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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 02CV4312
	)	The Honorable Joseph E. Irenas
ANDREW KURAS,	)	
a/k/a Andrej Kuras,	)	
a/k/a Andrij Kuras,	)	
a/k/a Andrey Kuras,	)	<u>GOVERNMENT'S STATEMENT</u>
a/k/a Andreas Kuras,	)	<u>OF MATERIAL FACTS NOT IN</u>
a/k/a Andrzej Kuras,	)	<u>DISPUTE IN SUPPORT OF MOTION</u>
a/k/a Andre Kuras,	)	<u>FOR SUMMARY JUDGMENT</u>
	)	
Defendant.	)	Return Date: March 19, 2004

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Pursuant to Local Rule 56.1, the Government hereby submits its Statement of Material Facts Not in Dispute in support of its Motion for Summary Judgment.

I. Defendant's Background

1. Defendant Andrew (a/k/a Andrej, Andrij, Andrey, Andreas, Andrzej, Andre) Kuras ("Kuras") was born on April 14, 1922, in what was then Herbutow, Poland<sup>1</sup> (today, Naraivka, Ukraine).<sup>2</sup>

II. Operation Reinhard and Trawniki Training Camp

2. The key figure in setting Nazi racial policy – after Hitler himself – was Heinrich Himmler, the *Reichsführer* SS (Reich Leader of the SS [*Schutzstaffel*, literally "Protection Squad"]). In 1936, Hitler appointed Himmler Chief of the German Police. The SS and police played a central role in what would be termed "the Final Solution."<sup>3</sup>

3. Poland had the largest Jewish population in Europe, numbering over three million in 1939. When Nazi Germany invaded Poland on September 1, 1939,

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<sup>1</sup> **Exh. 1:** Application for Immigration Visa and Alien Registration; **Exh. 4:** Petition for Naturalization; Answer ("Ans.") ¶ 7.

<sup>2</sup> **Exh. 6:** Deposition of Andrew Kuras, June 18, 2003 ("Kuras Depo.") at 14:6-11; **Exh. 14:** September 8, 1950 Circular from the Ministry for State Security, Fourth Directorate, "Information on Wanted Persons" ("Sept. 8, 1950 MGB Circular"), at 22.

<sup>3</sup> **Exh. 11:** Affidavit of Charles W. Sydnor, Jr. ("Sydnor Aff.") at ¶¶ 19-20. All references to the Sydnor Affidavit necessarily include those documents and sources upon which he relies and cites.

and the Soviet Union invaded from the east on September 17, the two occupying powers divided Poland between themselves. Germany annexed the western portions of its new acquisition and administered the remaining area in central Poland as an occupied territory called the Government General. The Government General was comprised of five provinces or “districts”: Warsaw, Radom, Cracow, Lublin and Galicia, each of which had an “SS and Police Leader” (SSPF). In November 1939 Himmler appointed as SS and Police Leader for Lublin District SS-*Brigadeführer* (Brigadier General) Odilo Globocnik, who commanded all SS and police units stationed in Lublin District.<sup>4</sup>

4. Jews were expelled from the annexed western regions into the Government General, where they were forcibly concentrated within special closed residential areas, or ghettos, in the cities and towns.<sup>5</sup>

5. The systematic murder of the Jews began with the German invasion of the Soviet Union on June 22, 1941. With the “final solution of the European Jewish question,” the Nazis sought to purge the continent of Jews. To that end, the first killing center began operation in December 1941 at Kulmhof (Polish: Chełmno) in German-annexed western Poland, and the killing centers at Belzec,

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<sup>4</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 21-22.

<sup>5</sup> Id. at ¶ 23.

Sobibor and Treblinka followed in the spring and summer of 1942. At least 1,500,000 Jews, most of them pulled from the ghettos of the Government General, were killed at Belzec, Sobibor and Treblinka in 1942 and 1943.<sup>6</sup>

6. “Operation Reinhard” was the name given to the implementation of the Final Solution in the Government General, and Globocnik was charged by Himmler with executing it. According to Globocnik, Operation Reinhard had four elements: (1) the “evacuation” (i.e., the killing itself); (2) the “exploitation of manpower” at forced labor camps under Globocnik’s control; (3) the “exploitation of materials,” i.e., the victims’ personal belongings; and (4) the “acquisition of hidden assets and real estate.”<sup>7</sup>

7. Trawniki Training Camp, jointly run by the SS and police and located in Lublin District, was established to train and supply a force of foreign auxiliaries to provide the manpower to carry out Operation Reinhard. The foreign auxiliaries who were recruited for service and who trained at the camp participated directly in the implementation of virtually every aspect of Operation Reinhard, including

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<sup>6</sup> Id. at ¶¶ 23-24.

