

PETITION

Inter-American Commission on Human Rights

I. PETITIONERS

Lionel Jean-Baptiste, Esq., elected official, Evanston, Illinois

Medea Benjamin, co-founder, Global Exchange

Pat Clark, Executive Director, Fellowship of Reconciliation

Brian Concannon Jr., Esq., Director, Institute for Justice and Democracy in Haiti

Katrina Kasey Corbit, Esq., National Lawyers Guild

Seth Donnelly, US Labor/ Human Rights Delegation to Haiti

Joan Huguenard, St. Leo's Catholic Church & Pax Christi Northern California

Kirsten Moller, co-founder, Global Exchange

Joseph Nevins, Department of Geology and Geography, Vassar College

Dean Royer, Esq., Siegel and Yee San Francisco Chapter of the National Lawyers Guild

Ben Terrall, freelance journalist, San Francisco, CA

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Thomas M. Griffin, Esq. MORLEY SURIN & GRIFFIN, Philadelphia, PA

**PETITIONERS HEREBY MAKE AN URGENT REQUEST FOR PROVISIONAL
MEASURES BASED ON GRAVE THREATS TO THE LIVES OF
CIVILIANS LIVING IN PORT-AU-PRINCE.**

II. NAME OF THE PERSON OR PERSONS AFFECTED BY THE HUMAN RIGHTS VIOLATIONS

The civilian population of the following Port-au-Prince neighborhoods: Bel Air, Cite Soleil, Delmas 2, Fort National, Grand Ravine, Martissant, and Solino

III. OAS MEMBER STATE AGAINST WHICH THE COMPLAINT IS BROUGHT

1. Federative Republic of Brazil

IV. FACTS DENOUNCED

2. During the period that Haiti has been under occupation by UN “peacekeeping” forces¹, from June, 2004 until the present, there has been a systematic pattern of extrajudicial killings and massacres in Port-au-Prince perpetrated by the Haitian National Police (PNH), attaches linked to the PNH, and MINUSTAH forces operating under Brazilian command. The killings and massacres have occurred during PNH and/or MINUSTAH “operations” in neighborhoods where large numbers of residents support the Fanmi Lavalas political party and the restoration of the elected government of Jean-Bertrand Aristide. Despite the official claims made by PNH and MINUSTAH spokespersons that the aim of these operations is to neutralize armed, “gang” or “bandit” elements in these neighborhoods, those killed by PNH and MINUSTAH forces include a long list of unarmed men, women, and children. No efforts are made to minimize civilian or bystander casualties. In many cases, these victims were not “collateral damage” of the operations, accidentally caught in crossfire, but rather they were intentionally targeted and killed by PNH and/or MINUSTAH forces. Frequently, these victims were actual or suspected members or sympathizers of Lavalas.
3. MINUSTAH forces, operating under Brazilian command, have directly participated in the killings of Haitian civilians in some of the cases cited in this petition. In other cases, MINUSTAH forces have provided crucial logistical support to the PNH to carry out the killings and massacres. In still other cases, MINUSTAH forces have failed to intervene and stop massacres by the PNH and attaché elements, despite the ability and the mandate of MINUSTAH forces to do so. Additionally, MINUSTAH forces have repeatedly arrested and turned over Haitian detainees to the PNH, despite the clear pattern of extrajudicial killings of detainees by PNH officers.
4. The petitioners intend to identify key massacres and killings in the following neighborhoods of Port-au-Prince: Fort National, Bel-Air, Delmas 2, Solino, Cite Soleil, Martissant, and Gran Ravin neighborhoods for which the

¹ The UN mission to Haiti is known as MINUSTAH.

petitioners have collected solid, reliable evidence. These particular killings and massacres are a sample of the larger pattern of killings and massacres and should therefore serve as partial indicators to the Commission of the depth and extent of this particular human rights crisis. What follows is the sample list of the extrajudicial killings and massacres that is emblematic of the larger pattern.

