

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

**ROBERT L. SCHULZ, MILAN PAVLOVIC,
STEPHEN W. OUGHTON and GARY T. LOUGHREY,**

Plaintiffs,

- against -

**VERIFIED COMPLAINT
FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Civil Action No. 99-CV-0845

**THE UNITED STATES EXECUTIVE OFFICE OF
THE PRESIDENT, WILLIAM JEFFERSON
CLINTON, PERSONALLY AND IN HIS OFFICIAL
CAPACITY AS PRESIDENT; UNITED STATES
DEPARTMENT OF DEFENSE, WILLIAM COHEN,
PERSONALLY AND IN HIS OFFICIAL CAPACITY AS
SECRETARY; and THE UNITED STATES CONGRESS,
TRENT LOTT, PRESIDENT PRO TEMPORE
OF THE SENATE AND DENNIS HASTERT,
SPEAKER OF THE HOUSE OF REPRESENTATIVES,**

Defendants.

JURISDICTION

1. Individual plaintiffs are citizens of the United States and citizens and residents of the State of New York. Plaintiffs Robert L. Schulz, Stephen W. Oughton and Gary T. Loughrey are residents of this judicial district.
2. The Claims arise under Articles I and II of the United States Constitution. This court has jurisdiction under Article III and under 28 USC Section 1331.
3. This action is timely commenced within any statute of limitations.

VENUE

4. Venue with the Northern District of New York is the most appropriate in light of the residence of three of the plaintiffs within that district, as is shown more fully in the "Parties" section of this Complaint.

SOVEREIGN IMMUNITY NOT A BAR

5. The sovereign immunity of the United States does not bar this action, which seeks no monetary damages, seeks only declaratory and injunctive relief, seeks to vindicate a constitutional right of the plaintiffs, and pleads an appropriate basis for federal jurisdiction, in this case 28 U.S. Code section 1331. See 5 U.S. Code sections 702 and 706(2) for the relevant statutory waivers of sovereign immunity in this context.

PARTIES

6. Robert L. Schulz is a citizen of the United States. He is 59 years of age. He pays federal income taxes. He is a registered voter. He resides in the Town of Fort Ann, Washington County, New York. His mailing address is 2458 Ridge Road, Queensbury, NY 12804. He is Chairman of the We The People Foundation For Constitutional Education, Inc.
7. Milan Pavlovic is a citizen of the United States and a citizen of Yugoslavia. He is 26 years of age. He is a taxpayer and a registered voter. He pays federal income taxes. He resides in the City of New York. His mailing address is 155 w. 60TH St., Apt. 15C2, New York, NY 10023. He was born in Serbia. For each of ten days he participated in the massive street demonstrations against Slobodan Milosevic in Belgrade, Yugoslavia, in 1997. He owns property in the Vozdovac district, a suburb of Belgrade, and in Heceg Novi, Montenegro. His parents own an apartment in Belgrade. His paternal grandmother lives in the apartment. He is a third year law school student at Fordam University. He received a B.A. degree in history from Yale University in 1995. He is very aware of the atrocities and human rights violations

committed against Kosovo Albanians by Yugoslav paramilitaries, those against Kosovo Serbs by Albanian terrorists, and those by Albanian terrorists against Kosovo Albanian civilians.

8. Stephen W. Oughton is a citizen of the United States. He is 32 years of age. He is a payer of federal income taxes and a registered voter. He resides in the City of Amsterdam, Montgomery County, New York. His mailing address is 60 Sloan Avenue, Amsterdam, NY 12010. He is a reservist attached to the 109th Airlift Wing, New York Air National Guard based in Schenectady, New York. He is an Aerospace Maintenance Specialist (aircraft mechanic).
9. Gary T. Loughrey is a citizen of the United States. He pays federal income taxes. He is a registered voter. He resides in the Town of Queensbury, Warren County, New York. His mailing address is 58 Western Avenue, Queensbury, NY 12804. He is a commercial pilot employed by USAirways, with principal offices located in Pittsburgh, PA. He owns at least 100 shares of stock in USAirways. He retired from the Air Force Reserves in March of 1999. He is a 46-year-old veteran of U.S. military service in the Air Force.
10. The United States Executive Office of the President is at the head of the Executive branch of the federal government, created and governed in part by Article II of the United States Constitution. William Jefferson Clinton is the duly elected President of the United States.
11. The United States Department of Defense is a department within the Executive branch of the government of the United States. William Cohen is the Secretary of Defense. He serves at the pleasure of the President.

12. The United States Congress is at the head of the Legislative branch of the government of the United States, created and governed in part by Article I of the United States Constitution. Trent Lott is the President pro tempore of the Senate. Dennis Hastert is the Speaker of the House of Representatives.

PRELIMINARY STATEMENT

13. In this action four citizens seek declaratory and injunctive relief against the President, alternatively or additionally, the Secretary of Defense, and the Congress of the United States.

14. The relief requested herein is for a preliminary injunction and a final order:

- a) declaring that the President of the United States has unconstitutionally authorized the participation of the armed forces of the United States in the offensive military attack against the Federal Republic of Yugoslavia that began March 24, 1999 and
- b) declaring Senate Concurrent Resolution 21, adopted March 24, 1999, authorizing the President of the United States to conduct military air operation and missile strikes against the Federal Republic of Yugoslavia (Serbia and Montenegro), without a declaration of war, to be unconstitutional, null and void, and
- c) declaring House Joint Resolution 44 and House Concurrent Resolution 82, taken together, to be unconstitutional on the ground that U.S. Armed Forces cannot be engaged in hostilities against the Federal Republic of Yugoslavia without a congressional declaration of war and without congressional action as required under Article I, Section 8, Clauses 10, 11, 14, 15 and 16 of the U.S. Constitution, and
- d) declaring the War Powers Resolution of 1973 to be unconstitutional, null and

- void, and
- e) declaring that the NATO treaty does not now provide for NATO to undertake the activities described in paragraph 74 herein and that any change to the NATO treaty must be approved by the U.S. Senate, and
 - f) directing the President of the United States to remove United States Armed Forces from any military position or emplacement rationally construed as an offensive posture against the Federal Republic of Yugoslavia, and
 - g) preliminarily and permanently enjoining and prohibiting the President from authorizing the Armed Forces of the United States to engage in military acts against the Federal Republic of Yugoslavia (Serbia and Montenegro) unless and until Congress acts in accordance with the requirements of Article I, Section 8 of the U.S. Constitution, and
 - h) for such other relief as to the court may seem just and proper.

STATEMENT OF FACTS

15. In this Complaint, shorthand references to “Belgrade” or “Yugoslav Federation” refer to the Federal Republic of Yugoslavia (Serbia and Montenegro); “Clinton” refer to both the President of the United States personally and his official capacity as the principal officer of the Executive Office of the President, and where appropriate, the reference also includes his official capacity as head of the Cabinet within the Executive Branch and his official powers as Commander in Chief under U.S. Constitution Art. II, sec. 2, cl.1; “KLA” refer to the Kosovo Liberation Army, an ethnic Albanian organization; “Militia” in the original U.S. Constitution refer to “the Militias of the several states,” as distinguished from units of the official armed

services of the United States, originally the Army, Navy, Marine Corps, and Coast Guard, the Militias being organized by the states subject to federal discipline and training under the Militia Act of 1792 until the federal role for Militias was displaced by an Act of Congress creating the U.S. National Guard in 1916 – constitutional reference to “the Militias of the several states” should be construed as reference to either the National Guard since 1916 or actually existing state Militias, but only a few states still have Militias as active duty or reserve military forces; “reservists” refer to both active duty and reserve members of the U.S. National Guard and reserve members of the other U.S. armed forces, such as the Army, Air Force, Navy, Marine Corps, and Coast Guard; etc.

16. On March 24, 1999, the North Atlantic Treaty Organization (“ NATO”), of which the United States is a founding member, initiated air attacks on the Republic of Yugoslavia (a federation of two republics, Serbia and Montenegro) in order to impose a peace agreement in the Serbian province of Kosovo, which had an ethnic Albanian majority prior to the commencement of United States-led NATO bombing of Yugoslavia on March 24, 1999. The Clinton Administration has not formally withdrawn its standing insistence that Yugoslavia sign the peace agreement, which initially would have entailed the deployment in Kosovo of some 28,000 NATO ground troops -- including 4,000 Americans -- to police the settlement. On the weekend of May 21-23, 1999, newspapers reported that the troop levels approved for this operation had increased to 48,000 from NATO and 6,500 from the United States. On May 26, 1999 the London Times reported that President Clinton is now ready to consider a full-scale land war against Serb forces, sending in 90,000 combat troops

from America. [“Clinton to order 90,000 troops to Kosovo” London Times, May 27, 1999]. See Exhibit D hereto. The Administration’s public line has shifted to a demand that Yugoslav President Slobodan Milosevic halt the military and paramilitary offensive he has launched in Kosovo, which has led to a growing humanitarian crisis in the region, before there can be a stop to the bombing campaign.

17. The air assault is a product of a Clinton Administration policy, which for months had been directed toward intervention in Kosovo, in either the form of the use of air power or of the introduction of a peacekeeping ground force - or of air power followed by a ground force.
18. Just hours before the first bombs fell, the United States Senate voted 58 to 41 to approve air and missile strikes against Yugoslavia (S. Con. Res. 21). The Senate then approved by voice vote a second resolution expressing support for members of the U.S. Armed Forces engaged in military operations against Yugoslavia (S. Res. 74). The first resolution, S. Con. Res. 21, was said to have been introduced under the War Powers Act of 1973.
19. Prior to the air campaign, the stated goal of Clinton Administration policy, as noted above, was Belgrade's acceptance of the peace agreement signed by the Kosovo Albanian delegation (which included representatives of the KLA) on March 17, 1999. Some members of that Kosovo Albanian delegation are now dead. Now, more than two months after commencement of the NATO air campaign, the goals expressed in the March 17 agreement, also frequently called the Rambouillet Agreement, appear even more elusive as the NATO attack has rallied Serbian resistance to what Serbian officials claim to see as an unjustified foreign aggression.

20. Since the NATO bombing campaign began, Serbian security forces also have intensified an offensive in Kosovo that began as the airstrikes appeared inevitable. According to numerous media reports, hundreds of thousands of Albanians are fleeing the Serbian army, and police forces and paramilitary groups that, based on credible allegations, are committing widespread atrocities, including summary executions, burnings of Albanian villages, and assassination of human rights activists and community leaders.
21. NATO officials have denounced the apparently deliberate forced exodus of Albanian civilians as “ethnic cleansing” and even “genocide.” But according to some refugee accounts, the NATO bombing is also a factor in the exodus: “[M]ost residents of the provincial capital say they are leaving of their own accord and are not being forced out at gunpoint, as residents of several western cities and villages in Kosovo say has been happening to them. . . .Pristina residents who made it to Macedonia said their city is still largely intact, despite the targeting of ethnic Albanian businesses by Serbian gangs and several direct hits from NATO air strikes in the city center” [“Cause of Kosovar Exodus from Pristina Disputed: Serbs Are Forcing Exit, Some Claim; Others Go on Own,” Washington Times, 3/31/99].
22. At the same time, the Clinton Administration has apparently ignored credible but unconfirmed evidence from sources not connected to the Yugoslav government that the NATO campaign has resulted in far more civilian deaths and damage than has been acknowledged.
23. The Clinton Administration and NATO officials flatly reject any suggestion that their policy has exacerbated an already bad situation on the ground in Kosovo. With

neighboring Albania and Macedonia in danger of being destabilized by a flood of refugees, questions are being raised about NATO's ability to continue the campaign unless positive results are evident soon: "With critics arguing that the NATO campaign has made things worse, the alliance must slow the Serbs' onslaught or watch public support and alliance unity unravel. U.S. and NATO officials angrily rebutted the critics, arguing that Mr. Milosevic, the Serbian leader, and his forces were already on the rampage before NATO strikes began." ["NATO Is Set to Target Sites in Belgrade," Wall Street Journal, 3/29/99]

24. If the immediate NATO goal has now shifted to stopping the Serb offensive in Kosovo, observers point to three likely options [WSJ, 3/29/99]: "Option One is to continue the air campaign, increasingly targeting Serb frontline troops in Kosovo, but it could be days before the onslaught is really slowed." This option, which NATO has already begun to implement, is likely to entail greater risk to NATO aircraft and crews, due to the lower and slower flightpaths needed to deliver tactical strikes. Still, most observers doubt the offensive can be halted with air power alone. Reports indicate increased bombing of targets in Belgrade, the capital of both the Yugoslav federation and the Serbian republic. "Option Two is to start considering intervening on the ground." The Clinton Administration has begun to shift its position on NATO ground troops from a categorical assurance that ground troops would go in only to police a peace settlement to hints that they might, depending on some unspecified "conditions," be introduced into a combat environment. For example, in comments on March 28, Chairman of the Joint Chiefs General Henry Shelton suggested that certain "assessments" had been made, but that there was as yet no political agreement

on ground troops: "There have been assessments made, but those assessments were based on varying conditions that existed in Kosovo. . . . At this point in time, there are no plans per se to introduce ground troops." [NBC's "Meet the Press," 3/28/99].

Important Note: On May 27, 1999, it was reported that President Clinton is now ready to consider a full-scale land war against Serb forces in Kosovo, sending 90,000 combat troops from America if no peace settlement emerges within the next three weeks. See Exhibit D hereto. "Option Three: arming the separatist Kosovo Liberation Army to carry the war on the ground while NATO continues it from the air." This option, which would make NATO the overt air force of the KLA, would also dash any possibility of a solution that would not result in a change in Balkan borders, perhaps setting off a round of widespread regional instability. Clinton Administrations officials have begun to suggest that independence may now be justified in view of the Serb offensive. The KLA has been explicit in its determination to not only achieve an independent Kosovo but to "liberate" Albanian-inhabited areas of Montenegro (including the Montenegrin capital, Podgorica), Macedonia (including the Macedonian capital, Skopje), and parts of northern Greece; most of these areas were in fact annexed to Albania under Axis occupation during World War II.

25. It is important to note the fact that arming and training the KLA, as called for in Option Three, would highlight serious questions about the nature of the KLA and of the Clinton Administration's relationship with it.
26. The Kosovo Liberation Army "began on the radical fringe of Kosovar Albanian politics, originally made up of diehard Marxist-Leninists (who were bankrolled in the

old days by the Stalinist dictatorship next door in Albania) as well as by descendants of the fascist militias raised by the Italians in World War II" ["Fog of War - Coping With the Truth About Friend and Foe: Victims Not Quite Innocent," New York Times, 3/28/99]. The KLA made its military debut in February 1996 with the bombing of several camps housing Serbian refugees from wars in Croatia and Bosnia [Jane's Intelligence Review, 10/1/96]. The KLA (again according to the highly regarded Jane's,) "does not take into consideration the political or economic importance of its victims, nor does it seem at all capable of seriously hurting its enemy, the Serbian police and army. Instead, the group has attacked Serbian police and civilians arbitrarily at their weakest points. It has not come close to challenging the region's balance of military power" [Jane's, 10/1/96].

27. The group expanded its operations with numerous attacks through 1996 but was given a major boost with the collapse into chaos of neighboring Albania in 1997, which afforded unlimited opportunities for the introduction of arms into Kosovo from adjoining areas of northern Albania, which are effectively out of the control of the Albanian government in Tirana. From its inception, the KLA has targeted not only Serbian security forces, who may be seen as legitimate targets for a guerrilla insurgency, but Serbian and Albanian civilians as well. See, for instance, Exhibit A hereto. European police agencies also have been quoted in the press as considering the KLA to be either a drug-running and money-laundering organization or to have profited from the drug-running and money-laundering of ethnic Albanians operating in other European countries. At this writing, the United States officially either rejects or is neutral with respect to such allegations.

28. In view of such tactics, the Clinton Administration's then-special envoy for Kosovo, Robert Gelbard, had little difficulty in condemning the KLA (also known by its Albanian initials, UCK) in terms comparable to those he used for Serbian police repression: " 'The violence we have seen growing is incredibly dangerous,' Gelbard said. He criticized violence 'promulgated by the (Serb) police' and condemned the actions of an ethnic Albanian underground group Kosovo Liberation Army (UCK) which has claimed responsibility for a series of attacks on Serb targets. 'We condemn very strongly terrorist actions in Kosovo. The UCK is, without any questions, a terrorist group,' Gelbard said." [Agence France Presse, 2/23/98]
29. Mr. Gelbard's remarks came just before a KLA attack on a Serbian police station led to a retaliation that left dozens of Albanians dead, leading in turn to a rapid escalation of the cycle of violence. Responding to criticism that his earlier remarks might have been seen as Washington's "green light" to Belgrade that a crack-down on the KLA would be acceptable, Mr. Gelbard offered to clarify to the House Committee on International Relations: "Questioned by lawmakers today on whether he still considered the group a terrorist organization, Mr. Gelbard said that while it has committed 'terrorist acts,' it has 'not been classified legally by the U.S. Government as a terrorist organization.' " [New York Times, 3/13/98]
30. The situation in Kosovo has since been transformed: what were once sporadic cases of KLA attacks and often heavy-handed and indiscriminate Serbian responses has now become a full-scale guerrilla war. That development appeared to be a vindication of what may have been the KLA's strategy of escalating the level of violence to the point where outside intervention would become a distinct possibility.

Given the military imbalance, there is reason to believe the KLA - which is now calling for the introduction of NATO ground troops into Kosovo [Associated Press, 3/27/99] - may have always expected to achieve its goals less because of the group's own prospects for military success than because of a hoped-for outside intervention: As one fighter put it, "We hope that NATO will intervene, like it did in Bosnia, to save us" ["Both Sides in the Kosovo Conflict Seem Determined to Ignore Reality," New York Times, 6/22/98].

31. By early 1999, the Clinton Administration had completely staked the success of its Kosovo policy on either the acceptance by both sides of a pre-drafted peace agreement that would entail a NATO ground occupation of Kosovo, or, if the Albanians signed the agreement while Belgrade refused, bombing of the Serbs. By committing itself so tightly to those two alternatives, the Clinton Administration left itself with as little flexibility as it had offered the Albanians and the Serbs.
32. At that point for the Administration, cultivating the goodwill of the KLA - as the most extreme element on the Albanian side, and the element which had the weapons capable of sinking any diplomatic initiative - became an absolute imperative: "In order to get the Albanians' . . . acceptance [of the peace plan], Secretary of State Madeline Albright offered incentives intended to show that Washington is a friend of Kosovo. . . . Officers in the Kosovo Liberation Army would . . . be sent to the United States for training in transforming themselves from a guerrilla group into a police force or a political entity, much like the African National Congress did in South Africa." [New York Times, 2/24/99].

33. The Times' comparison of treatment of the KLA with that of the African National Congress (ANC) - a group with its own history of terror attacks on political opponents, including members of the ethnic group it claims to represent - is a telling one. In fact, it points to the seemingly consistent Clinton policy of cultivating relationships with groups known for terrorist violence - not only the ANC, but the Palestine Liberation Organization (PLO) and the Irish Republican Army (IRA) - in what may be a strategy of attempting to wean away a group from its penchant for violence by adopting its cause as an element of U.S. policy.
34. By the time the NATO airstrikes began, the Clinton Administration's partnership with the KLA was unambiguous: "With ethnic Albanian Kosovars poised to sign a peace accord later Thursday, the United States is moving quickly to help transform the Kosovo Liberation Army from a rag-tag band of guerrilla fighters into a political force. . . Washington clearly sees it as a main hope for the troubled province's future. We want to develop a good relationship with them as they transform themselves into a politically-oriented organization," deputy State Department spokesman James Foley said. "We want to develop closer and better ties with this organization."
35. " [W]e believe that we have a lot of advice and a lot of help that we can provide to them if they become precisely the kind of political actor we would like to see them become." Foley stressed that the KLA would not be allowed to continue as a military force but would have the chance to move forward in their quest for self government under a 'different context.' "If we can help them and they want us to help them in that effort of transformation, I think it's nothing that anybody can argue with."

36. Such an effusive embrace by top Clinton Administration officials of an organization that only a year ago one of its own top officials labeled as "terrorist" is, to say the least, a startling development.
37. Even more importantly, the new Clinton/KLA partnership may obscure troubling allegations about the KLA that the Clinton Administration has thus far neglected to address.
38. No observer doubts that the large majority of fighters that have flocked to the KLA during the past year or so (since it began large-scale military operations) are ordinary Kosovo Albanians who desire what they see as the liberation of their homeland from foreign rule. But that fact – which amounts to a claim of innocence by association - does not fully explain the KLA's uncertain origins, political program, sources of funding, or political alliances.
39. Among the most troubling aspects of the Clinton Administration's effective alliance with the KLA are numerous reports from reputable unofficial sources - including the highly respected Jane's publications - that the KLA is closely involved with:
- The extensive Albanian crime network that extends throughout Europe and into North America, including allegations that a major portion of the KLA finances are derived from that network, mainly proceeds from drug trafficking; and
 - Terrorist organizations motivated by the ideology of radical Islam, including assets of Iran and of the notorious Osama bin-Ladin - who has vowed a global terrorist war against Americans and American interests.
40. On March 26, 1999, the President submitted a report to the Speaker of the House of Representatives and the President pro tempore of the Senate stating that United States Armed Forces began a series of air strikes in the Federal Republic of Yugoslavia. In the report the President states that he is “providing this report as part of any efforts to

keep Congress fully informed, consistent with the War Powers Resolution.” The report states that to “limit his [Yugoslavian President Slobodan Milosevic’s] ability to make war....United States and NATO forces have targeted the Federal Republic of Yugoslavia government’s integrated air defense systems, military and security police command and control elements, and military and security police facilities and infrastructure. United States naval ships and aircraft and U.S. Air Force aircraft are participating in these operations.”

41. Administration officials have stated that a substantial and sustained air campaign is ongoing against the Federal Republic of Yugoslavia.
42. Between March 24, 1999, and April 28, 1999, United States and allied aircraft flew over 11,500 sorties over the Federal Republic of Yugoslavia, an average of approximately 350 sorties per day. During the same period, the United States and allied aircraft launched over 4,400 confirmed air strikes on Yugoslavia territory, an average of over 100 per day. United States Armed Forces also launched over 180 cruise missiles against Yugoslavia during this time period. The United States has tens of thousands of military personnel involved in the military operations against Yugoslavia.
43. Administration officials state that it is likely that the current hostilities will be protracted. In testimony before Congress on April 21, 1999, Secretary of State Madeleine Albright, referring to the hostilities against Yugoslavia, stated that “As the President and our military leaders have made clear, this struggle may be long.” On April 29, 1999, President Clinton stated that the air attacks are likely to continue for many months.

44. To support an expansion of the U.S. air offensive over Yugoslavia, President Clinton authorized the Pentagon to summon as many as 33,102 National Guard members and military service reservists to active duty. Defendant's decision represented the largest activation of reservists since the 1991 Persian Gulf War against Iraq. This call up was in part necessary to increase the number of United States aircraft involved in the Yugoslav operation to almost 1,000. ["The President Orders 33,102 in the Reserves to Active Duty," N.Y. Times, April 27, 1999]. See Exhibit B hereto.
45. United States officials have stated that the air attack against Yugoslavia will escalate in the coming weeks. U.S. General Wesley Clark, the NATO Commander, stated on April 27, 1999, that the air strikes thus far have "been only a fraction of what is to come."
46. On April 28, 1999, the U.S. House of Representatives decided not to direct the President to remove U.S. Armed Forces from their positions in connection with the present operations against the Federal Republic of Yugoslavia. The House of Representatives defeated by a vote of 290 to 139 H. Con. Res. 82 which would have directed the President to end the hostilities.
47. On April 28, 1999, the U.S. House of Representatives, by a vote of 427 to 2 determined not to declare war by defeating H. Res. 44 which would have declared war against Yugoslavia.
48. On April 28, 1999, the U.S. House of Representatives, by a vote of 213 to 213 determined not to support S. Con. Res. 21, the U.S. Senate's War Powers resolution authorizing the President to conduct the current air war in Yugoslavia. Thus, even under the requirements of the War Powers Resolution of 1973, the current air

campaign lacks the requisite authorization by both houses of Congress, and the 60-day deadline by which the President must direct the removal of U.S. forces from regions of hostilities in the absence of congressional approval has expired without either congressional approval or the troop removal that the resolution requires.

49. Further confusing the fact issues in this case, on or about May 20, the House approved an emergency spending appropriations bill for \$15 billion, of which \$12 billion is set aside for military operations including the Yugoslav conflict, which includes the same \$12 billion military appropriation that the Senate had approved earlier. President Clinton was reported in the press to be ready to sign the appropriations bill as soon as it hit his desk. Thus, Congress officially has refused to declare war, it has disapproved of both the current air campaign and any further commitment of U.S. forces without congressional approval, but simultaneously Congress has voted a sum that exceeds the requested appropriations for the campaign.
50. On May 25, 1999, the U.S. Senate tabled an amendment to the FY2000 Defense appropriations bill which would have prohibited the President from utilizing any funds appropriated under the FY2000 Defense appropriation bill to support ground troops in Kosovo, absent congressional approval. Important Note: On May 27, 1999, it was reported that President Clinton is now ready to consider a full-scale land war against Serb forces in Kosovo, sending 90,000 combat troops from America if no peace settlement emerges within the next three weeks. See Exhibit D hereto.
51. As of May 25, 1999, the United States led NATO force has flown over 26,000 sorties over the Federal Republic of Yugoslavia, launched over 8,000 air strikes on more than 1,500 different civilian and military targets in Yugoslavia, exploding

approximately 15,000 missiles and bombs, utilizing more than 1,250 airplanes. The United States has supplied most of the airplanes, missiles and bombs that have been utilized in the campaign. As defendant Secretary of Defense William Cohen stated on April 21, 1999, the United States is “certainly engaged in hostilities” in Yugoslavia. NATO admits to killing 312 people due to bombing mistakes. Serbia puts the number at more than 1,000. NATO has killed thousands more quite intentionally.

52. On May 26, 1999 NATO’s supreme commander in Europe, General Wesley Clark, said he would be seeking to increase the number of air strikes in Kosovo and expand the range of targets and that *the NATO alliance should be prepared for more civilian deaths. He said NATO’s air campaign has not reached its peak yet.* [“NATO Commander Warns of More Civilian Deaths,” London Telegraph, May 28, 2999]. See Exhibit E hereto.

FIRST CLAIM

PRESIDENT CLINTON HAS VIOLATED ARTICLE I, SECTION 8, CLAUSE 10 OF THE U.S. CONSTITUTION AND CONGRESS HAS ALLOWED HIM TO DO SO

53. The Constitution reads in part:

“The Congress shall have power to define and punish...offenses against the Law of Nations;”

Article I, §8, cl.10

54. On March 24, 1999, citing violations of international human rights laws and without an Act or Resolution of Congress, President Clinton violated Article I, §8, cl. 10 of the U.S. Constitution, by authorizing the use of the Armed Forces of the United States to punish the people of the Federal Republic of Yugoslavia for committing acts of

violence between October 1998 and February 1999 against citizens of the Kosovo province of Yugoslavia, who are of the Muslim faith. President Clinton appeared to be unaware of the acts of violence against Kosovo Serbs of the Christian faith by the Kosovo Liberation Army and other Albanian terrorist groups -- atrocities that had been underway for more than ten years, including those listed in Exhibit A hereto. See also the letter to President Clinton from Luba Brezhnev dated March 21, 1999, (Exhibit F hereto).

SECOND CLAIM

PRESIDENT CLINTON HAS VIOLATED ARTICLE I, SECTION 8, CLAUSE 11 OF THE U.S. CONSTITUTION AND CONGRESS HAS ALLOWED HIM TO DO SO

55. The U.S. Constitution reads in part:

“The Congress shall have power to declare war, grant letters of Marque and Reprisal, and make rules concerning captures on land and water;”
Article I, §8, cl. 11

56. On March 24, 1999, without a congressional declaration of war, in violation of Article I, §8, cl. 11 of the U.S. Constitution, President Clinton brought the American people to war against the people of the Federal Republic of Yugoslavia by authorizing the use of the United States Armed Forces to drop bombs in and fire missiles at the sovereign territory of Yugoslavia. Thousands of U.S. bombs and missiles, from hundreds of U.S. planes and U.S. ships, including some air strikes launched directly from the continental United States, according to contemporaneous press reports, have exploded on and around hundreds of military and civilian targets in Yugoslavia, killing hundreds if not thousands of innocent civilians, hundreds if not thousands of soldiers of the Federal Republic of Yugoslavia, causing billions of

dollars worth in damage to single family residences, bridges, roads, electric power plants, consumer product manufacturing plants, office buildings and so forth. Press reports indicated that several of these bombs and missiles also struck the sovereign territory of neutral third countries, including but not specifically limited to Bulgaria and Macedonia, causing civilian deaths, injuries, and property damage.

THIRD CLAIM

PRESIDENT CLINTON HAS VIOLATED ARTICLE I, SECTION 8, CLAUSE 14 OF THE U.S. CONSTITUTION AND CONGRESS HAS ALLOWED HIM TO DO SO

57. The Constitution reads in part:

“The Congress shall have power to make Rules for the Government and Regulation of the land and naval forces;”

Article I, §8, cl. 14

58. By Executive Order, without congressional authorization, and in violation of Article I, Section 8, cl.14 of the U.S. Constitution, President Clinton authorized the Pentagon to call 33,102 reservists to active duty to support the unconstitutional war against the Federal Republic of Yugoslavia. See Exhibit B hereto.

59. On April 13, 1999, by Executive Order, without congressional authorization, in violation of Article I, Section 8, cl. 14 of the U.S. Constitution, President Clinton designated the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the airspace above, and adjacent waters as a combat zone. See Exhibit C hereto.

FOURTH CLAIM

PRESIDENT CLINTON HAS VIOLATED ARTICLE I, SECTION 8, CLAUSE 15 OF THE U.S. CONSTITUTION AND CONGRESS HAS ALLOWED HIM TO DO SO

60. The U.S. Constitution reads in part:

“The Congress shall have power to provide for calling forth the militia to execute the Laws of the Union, suppress insurrections and repel invasions;”

Article I, §8, cl.15

61. Beginning March 24, 1999, without congressional authorization, in violation of

Article I, §8, cl. 15, the President called forth the armed forces of the United States, including “the Militia,” to execute a “Law of the Union” -- the North Atlantic Treaty.¹ The activation of National Guard and National Guard Reserve units is the post-1916 equivalent of “calling forth the Militia” of the several states under the original provisions of U.S. Constitution, Art. I, sec. 8, cl. 15.

FIFTH CLAIM

PRESIDENT CLINTON HAS VIOLATED ARTICLE I, SECTION 8, CLAUSE 16 OF THE U.S. CONSTITUTION AND CONGRESS HAS ALLOWED HIM TO DO SO

62. The U.S. Constitution reads in part:

“The Congress shall have power to provide for organizing, arming, and disciplining the Militia, and for governing such part of them as may be employed in the service of the United States....”

Article I, §8, cl. 16

63. Beginning March 24, 1999, without congressional authorization, in violation of

Article I, Section 8, cl.16 of the U.S. Constitution, President Clinton provided for the organization and arming of the armed forces of the United States, including “the

¹ The North Atlantic Treaty is not only repugnant to various provisions of the U.S. Constitution, the Treaty itself does not authorize its members to initiate a war against a passive sovereign nation, especially one located outside NATO’s territory. The stated purpose of the NATO Treaty is the collective defense of the member nations. Nothing in the NATO Treaty indicates that one of its legitimate purposes is to expand “democracy” outside the NATO territory.

Militia,” as referenced above under the Fourth Claim, in support of the war against the Federal Republic of Yugoslavia.

SIXTH CLAIM

PRESIDENT CLINTON HAS VIOLATED ARTICLE II, SECTION 2, CLAUSE 1 OF THE U.S. CONSTITUTION AND CONGRESS HAS ALLOWED HIM TO DO SO

64. The U.S. Constitution reads in part:

“The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several states, *when called* into the actual service of the United States;” (plaintiffs’ emphasis)

Article II, §2, cl. 1

65. Article I, Section 8 of the Constitution gives Congress the power to call into actual service standing units of the armed forces of the United States, and the Militia of the several states, or the modern National Guard and National Guard Reserve after 1916. *After being called into service by Congress*, the armed forces are to be led by the President. In the matter of the war against the Federal Republic of Yugoslavia, the President is leading both standing units and “Militia” or National Guard and National Guard Reserve units of the armed forces into actual service, without waiting for Congress to call them into service, in violation of Article II, Section 2, cl. 1 of the U.S. Constitution.

SEVENTH CLAIM

THE WAR POWERS RESOLUTION OF 1973 IS UNCONSTITUTIONAL

66. In 1973, over the veto of President Richard Nixon, the Congress adopted the War Powers Resolution. See 50 USC Sections 1541-1548 (P.L. 93-148). Section 1544(b) of the Act authorizes the President to engage the armed forces of the United States in

non-emergency hostilities and conflicts without congressional action, in violation of Article I, Section 8, Clauses 10, 11, 14, 15 and 16 and Article II, Section 2, Clause 1 of the U.S. Constitution.

67. The Congress and the President cannot do indirectly what they are prohibited by the Constitution from doing directly.

EIGHTH CLAIM

**THE CONGRESS OF THE UNITED STATES
HAS VIOLATED THE “SEPARATE POWERS”
DOCTRINE BY ABDICATING ITS RESPONSIBILITY
BY ACQUIESCING AND ALLOWING THE
PRESIDENT TO USURP ITS POWERS UNDER
ARTICLE I, SECTION 8, CLAUSES 10, 11, 14, 15
AND 16 OF THE U.S. CONSTITUTION**

68. On April 28, 1999 the House of Representatives voted “no” on House Concurrent Resolution 82, a resolution directing the President to remove U.S. Armed Forces from their positions in connection with the present operations against the Federal Republic of Yugoslavia. The vote was 139 yeas and 290 nays.

69. On April 28, 1999 the House of Representatives voted “no” on House Joint Resolution 44, a resolution declaring a State of War between the United States and the Government of Yugoslavia. The vote was 2 yeas and 427 nays.

70. On April 28, 1999 the House of Representatives also voted “no” on Senate Concurrent Resolution 21 (passed on March 24, 1999 by the Senate, ostensibly under the War Powers Resolution of 1973), a resolution authorizing the President of the United States to conduct military air operations and missile strikes against the Federal Republic of Yugoslavia (Serbia and Montenegro), which at that time already had continued for more than one month. The vote in the House of Representatives in

favor of the Senate's War Powers resolution for Yugoslavia was 213 yeas and 213 nays, including a vote "yea" by the Speaker of the House. Thus, a favorable vote being required but only a tie being obtained, the House resolution failed.

71. On or about May 20, 1999, the House passed a \$15 billion emergency appropriations bill, including \$12 billion earmarked for the hostilities in Yugoslavia. The Senate earlier had passed an emergency appropriation containing the same \$12 billion amount for Yugoslavia, and press reports indicated that the President would sign the emergency appropriation as soon as it hit his desk. Thus, Congress has withheld necessary approval for the President's military operations against or within Yugoslavia under either the U.S. Constitution or the War Powers Resolution of 1973 and has failed to instruct the President to withdraw U.S. military forces from any but defensive positions within that theater of hostilities but has provided the funds necessary to enable the President to continue his present course of military action.
72. By these resolutions the Congress has failed to direct the President to cease military operations against the Federal Republic of Yugoslavia, has failed to declare war, and has enabled the President to continue to make war. In violation of the separation of powers doctrine, the Congress has allowed President Clinton to usurp the power reserved to Congress by Article I, Section 8, clauses 10, 11, 14, 15 and 16 of the U.S. Constitution by starting and continuing the war. *In effect, the United States has its armed forces engaged in hostilities, unconstitutionally.*

NINTH CLAIM

**PRESIDENT CLINTON HAS APPROVED
TREATY PROVISIONS IN VIOLATION OF
ARTICLE II, SECTION 2, CLAUSE 2 OF THE
U.S. CONSTITUTION**

73. The U.S. Constitution reads in part:

“He shall have Power, by and with the Advice and Consent of the Senate,
to make Treaties, provided two thirds of the Senators present concur;”
Article II, Section 2, cl. 2

74. On or about April 24 and 25, 1999 President Clinton, along with politicians of the 18 other NATO countries, assembled in Washington D.C. Unilaterally, without public debate and without the participation of Congress, the NATO allies declared that:

1. NATO will attack any European country whose leader violates the human rights of his people.
2. NATO will defend Albania, Bulgaria, Romania, Macedonia, Bosnia, Croatia and Slovenia from Serbian aggression.
3. Once NATO’s war is over, NATO will launch a massive Marshall Plan reconstruction project for all Balkan countries.

75. Even if the NATO treaty was not already repugnant to the U.S. Constitution because it authorized the U.S. to participate in the attack on the sovereign nation of Yugoslavia without a congressional declaration of war, that treaty does not now provide for NATO to undertake the activities described in paragraph 74 above. This is not only a breathtaking grasp for unprecedented military, economic and political power, *it is illegal*. NATO cannot unilaterally change itself from a defensive organization to an offensive organization until the U.S. Senate agrees. NATO did not consult the Senate before it made its announcement. NATO cannot expand its membership or area of operations until the Senate agrees. NATO did not consult the Senate regarding either military or reconstruction operations in Albania, Bulgaria, Romania, Macedonia, Bosnia, Croatia, or Slovenia, none of whom is a NATO

member. NATO cannot unilaterally commit Americans to fight and die, or to cause others to die, all over Eastern Europe. Only the United States Congress can do that constitutionally, and it still is questionable whether the original intentions of the Framers contemplated imperial peacemaking and peacekeeping operations in Eastern European countries having little or nothing to do with the defense of the lives, liberties, property, and safety of citizens of the United States. In any case, NATO did not consult Congress on the expanded commitments in the Balkans and elsewhere in central and eastern Europe. NATO does not have the power to commit billions of American tax dollars to rebuild the Balkans. Only the U.S. Congress can do that constitutionally, subject to the same types of caveats about the constitutional propriety of federal taxation for foreign aid.

STANDING

76. All plaintiffs, as citizens of the United States, claim standing to maintain this action before the federal judiciary because the defendant legislative and executive branches have, by their formal actions, demonstrated that they are cooperating in a collective decision to deny the people constitutional governance carried out in decency and good order. The privileges and immunities of citizens of the United States are denied to these plaintiffs by the government's unconstitutional actions described here. Plaintiffs cannot turn to the Congress for the relief to which they are entitled because Congress has cooperated with the President in committing the unconstitutional actions plaintiffs are challenging. The questions plaintiffs have raised are not mere political questions to be settled by defendant Congress. Plaintiffs are challenging acts

of the Congress (as well as acts of the President) as being violative of the Constitution on their face and in their application.

77. All plaintiffs claim standing under Article III, Section 2 of the U.S. Constitution; “The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and treaties made, or which shall be made, under their Authority....” This case arises under a) Articles I and II of the U.S. Constitution; b) the jurisdictional and substantive laws of the United States (House Concurrent Resolution 82, House Joint Resolution 44, Senate Concurrent Resolution 21, the War Powers Resolution of 1973, and 28 U.S. Code section 1331); c) an existing treaty with the presumptive status of federal law, renewed and extended as recently as 1997 (NATO); and d) a treaty proposed but officially yet to be made, i.e., the NATO treaty with the amendments allegedly agreed to by President Clinton during the April 24-25, 1999 NATO summit meeting in Washington. See paragraph 74 above. As citizens and taxpayers, the plaintiffs should have standing -- the standing doctrines enforced without a basis in either the U.S. Constitution or the longstanding practices of the federal courts before about 40 years ago notwithstanding. The bulk of the recent and adverse citizen/taxpayer standing decisions of the federal courts have arisen to thwart well-grounded constitutional challenges to military and foreign aid policies and actions of the Executive Branch. Many of these were actions initiated by the Executive as an end-around one or more of the enumerated powers of Congress. This is the case here. However, in this case, Congress has aided and abetted the President and is, therefore, a defendant because they are allowing the Executive to do that which only the Congress can do.

78. Plaintiff Milan Pavlovic has additional and independent standing to maintain this action because he owns real property in the Vozdovac district, a suburb of Belgrade, Yugoslavia and also in Herceg Novi, Montenegro. His paternal grandmother, Vera Pavlovic, lives in an apartment owned by his parents and located in the Vracar district, in Belgrade proper. Yugoslavia and Montenegro are the official targets of all current bombs and missiles in the Balkan theater of military operations. On Thursday, April 29, 1999, a U.S. missile landed in close proximity to the apartment occupied by Mr. Pavlovic's grandmother. Numerous bombs and missiles are striking in the vicinity of the property owned by Mr. Pavlovic. For Mr. Pavlovic, the prospect of permanent and irreparable harm to his property interests, the interests of a citizen of the United States, due to the unconstitutional military operations undertaken by the Executive Branch with the acquiescence of Congress, is imminent and will last as long as the challenged U.S. military operations last. The threat of permanent and irreparable harm to Mr. Pavlovic's property in Yugoslavia is compounded by the threat of permanent and irreparable physical harm to Mr. Pavlovic's close relatives. The harm foreseen for Mr. Pavlovic is unique and is not of the type to which citizens and taxpayers of the United States ordinarily and necessarily are subject.

79. Stephen W. Oughton has an additional and independent basis of standing because he is a reservist with the 109th Air National Guard, stationed at the Schenectady County Airport in New York State. Mr. Oughton is an aircraft maintenance technician with the 109th. President Clinton has already authorized the Pentagon to summon as many as 33,102 reservists to active duty. The call up was in part necessary to increase the number of United States aircraft involved in the Yugoslav war to almost 1,000.

While the 109th has not yet been activated, it may be and almost certainly will be in the near future. Reservists are, by definition, citizen soldiers who have contracted for constitutional service in defense of the lives, liberties, property, and safety of United States citizens, none of which are at stake in the current Balkan conflict. In a constitutional republic, citizen soldiers should be presumed not to have contracted for ill-defined terms of military service abroad in the absence of both their explicit, mission-specific consent and appropriate congressional action, on missions of the types conducted by the British East India Company from the 1750s to 1858 or by the French Foreign Legion throughout the 19th century and through the first half of the 20th century. Members of standing units of the armed forces should not be presumed to have contracted for United Nations missions, or for NATO missions outside the territory of NATO, without the prior, explicit consent of Congress. A constitutional challenge should be allowed for citizen soldier reservists like Mr. Oughton, for active duty members of standing units of the U.S. armed forces, and for any other persons similarly situated.

80. Gary T. Loughrey has an additional and independent basis for standing because he is a commercial airline pilot under the age of 50 who retired from the Air Force Reserves in March 1999. As the Balkan War escalates and the need for experienced freight and passenger airplane pilots increases, the non-negligible possibility exists that Mr. Loughrey, a veteran, may be recalled to active duty. Also, Mr. Loughrey flies for and owns shares of stock in USAirways, which has a “hub” located at the Pittsburgh Int’l. Airport. Reserve units attached to the Pittsburgh Int’l. Airport (with many USAirways pilots and aircraft maintenance personnel), have already been

activated, thus thinning the ranks of the firm's pilots and aircraft maintenance personnel, increasing the risk of pilot fatigue and equipment malfunction, or reduced flights and profits, thereby imposing on Mr. Loughrey as a shareholder an opportunity cost reflecting the difference between the operating margins of USAirways without the Blakan War and its margins with the unconstitutional Balkan War. USAirways has cancelled 400 flights for the month of June for war-induced lack of pilots.

81. Robert L. Schulz has an independent and additional basis for standing. His daughter, age 32 years, is in the Air Force reserves. His son-in-law, age 45 years, is a Lt. Colonial on active duty in the Air Force. He has three sons of draft age, ages 33,30 and 22 years. Also, taking the advice of President Abraham Lincoln, Mr. Schulz has "made the Constitution his religion." He has devoted the last twenty years of his life to the defense of constitutional principles by carefully analyzing governmental behavior, comparing that behavior to the Constitutions of the United States and New York State, and confronting the unconstitutional behavior of government officials in the courts. He has a deep and abiding faith in our republican principles and in the Rule of Law. He is gravely injured and imminently threatened in his personal attachments and profoundest personal beliefs by governmental warmaking contrary to constitutional right and by other governmental acts such as those under attack here. His injuries, include but are not limited to, loss of liberty and erosion of the privileges and immunities of citizens of the United States. His injuries are particular and concrete -- different in kind and degree from members of the community at large, most of whom are unaware of the way our system of constitutional governance is supposed to work and the concrete and particular injuries they are suffering.

STANDING BASED ON ECONOMIC HARM

82. The war powers clauses of Article I, Section 8 and Article II Section 2 operate, inter alia, as a specific constitutional limitation upon the exercise by Congress and the President of their taxing and spending powers, in much the same way as the First Amendment Establishment Clause does. See Flast v Cohen, 392 US 83 (1968).
83. In Flast v Cohen, the U.S. Supreme Court held that since the plaintiffs' constitutional (First Amendment Establishment Clause) challenge was made with respect to a program involving a *substantial expenditure of tax funds*, and since the Establishment Clause operated as a specific constitutional limitation upon the exercise by Congress of its taxing and spending powers, the plaintiffs had standing to invoke a federal court's jurisdiction for an adjudication on the merits.
84. The issue involved in Flast v Cohen was an appropriation by Congress of approximately \$100 million for textbooks to be used in private, parochial schools. In the case before the bar, the unconstitutional war against the Federal Republic of Yugoslavia is requiring an expenditure between 6 and 12.9 billion dollars. On or about April 23, 1999, President Clinton requested \$6 billion to fund the war. On April 30, 1999 the House Appropriations Committee passed a \$12.9 billion emergency spending bill and sent it on to the full house for a vote. After Senate approval and then House passage on May 20, 1999, President Clinton told the press that he would sign the appropriation as soon as it hit his desk.
85. It is important to note that standing to maintain constitutional challenges involving economic harm appears to be based as much on court policy as on a constitutional foundation. Flast v Cohen, 392 US 83, 93. "Justiciability is...not a legal concept

with fixed content or susceptible of scientific verification. Its utilization is the resultant of many subtle pressures....” Flast at 95, quoting from Poe v Ullman, 367 US 497, 508 (1961). The doctrine of justiciability “has become a blend of constitutional requirements and policy considerations.” Flast at 97 quoting from Barrows v Jackson, 346 US 249, 255. “There is no absolute bar to judicial review by taxpayers challenging allegedly unconstitutional taxing and spending programs.” Flast at 101.

86. In Lujan v Defenders of Wildlife, 504 US 555, 119 L Ed 2d 351, 364-365 (1992), the Court summarized the general rule for standing in federal court, in taxpayer actions or otherwise: 1) these plaintiffs; 2) must show injury in fact; 3) that is concrete and particularized; 4) and actual or imminent, not conjectural; 5) caused by an invasion; 6) of legally protected interests. Petitioners do, in fact, meet each of these criteria.
87. Before petitioners address their standing in the terms set down in Lujan, petitioners argue that this case should receive policy considerations similar to those given by the Seventh Circuit: Czerkies v Department of Labor, 73 F 3d 1435, 1441-42 (2d Cir.1996). Czerkies appears to stand for the proposition that plaintiffs (like those in the instant case) asserting actual or imminent and particular economic harm may challenge entire statutory schemes for unconstitutionality.
88. Petitioners’ action is a “good faith pocketbook action” in which petitioners allege a “direct and particular interest,” quoting Doremus v Bd. Of Education Of Hawthorne, 342 US 429, 434-35 (1952).
89. In Flast v Cohen, 392 US 83 (1968), the Court held that since the plaintiffs’ constitutional (First Amendment Establishment Clause) challenge was made with

respect to a program involving a *substantial expenditure of tax funds*, and since the establishment clause operated as a specific constitutional limitation upon the exercise by Congress of its taxing and spending powers, the plaintiffs had standing to invoke a federal court's jurisdiction for an adjudication on the merits.

90. In the instant case, petitioners' constitutional challenge is made with respect to Presidential and Congressional action and inaction related to expensive military operations against the Federal Republic of Yugoslavia by United States Armed Forces. The cost of these unconstitutional military operations, to be paid by U.S. taxpayers, is estimated at \$6 to 12 billion for starters, plus billions more to repair the damage being caused by the military operations -- estimated at \$100 billion. Therefore, citizen-taxpayer-petitioners have standing to invoke the federal court's jurisdiction for an adjudication on the merits because of the federal questions involved. They have successfully met the two-pronged nexus test established by Flast.

91. Petitioners' *actual* injury as a result of the challenged actions is concrete, measurable and substantial.

92. Petitioners' *threatened* injury as a result of the continuation of the challenged actions is concrete, measurable and substantial. The controversy is justiciable, and the court, by issuing declaratory and injunctive relief, may provide a complete remedy for the wrongs complained of.

93. Every U.S. missile fired and every U.S. bomb dropped will have to be replaced at great expense. Every U.S. plane lost will have to be replaced at great expense. The U.S. may well be liable for the deaths of hundreds of innocent civilians, including

those that have been killed while riding in buses and trains and on tractors, while walking in refugee columns, and while at work in office buildings and factories.

And, the more damage done by order of the Executive Branch, with the acquiescence of Congress, to the infrastructure of Yugoslavia, the more U.S. tax revenue will be needed for reconstruction.

94. The actual and threatened concrete injury already is approaching \$32 billion with reasonable certainty and plausibly may approach \$100 billion. The per-capita taxpayer injury is clearly substantial without any relief in sight. In 1998, there were approximately 130 million individual U.S. tax returns. A cost of \$32 billion is \$246 per tax return. A cost of \$100 billion is \$769 per tax return.
95. Unless the Court enjoins further U.S. military strikes against Yugoslavia, the Federal Government (now obviously out of constitutional control in foreign policy in the Balkans) will mortgage substantially more of petitioners' tax dollars and their children's personal and financial futures.

CONCLUSION

96. Based on the above, plaintiffs respectfully request a preliminary and a final order:
 - a) declaring that the President of the United States has unconstitutionally authorized the participation of the armed forces of the United States in the offensive military attack against the Federal Republic of Yugoslavia, and
 - b) declaring Senate Concurrent Resolution 21, authorizing the President of the United States to conduct military air operation and missile strikes against the Federal Republic of Yugoslavia (Serbia and Montenegro), without a declaration of war, to be unconstitutional, null and void, and

- c) declaring House Joint Resolution 44 and House Concurrent Resolution 82, taken together, to be unconstitutional on the ground that U.S. Armed Forces cannot be engaged in hostilities against the Federal Republic of Yugoslavia without a congressional declaration of war and without congressional action as required under Article I, Section 8, Clauses 10, 11, 14, 15 and 16 of the U.S. Constitution, and
- d) declaring the War Powers Resolution of 1973 to be unconstitutional, null and void, and
- e) declaring that the NATO treaty does not now provide for NATO to undertake the activities described in paragraph 74 herein and that any change to the NATO treaty must be approved by the U.S. Senate, and
- f) directing the President of the United States to remove United States Armed Forces from their offensive positions in connection with the present operations against the Federal Republic of Yugoslavia, and
- g) preliminarily and permanently enjoining and prohibiting the President from authorizing the Armed Forces of the United States to engage in offensive military acts against the Federal Republic of Yugoslavia (Serbia and Montenegro) unless and until Congress acts in accordance with the requirements of Article I, Section 8 of the U.S. Constitution, and
- h) for such other relief as to the court may seem just and proper.

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