<sup>7</sup> Id. at ¶¶ 25-26; **Exh. 19**: Top Secret Memorandum from Globocnik, dated January 5, 1944, at 4; United States v. Kwoczak, 210 F. Supp. 2d 638, 641-42 (E.D. Pa. 2002); United States v. Demjanjuk, 2002 WL 544622, at \*5 (N.D. Ohio Feb. 21, 2002) (“Operation Reinhard was the Nazi program to dispossess, exploit, and murder Jews in Poland.”), appeal pending, No. 02-3529 (6th Cir.).

guarding the forced labor camps in Lublin District.<sup>8</sup>

8. Globocnik appointed SS-*Hauptsturmführer* Karl Streibel to command Trawniki Training Camp. Although Streibel initially recruited prisoners of war for training as police auxiliaries, in the fall and early winter of 1942, he shifted his recruitment drive to civilians, focusing upon the southeastern portions of the Government General, including Galicia District, which had a large Ukrainian population. The men trained at Trawniki were referred to in official German documents as “guards” (*Wachmänner*), but they were also known more colloquially, among other names, as “Trawniki men.” After the war, perpetrators and victims often referred to them as “Ukrainians,” even though the guard units consisted of men of other nationalities as well.<sup>9</sup>

9. Shortly after the recruits arrived at Trawniki, they were issued permanent identification numbers.<sup>10</sup> These numbers were generally assigned chronologically, with lower numbers assigned to men who entered service at

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<sup>8</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 28-29, 35; United States v. Reimer, — F.3d —, 2004 WL 135897 (2d Cir. Jan. 27, 2004), at \*2; Kwoczak, 210 F. Supp. 2d at 642; Demjanjuk, 2002 WL 544622, at \*5.

<sup>9</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 29-31.

<sup>10</sup> Id. at ¶ 32; Demjanjuk, 2002 WL 544622, at \*5.

Trawniki earlier.<sup>11</sup>

10. German officials also filled out personnel sheets (*Personalbogen*) on each newly arrived Trawniki recruit. These personnel sheets, which prominently bore the Trawniki recruit's identification number, recorded the recruit's name, other identifying information such as date and place of birth, and the date of his entry into service at Trawniki. A photograph of the new Trawniki man which included his identification number was also affixed to the personnel sheet.<sup>12</sup>

### III. Kuras's Entry into German Service and Training at Trawniki

11. Kuras admitted to serving as a Trawniki-trained guard.<sup>13</sup>

12. Kuras stated that he volunteered for German service in order to receive medical treatment for his hernias.<sup>14</sup>

13. In December 1942, approximately 101 Ukrainians entered service at Trawniki from villages in the Galicia District, most from the administrative district of Brzeżany, which included Kuras's hometown of Herbutów. The men who

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<sup>11</sup> **Exh. 11:** Sydnor Aff. at ¶ 33.

<sup>12</sup> Id. at ¶ 36; United States v. Hajda, 135 F.3d 439, 441 (7th Cir. 1998); Kwoczak, 210 F. Supp. 2d at 643.

<sup>13</sup> Compl. ¶ 8 and Ans. ¶ 8; **Exh. 7:** Defendant's Answers to the Government's First Set of Interrogatories ("Def't.'s Ans. to Interrogs."), #1.

<sup>14</sup> **Exh. 7:** Def't.'s Ans. to Interrogs., #1(d); **Exh. 6:** Kuras Depo. at 18:2-10.

entered service on December 11, 1942 were assigned identification numbers in the range of 2933 to 2962.<sup>15</sup>

14. Kuras's identification number was 2958.<sup>16</sup>

15. The Soviet Ministry of State Security (MGB) took information from captured Trawniki personnel sheets and included it in circulars called "Information on Wanted Persons," from 1948 to roughly 1954. These circulars contain information about individual Trawniki men, including their date of entry into service at Trawniki, and sometimes even their Trawniki personnel photo with identification number. Information on former Trawniki guards in these circulars corresponds to the types of information on the personnel sheets, including their service entry date, dates and locations of assignments, and identifying information such as date and place of birth and parents' names.<sup>17</sup>

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<sup>15</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 35-39.

<sup>16</sup> **Exh. 7:** Def't.'s Ans. to Interrogs., #1(c); **Exh. 6:** Kuras Depo. at 24:25 - 25:5; **Exh. 15:** Roster of the Deployment Co., n.d. [November 1944 to mid-January 1945]; **Exh. 18(a):** "Sixth Company, SS Battalion Streibel," n.d. [November 1944 to mid-January 1945]; **Exh. 18(b):** "List of Names," February 15, 1945; **Exh. 18(c):** "Roster of Names of the Sixth Company," n.d. [late February 1945]; **Exh. 18(d):** "Roster of Names of the Sixth Company," April 3, 1945; **Exh. 14:** Sept. 8, 1950 MGB Circular, at 22; **Exhs. 16(a), (b) and 17:** Medical Identification Cards [no. 1] for Andrej Kuras [sic], and [no. 2] for Andrej Kuras, and WAST Record for Andreas Kuras, n.d.

<sup>17</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 36, 39, 41-42.

16. A September 8, 1950 MGB circular reflects that Andrej Kuras entered service at Trawniki on December 11, 1942 and was assigned identification number 2958.<sup>18</sup>

17. Former Trawniki guard Mikhail Gumenyuk provided a statement after the war in which he testified that “Andrej Dmitrievich Kuras, born in 1922, native of the village of Gerbutov, Bol’shevetskij [sic] Rayon” arrived at Trawniki in December 1942, at the same time that he did.<sup>19</sup>

18. Upon arrival at Trawniki, new recruits were issued uniforms. They were also paid and received other benefits for their service, such as leave.<sup>20</sup>

19. New recruits were given military training (i.e., training in how to handle a weapon), were taught basic German words of command, and attended ideological lectures on the superiority of the Nazi over the Soviet system, and of the supremacy of the “Aryan” over the Jewish “race.”<sup>21</sup> Most importantly, they were taught how to guard prisoners and round up civilians. This guard training

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<sup>18</sup> **Exh. 14:** Sept. 8, 1950 MGB Circular, at 22.

