The TVPA defines an extrajudicial killing as “a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. Such term, however, does not include any such killing that, under international law, is

lawfully carried out under the authority of a foreign nation.” § 1350(Section 3)(a). The definition therefore contains “three elements: (1) a killing; (2) that is deliberated; and (3) is not authorized by a previous judgment pronounced by a regularly constituted court.” *Weinstock*, 2019 WL 1507255, at *3 (citing *Owens v. Republic of Sudan*, 864 F.3d 751, 770 (D.C. Cir. 2017)).

Plaintiffs must also prove that the foreign state has been designated “a state sponsor of terrorism” at the time of the relevant act. § 1605A(a)(2)(A)(i)(I). A foreign state is deemed a “state sponsor of terrorism” if it has “been designated by the Secretary of State as having repeatedly provided support for acts of international terrorism.” *Weinstock*, 2019 WL 1507255, at *2 (citing § 1605A(h)(6)). An action may be brought under the FSIA’s Terrorism Exception within “10 years after the date on which the cause of action arose.” § 1605A(b)(2).

The Court has jurisdiction to hear Plaintiffs’ claims. Plaintiffs have presented sufficient evidence demonstrating that the IED Attack, which killed Mr. Darweesh and Mr. Abdulwahid Jumaah and severely injured Mr. Alshaar and Mr. Hakeem Jumaah, constitutes an extrajudicial killing under the FSIA’s Terrorism Exception. Furthermore, courts have recognized Iran as a state sponsor of terrorism. *See e.g.*, *Weinstock*, 2019 WL 1507255, at *2 (citing U.S. Department of State, State Sponsors of Terrorism, <https://www.state.gov/j/ct/list/c14151.htm>); *Valore v. Islamic Republic of Iran*, 700 F. Supp. 2d 52, 61–64 (D.D.C. 2010) (setting forth Iran’s support of Hezbollah). And Plaintiffs’ action was timely filed within 10 years of the IED Attack.

2. *Iran's Liability*

In pertinent part, the FSIA's Terrorism Exception provides an express private right of action as follows:

A foreign state that is or was a state sponsor of terrorism . . . shall be liable to . . . (3) an employee of the Government of the United States, or of *an individual performing a contract awarded by the United States Government, acting within the scope of the employee's employment*, or (4) the legal representative of a person described in paragraph . . . (3), for personal injury or death caused by acts described in subsection (a)(1) of that foreign state, or of an official, employee, or agent of that foreign state, . . .

§ 1605A(c) (emphasis added). To succeed in their private right of action, Plaintiffs must also prove that Iran proximately caused their damages; that is, that the consequences of Iran's conduct were "reasonably certain (i.e., more likely than not) to occur[.]" *Salazar v. Islamic Republic of Iran*, 370 F. Supp. 2d 105, 115–16 (D.D.C. 2005) (internal quotations and citation omitted). And Plaintiffs must "establish[] [their] claim[s] or right to relief by evidence satisfactory to the court." *Compania Interamericana Exp.-Imp., S.A. v. Compania Dominicana de Aviacion*, 88 F.3d 948, 950 (11th Cir. 1996) (citing § 1608(e)). "This standard is identical to the standard for the entry of default judgment against the United States under Federal Rule of Civil Procedure 55(d), which provides that default judgment may be entered" "if the claimant establishes a claim or right to relief by evidence that satisfies the court." *Weinstock*, 2019 WL 1507255, at *1 (citing *Wachsman v. Islamic Republic of Iran*, 537 F. Supp. 2d 85, 91 (D.D.C. 2008)). "In evaluating the plaintiffs' proof, the court may accept as true the plaintiffs' uncontroverted evidence[.]" *Wachsman*, 537 F. Supp. 2d at 91 (citation omitted).

Based on the uncontroverted documentary evidence and testimony presented at the bench trial, the Court finds that the Victims may pursue a private right of action against Iran because they were RONCO employees performing a contract awarded by the United States government and

were acting within the scope of their employment at the time of the IED Attack. *See* § 1605A(c). Plaintiffs also demonstrated evidence satisfactory to the Court that Iran proximately caused their damages by sponsoring the IED Attack. Accordingly, the Court finds that Plaintiffs have established Iran's liability under the FSIA's Terrorism Exception.