5. The names of witnesses who gave affidavits and other evidence to investigators working with the petitioners are not disclosed in the following accounts or in the exhibits. This is to provide for their security, as these witnesses are still living under life-threatening conditions. The affidavits these witnesses provided are translated from Creole into English and are provided as exhibits at the end of this petition, albeit without the actual names of the witnesses. The investigators who gathered these affidavits are US citizens and are available to give sworn testimony affirming that the witnesses are real people who made the statements contained in the affidavits. The names of specific perpetrators of the killings are listed in the affidavits.
6. On October 26, 2004, masked men dressed in the black uniforms of Haitian riot police executed 13 people from the Rue Estimé quarter of Fort National near Bel-air the affidavit testimony of Haitian journalist who routinely covers Fort National. Some of the victims were killed in the slum while others were driven to and executed at Titanyen, a desolate dumping ground just north of the capital. Three of the victims were young women.
7. On December 14th, 2004, Brazilian and Sri Lankan ground troops joined elements of the Chilean Air Force along with units of the UN Civilian Police in a joint operation with the PNH in Cite Soleil. According to the same Haitian journalist the PNH killed at least 18 people. The journalist has gathered eyewitness and family testimony about this massacre. A MINUSTAH spokesperson admitted that two people were injured during the operation, but also noted that there was no significant armed resistance as MINUSTAH was in control of almost all districts of Cite Soleil.
8. On January 30th, 2005 the PNH killed fourteen people in Corridor Basia, the same neighborhood as Solino, according to the affidavit testimony from the same journalist. One victim was a student named Wilkens Bosse who was reportedly killed in front of his parents after police interrogated him.
9. On February 28th, 2005, during a demonstration convened by Lavalas in Port-au-Prince, the PNH killed three demonstrators and took two bodies away in an ambulance, according to the affidavit testimony from the same journalist. Following the demonstration, the body of Stanley Bulot was left on the ground, head blown open by gunfire where it was photographed by international journalists. These killings reportedly occurred while MINUSTAH was patrolling.

10. On April 27th, 2005, demonstrators were attempting to march peacefully in front of MINUSTAH headquarters. According to the affidavit testimony of the same journalist, PNH officers positioned themselves to attack the demonstrators and then shot directly into the crowds, killing five people immediately. Seventeen people were badly injured and four died later. The journalist's affidavit provides a full list of the names of these victims. One man, Jean Andre Joseph, is still missing.
11. On June 4th, 2005, the PNH and CIVPOL² carried out a joint operation in Bel Air, killing 25 men, women, and children, as well as burning down 13 houses, according to the affidavit testimony of the same Haitian journalist.
12. On June 29th, 2005 MINUSTAH forces killed at least seven people in Bel Air, according to the affidavit testimony of the same Haitian journalist who has video footage of six corpses from this operation.
13. On June 29th, 2005 during the MINUSTAH operation in Bel Air, Brazilian troops shot and killed William St. Mercy, a middle-aged invalid, who was sitting, unarmed, in his wheelchair in the tiny courtyard of his residence. According to separate affidavit testimony from family and a neighbor of the victim, the MINUSTAH troops were not under fire from any residents of the complex. The troops ran into the courtyard and shot the victim in the head, blowing off the top half of his skull.
14. On July 6th, 2005, MINUSTAH forces, including more than 300 heavily armed troops and 18-20 Armored Personnel Carriers and at least one helicopter, led a massive pre-dawn raid into Cite Soleil. The official target of the raid was Dread Wilme. Overwhelming evidence collected by the investigators during multiple site visits to Cite Soleil, including the day after this operation, indicates that MINUSTAH forces had carried out a major massacre. During a July 8th, 2005 interview Lt. General Augusto Heleno Ribiero Pereira and Colonel Jacques Morneau claimed that they were unaware of any civilian casualties and characterized the operation as a success. Colonel Morneau suggested that the bodies viewed by the investigators could have been killed by "gangs" and blamed on MINUSTAH forces. Moreover, the commanders stated that MINUSTAH did use a helicopter during this operation for logistical coordination, but that this helicopter did not shoot down into the community. The evidence collected by investigators contradicts these claims and indicates that MINUSTAH forces, including personnel in the helicopter, did target the civilian population, shooting into people's homes, destroying property and shooting, killing and wounding, unarmed men, women, and children.

² UN Civilian Police in Haiti.

15. On August 8th, 2005, the PNH carried out a major massacre in Solino, covering and occupying the neighborhood in the morning. According to affidavit testimony from multiple eyewitnesses, the PNH officers worked with civilian attaches who were armed with machetes. Together, the PNH officers and these attaches proceed to attack unarmed community residents, killing more than 20. Some were hacked to death and left in the street. Video footage of several of these bodies was recorded by a local Haitian journalist and is submitted as an exhibit with this petition. According to eyewitness testimony, the machetes used by the attaches had the PNH sign painted on the blades.
16. On August 10th, 2005, the PNH joined by civilians attaches who were armed with machetes, carried out a massacre in Bel Air in which approximately ten people were killed. According to affidavits from multiple eyewitnesses, the operation started in the adjacent neighborhood of Delmas 2 where the PNH arrived and publicly distributed machetes to attaches who arrived with the PNH. They then started to kill people in full view of the public, including one man who was hacked to death and one pregnant woman who was beaten to death in police truck. MINUSTAH forces were reportedly on patrol, but did not intervene. The PNH and the attaches armed with machetes then left Delmas 2 and entered Bel Air where they killed more unarmed people. Witnesses identified the PNH sign on the blades of the machetes.
17. On August 20th, 2005 the PNH interrupted a highly publicized soccer match funded by USAID in the St. Jean Bernadette Stadium in the Martissant neighborhood. There were approximately 5,000 people in attendance. According to affidavits provided by multiple eyewitnesses, including several victims who survived this massacre, the PNH took over the microphone system and ordered everyone in the field to lie down. Attaches armed with machetes accompanied the PNH into the field, attacking and hacking to death people accused of being “bandits”. Many of those who attempted to flee were shot and killed by the PNH inside of the stadium or by the PNH or attaches surrounding the stadium on the outside. MINUSTAH forces were stationed nearby the stadium, but did not intervene to investigate the shootings and commotion. Witnesses identified the leader of the attaches working with the PNH as a well known criminal who they had chased out of their neighborhood in the past.
18. On August 21st, 2005 the PNH joined by the attaches armed with machetes entered Grand Ravin, the neighboring community to Martissant, and proceed to assault a church. Homes were also ransacked and looted and at least five homes were burned down, according to affidavits provided by two eyewitnesses to this assault.
19. In some of these examples, precise numbers of victims are not available due to several reasons: a) PNH forces consistently transport dead bodies away from the scene in ambulances during the “operations”; b) there appears to be no

systematic tracking of civilian deaths and casualties by MINUSTAH nor the PNH; c) family members of the deceased are often afraid to petition the authorities and/or publicize the killings of loved ones; d) family members frequently lack the resources to pay for the bodies to be released from the morgues, to pay a Judge of Peace to issue what amounts to the formal death certificate, and then to pay for funeral expenses. Bodies are often left, unclaimed and unknown, in morgues or on streets where they are eaten by dogs or eventually burned.

20. The pattern of extrajudicial killings and massacres perpetrated by the PNH, attaches linked to the PNH, and MINUSTAH forces is clear and incontrovertible. The fact that such killings have continued, with little if any concern voiced by the international human rights community, only contributes to the dangerous atmosphere of impunity prevailing on the streets of Haiti today. These killings have created an environment of terror in which Lavalas party members or people living in Lavalas-dominated areas continuously fear for their lives – not due to wrongdoing on their part, but because of their political or presumed political affiliation. The Brazilian command has unequivocally failed to protect the civilian population from these gross human rights violations, thereby violating not only the MINUSTAH mandate, but also the American Convention of Human Rights to which Brazil is a party.

Available Evidence

21. Videotape evidence of killings and massacres gathered by Haitian journalists and by *the US Labor/ Human Rights Delegation to Haiti* during the summer of 2005.
22. Eyewitness affidavits collected by *the US Legal and Human Rights Delegation to Haiti* between September 1st and September 10th, 2005.³
23. Reports and documentation regarding the massacres in Haiti over the summer provided by *the Institute for Justice and Democracy in Haiti*.
24. “Haiti: Disarmament Delayed, Justice Denied” by *Amnesty International*, July 27, 2005

³ Note that the names of the witnesses who signed these affidavits have been altered for their protection given the threat to their lives by security forces if their identities were publicly disclosed in conjunction with the testimony they provided. However, the investigators who collected these affidavits are available to provide testimony, under oath, concerning the manner in which the affidavits were collected and their contents as well as to the real danger to which the witnesses would expose themselves were they to step forward at this time..

25. “Growing Evidence of a Massacre by UN Occupation Forces in Port-au-Prince Neighborhood of Cite Soleil: a Summary of Findings by the US Labor/ Human Rights Delegation to Haiti” by the *US Labor/ Human Rights Delegation*, July 12, 2005.
26. “Keeping the Peace in Haiti? An Assessment of the UN Stabilization Mission in Haiti Using Compliance with its Prescribed Mandate as a Barometer for Success” by the *Harvard Law Student Advocates for Human Rights and the Centro de Justicia Global, Rio de Janeiro and Sao Paulo, Brazil*, March, 2005.
27. “Haiti: Human Rights Investigation: November 11-21, 2004” by Thomas M. Griffin, Esq., *Center for the Study of Human Rights, University of Miami School of Law*, February 9th, 2005.

Witnesses to Violations Denounced:

28. Seth Donnelly, US Labor/ Human Rights Delegation to Haiti, June 30th—July 10th, 2005.
29. Seth Donnelly, Benjamin Terrall, and Joan Huguenard, US Legal and Human Rights Delegation to Haiti, August 30—September 10th, 2005.
30. Haitian journalists who provided some of the video footage submitted with this petition.
31. Haitian eyewitnesses who gave the testimony in the affidavits submitted with this petition.
32. Thomas M. Griffin, Esq., author of “Haiti: Human Rights Investigation: November 11-21, 2004”, *Center for the Study of Human Rights, University of Miami School of Law*, February 9th, 2005.
33. James Cavallaro, Associate Director, *Human Rights Program, Harvard School of Law*, and the coordinator of the research project for “Keeping the Peace in Haiti? An Assessment of the UN Stabilization Mission in Haiti Using Compliance with its prescribed Mandate as a Barometer for Success”, March 2005.

Authorities Responsible for the Facts Denounced

34. The Government of the Federative Republic of Brazil

V. HUMAN RIGHTS VIOLATED

34. Brazil violated Articles 4, 7, 8, 15, 16, 21, and 22 of the American Convention on Human Rights.

A. Article 4 of the American Convention on Human Rights Guarantees the Right to Life

35. **Article 4 § 1** states that “Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.”

36. Brazil has violated the right to life of the victims of the extrajudicial killings and massacres. MINUSTAH forces, operating under Brazilian command, have directly participated in the killings, provided crucial logistical support to the PNH to carry out the killings and massacres, and/or failed to intervene and stop massacres by the PNH and attaché elements.

B. Article 7 of the American Convention on Human Rights Guarantees the Right to Personal Liberty

37. **Article 7 § 1** states that “Every person has the right to personal liberty and security.”

38. Brazil has violated the right to security of the victims of the extrajudicial killings and massacres. MINUSTAH forces, operating under Brazilian command, have directly participated in the killings, provided crucial logistical support to the PNH to carry out the killings and massacres, and/or failed to intervene and stop massacres by the PNH and attaché elements.

C. Article 8 of the American Convention on Human Rights Guarantees the Right to a Fair Trial

39. **Article 8 § 1** states that “Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.”

40. Brazil has violated the right to a fair trial of the victims of the extrajudicial killings and massacres. PNH and MINUSTAH spokespersons claimed that the aim of their operations was to neutralize armed, “gang” or “bandit” elements. Those accused of being “gang” or “bandit” elements had the right to a hearing by a tribunal to determine if any criminal accusations were substantiated. Instead, MINUSTAH forces, operating under Brazilian command, have

directly participated in the killings, provided crucial logistical support to the PNH to carry out the killings and massacres, and/or failed to intervene and stop massacres by the PNH and attaché elements.

D. Article 15 of the American Convention on Human Rights Guarantees the Right of Assembly

41. **Article 15** states that “The right of peaceful assembly, without arms, is recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or to protect public health or morals or the rights or freedom of others.”
42. Brazil has violated the right of assembly of participants in the 28 February 2005 and 27 April 2005 demonstrations and 20 August 2005 soccer match who were killed by the PNH and attaché elements of Haitian civilians. MINUSTAH forces, operating under Brazilian command, were patrolling or stationed nearby the demonstrations and/or failed to intervene and stop the massacres by the PNH.

E. Article 16 of the American Convention on Human Rights Guarantees Freedom of Association

43. **Article 16 § 1** states that “Everyone has the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes.”
44. Brazil has violated the freedom of association of victims of the extrajudicial killings and massacres who were actual or suspected members or sympathizers of Fanmi Lavalas political party. The killings and massacres occurred during PNH and/or MINUSTAH “operations” in neighborhoods where large numbers of residents support the Lavalas and the restoration of the elected government of Jean-Bertrand Aristide. MINUSTAH forces, operating under Brazilian command, have directly participated in the killings, provided crucial logistical support to the PNH to carry out the killings and massacres, and/or failed to intervene and stop massacres by the PNH and attaché elements.

F. Article 21 of the American Convention on Human Rights Guarantees the Right to Property

45. **Article 21 § 1** states that “Everyone has the right to the use and enjoyment of his property. The law may subordinate such use and enjoyment to the interest of society.”

46. Brazil has violated the right to property of the Grande Ravin civilians whose homes were assaulted, ransacked, looted and burned down on 21 August by the PNH and attaches. MINUSTAH forces, operating under Brazilian command, have failed to intervene and stop the PNH and attaché elements.

G. Article 22 of the American Convention on Human Rights Guarantees Freedom of Movement and Residence

47. **Article 22 § 1** states that “Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law.”
48. Brazil has violated the freedom of residence of the Grande Ravin civilians whose homes were assaulted, ransacked, looted and burned down on 21 August by the PNH and attaches. MINUSTAH forces, operating under Brazilian command, have failed to intervene and stop the PNH and attaché elements.
49. Brazil State has violated the freedom of residence of victims of the extrajudicial killings and massacres during PNH and/or MINUSTAH “operations” which targeted Fort National, Bel Air, Delmas 2, Solino, Cite Soleil, Martissant, and Grande Ravin where large numbers of residents support the Lavalas and the restoration of the elected government of Jean-Bertrand Aristide.

VI. LEGAL REMEDIES TO REDRESS THE CONSEQUENCES OF THE FACTS DENOUNCED

A. Urgent Request for Provisional Measures.

50. Petitioners request that the Commission request the Inter-American Court of Human Rights to take provisional measures to prevent irreparable injury to any additional civilians in the above-referenced neighborhoods of Port-au-Prince, as provided in Article 19 of the Statute of the Inter-American Commission on Human Rights, and Article 63 of the American Convention on Human Rights. These civilians are in grave danger as a result of the continued violations of rights under the Convention. Petitioners are seeking immediate action on the part of the Commission and the Court to prevent further endangerment of civilian life and physical integrity, including, but not limited to immediate intervention in PNH and MINUSTAH neighborhood operations and protection of civilian populations regardless of their political affiliations.

B. There is No Remedy Available Through the United Nations Security Council.

51. The United Nations Security Council sent a mission to evaluate the effectiveness of MINUSTAH troops, the Haitian National Police, and provide insight on the current human rights situation in Haiti. The mission does not appear to have critically analyzed the role of MINUSTAH or its interaction with PNH. Instead, the mission appears to have summarily concluded that MINUSTAH is currently successful, despite initial setbacks in getting deployed. Additionally, the mission seems to have unquestioningly accepted the information provided to them by PNH. This approach to the current situation in Haiti does not instill faith in the civilian population that the United Nations Security Council is critically analyzing its role in Haiti or that it is open to evaluating evidence of atrocities committed by its own troops. Therefore, there does not appear to be a remedy available through the UN Security Council, the body responsible for the enforcement of the mandate given to MINUSTAH troops under Resolution 1608.

C. The Haitian Legal System is Ineffective.

52. The most powerful sectors of Haitian society -- the wealthiest families, government officials, and most of all the entire military apparatus -- have enjoyed virtual impunity. Except for a few exceptions under Haiti's democratic governments soldiers have very rarely been prosecuted in civilian courts for abuses committed against civilians despite the constitutional requirement that these cases be heard in civil courts.
53. Although Haitian law creates elaborate procedures governing arrests, detention, and prison inspections and monitoring, all these procedures and protections are systematically breached. Previous targets of politically motivated arrests, such as Yvon Neptune and Annette "So Ann" Auguste have been incarcerated for over a year without the possibility of a fair or open trial in the near future. Many other political prisoners and prisoners of conscience like Fr. Gerard Jean-Juste have also been denied the opportunity to for a fair and open trial. Therefore, victims of neighborhood atrocities who were targeted due to their presumed political affiliation with Fanmi Lavalas legitimately fear retribution if they seek assistance in domestic courts.
54. The UN Security Council mission to Haiti found that state institutions in Haiti "at all levels remained weak and in urgent need of reform and capacity-building." (April 2005 Security Council mission report, p. 12.) Additionally, state institutions, including courts, face "continuing problems of corruption. . . [and] absence of transparency and accountability." (Id.) Ultimately, the mission concluded that "modern public administration" does not yet exist in Haiti. (Id.) In light of Haiti's judicial system's lack of transparency and accountability, victims of crimes of the government cannot reasonably be expected to receive justice from such an institution.

D. Any Further Attempts to pursue Legal Remedies in Domestic Courts are Futile and Endanger Innumerable Civilian Lives.

55. The jurisprudence of the Inter-American Court of Human Rights provides that the Commission may review the exhaustion issues and the merits of a case simultaneously. In cases where the available domestic remedies may be ineffective, the Commission may consider the exhaustion of said remedies as related to their effectiveness and decide to review them jointly. Here, the victims argue that the Haitian legal system is ineffective, especially with regard to cases of extrajudicial killings and other serious human rights abuses. Therefore, any exhaustion issues should be considered simultaneously with the merits of the case.

56. Moreover, the Commission has stated that the exhaustion requirement should not be evoked to the detriment of a defenseless victim where considerations of timeliness and delay may advise consideration of the exhaustion requirement simultaneously with the merits of the case. Here, the victims argue that the Haitian legal system is unduly slow in responding to cases of people targeted by authorities due to their political affiliations. In combination with the life-threatening conditions encountered in their own neighborhoods, this undue delay supports the victims' request for immediate action on his case notwithstanding any unresolved exhaustion issues.

VII. PLEASE INDICATE WHETHER THE VICTIM'S LIFE, INTEGRITY OR HEALTH IS IN JEOPARDY. WAS THE ASSISTANCE OF THE AUTHORITIES REQUESTED, AND IF SO, WHAT WAS THE RESPONSE?

57. Immediate action is required to protect the civilians living in the above-referenced Port-au-Prince neighborhoods. Eyewitnesses to events who provided affidavits to investigators did so only on the condition of anonymity due to their well-founded fears that revealing their identities as witnesses to the atrocities described above would place them in grave danger.

58. Since PNH has played a prominent role in committing massacres against civilians, eyewitnesses to these events are understandably fearful of reporting what they have seen to the police. Such witnesses are too afraid in many circumstances to seek medical attention in hospitals for fear they will be recognized and assassinated by PNH or related attaches. Additionally, since MINUSTAH forces have either participated in or ignored the neighborhood massacres, witnesses do not feel safe contacting MINUSTAH for assistance.

**VIII. PLEASE INDICATE WHETHER THE CLAIM CONTAINED IN THE
PETITION HAS BEEN FILED WITH THE UNITED NATIONS HUMAN
RIGHTS COMMITTEE OR ANY OTHER INTERNATIONAL ORGANIZATION**

59. No.

Signatures:

/s/ Lionel Jean- Baptiste

/s/ Medea Benjamin

/s/ Pat Clark

/s/ Brian Concannon Jr., Esq.

/s/ Katrina Kasey Corbit, Esq.

/s/ Seth Donnelly

/s/ Joan Huguenard

/s/ Kirsten Moller

/s/ Joseph Nevins

/s/ Dean Royer, Esq.

/s/ Ben Terrall

/s/ Desiree Welborn Wayne, Esq.

/s/ Standish E. Willis, Esq.

Date: November ____, 2005