<sup>19</sup> **Exh. 25:** June 22, 1948 Protocol of Interrogation of Mikhail N. Gumenyuk (“Gumenyuk Protocol”).

<sup>20</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 54-55; Reimer — F.3d —, 2004 WL 135897, at \*2; Kwoczak, 210 F. Supp. 2d at 643; Demjanjuk, 2002 WL 544622, at \* 5.

<sup>21</sup> **Exh. 11:** Sydnor Aff. at ¶ 56; Hajda, 135 F.3d at 441; Kwoczak, 210 F. Supp. 2d at 643.

included practical experience guarding the Jewish inmates at the SS Labor Camp Trawniki.<sup>22</sup>

#### IV. The SS Labor Camp Trawniki

20. The SS Labor Camp Trawniki, which stood adjacent to the training camp, was a forced labor camp for Jews. In the spring of 1943, the prisoner population increased dramatically as a result of orders from Himmler that the Jews of the Government General be “resettled.” Skilled Jewish laborers, particularly from the Warsaw Ghetto, were to be moved to forced labor camps, including the SS Labor Camp Trawniki, while the rest were to be killed at Treblinka.

Accordingly, the equipment and Jewish workers of Schultz & Co., one of the German firms with facilities inside the Warsaw Ghetto, were relocated from the ghetto to the Trawniki labor camp.<sup>23</sup>

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<sup>22</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 57-61; **Exh. 25:** Gumenyuk Protocol; **Exh. 30(a):** April 23, 1948 Protocol of Interrogation of Mikhail Semchij; **Exh. 29(a):** May 21, 1949 Protocol of Interrogation of Lev Stepanovich Barulka [sic]; **Exh. 29(c):** July 27, 1949 Protocol of Court Proceedings against Leon Barilka; **Exh. 31(a), (b):** February 23, 1948 and March 1, 1948 Protocols of Interrogation of Ivan O. Demkar. See also Hajda, 135 F.3d at 441 (January 1943 recruit); Kwoczak, 210 F. Supp. 2d at 643 (February 1943 recruit); Demjanjuk, 2002 WL 544622, at \*5 (July 1942 recruit); **Exh. 54:** United States v. Palij, 02-CV-2802 (E.D.N.Y., July 29, 2003), at 5-6 (February 1943 recruit).

<sup>23</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 62, 64-65; **Exh. 33:** July 19, 1942 Copy of Order from Himmler to Higher SS and Police Leader East.

21. Between February 16 and April 15, 1943, 1,481 new prisoners (including 52 children) arrived at Trawniki; in the second half of April and early May, over 4,500 more prisoners followed. The total number of prisoners at the forced labor camp from May until November 1943 was approximately 6,000. These prisoners received harsh treatment and lived under brutal conditions.<sup>24</sup>

22. Trawniki men guarded the labor camp; some were stationed inside while others guarded the perimeter. In guarding the labor camp, the Trawniki men had the responsibility to bar outsiders from approaching the camp and to prevent prisoner escapes.<sup>25</sup>

V. Kuras's Service at Trawniki

23. Kuras admitted to serving at Trawniki for several months, from the time he entered service until he was assigned to the forced labor camps at Dorohucza and Poniatowa.<sup>26</sup>

24. The September 8, 1950 MGB circular reflects that Kuras served at Trawniki from December 11, 1942, when he entered service, until February 25,

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<sup>24</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 65-67.

<sup>25</sup> Id. at ¶ 68.

<sup>26</sup> **Exh. 7:** Deft.'s Ans. to Interrogs., #1(g); see generally Kuras Depo. (**Exh. 6**) at 21 - 35.

1943, when he was transferred to Poniatowa.<sup>27</sup>

25. Other December 1942 recruits testified after the war that they served at Trawniki from December 1942, when they entered service there, until February 1943, when they were assigned to Poniatowa.<sup>28</sup> Personnel files and MGB circulars also show that December 1942 recruits served at Trawniki from their entry into service until they were transferred to Poniatowa on February 24 and 25, 1943.<sup>29</sup>

26. Kuras also acknowledged serving at Trawniki at other points in his German service career, between stints at other camps.<sup>30</sup>

27. Trawniki served as a base camp for the guard force, from which Trawniki men were sent out on assignments in connection with Operation Reinhard and to which they returned when their assignment ended. While at Trawniki between assignments, the *Wachmänner* generally were given leave,

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<sup>27</sup> **Exh. 14:** Sept. 8, 1950 MGB Circular, at 22.

<sup>28</sup> **Exh. 11:** Sydnor Aff. at ¶ 88; **Exh. 30(a):** April 23, 1948 Semchij Protocol; **Exh. 31(a):** March 1, 1948 Demkar Protocol.

<sup>29</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 86-87; **Exhs. 20(a) -(d), 26(b), (c), (e), (h), (i), (k), (l), 27(b):** Trawniki Personnel Files Nos. 2933, 2950, 2954, 2962, 2964, 2965, 2967, 2984, 2989, 3013, 3019, 3034; **Exhs. 14, 21, 23:** Sept. 8, 1950 MGB Circular, Aug. 31, 1948 MGB Circular and July 25, 1950 MGB Circular.

<sup>30</sup> **Exh. 7:** Def't.'s Ans. to Interrogs., #1(g); **Exh. 6:** Kuras Depo. at 49:16-22 .

received additional training, and guarded the adjacent labor camp.<sup>31</sup>

28. While serving in the Trawniki guard forces, Kuras admitted to receiving a uniform, being paid, and receiving medical care at an SS hospital, as well as home leave to visit his sick grandfather.<sup>32</sup>

29. Kuras stated that he was issued a weapon (a Russian rifle initially, and then a German one) when he went on duty, which he returned at the end of his two-hour duty. He also stated that he carried a rifle when he traveled.<sup>33</sup>

30. Kuras acknowledged training in the use of a rifle and stated that he learned some basic German.<sup>34</sup> He also stated that he was trained how to prevent prisoner escapes.<sup>35</sup>

31. Regarding his guard duties, Kuras stated that he carried out sentry

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<sup>31</sup> **Exh. 11:** Sydnor Aff. at ¶ 70.

<sup>32</sup> **Exh. 7:** Deft.'s Ans. to Interrogs., #1(c), (k), (l), #2; **Exh. 6:** Kuras Depo. at 53:16-23.

<sup>33</sup> **Exh. 7:** Deft.'s Ans. to Interrogs., #1(f) and (j); **Exh. 6:** Kuras Depo. at 26:1-4, 23-25, 32:3-12.

<sup>34</sup> **Exh. 7:** Deft.'s Ans. to Interrogs., #1(i); **Exh. 6:** Kuras Depo. at 18:13-17, 23:15-18, 26:7-11.

<sup>35</sup> **Exh. 6:** Kuras Depo. at 27:16-18, 29:1-8, 33:22 - 34:16.

duty by standing at different posts for two hours at a time.<sup>36</sup> Kuras also stated that he “followed” the Jewish prisoners while carrying a loaded weapon.<sup>37</sup>

32. Kuras acknowledged that his duty as a guard was to prevent prisoner escapes.<sup>38</sup> Kuras stated that if he saw a Jew attempting to “run[] away, it’s necessary to shoot.”<sup>39</sup>

#### VI. SS Labor Camp Poniatowa

33. Poniatowa, located 22 miles west of Lublin, was one of several forced labor camps under Globocnik’s jurisdiction as part of Operation Reinhard.<sup>40</sup>

34. Just as the facilities and workers of Schultz & Co. had been moved to Trawniki from the Warsaw Ghetto pursuant to Himmler’s orders that the Jews in the Government General be “resettled,” the facilities and Jewish workers of W. C. Többens, a manufacturer of uniforms, clothing and equipment for the Wehrmacht and the largest employer in the Warsaw Ghetto, were relocated to Poniatowa from the ghetto. In April and May 1943, several thousand Jews from the Warsaw

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<sup>36</sup> **Exh. 7:** Def’t.’s Ans. to Interrogs., #1(f); **Exh. 6:** Kuras Depo. at 25:25 - 26:4.

<sup>37</sup> **Exh. 6:** Kuras Depo. at 32:2-18.

<sup>38</sup> Id. at 33:22 - 34:16.

<sup>39</sup> Id. at 33:25.

<sup>40</sup> **Exh. 11:** Sydnor Aff. at ¶ 76.

Ghetto were transported to Poniatowa.<sup>41</sup>

35. While many of the Jewish prisoners worked at the Többens factory, others were forced to work on various projects for the SS, such as constructing barracks, roads and sewers, clearing trees, and working in a stone quarry.<sup>42</sup>

Poniatowa also had a small subcamp at the railway station of Nałęczów, located ten miles to the northeast, where prisoners transferred raw materials from arriving trains to a narrow-gauge railway that went to Poniatowa, and transferred finished goods made at Poniatowa to departing trains.<sup>43</sup>

36. As at Trawniki, Trawniki men assigned to Poniatowa guarded the prisoners and prevented their escape. The Trawniki men patrolled between two parallel, barbed-wire fences surrounding the Többens factory, manned the watchtowers (after they were built in the summer of 1943), guarded a row of housing blocks known as the “settlement,” performed sentry duty at the camp entrances, escorted prisoners to work, and guarded them at the worksites.<sup>44</sup>

37. Poles from the village of Poniatowa testified after the war about the

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<sup>41</sup> Id. at ¶¶ 76-78.

<sup>42</sup> Id. at ¶ 79.

<sup>43</sup> Id. at ¶ 81.

<sup>44</sup> Id. at ¶ 82.

numerous incidents they witnessed of acts of brutality, including murder, committed by Trawniki men against the Jewish prisoners. One Polish villager who lived near the camp, for example, recalled that the Ukrainians beat the Jewish prisoners “with rubber clubs and tormented them.”<sup>45</sup> Other Polish villagers spoke of incidents where Trawniki men shot Jewish prisoners.<sup>46</sup>

## VII. Kuras’s Service at Poniatowa

38. Kuras admitted to serving at Poniatowa for two to four months before returning to Trawniki.<sup>47</sup>

39. The September 8, 1950 MGB circular reflects that Kuras was sent to Poniatowa on February 25, 1943.<sup>48</sup>

40. Personnel files and MGB circulars show that other December 1942 recruits were sent to Poniatowa on February 24 and 25, 1943.<sup>49</sup> December recruits

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<sup>45</sup> **Exh. 45:** June 25, 1948 Statement of Jan Sola; **Exh. 11:** Sydnor Aff. at ¶ 83.

<sup>46</sup> **Exh. 39:** December 21, 1966 Bolesław Michalski Statement; **Exh. 38:** July 7, 1998 Deposition of Michal Lear, p. 32.

<sup>47</sup> **Exh. 7:** Def’t.’s Ans. to Interrogs., #1(g); **Exh. 6:** Kuras Depo. at 43:18-21, 49:18-22, 53:4-9.

<sup>48</sup> **Exh. 14:** Sept. 8, 1950 MGB Circular, at 22.

<sup>49</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 86-87; **Exhs. 20(a) - (d), 26(b), (c), (e), (h), (I), (k), (l), 27(b):** Trawniki Personnel Files nos. 2933, 2950, 2954, 2962, 2964,  
(continued...)

testified after the war that in February 1943, they were transferred from Trawniki to Poniatowa, where they served for three months before returning to Trawniki.<sup>50</sup>

41. Kuras admitted guarding Jews at Poniatowa while armed.<sup>51</sup> He recalled that the Jewish prisoners “were sewing for the Army.”<sup>52</sup>

42. Kuras also admitted to guarding the Jews at Nałęczów, who were loading and unloading the trains.<sup>53</sup> He recalled that the railroad line between Poniatowa and Nałęczów was narrow-gauge.<sup>54</sup>

### VIII. SS Labor Camp Dorohucza

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<sup>49</sup>(...continued)  
2965, 2967, 2984, 2989, 3013, 3019, 3034; **Exhs. 14, 21, 23**: Sept. 8, 1950 MGB Circular; August 31, 1950 MGB Circular; July 25, 1950 MGB Circular.

<sup>50</sup> **Exh. 11**: Sydnor Aff. at ¶ 88; **Exh. 30(a)**: April 23, 1948 Semchij Protocol; **Exh. 31(a)**: March 1, 1948 Demkar Protocol. See also **Exh. 31(b), (c)**: Feb. 23 and March 23, 1948 Demkar Protocols.

<sup>51</sup> **Exh. 6**: Kuras Depo. at 47:15 - 48:1.

<sup>52</sup> Id. at 45:8-10.

<sup>53</sup> Id. at 50:23 - 51:6, 51:18-22, 52:3-5.

<sup>54</sup> Id. at 44:3-7, 13-20.

43. The forced labor camp at Dorohucza was quite close to Trawniki.<sup>55</sup> The camp held several hundred Jews, half of them Dutch and half Polish.<sup>56</sup> The Jewish prisoners at Dorohucza were compelled to engage in the physically demanding work of digging peat.<sup>57</sup>

44. Conditions at Dorohucza were extremely severe and inhumane.<sup>58</sup> The food was meager and awful.<sup>59</sup> Prisoners died at the camp, either from spotted fever, an outbreak of which occurred in the summer of 1943,<sup>60</sup> or because of the atrocious conditions,<sup>61</sup> or because they were shot by the guards.<sup>62</sup>

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<sup>55</sup> **Exh. 11:** Sydnor Aff. at ¶ 95, 96.

<sup>56</sup> **Exh. 48:** May 7, 1969 Record of Interrogation of Chana Goldberg (“Goldberg Interrogation”), at 1; **Exh. 49:** March 3, 1948 Report by Jozef Wins and Jules Schelvis (“Wins and Schelvis Report”), at 4.

<sup>57</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 95, 102.

<sup>58</sup> **Id.** at ¶¶ 95, 100-104; **Exh. 34:** September 26, 1962 Continuation of Interrogation of Rudolf Emil Erich Neumann, at 6, 8; **Exh. 51:** May 8, 1963 Record of Interrogation of Georg Klimanek, at 14; **Exh. 49:** Wins and Schelvis Report; **Exh. 50:** Excerpts from “Diary” of Jules Schelvis for May 26, 1943 to January 15, 1944.

<sup>59</sup> **Exh. 11:** Sydnor Aff. at ¶ 101; **Exh. 12:** Affidavit of Stefi Altman (“Altman Aff.”) at ¶¶ 6, 10; **Exh. 48:** Goldberg Interrogation, at 1-2; **Exh. 50:** Excerpts from Schelvis Diary; **Exh. 6:** Kuras Depo. at 42:1-2.

<sup>60</sup> **Exh. 11:** Sydnor Aff. at ¶ 103; **Exh. 48:** Goldberg Interrogation at 2.

<sup>61</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 101, 104; **Exh. 48:** Goldberg Interrogation at (continued...)

45. Trawniki men guarded the Jewish prisoners at Dorohucza.<sup>63</sup>

46. A former prisoner of the camp described the frequent beatings that she and other prisoners received at the hands of the Ukrainian guards, whom she described as “often worse than the Germans.” She also spoke of the emotional and psychological abuse that the Trawniki men visited upon the inmates as a part of everyday life at the camp.<sup>64</sup>

#### IX. Kuras at Dorohucza

47. Kuras admitted to serving at Dorohucza,<sup>65</sup> and recalled that the Jewish prisoners there performed the “very hard work” of digging peat.<sup>66</sup> He also said that the Jews were given soup and “did not have enough bread.”<sup>67</sup>

48. Kuras stated that he guarded the Jewish prisoners at night by standing

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<sup>61</sup>(...continued)

2; **Exh. 12**: Altman Aff. at ¶ 9.

<sup>62</sup> **Exh. 12**: Altman Aff. at ¶ 12.

<sup>63</sup> **Exh. 11**: Sydnor Aff. at ¶¶ 105-106.

<sup>64</sup> **Exh. 12**: Altman Aff. at ¶¶ 10-12.

<sup>65</sup> **Exh. 7**: Deft.’s Ans. to Interrogs., #1(g).

<sup>66</sup> **Exh. 6**: Kuras Depo. at 39:19, 35:15-24.

<sup>67</sup> Id. at 42:1-2.

at a post.<sup>68</sup>

49. Kuras acknowledged that if he were standing at his post at night and he saw a Jew attempting escape, he “was supposed to yell stop, hands up, in German,” and if the Jew did not obey, “[o]ne could shoot in the air or at him.”<sup>69</sup>

X. Operation Harvest Festival

50. Pursuant to Himmler’s orders in the fall of 1943 to liquidate the remaining Jews in Lublin District, 42,000 Jewish inmates at forced labor camps were shot on November 3-4, 1943 in what was called “Operation Harvest Festival” (*Erntefest*). On November 3, 7,000 Jews at Trawniki were shot by outside SS and police forces. They were forced to undress and were then machine-gunned in ditches they had been forced to dig a few weeks before. The prisoners at Dorohucza were marched to Trawniki on November 3, where they were also shot. The 14,000 prisoners at Poniatowa were shot on November 4.<sup>70</sup>

51. Kuras stated that he was given a two-week leave (although he took three weeks) to visit his sick grandfather and was not at Trawniki during

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<sup>68</sup> Id. at 38:15-19, 40:20 - 41:7.

<sup>69</sup> Id. at 42:4-13.

<sup>70</sup> **Exh. 11:** Sydnor Aff. at ¶¶ 112-115.

*Erntefest*.<sup>71</sup> He said that when he returned from his leave to Trawniki the Jews had all been killed.<sup>72</sup>

XI. Kuras's Post-*Erntefest* Service

52. Medical records reflect that Kuras was admitted to an SS hospital in Chelm for treatment of his hernias on March 2, 1944, discharged on March 21, and sent to a reserve hospital in Rosenheim, Germany, where he arrived March 24, 1944.<sup>73</sup>

53. As of March 1944, Kuras was assigned to the Deployment Company (*Einsatzkompanie*), which was involved in anti-partisan operations.<sup>74</sup> After the Soviet Army overran Lublin District in late July 1944, the remaining Trawniki-trained men evacuated Lublin District and were reorganized into what became known as SS Battalion Streibel (the "Streibel Battalion").<sup>75</sup> Kuras's name and

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<sup>71</sup> **Exh. 7:** Deft.'s Ans. to Interrogs., #1(k); **Exh. 6:** Kuras Depo. at 53:16-23.

<sup>72</sup> **Exh. 6:** Kuras Depo. at 54:10-17, 54:20 - 55:5.

<sup>73</sup> **Exh. 16(a), (b):** Medical Identification Card for "Andrej Kuras" [no.1], and Medical Identification Card for Andrej Kuras [no. 2]; and **Exh. 17:** WAST Record for "Andreas Kuras."

<sup>74</sup> **Exh. 15:** Roster of the Deployment Company; **Exh. 11:** Sydnor Aff. at ¶¶ 124-125; **Exh. 54:** Palij, at 6-7.

<sup>75</sup> **Exh. 11:** Sydnor Aff. at ¶ 126; Hajda, 135 F.3d at 442; Kwoczak, 210 F. (continued...)

Trawniki identification number appear on four extant rosters of the Sixth Company of the Streibel Battalion.<sup>76</sup>

54. In the fall and early winter of 1944, the Streibel Battalion carried out anti-partisan operations in Radom District and helped guard Polish civilians compelled to build fortifications.<sup>77</sup> After clearing rubble and bodies in Dresden after the Anglo-American air raids on February 13-14, 1945, the Streibel Battalion withdrew towards Prague and disbanded in May.<sup>78</sup> Kuras stated that he guarded the villagers who were forced to dig trenches, and he recalled clearing and burying bodies in Dresden.<sup>79</sup>

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<sup>75</sup>(...continued)  
Supp. 2d at 643.

<sup>76</sup> **Exh. 18(a)**: “Sixth Company, SS Battalion Streibel,” n.d. [November 1944 to mid-January 1945]; **Exh. 18(b)**: February 15, 1945 “List of Names”; **Exh. 18(c)**: “Roster of Names of the Sixth Company,” n.d. [late February 1945]; **Exh. 18(d)**: April 3, 1945 “Roster of Names of the Sixth Company.”

<sup>77</sup> **Exh. 11**: Sydnor Aff. at ¶ 127; Hajda, 135 F.3d at 442; Kwoczak, 210 F. Supp. 2d at 643, 647; **Exh. 54**: Palij, at 7-8.

<sup>78</sup> **Exh. 11**: Sydnor Aff. at ¶¶ 128-129; Hajda, 135 F.3d at 442; Kwoczak, 210 F. Supp. 2d at 643, 647; **Exh. 54**: Palij, at 7-8.

<sup>79</sup> **Exh. 6**: Kuras Depo. at 58:22 - 59:6, 22-24, 62:1 - 63:10.

## XII. Kuras's Immigration to the United States and Naturalization

55. In Germany in May 1951, Kuras sought a determination from the United States Displaced Persons Commission ("DPC") that he was a Displaced Person, and therefore eligible to immigrate to the United States under the Displaced Persons Act of 1948, Pub. L. No. 80-774, ch. 647, 62 Stat. 1009, as amended, June 16, 1950, Pub. L. No. 81-555, 64 Stat. 219 ("DPA").<sup>80</sup>

56. The DPC administered the DPA. The eligibility process required the U.S. Army Counter Intelligence Corps (the "CIC") to interview applicants and perform a background investigation. If the CIC discovered any derogatory information, such as persecutory activities during the war, this would be grounds for rejection.<sup>81</sup>

57. Upon completion of the CIC's investigation, the DPC, under standard operating procedure, would compile a file on each applicant, which included information provided by the applicant and his family, as well as from the CIC. Generally, the DPC did not re-interview applicants. Standard operating procedure then required a DPC eligibility officer to review the applicant's file and prepare a

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<sup>80</sup> **Exh. 3:** United States Displaced Persons Report.

<sup>81</sup> **Exh. 13:** Affidavit of Mario DeCapua ("DeCapua Aff.") at ¶¶ 9-10, 12; United States v. Palciauskas, 734 F.2d 625, 626 (11th Cir. 1984); Demjanjuk, 2002 WL 544622, at \*16-17.

report finding that the applicant was either an eligible displaced person (“DP”) under the DPA or was not eligible under the DPA.<sup>82</sup>

58. Certification by the DPC was a prerequisite for an immigration visa under the DPA. If the DPC eligibility officer found that the applicant was eligible, his case was passed on to a State Department Vice Consul for further review. If the Vice Consul approved the applicant, he would be granted a visa.<sup>83</sup>

59. The CIC’s Visa Worksheet reflects that Kuras told the CIC that he had been a farmer in Herbutow, Poland from 1939 until 1943, and a farmer in Musbach, Germany from 1943 until April 1945.<sup>84</sup>

60. Kuras admitted lying during the immigration process.<sup>85</sup>

61. If Kuras had represented to the CIC that he had trained at Trawniki Training Camp, or served as an armed guard at three Nazi-operated forced labor camps, or, as a member of the Streibel Battalion, guarded Polish civilians who were forced to work, this would have been recorded as derogatory information in

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<sup>82</sup> **Exh. 13:** DeCapua Aff. at ¶¶ 13-15; DPA § 10; Executive Order No. 10131, June 16, 1950; Demjanjuk, 2002 WL 544622, at \*18; United States v. Leprich, 666 F. Supp. 967, 970 (E.D. Mich. 1987).

<sup>83</sup> Id. at ¶ 16; Demjanjuk, 2002 WL 544622, at \*19; Leprich, 666 F. Supp. at 970.

<sup>84</sup> **Exh. 2:** CIC Visa Screening Work Sheet (May 29, 1951).

<sup>85</sup> **Exh. 6:** Kuras Depo. at 63:23 - 64:5, 66:4-14.

the DPC Report, and the DPC would not have found Kuras eligible for DP status.<sup>86</sup>

62. If the CIC had become aware that Kuras had concealed his Nazi service, this would have been recorded as derogatory information in the DPC Report, and the DPC would not have found Kuras eligible for DP status.<sup>87</sup>

63. The DPC Report reflects Kuras's misrepresentation that from January 1938 until December 1943, he was an independent farmer in Herbutow, Poland, and that from December 1943 until April 1945, he was a farmhand for Jozef Bayern in Musbach, Germany.<sup>88</sup>

64. Kuras knew this information was false when he supplied it. Kuras

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<sup>86</sup> **Exh. 13:** DeCapua Aff. at ¶¶ 12, 16, 20, 22, 24, 28; **Exh. 54:** Palij, at 22-23 (Trawniki Training Camp, Deployment Company and Streibel Battalion); Kwoczak, 210 F. Supp. 2d at 649 (Trawniki Guard Forces, Streibel Battalion); Demjanjuk, 2002 WL 544622, at \*18 (Trawniki Guard Forces); United States v. Hajda, 963 F. Supp. 1452, 1461 (N.D. Ill. 1997), aff'd, 135 F.3d 449 (7th Cir. 1998) (Trawniki Training Camp, Treblinka labor camp, Streibel Battalion).

<sup>87</sup> **Exh. 13:** DeCapua Aff. at ¶¶ 12, 16, 20, 25, 29; **Exh. 54:** Palij, at 22-23; Kwoczak, 210 F. Supp. 2d at 649; Demjanjuk, 2002 WL 54622, at \*19; Hajda, 963 F. Supp. at 1461. See also Fedorenko v. United States, 449 U.S. 490, 510-11, 513 (1981); United States v. Schellong, 717 F.2d 329, 333-34 (7th Cir. 1983), cert. denied, 465 U.S. 1007 (1984); Leprich, 666 F. Supp. at 971; United States v. Linnas, 527 F. Supp. 426, 437-38 (E.D.N.Y. 1981), aff'd, 685 F.2d 427 (2d Cir.), cert. denied, 459 U.S. 883 (1982); United States v. Stelmokas, 100 F.3d 302, 314, 317-18 (3d Cir. 1996), cert. denied, 520 U.S. 1242 (1997); United States v. Kowalchuk, 773 F.2d 488, 497 (3d Cir. 1985) (en banc), cert. denied, 475 U.S. 1012 (1986); United States v. Dercacz, 530 F. Supp. 1348, 1351 (E.D.N.Y. 1982).

<sup>88</sup> **Exh. 3:** DPC Report.

admitted that a friend provided him with the name of “Jozef Bayern,” which Kuras then used, telling immigration officials that he had worked for this man as a farmhand.<sup>89</sup> Kuras also acknowledged that he lied because he believed he would not otherwise have been allowed to immigrate to the United States.<sup>90</sup>

65. Had the DPC been aware that Kuras had trained at the Trawniki Training Camp, or guarded at three Nazi-operated forced labor camps, or, as a member of the Streibel Battalion, guarded Polish civilians compelled to work, he would not have been certified as an eligible DP.<sup>91</sup>

66. If the DPC had become aware that Kuras willfully misrepresented any one of the facts in paragraph 65 regarding his activities and whereabouts during the war, he would not have been certified as an eligible DP.<sup>92</sup>

67. Relying upon Kuras’s representations to the CIC, the DPC determined

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<sup>89</sup> **Exh. 6:** Kuras Depo. at 66:14 - 67:7.

<sup>90</sup> Id. at 66:11-14.

<sup>91</sup> **Exh. 13:** DeCapua Aff. at ¶¶ 20, 22, 24, 28; **Exh. 54:** Palij, at 22-23 (Trawniki Training Camp, Deployment Company and Streibel Battalion); Kwoczak, 210 F. Supp. 2d at 649 (Trawniki Guard Forces, Streibel Battalion); Demjanjuk, 2002 WL 544622, at \*18 (Trawniki Guard Forces); Hajda, 963 F. Supp. at 1461 (Trawniki Training Camp, Treblinka labor camp, Streibel Battalion).

<sup>92</sup> **Exh. 13:** DeCapua Aff. at ¶¶ 25, 29; **Exh. 54:** Palij, at 22-23; Kwoczak, 210 F. Supp. 2d at 649; Demjanjuk, 2002 WL 54622, at \*19; Hajda, 963 F. Supp. at 1461.

in June 1951 that he was an eligible DP.<sup>93</sup>

68. On July 19, 1951, Kuras filed an Application for Immigration Visa and Alien Registration with the American Consulate at Munich, Germany, in order to obtain a non-quota immigration visa to the United States under the DPA.<sup>94</sup>

69. On his visa application, Kuras swore that he resided in Herbutow, Poland from 1936 until December 1943, and in Musbach, Germany from December 1943 until April 1945.<sup>95</sup>

70. Kuras knew this information was false when he submitted it and swore to it.<sup>96</sup>

71. If Kuras had revealed to the Vice Consul that he had trained at the Trawniki Training Camp, or guarded at three Nazi-operated forced labor camps, or, as a member of the Streibel Battalion, guarded Polish civilians forced to work, he would not have been approved for an immigration visa under the DPA.<sup>97</sup>

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<sup>93</sup> **Exh. 3:** DPC Report.

<sup>94</sup> **Exh. 1:** Application for Immigration Visa and Alien Registration.

<sup>95</sup> Id.

<sup>96</sup> **Exh. 6:** Kuras Depo. at 21:11-12, 35:13-24, 43:18 - 44:23, 49:10-11, 64:4-7, 66:4-16; **Exh. 7:** Def't.'s Ans. to Interrogs., #1.

<sup>97</sup> Fedorenko, 449 U.S. at 514-15; Kwoczak, 210 F. Supp. 2d at 649; Demjanjuk, 2002 WL 544622, at \*20; Hajda, 963 F. Supp. at 1461.

72. If the Vice Consul had become aware that Kuras had willfully misrepresented his true wartime whereabouts and activities, Kuras would not have been approved for an immigration visa under the DPA.<sup>98</sup>

73. Kuras was issued a visa based upon the information he provided on his application.<sup>99</sup>

74. Kuras entered the United States at the Port of New York on September 5, 1951.<sup>100</sup>

75. On November 14, 1961, Kuras submitted a Petition for Naturalization.<sup>101</sup>

76. On February 20, 1962, the United States District Court for the Eastern District of New York granted Kuras's application and issued to him Certificate of Naturalization No. 8401142.<sup>102</sup>

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<sup>98</sup> See, e.g., Stelmokas, 100 F.3d at 317-18; Demjanjuk, 2002 WL 544622, at \*20.

<sup>99</sup> **Exh. 1:** Application for Immigration Visa and Alien Registration.

<sup>100</sup> **Exh. 4:** Statement of Facts for Preparation of Petition.

<sup>101</sup> **Exh. 4:** Petition for Naturalization.

<sup>102</sup> **Exh. 5:** Certificate of Naturalization.