B. Damages Recoverable Under the FSIA's Terrorism Exception

For private actions brought under the FSIA's Terrorism Exception, "damages may include economic damages, solatium, pain and suffering, and punitive damages." § 1650A(c)(4). But at least one district court has held that "the punitive damages provision of 1605A(c) does not apply retroactively to conduct occurring before the passage of § 1605A in 2008." *Weinstock*, 2019 WL 1507255, at *5 (citing *Owens*, 864 F.3d at 812, 815). The Court agrees and therefore does not award punitive damages against Iran for the IED Attack, which occurred in 2005. The survivors and decedents of terrorist attacks may still recover damages for pain and suffering and family members may recover solatium for their emotional injuries. *See Valore*, 700 F. Supp. 2d at 83–87. And Plaintiffs presented satisfactory evidence to the Court that Iran is liable for the Victims' pain and suffering and for their wives' solatium and that default judgment is warranted against Iran.

1. Pain and Suffering

Pain and suffering damages may be awarded to decedents of terrorist attacks for their pain and suffering before death and to survivors of terrorist attacks. Determining damages for physical injuries, as well as mental injuries and anguish, depends on several factors, including "the severity of the pain immediately following the injury, the length of hospitalization, and the extent of the impairment that will remain with the victim for the rest of his or her life." *Peterson v. Islamic Republic of Iran*, 515 F. Supp. 2d 25, 52 n.26 (D.D.C. 2007) (citing *Blais v. Islamic Republic of Iran*, 459 F. Supp. 2d 40, 59 (D.D.C. 2006)). In *Peterson*, the court adopted a procedure for

calculating pain and suffering damages that starts with the presumption that victims of terrorist attacks who suffer substantial injuries, as well as “lasting and severe psychological problems” are entitled to at least \$5 million in pain and suffering. *Peterson*, 515 F. Supp. 2d at 54–56.

Upward departures may be appropriate between “\$7.5 [and] \$12 million in more severe instances of physical and physiological pain, such as where victims suffered relatively more numerous and severe injuries, were rendered quadriplegic, partially lost vision or hearing, or were mistaken for dead[.]” *Valore*, 700 F. Supp. 2d at 84 (citing *Peterson*, 515 F. Supp. 2d at 54); see e.g., *Mousa v. Islamic Republic of Iran*, 238 F. Supp. 2d 1, 12–13 (D.D.C. 2001) (awarding \$12 million to plaintiff with permanent and debilitating injuries, including complete deafness and blindness in one eye). Notably, pain and suffering damages may be awarded in the decedent’s name as long as death was not instantaneous. See e.g., *Elahi v. Islamic Republic of Iran*, 124 F. Supp. 2d 97, 113 (D.D.C. 2000) (awarding \$1 million for decedent where “suffering lasted a very brief period of time”).

2. *Solatium Damages*

Solatium damages compensate plaintiffs for the “mental anguish, bereavement and grief that those with a close personal relationship to a decedent experience as a result of the decedent’s death, as well as the harm caused by the loss of the decedent, society and comfort.” *Braun v. Islamic Republic of Iran*, 228 F. Supp. 3d 64, 84 (D.D.C. 2017) (citation and internal quotations omitted). Solatium damages may be recovered by the family members of deceased victims of terrorist attacks and by family members of survivors. See *Owens v. Republic of Sudan*, 71 F. Supp. 3d 252, 257 (D.D.C. 2014). “Courts addressing the availability and amount of solatium damages in terrorism cases have traditionally looked to prior similar cases awarding solatium or emotional damages.” *Weinstock*, 2019 WL 1470245, at *6 (citations omitted).

In *Heiser v. Islamic Republic of Iran*, the court established general guidelines for awarding damages for solatium and emotional distress based on the “nature of the relationship between the family member and victim, and the severity of the pain suffered by the family member.” 466 F. Supp. 2d 229, 269 (D.D.C. 2006) (internal quotations and citation omitted). There, the court awarded, *inter alia*, \$8 million to a decedent’s spouse who had been romantically involved with the decedent for 5 years before he was killed and who “ha[d] experienced and continue[d] to experience extreme mental anguish and suffering resulting from the loss of her husband[.]” *id.* at 274–75, and \$8 million to another decedent’s spouse who had been romantically involved with that decedent for about a year before he was killed and who had “continued to experience emotional distress since that time due to the fact that her husband was taken away from her in such a tragic and horrific manner[.]” *id.* at 307–08.

Courts have adopted the framework set forth in *Heiser* as an appropriate measure of damages for family members of decedents, typically awarding between \$8 million and \$10 million to decedents’ spouses. *See, e.g., Weinstock*, 2019 WL 1470245, at *6–11 (applying *Haiser* framework to award solatium damages to decedents’ parents and children); *Salazar*, 370 F. Supp. 2d at 116 (awarding \$10 million to bombing victim’s widow); *Valore*, 700 F. Supp. 2d at 86 (awarding \$8 million to decedent’s spouse). For solatium and emotional distress damages awarded to loved ones of terrorist attacks survivors, “awards are valued at half of the awards to family members of the decedent[.]” including “\$4 million for spouses[.]” *Valore*, 700 F. Supp. 2d at 85.

Upward departures may be appropriate when there is, for example, evidence of a particularly close relationship between the plaintiff and the victim, the claimant presents evidence of grief or suffering, or the facts of the attack are particularly egregious. *See e.g., Greenbaum v. Islamic Republic of Iran*, 451 F. Supp. 2d 90, 108 (D.D.C. 2006) (awarding \$9 million to a widower

upon consideration of “the severity of his pain and suffering due to the loss of his wife and unborn first child”); *Anderson v. Islamic Republic of Iran*, 90 F. Supp. 2d 107, 113 (D.D.C. 2000) (awarding \$10 million to wife of hostage and torture victim).

3. *Plaintiffs’ Individual Awarded Damages*

Plaintiffs presented evidence satisfactory to the Court of Plaintiffs’ and Decedents’ damages.³ Accordingly, the Court awards Plaintiffs’ damages as follows:

- Mr. Alshaar is awarded \$10 million for past and future pain and suffering.
- Mrs. Alfalougi is awarded \$4 million in solatium damages.
- Mr. Hakeem Jumaah is awarded \$10 million for past and future pain and suffering.
- Mrs. Jumaah is awarded \$4 million in solatium damages.
- Ms. G. Shakir Mahmood, individually and as personal/legal representative of the estate of Mr. Darweesh, is awarded \$8 million dollars in solatium damages and \$4 million for the pain and suffering for her husband.
- Ms. N. Hakeem Jumaah, individually and as personal/legal representative of the estate of Mr. Abdulwahid Jumaah, is awarded \$8 million dollars in solatium damages and \$4 million for the pain and suffering for her husband.

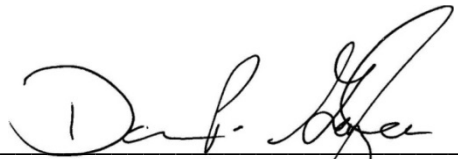
³ Plaintiff Ms. N. Hakeem Jumaah requested \$15 million on behalf of her and Decedent Mr. Abdulwahid Jumaah’s son, M.M.A.A.H. [ECF No. 44 at 14]. However, because she presented no evidence to the Court of M.M.A.A.H.’s injuries, the Court does not award damages to her on his behalf. *See Compania Interamericana Exp.-Imp., S.A.*, 88 F.3d at 950 (citing §1608(e)) (noting that plaintiffs must “establish[] [their] claim[s] or right to relief by evidence satisfactory to the court”).

III. CONCLUSION

Based on the foregoing, it is **ORDERED** and **ADJUDGED** that:

1. Plaintiffs have demonstrated total compensatory damages of **\$ 52,000,000.00**;
2. The Court will enter a separate final judgment in favor of Plaintiffs; and
3. Counsel for Plaintiffs is directed to submit a proposed final judgment order consistent with this decision on or before March 27, 2020.

DONE AND ORDERED in Chambers at Miami, Florida this 18th day of March, 2020.



DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE