

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MARCOS ESPINOZA,
et al.

§
§

v.

§

C.A. TY-79-438-CA

BENJAMIN CIVILETTI,
et al.

§
§

PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS

Plaintiffs, MARCOS ESPINOZA, et al., requests that Defendant, Immigration and Naturalization Service, by and through a duly authorized employee and/or agent thereof, make the following admissions of fact, within thirty days from service of this request, in accordance with the Federal Rules of Civil Procedure.

Plaintiffs hereby request that Defendant admit that each of the following statements are true:

1. ✓ That during the month of November, 1979, agents of the Immigration and Naturalization Services entered Angelina County, Texas for the purpose of identifying, arresting and deporting persons who were not lawfully residing in the United States of America.
2. ✓ That during the month of November, 1979, agents of the Immigration and Naturalization Services entered Nacogdoches County, Texas, for the purpose of identifying, arresting and deporting persons who were not lawfully residing in the United States of America.
3. That within the last year (from the date of service hereof) agents of the Immigration and Naturalization Services entered Oklahoma City, Oklahoma, for the purpose of identifying, arresting and deporting persons who were not lawfully residing in the United States of America.
4. That within the last year (from the date of service hereof) agents of the Immigration and Naturalization Services entered Austin, Texas, for the purpose of identifying, arresting and deporting persons who were not lawfully residing in the United States of America.
5. ✓ That on or about the 6th day of November, 1979, in Angelina County, Texas, Defendant, its agents and employees took into custody persons in Angelina County, Texas, for being in this Country without proper documentation.
6. ✓ That on or about the 7th day of November, 1979, in Nacogdoches County, Texas, Defendant, its agent and employees took into custody persons in Nacogdoches County, Texas, for being in this Country without proper documentation.

7. ✓ That Defendant is in possession of documents reflecting the names of all persons taken into custody, for the last two years, within the Southern Region of the Immigration and Naturalization Services.
8. That Defendant is in possession of documents which reflect the place at which each person described in Request No. 7 was taken into custody.
9. ✓ That Defendant has written instructions which are to be followed concerning the procedures which are to be utilized by its agents in locating and taking into custody persons whom Defendant believes are not lawfully residing in the United States.
10. That said instructions referred to in Request No. 9 were disseminated to all of Defendant's agents who were involved in the operations in Angelina County and Nacogdoches County during November of 1979.
11. ✓ That Defendant or its agents contacted local law enforcement officials in Angelina County prior to entering the County for the purpose of requesting their assistance in locating persons who were not lawfully residing in the United States.
12. ✓ That Defendant and its agents did receive assistance from the Angelina County Sheriff's office in carrying out the operations conducted in Angelina County, Texas, in November of 1979.
13. That agents of Defendant, in carrying out its operations in Angelina County, Texas, in November of 1979, did enter into private residences for the purpose of locating persons who were not lawfully residing in the United States.
14. That agents of Defendant, in carrying out its operations in Nacogdoches County, Texas, in November of 1979, did enter into private residences for the purpose of locating persons who were not lawfully residing in the United States.
15. That in carrying out its operations in Angelina County, Texas in November of 1979, Defendant did not obtain any search warrants authorizing them to enter any residence.
16. That in carrying out its operations in Nacogdoches County, Texas, in November of 1979, Defendant did not obtain any search warrants authorizing them to enter any residence.
17. That in carrying out its operations in Angelina County, Texas in November of 1979, agents of Defendant did enter into commercial businesses for the purpose of locating persons who were not lawfully residing in the United States.
18. That in carrying out its operations in Nacogdoches County, Texas, in November of 1979, agents of Defendant did enter into commercial businesses for the purpose of locating persons who were not lawfully residing in the United States.

19. That it is not the policy of the Immigration and Naturalization Services to obtain search warrants prior to entering a private residence for the purpose of locating persons who Defendant believes are not lawfully within the United States.
20. That it is not the policy of the Immigration and Naturalization Services to obtain search warrants prior to entering a commercial business for the purpose of locating persons who Defendant believes are not lawfully within the United States.
21. That in carrying out its operations in Angelina County, Texas, in November of 1979, Defendant identified those areas of the county which were inhabited by persons of Latin American ancestry.
22. That in carrying out its operations in Angelina County, Texas, agents of Defendant first patrolled areas of Angelina County, Texas, which they believed were primarily inhabited by persons of Latin American ancestry.
23. That there are no objective guidelines for agents of Defendant to discern whether persons of Latin American ancestry should be stopped for identification.
24. That Defendant has issued no written guidelines for its agents to determine whether or not a person is acting in such a manner as warrants that said person be detained for purposes of identification.
25. That Defendant has issued no written guidelines concerning what constitutes sufficient cause to search buildings or residences without first obtaining a search warrant.
26. That the practices and procedures of Defendant and its agents in carrying out operations for raids is designed to be the same for all areas within the Southern Region of the Immigration and Naturalization Services.
27. That the practices and procedures of Defendant and its agents in carrying out operations or raids is designed to be the same for all areas within the Southern Region of the Immigration and Naturalization Services.

RESPECTFULLY SUBMITTED,

ISAIAS D. TORRES
JOSE A. MEDINA
2990 Richmond, #205
Houston, Texas 77098
(713) 524-4801

EVDELIA TALAMANTES
Centro Para Immigrantes de
Houston
2314 Cochran St., 2nd Floor
Houston, Texas 77009
(713) 228-0091

ROBERT B. O'KEEFE
EAST TEXAS LEGAL SERVICES
P.O. Box 1069
Nacogdoches, Texas 75961
(713) 560-1455

BY:

ROBERT B. O'KEEFE

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

On this the ____ day of January, 1981, the undersigned one of the counsel of record for the Plaintiffs hereby certifies that a true and correct copy of the foregoing Requests for Admissions was forwarded to counsel for Benjamin Civiletti, et al, Defendants herein, postage prepaid, U.S. Mail at the following address: Mr. William Cornelius, Jr., P.O. Box 1049, Tyler, Texas, 75710.

Robert B. O'Keefe

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

RECEIVED
JAN 30 1981

MARCOS ESPINOZA, ET AL

Y

VS.

Y

CIVIL NO. TY-79-438-CA

BENJAMIN CIVILITTI, ET AL

Y

The following Motion was filed on 1-26-81
Plaintiffs' MOTION to Maintain Action as Class Action.

There was ~~(was not)~~ evidence received of the necessary service of motion on the adverse parties. No Motion will be presented to the Judge until indication of service is received by the Clerk and the proper time has elapsed as governed by the Rules of this Court. Indication of service is usually given by a statement at the bottom of the motion, below the signature, showing the date a copy of the motion was mailed to adverse party. This statement should be signed.

All Motions are to be answered within ten (10) days unless otherwise allowed by the Court or some applicable rule of the Federal Rules of Civil Procedure.

THE LOCAL RULE is to consider motions on the pleadings, without oral hearing, unless on showing good cause an oral hearing is granted. Request for oral hearing, if any, should be made when the motion, or the reply is filed. If oral hearing is granted, the Judge will set a date for same and the interested attorneys will be notified.

THE JUDGE desires that memorandum briefs containing authorities relied on as to matters raised in the motion be filed by the respective parties before the motion is submitted.

Please note also that it is the Court's rule that all documents including forms of orders and judgments, be sent to the Clerk's Office and not directly to the Judge.

IF YOU DO NOT DESIRE TO OPPOSE THE ABOVE MOTION, PLEASE INFORM THE CLERK BY LETTER.

CC:

MURRAY L. HARRIS, Clerk,

attorneys of record.

By: *Doris Stanley*
Deputy Clerk

RECEIVED
JAN 30 1981

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

JAN 28 1981

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MURRAY L. HARRIS, CLERK
BY DEPUTY *Chris Stanley*

MARCOS ESPINOSA, ET AL)
VS.) NO. TY-79-438-CA
BENJAMIN CIVILETTI, ET AL)

ORDER

Based on the decision of Jones v. Diamond, 519 F.2d 1090 (5th Cir. 1975), the Court is of the opinion that a ruling on Plaintiff's Motion to Maintain this Action as a Class Action would be inappropriate at this time.

It is, therefore, ORDERED that Plaintiff is to reurge this Motion at a later date whenever it appears there are sufficient facts on which the Court may make a proper ruling. In this regard, Plaintiff should conduct discovery in an expeditious manner. If it appears this is not being done, Defendants should so inform the Court and an appropriate order will be entered.

It is so ORDERED.

SIGNED this 28th day of January, 1981.

William M. Steger
UNITED STATES DISTRICT JUDGE

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

JAN 28 1981

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

MURRAY L. HARRIS, CLERK
BY DEPUTY *Paris Stanley*

TYLER DIVISION

MARCOS ESPINOSA, ET AL)
VS.) NO. TY-79-438-CA
BENJAMIN CIVILETTI, ET AL)

ORDER

On this day came on to be heard the Motion of Defendants, Benjamin Civiletti, et al, to Dismiss filed January 15, 1981; and the Court after careful consideration of the same ORDERS that said Motion be DENIED. See Brown v. J. P. Allen Co., 79 F.R.D. 32 (N.D. Ga. 1978).

SIGNED this 28th day of January, 1981.

William M. Stegall
UNITED STATES DISTRICT JUDGE

POLITICAL COALITION DE LA RAZA

32699 Navajo Trail, Palm Springs, California 92262, (714) 328-6094

July 16, 1980

President
Sal Mesa
Vice-President
John Quiñonez
Secretary
Silva Vega
Treasurer
Elisa Mesa

Congressman Jerry Lewis
327 Cannon Building
Washington, D.C. 20515

Dear Congressman Lewis:

The Political Coalition De La Raza has received several complaints from Mr. Chema Ramos, Alamo Discount Store and Electronics, 45-365 Fargo Street, Indio, California. Mr. Ramos has made allegations against the Indio Border Patrol of undue harrassment of Mexican Americans, of the Border Patrol stopping at random people coming out of the Mexican theater, and of the frequent patrol of his business establishment. It is the feeling of Mr. Ramos and many citizens of Indio that the Border Patrol is acting illegally in many cases. Mr. Ramos and others claim that on a regular basis and frequently, the Border Patrol stops Mexicans and/or Mexican Americans on the basis of their physical characteristics; "they look like Mexican illegals."

Mr. Ramos claims that he will submit to our organization over two hundred signatures of complaints against the Indio Border Patrol of illegal practices against the Mexican American community.

Mr. Ramos has documented some of his allegations against the Indio Border Patrol since the latter part of 1979 and January, 1980, but has stopped doing so because he feels it won't stop the Border Patrol anyway. I have asked Mr. Ramos and all those individuals who have any complaints to document everything they believe is a violation of their constitutional rights.

The following are some of the things Mr. Ramos wrote down as he witnessed the events. Also enclosed are three pictures he took from his store of the Border Patrol vehicle parked across from his store.

January 23, 1980, 3:30 P.M., the Border Patrol parked in front of Mr. Ramos' store for over a half hour. Two customers were stopped and asked for their papers. Also Mr. Jose Carmona was asked for his papers.

January 23, 1980, 5:00 P.M. the Border Patrol, after having finished their breakfast saw some of my customers leave my store. They parked in their usual place for over a half hour and were asked by motorists to let them pass by.

January 18, 1980, Border Patrol officers picked up three undocumented workers in the Alamo parking lot. I took three pictures of this incident.

January 5, 1980, 2:00 P.M., the Border Patrol officers Michelson and Gordon came to the Mexican theater and having seen so many Mexicans,

Congressman Jerry Lewis
July 16, 1980
Page 2

stopped and asked people at random for their papers. The following are witnesses to this event: Gorge Luis Perez; Mr. Fernandez, 399-5054; Mrs. Cuca, 347-9789.

January 5, 1980, 8:30 A.M., the Border Patrol picked up four undocumented workers. The above mentioned witnesses also saw this incident.

December 31, 1979, the Border Patrol passed by my store at 6:50 P.M.

December 31, 1979, the Border Patrol passed by my store as usual at 10:20 A.M.

December 31, 1979, the Border Patrol passed by my store and looked in my direction as if they were looking for someone. It was 1:56 P.M.

December 31, 1979, the Border Patrol passed by my store at 2:40 P.M. Again, they were looking in the direction of my store.

No date recorded: witnesses Soila Luna and Nofermi heard officers Frank Luna and Dennis say "we are going to get Chema one way or the other."

December 28, 1979, the Border Patrol passed by my store in the same manner as always. They drive very slowly and look as if they are looking for someone in my store. Time: 12:45 P.M.

December 28, 1979, the Border Patrol passed by my store at 3:40 P.M., 3:45 P.M., 3:50 P.M. and 4:00 P.M. While they cruised up and down in front of my store, they were intimidating my customers by their very actions. The third time the officers passed by my store, I told them that it was already three times that they had passed by. They just laughed.

December 27, 1979, the Border Patrol passed by in front of my store as though looking for undocumented workers. They looked into my store. They are the same officers who were here on December 20, 1979. Time: 4:20 P.M.

December 26, 1979, the Border Patrol cruised up and down in front of my store looking in the direction of the Alamo. At 2:00 P.M., the Border Patrol picked up an undocumented worker merely because he looked like a Mexican foreigner. Just one look at him and the officers turned their car around and went after the man for questioning.

December 26, 1979, the Indio Border Patrol officers came into my store at 3:45 P.M.. They slowly walked around looking at my customers and intimidated them.

Congressman Lewis, based on the allegations made by Mr. Ramos, the Political Coalition De La Raza requests that as our elected representative you investigate this matter immediately. Our organization will

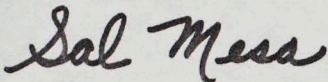
Congressman Jerry Lewis
July 16, 1980
Page 3

see to it that all future documentation of alleged civil rights violations of our Chicano community shall be explicit and all officers accused of any violations shall be investigated. Names, dates, places, and any pertinent data shall be provided to you for your consideration before any action is taken by our group.

We are hopeful that you will be able to resolve this problem before the Chicano community will use whatever means necessary to put an end to the harrassment, intimidation, and violation of their constitutional rights.

Congressman Lewis, we would like to hear from you by the end of this month.

Sincerely,

A handwritten signature in cursive script that reads "Sal Mesa".

Sal Mesa
President

cc: Chema Ramos
Senator Edward Kennedy
Senator Alan Cranston

EDWARD M. KENNEDY, MASS., CHAIRMAN

BIRCH BAYH, IND.
ROBERT C. BYRD, W. VA.
JOSEPH R. BIDEN, JR., DEL.
JOHN C. CULVER, IOWA
HOWARD M. METZENBAUM, OHIO
DENNIS DE CONCINI, ARIZ.
PATRICK J. LEAHY, VT.
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HOWELL HEFLIN, ALA.

STROM THURMOND, S.C.
CHARLES MC C. MATHIAS, JR., MD.
PAUL LAXALT, NEV.
ORRIN G. HATCH, UTAH
ROBERT DOLE, KANS.
THAD COCHRAN, MISS.
ALAN K. SIMPSON, WYO.

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

September 16, 1980

STEPHEN BREYER, CHIEF COUNSEL

Mr. William S. King, Jr.
Chief Patrol Agent
United States Border Patrol
P.O. Box 60
1111 North Imperial Avenue
El Centro, California 92244

Dear Mr. King:

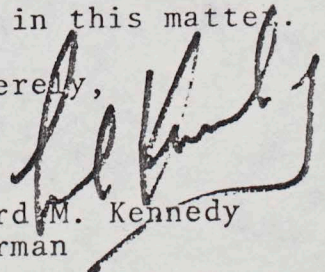
Certain allegations regarding misconduct by Border Patrol agents in the El Centro, California area have been brought to my attention. These are contained in a letter I received in July, 1980 from the Political Coalition De La Raza. I forwarded this letter to the Office of the Commissioner of the Immigration and Naturalization Service and a response was sent to me in August, 1980. Copies of each of these letters are enclosed herein.

I am very concerned about fair and humane treatment of all persons who come into contact with Border Patrol agents. Along with the great responsibility for enforcement of our immigration laws comes the equal responsibility to follow constitutional standards for the administration of justice. For this reason, it is particularly important that Border Patrol agents give the highest regard to the civil rights of all persons.

I would appreciate your investigating the allegations contained in the letter from the Political Coalition De La Raza and report your findings to me.

Thank you for your cooperation in this matter.

Sincerely,


Edward M. Kennedy
Chairman

cc: Office of the Commissioner
Immigration & Naturalization Service
Washington, D.C. 20536

✓ Sal Mesa, President
Political Coalition De La Raza
32699 Navajo Trail



UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
WASHINGTON, D.C. 20536

PLEASE ADDRESS REPLY TO

AND REFER TO THIS FILE NO

OFFICE OF THE COMMISSIONER

CO 703.724

AUG 22 1980

Honorable Edward Kennedy
United States Senate
Washington, D.C. 20510

Dear Senator Kennedy:

This is in response to your correspondence of August 4, 1980, with enclosure from Mr. Sal Mesa regarding several complaints he has received from Mr. Chema Ramos alleging harassment by the U.S. Border Patrol, Indio, California.

Mr. Ramos relates 15 occasions of observing Border Patrol agents in the vicinity of his business from December 26, 1979, until January 23, 1980. Mr. Ramos further states he witnessed these agents interviewing several persons and apprehending 8 illegal aliens.

Two of the principal activities charged to the Indio Border Patrol station are bus check and freight train check. These functions require the agents to frequently traverse the business area in Indio enroute to and from the bus station and railroad yard. In addition, illegal aliens arriving in Indio by train often attempt to avoid apprehension by quickly mixing with other persons in the business area.

From the brief description given by Mr. Ramos, it appears the agents are performing the duties with which they are charged. Therefore, lacking specific allegations of misconduct on the part of our officers, my response to you is in general terms.

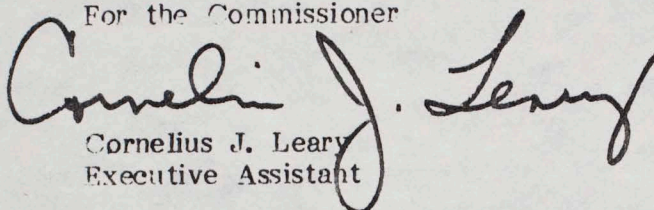
The authority of Service officers to question individuals is outlined in section 287 (a) (1) of the Immigration and Nationality Act as follows: "Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States." Court decisions have held that an Immigration Officer may question a person concerning his right to be in the United States if the officer reasonably believes the person to be an alien. In addition, all Border Patrol agents are given extensive training concerning human rights and it has been the policy of this Service to protect those rights. This Service will not tolerate rude behavior or harassment of the public by our officers.

Immigration and Naturalization Service personnel are expected to perform their duties in a professional and humane manner, in accordance with all applicable law and operational guidelines. In the future, Mr. Mesa may wish to contact the Chief Patrol Agent, El Centro, California, with specific allegations of wrong doing or abuse of authority by our officers as he is responsible for Border Patrol operations in the Indio, California, area. You may be assured all allegations of misconduct on the part of our officers will be promptly investigated and, if the circumstances warrant, appropriate corrective action will be taken.

Thank you for your inquiry into this matter of mutual concern.

Sincerely,

For the Commissioner

A handwritten signature in cursive script that reads "Cornelius J. Leary". The signature is written in dark ink and is positioned to the right of the typed name and title.

Cornelius J. Leary
Executive Assistant

May be 1st in nation

Ranch signs union pact including illegal aliens

By JOHN J. HARRIGAN

EL MIRAGE — A labor contract guaranteeing wages and fringe benefits for its workers, including illegal aliens, has been signed by Goldmar Inc. and its workers at Arrowhead Ranch.

Union organizers said the pact is the first of its kind in the United States.

It is also unusual because of a clause that provides that the company will contribute to an economic development fund to create jobs for the farm workers at their home villages in Mexico.

The Goldmar employees were assisted by the Maricopa County Organizing Project in negotiating the contract.

Arrowhead Ranch produces citrus on about 6,000 acres in Maricopa County and grows grapes on 150 to 200 acres.

Lupe Sanchez, executive director of the organizing project, said in a press conference Tuesday the agreement was signed after two years of strikes and labor disputes and was the result of six months of negotiations.

He said the agreement would guarantee the workers housing, health insurance, access to the fields, paid vacations and holidays, work safety, grievance and arbitration procedures and the highest wage-rate paid to citrus workers in the United States.

Wages were raised from 90 cents to \$1.13 a bag of lemons as of Nov. 30 and on Sept. 1 the figure will increase 10 percent, Sanchez noted. The piecework picking rate translates to an increase from a range of \$1 to \$3 per hour to \$3 to \$5 per hour, he said.

Sanchez said many of the farm workers own 15 or 20 acres in Mexico and they could stay home and work the land if they had the capital or

equipment to do it. In some cases only a tractor would be needed, he said. The development fund called for in the contract would provide the money to buy the tractor, he said.

The development projects, by creating jobs in Mexico, also would provide a cushion for those aliens displaced by resident workers attracted by the new, higher wages, Sanchez said.

The question arose during the press conference as to how a contract could be enforced if the workers were in this country illegally, since a grower could get rid of a troublesome alien by calling the Border Patrol.

Sanchez replied that undocumented workers have every right that an American citizen has in respect to working conditions. And with a signed contract, they also can obtain remedies in court if terms of the contract are not met, he said.

"Besides," he asked, "Would you rather be chased by the Border Patrol while making \$1 an hour or chased by the Border Patrol while making \$3 an hour?"

Although the contract covers a work force of 300, Sanchez said it actually would affect more than 2,000 workers during the two-year contract period, due to turnover and anticipated arrests by the Border Patrol.

"Everyone in the Southwest has undocumented workers," said Arthur Martori, one of the owners of Goldmar. The ranch is also partly owned by Robert Goldwater, brother of Sen. Barry Goldwater, R-Ariz.

"We set up this contract with our workers in the ranch community so we can have rules and regulations that we both can live by," Martori said, pointing out that the contract covered all the workers, not just the undocumented ones.

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By MA Central

CASA GRA lice and school admit it, student say the recent here were related two rival teen

The gangs as Red Bandanas

The Cowboys teen-age male hats, denims Their trademark bulging with chain ing to several

The Red Band can-American baggy pants, identified furt they dangle fr pockets.

Many teen-a parents believe

REPUBLIC
JAN 31, 79

REAVE

Court Bans INS Usage Of Blanket Warrants

By LARRY WATERFIELD

WASHINGTON, D.C. — A federal court has ruled that the Immigration & Naturalization Service cannot use blanket search warrants to seek out and arrest illegal aliens working on private property.

The U.S. Department of Agriculture district court for the District of Columbia made the ruling in a recent case involving a luxury restaurant in the Washington, D.C., area. INS officials, using a blanket warrant, raided the restaurant during lunch time in hopes of finding illegal aliens working there.

The raid caused great confusion as agents pursued fleeing "illegals" through the crowded restaurant. The restaurant owner sued the INS, claiming the agency did not have sufficient evidence to justify the issuing of a search warrant.

The INS agents, armed with only a few names or even first names, often have received warrants that enable them to make these types of raids. Critics of the practice claim the warrants are used as an excuse to conduct "fishing expeditions" that will "net" illegal aliens not named in the warrant. The judge agreed that the practice was disruptive and improper, and ordered it stopped.

Tom Basas, a Washington, D.C. attorney specializing in labor matters, said he did not know whether the case also would apply to farms and ranches.

INS agents have used similar general warrants to conduct raids on farming operations.

Basas said the case might prove to be a precedent, but other federal district courts would have to rule on cases involving farm raids. The U.S. Court of Appeals would have to uphold the Washington case first. "I am sure the government will appeal the decision," Basas said.

Basas noted that in the East, growers on the eastern shore of Maryland and Virginia "have been hit by these types of raids." Similar raids have been carried out in other farming areas of the country.

Basas said it would be up to individual judges to decide whether the same restrictions should apply to farms. A judge, he said, might not feel the same level of disruption would occur on a farm as in a crowded restaurant.

In farming areas, Basas said, the INS raids often are instituted by local "gossip" or by disgruntled neighbors who "squeal" to INS officers. The officers then get general search warrants and go onto private property to try to ferret out any illegal aliens working on the farms.

Federal officials also have made use of such warrants to gain access to private property in other types of legal cases.

The Packard

Oct. 13, 1979

1 VICTOR ARONOW
Suite 9
2 112 North 5th Avenue
Phoenix, AZ 85003
3 (602) 271-0348
Attorney for Plaintiff
4
5
6
7

COPY
ORIGINAL FILED
ON THE DATE
APR 20 1970
W. J. Preston, Clerk
United States District Court
Phoenix, Arizona

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA

10 CAMILO RAMOS GALLEGOS,)
11 Plaintiff,)
12 vs.)
13 HERBERT WALSH, CHIEF, TUCSON SECTOR,)
14 BORDER PATROL, IMMIGRATION AND)
15 NATURALIZATION SERVICE, IN HIS OFFICAL)
16 CAPACITY; RAYMOND FELD, DIRECTOR,)
17 PHOENIX OFFICE, BORDER PATROL, UNITED)
18 STATES IMMIGRATION AND NATURALIZATION)
19 SERVICE, INDIVIDUALLY AND IN HIS)
20 OFFICIAL CAPACITY; JOHN DOES I THROUGH)
21 X, AGENTS AND EMPLOYEES OF THE)
22 BORDER PATROL, UNITED STATES IMMIGRATION)
23 AND NATURALIZATION SERVICE, INDIVIDUALLY)
24 AND IN THEIR OFFICIAL CAPACITIES;)
25 WILLIAM LOUTHAM, CHIEF, CHANDLER CITY)
26 POLICE DEPARTMENT, INDIVIDUALLY AND IN)
27 HIS OFFICIAL CAPACITY; JOHN DOES XI)
28 THROUGH XX, AGENTS AND EMPLOYEES OF)
29 THE CHANDLER CITY POLICE DEPARTMENT,)
30 INDIVIDUALLY AND IN THEIR OFFICIAL)
31 CAPACITIES,)
32 Defendants.)

WPC

CIV 79 -288

NO.

COMPLAINT

(CIVIL RIGHTS AND DAMAGES)

1 Plaintiff alleges that:

2 I

3 JURISDICTION

4 This Court has jurisdiction pursuant to 28 U.S.C. §§1331, 1343,
5 and 1346, which provide for jurisdiction in suits arising under
6 the laws and Constitution of the United States, for damages
7 against the United States, and in suits authorized by 42 U.S.C.
8 §§1981, 1983, 1985, and 1986.

9 This Court also has jurisdiction to award Plaintiff his
10 attorney's fees pursuant to 42 U.S.C. §1988.

11 II

12 PARTIES

13 1. Plaintiff CAMILO RAMOS GALLEGOS is an undocumented Mexican
14 National residing and employed within the District of Arizona, and
15 as such, is a member of a judicially cognizable ethnic, racial,
16 and national minority within the United States;

17 2. Defendant HERBERT WALSH is the Chief of the Tucson Sector
18 of the Border Patrol of the United States Immigration and
19 Naturalization Service, Department of Justice, (hereinafter:
20 Border Patrol) and as such, is ultimately responsible for all
21 activities of the agents and employees of the Border Patrol within
22 the District of Arizona;

23 3. Defendant RAYMOND FELD is the Director of the Phoenix
24 Office of the Border Patrol, and as such, is responsible for the
25 day-to-day operation of the Border Patrol District which includes
26 Phoenix and surrounding areas;

27 4. Defendants JOHN DOES 1 through X are agents or employees
28 of the Border Patrol, and at all times hereinafter relevant were
29 acting within their official capacities as agents of the Border
30 Patrol. Their names are at present unknown, but will be added to
31 the complaint when the same becomes known through discovery, and
32 the complaint will be amended by appropriate motion.

1 5. Defendant WILLIAM LOUTHAM is the Chief of Police of the
2 City of Chandler, a municipality of the State of Arizona, and as
3 such, is ultimately responsible for all activities of agents and
4 employees of the Chandler Police Department, and in particular for
5 the operation of the Chandler City Jail;

6 6. Defendants JOHN DOES XI through XX are agents or employees
7 of the City of Chandler Police Department, and at all times herein-
8 after relevant, were acting within their official capacities.
9 Their names are at present unknown, but will be added to the
10 complaint when the same becomes known through discovery, and the
11 complaint will be amended by appropriate motion.

12 III

13 FIRST CAUSE OF ACTION

14 For his First Cause of Action, Plaintiff alleges that;

15 1. That on or about January 26, 1979, Plaintiff was
16 employed as a citrus harvester by Goldmar, Inc., a citrus grower
17 doing business within the District of Arizona;

18 2. On or about that date, the employees of Goldmar entered
19 into a collective bargaining agreement with their employers, which
20 provided for the recognition of a ranch committee as a bargaining
21 agent, and established wages, hours, and conditions of employment;

22 3. The signing of the contract was announced on January 30,
23 1979;

24 4. On January 31, 1979, Defendant HERBERT WALSH issued a
25 statement in which he denounced the contract, claiming that it was
26 a "slap in the face" to the Border Patrol;

27 5. On that same day, agents of the Border Patrol conducted
28 a massive raid on Goldmar property;

29 6. At that time, Plaintiff was peaceably engaged in the
30 performance of his duties under his contract of employment;

31 7. When the Border Patrol appeared, Plaintiff attempted to
32 run to the grove;

1 8. While in flight, he was forcefully struck from behind by
2 a billy club wielded by defendant JOHN DOE I, the blow struck him
3 in the back of the head and neck, and was of such force that he
4 immediately fell to the ground;

5 9. While Plaintiff was lying helpless on the ground, Defendant
6 JOHN DOE I beat the Plaintiff on the lower back with his billy
7 club, and kicked Plaintiff in the back several times with his boot;

8 10. At no time did the Plaintiff offer any resistance to his
9 arrest;

10 11. Plaintiff was then forcefully pulled to his feet, and was
11 placed in handcuffs by Defendant JOHN DOE I, who then roughly and
12 with unnecessary force, pulled him into a waiting Patrol Wagon;

13 12. Plaintiff was then taken to the Phoenix Office of the
14 Border Patrol, where he was interviewed, and his interview tape
15 recorded by JOHN DOE II;

16 13. Plaintiff was then sent to the Glendale City Jail where
17 he remained one night and then was taken to the Chandler City
18 Jail, where he was incarcerated for seven days;

19 14. The actions of JOHN DOE I in beating the Plaintiff was
20 negligent or was wanton, willful, and reckless and in violation
21 of Plaintiff's rights under the Constitution and laws of the United
22 States.

23 14

24 SECOND CAUSE OF ACTION

25 For his Second Cause of Action, Plaintiff alleges that:

26 1. The Chandler City Jail is operated as a detention facility
27 under a contract with the Immigration and Naturalization Service;

28 2. While in the Chandler City Jail, Plaintiff was flat on his
29 back for a period of four days due to the beating he had received
30 from Defendant JOHN DOE I;

31 3. Although Plaintiff had a lawyer who was supposed to represent him
32 in his Immigration proceeding, he was refused the right to contact

1 his lawyer, or to make a telephone call by JOHN DOE XI, an employee
2 of the Chandler Police Department;

3 4. Through another prisoner who spoke English, Plaintiff
4 requested medical assistance several times during the period he
5 was in Chandler, but all such requests were refused by JOHN DOES
6 XI through XX;

7 5. After spending seven days in Chandler, Plaintiff was
8 transferred to a federal facility in El Centro, California, where
9 he was again questioned concerning his beating by Defendant JOHN
10 DOE I;

11 6. The actions of Defendants JOHN DOES XI through XX were
12 negligent, or were willful, wanton, and reckless, and violated
13 Plaintiff's rights under the Constitution and laws of the United
14 States.

15 V

16 THIRD CAUSE OF ACTION

17 For his Third Cause of Action, Plaintiff alleges that:

18 1. The allegations of Paragraphs One through Twelve of the
19 First Cause of Action are incorporated by reference;

20 2. The raid on the Goldmar property was planned and executed
21 by Defendants HERBERT WALSH AND RAYMOND FELD, and interfered with
22 Plaintiff's right to make and enforce contracts under 42 U.S.C.
23 §1981, with the result that Plaintiff was deprived of his rights
24 under the collective bargaining agreement, he was deprived of his
25 right to wages and employment, and he lost wages and income as a
26 result.

27 VI

28 FOURTH CAUSE OF ACTION

29 For his Fourth Cause of Action, Plaintiff alleges that:

30 1. The allegations of Paragraphs One through Five of the
31 Second Cause of Action are incorporated by reference.

32 2. Defendant WILLIAM LOUTHAM is ultimately responsible for

1 the operation of the Chandler City Jail, and as such, knew or
2 should have known of the activities of JOHN DOES XI through XX.

3 3. By failing to prevent such activities, Defendant WILLIAM
4 LOUTHAM violated Plaintiff's rights under the Constitution and laws
5 of the United States, and is liable pursuant to 42 U.S.C. §1986.

6 VII

7 FIFTH CAUSE OF ACTION

8 For his Fifth Cause of Action, Plaintiff alleges that:

9 1. Plaintiff was subsequently released from the El Centro
10 facility on or about February 9, 1979, but was subsequently
11 arrested, and deportation proceedings instituted against him;

12 2. Plaintiff was re-incarcerated in Chandler City Jail, but
13 at some time after he was contacted by his present counsel, he
14 was transferred to the City Jail in Winslow, Arizona, some six
15 hours drive from Phoenix;

16 3. Plaintiff believes that he will be released from jail on
17 or about April 20, 1979, at which time he will be deported to
18 Mexico;

19 4. If Plaintiff is deported, he will be unable to reenter
20 the United States, and will be unable to effectively communicate
21 with his attorney;

22 5. Plaintiff believes that he will be so deported unless the
23 Immigration and Naturalization Service is restrained from so doing
24 by this Court;

25 6. Plaintiff is unable to communicate with his counsel at
26 present except through collect, long-distance telephone calls.

27 WHEREFORE, Plaintiff requests that this Court:

28 1. Assume jurisdiction of this matter;

29 2. Enter an order directing that the Plaintiff be transferred
30 to the Avondale Jail, a federally approved detention facility,
31 and that upon his release, that he be granted a temporary permit
32 to remain in the United States during the pendency of this action;

1 3. Upon trial, award Plaintiff such damages as this Court
2 deems appropriate;

3 4. Award Plaintiff his costs and reasonable attorney's fees.

4 5. Make any other order this Court deems appropriate.

5
6 Dated: _____ By: _____

VICTOR ARONOW
Suite 9
112 North 5th Avenue
Phoenix, AZ 85003
Attorney for Plaintiff

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1 MICHAEL D. HAWKINS
2 United States Attorney
3 District of Arizona

4 GEORGE B. NIELSEN, JR.
5 Assistant United States Attorney
6 4000 United States Courthouse
7 Phoenix, Arizona 85025
8 Telephone: (602) 261-3011

9 UNITED STATES DISTRICT COURT
10 DISTRICT OF ARIZONA

11 CAMILO RAMOS GALLEGOS,)	
)	
12 Plaintiff,)	NO. CIV-79-288-PHX-WPC
)	
13 v.)	
)	
14 HERBERT WALSH, CHIEF, TUCSON)	
15 SECTOR, BORDER PATROL, IMMIGRATION)	
16 AND NATURALIZATION SERVICE, IN HIS)	STIPULATION FOR COMPROMISE
17 OFFICIAL CAPACITY, et al.,)	SETTLEMENT
)	
Defendants.)	

18 IT IS HEREBY STIPULATED by and between the plaintiff
19 CAMILO RAMOS GALLEGOS on the one hand and the federal defendants
20 on the other, by and through their respective attorneys, as
21 follows:

- 22 1. That the parties do hereby agree to settle and
23 compromise the above-entitled action upon the terms indicated
24 below.
- 25 2. That the federal defendants will pay to the plaintiff
26 through his attorney Victor Aronow, Esq., the sum of Eight Hundred
27 Fifty Dollars (\$850.00), which sum shall be in full settlement
28 and satisfaction of any and all claims said plaintiff now has
29 or may hereafter acquire against the federal defendants or the
30 United States of America, on account of the incident or circumstances
31 giving rise to this suit.

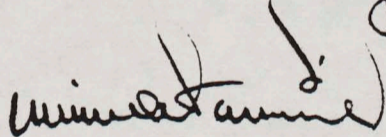
32

1 3. That the plaintiff hereby agrees to accept said
2 sum in full settlement and satisfaction of any and all claims
3 and demands which he or his heirs, executors, administrators, or
4 assigns may have against the federal defendants; the United States
5 of America, and/or its agents, agencies and employees on account
6 of the incident or circumstances giving rise to this suit, namely
7 that incident which occurred on or about January 31, 1979, in
8 Maricopa County, during the chase, capture, arrest, interrogation
9 and transportation of plaintiff by officers of the United States
10 Border Patrol.

11 4. That this agreement shall not constitute an admission
12 of liability or fault on the part of the federal defendants, the
13 United States of America, or on the part of its agents, agencies,
14 and employees including but not limited to Herbert Walsh, Raymond
15 Feld, Robert G. Toland, Donald L. Bergeron, James E. Harrington,
16 Marcus H. Higgins and Larry G. Bedoya.

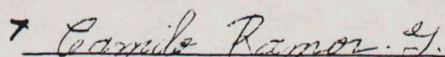
17 5. That in exchange for the payment of the sums stated
18 above and contemporaneous with the delivery of the checks therefor
19 plaintiff will file with the Clerk of the above Court, a dismissal
20 of the above action with prejudice and without costs as to all
21 federal defendants.

22 Executed this 3rd day of January, 1980.

23
24 

25 MICHAEL D. HAWKINS
26 United States Attorney
27 District of Arizona
28 Attorney for Federal Defendants

29 _____
30 VICTOR ARONOW, ESQ.
31 Attorney for Plaintiff

32 7 
 CAMILO RAMOS GALLEGOS, Plaintiff

DECLARATION OF RAFAEL GARCIA

I, Rafael Garcia, declare that the following statement is true to the best of my knowledge. That I am a Permanent Resident Alien, admitted to the United States on July 28, 1955, Laredo, Texas. That my Resident Alien Card Number is A-10-430-432. That I reside at 3574 Palm Avenue, San Diego, California 92154. I am the owner and operator of the SPORTSMEN'S DEN, located at 323 E. San Ysidro Blvd, San Ysidro, California.

On approximately January 29, 1981, at 12:A.M. in the morning, I was working behind the counter of my business. I had a full-house of patrons. As I was looking towards the door, as I usually do looking for minors, I saw two uniformed officers. One was a San Diego Police Officer, badge #1019, and the other was a Border Patrolman of Mexican American descent.

I immediately came from behind the counter and approached the Border-Patrolmen. I told the Officer that he was not supposed to be in my business because he was a federal officer. I tried to direct him outside to talk with him. But the Officer answered me in a harsh and rude manner. He was using profanity as he was yelling at me. He also reached for his nightstick and waived it at me in a menacing manner. shouting, "Don't touch me, Don't touch me, Don't touch me". "I can do anything I want because I am a Federal Officer". I then stepped to the side and they proceeded towards the bathrooms. They entered the bathrooms to check them, but didn't find anything they were looking for. Both men then started to ask for identifications of my patrons. Finding nothing, they walked outside and I followed behind. As we stepped outside, I could see about five or six other police cars. Two were City Police and the other three were Borderpatrol. As I stepped outside, an Officer standing there, asked me my name and if I was the owner of the place. I said yes, my name is Rafael Garcia. I asked him what they were doing here, your ruining my business. The Officer started to speak to me in a nice manner, very professional. He informed me that there were some "Polleros" in the bar. I then said, "I don't know if there are". This was the first time someone had given a reason for entering my business.

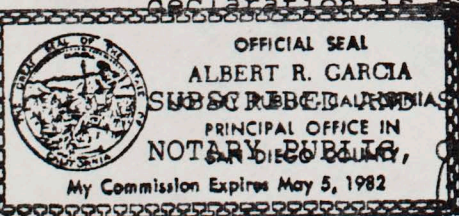
Then the Mexican-American Officer approached the other officer, who I discovered was the Supervisor in charge. I told the Mexican-American Officer in front of the Supervisor, that he should not come into my

place of busniess, because he was a federal officer. " You are ruining my business. your driving away all my customers, everytime you come into my place." The Mexican-American Officer then repeated his initial statement, "I can go inthere anytime I want to". He then accused me by saying, " you know what is going on in your place". I said, "what do you mean". The officer replied, " a bunch of polleros come to your place." I answered, "what do you want me to do, it is a public place. I do not have the authority to ask for identification to persons who are obviously adults of drinking age." Thereafter, the Supervisor, began to inform me of their right to enter any place to look for "illegal aliens". I then went back to the bar, since I didn't have anyone to care while I was outside.

Since January 29, 1981, every night, a Border Patrol officer, together with a San Diego Police Officer station themsleves outside my business. They check everyone coming in and going out. They enter my business around 11:P.M. and check for identification of every person. This has continued up to the present time. On February 7, 1981, at approximately 11:45P.M., a Supervisor of the Border Patrol entered my business establishment. I immediately said to him, "your not supposed to be here". He then said, "I can come in anytime I want". We argued for a while and then he said, "the next time you chase one of my officers from here, I am going to order your arrest". The supervisor then left the bar. I copied the license plate of the vehicle he was driving, J-15193, Van Wagon.

Since this is my main source of income, I am very much concerned and I want this harrassment stoped immediately. I do not expect or want special treatment. I want tb be treated equally and justly.

I, Rafael Garcia, declare under penalty of perjury, that the folling declaration is true to the best of my knowldege.



SUBSCRIBED AND SWORN TO BEFORE ME THIS 2 DAY OF 9, 1981.
NOTARY PUBLIC, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

NOTARY PUBLIC

Albert R. Garcia
Rafael Garcia
Rafael Garcia

318 E. San Ysidro Blvd.
San Ysidro Calif. 92073



Tel. (714) 428-9530

International Chamber of Commerce of San Ysidro
Camara de Comercio Internacional de San Ysidro

February 23, 1981

President Ronald Reagan
White House
Washington, D. C. 20510

Dear President Reagan:

The International Chamber of Commerce of San Ysidro, no less than American businesses generally, are growing weary of governmental interference that seriously hampers the free enterprise system, over the lack of respect for private property, of excessive and arbitrary regulation, of repressive-spawning policies that make it ever harder to operate or own a business.

The International Chamber of Commerce of San Ysidro as a promoter, guardian and defender of our system of free enterprise, of private property and the right of an individual to create capital soundly condemns the deliberate actions of the San Diego police, the U.S. Border patrol and the immigration authorities that violate these rights.

Over the years our Chamber has refrained from publicly speaking out against the implementation of police practices in the field by the San Diego police, the U.S. Border patrol and the immigration authorities that are seriously effecting our business community: Our position had been that not enough data were in. Where data were in we felt it was too little, too subjective to make a call. We were aware however, that policing powers, in the field, were being misapplied and were having a negative influence on our businesses daily lives. We were also aware that the agencies, in many instances, were construing the law in the field in whatever manner they felt would justify their immediate acts.

President Ronald Reagan
Page Two.

Disruption by them of legally operating businesses never appeared to warrant their concern. Neither did their disrespect for private property and the public's right to fair and courteous treatment. Their urge to enforce drowns their duty to serve and protect. We now feel that enough data was in, it is first hand and that it is reliable. We have had enough time to evaluate the information and the evidence clearly shows that the lives of many of our businesses are in jeopardy. Moreover, most of the information on the effects of the policing methods on our businesses profit decries the plight of our business community. We can no longer remain silent. Too much is at stake, we must now speak out and take whatever action is appropriate.

To the extent that governmental inspections excursions are made on private property without consent whose ultimate effect disrupts a legally operating business, denies a business its rightful profit, endangers, frightens or shows disrespect for the buying public or prevents people from performing legal work, our Chamber condemns such action.

That these policing powers are meant to serve as a solution to an international economic problem but are applied to a very narrow corridor in our country, we again condemn these actions. To the extent that these policing powers are not even handed, are not comprehensive but are only expanded to deny American citizens, living next to the Mexican border, their constitutional rights, we again condemn these actions.

To the extent that these policing methods only serve to ferret out possible undocumented workers by choosing people at random on private property without the owner's consent, serve only to possibly apprehend persons who are obviously committing no crime, are no threat to life or property, we again condemn these actions. Let us not fail to realize that legal rules should only be applied to reach just and sensible results.

Moreover, we fully realize that these methods of policing are popular to the police. They may even appear to the casual observer to be necessary. They may even appear to be correct and appropriate law enforcement tools today. But let us not forget that an erosion of our constitutional rights no matter how small, is forever.

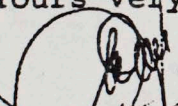
President Ronald Reagan
Page Three.

Our Chamber in no way desires to minimize the importance or the necessity of the police performing its function. The problem for our businessmen is not the police but rather the policing methods. We sincerely believe that it is possible for the police to perform its policing without abandoning governmental respect for private property and the system of free enterprise. We believe this because it is happening all over the world. The police are policing with little or no disruption to any business community. Moreover, even if these policing acts could withstand constitutional challenge, it would not be effective protection against intrusion or needless and unwarranted constraints on our system of free enterprise.

Our Chamber also has a duty and an awesome responsibility. We have a sworn duty to protect and defend all legal profit making businesses, not only in our community, but anywhere in America. Because if one is threatened, all are threatened. This is one responsibility we truly cherish and we will never compromise it. For to do this would mean to deny one of our country's most precious heritage, the concept of private enterprise and the creation of private capital.

Whether ours or the public's perception is accurate it is not the question. The reality of the declining confidence of our business community for the police, the U.S. Border Patrol and the Immigration Service must be addressed, even if it is not justified.

Yours Very Truly,



Alberto R. Garcia
President

ARG/il

c.c.

Edwin Meese, 111 Counsellor to the President
Attorney General U.S. Department of Justice.
Commissioner INS Washington, D. C.
Edward O'Connor, Regional Commissioner
Senator Alan Cranston, Washington, D. C.
Senator S.I. Hayakawa
Senator Paul Laxal, Washington, D. C.
Senator Dennis E. Carpenter, Republican CUCAUS
Congressman Edward R. Roybal
Congressman Robert Garcia
Congressman Duncan Hunter

c.c.

Gilbert G. Pompa, U.S. Department of Justice
Tirsio Del Junco, State Republican Chairman
National Republic Hispanic Assembly
U.S. Commission on Civil Rights, Washington, D. C.
All Chambers of Commerce State, Local and National
Mayor Pete Wilson, San Diego, CA
Councilwoman Lucy Killea, 8th District, San Diego, CA
William Kolender, Chief of Police, San Diego, CA
Lt. Governor Mike Curb
State Attorney General George Deukmejian
Assemblyman Art Torres, Sacramento, CA
Assemblyman Waddie P. Deddeh, Chula Vista, CA
Border Patrol, Chula Vista Sector
To All Mexican American Organizations
Dr. Ralph Ocampo, Mexican-American Businessman Forum

318 E. San Ysidro Blvd.
San Ysidro Calif. 92073



Tel. (714) 428-9530

International Chamber of Commerce of San Ysidro
Camara de Comercio Internacional de San Ysidro

April 11, 1981

President Ronald Reagan
White House
Washington, D. C. 20510

Dear President Reagan:

On February 23, 1981 we wrote to you concerning interference by the San Diego Police and the U.S. Border Patrol that is seriously hampering the free enterprise system. Specifically these policing agencies are preventing businesses from performing legal work, are frightening the buying public and are denying businesses their rightful profit. It is now April 11, 1981 and we have not received even an acknowledgement of our concerns. As we stated before, too much is at stake for our business community for us to remain silent. We must act and act quickly. If we again receive no acknowledgement, we must assume that you have no interest in defending your constituents and the system of free enterprise and must take whatever action is appropriate.

Yours Very Truly,

Alberto R. Garcia
President

ARG/il

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

RAIDS

TYLER DIVISION

MARCOS ESPINOSA; JUAN ANTONIO MENDOZA, Individually and as best friend of DALIA MENDOZA, a minor; ARTURO MENDOZA; FELIX VELIZ; MARIA DE LOS ANGELES VELIZ; IGNACIO MORALES; ESPERANZA MORALES, Individually and on behalf of all others similarly situated; and JACK R. GARTNER

PLAINTIFFS

V.

BENJAMIN CIVILETTI, ATTORNEY GENERAL OF THE UNITED STATES; IMMIGRATION AND NATURALIZATION SERVICE; DAVE CROSLAND, Acting Commissioner of the Immigration and Naturalization Service; DURWARD POWELL, Acting Regional Commissioner of the Immigration and Naturalization Service; PAUL B. O'NEILL, District Director, Immigration and Naturalization Service; CLAUDE BARTH, Former Assistant District Director, Immigration and Naturalization Service; V. P. HENDERSON, Assistant District Director, Immigration and Naturalization Service; LEONARD LATHAM, Individually and in his capacity as Chief of Police of the City of Lufkin; BURK "PETER" McBRIDE, Individually and in his capacity as Angelina County Sheriff; DEWEY WOLF, Individually and in his capacity as the Chief of Police of the City of Diboll; CITY OF LUFKIN; CITY OF DIBOLL; Unknown Agents of the Immigration and Naturalization Service; Unknown Agents of state and local law enforcement agencies;

DEFENDANTS

CIVIL ACTION NO. TY-79-438-CA

FIRST AMENDED COMPLAINT

I.

PRELIMINARY STATEMENT

This class action for declaratory and injunctive relief is brought to enjoin and restrain the defendants from violating various federal and constitutional rights of plaintiffs as a result of defendants' discriminatory and illegal raids against plaintiffs and the members of their class. Plaintiffs also seek damages for the violation of their constitutional and statutory rights occurring during raids conducted in November of 1979 in Angelina County, Texas.

Plaintiffs bring this action to secure the protection of and redress the deprivation of rights granted to them under the First, Third, Fourth, Fifth, Ninth and Fourteenth Amendments to the Constitution of the United States, and the provisions

of 8 U.S.C. §1357, 8 U.S.C. §1329, 5 U.S.C. §§553, 701 (Administrative Procedure Act) and 42 U.S.C. §1983. Additionally, plaintiffs bring this action to secure the protection of and redress the deprivations of rights granted to them under Article I, §§3, 9, and 19 of the Constitution of the State of Texas, and their common law right to privacy.

II.

JURISDICTION

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1331, 28 U.S.C. §1361, 8 U.S.C. §1329, 5 U.S.C. §701, 28 U.S.C. §1343 and 28 U.S.C. §§2201 and 2202.

2. The pendent jurisdiction of this Court is invoked to consider plaintiffs' claims arising out of Article I, §§3, 9, and 19 of the Constitution of the State of Texas and plaintiffs' common law right to privacy.

III.

PLAINTIFFS

3. Plaintiff MARCOS ESPINOSA, a resident of Lufkin, is a permanent lawful resident alien of the United States and is of Mexican descent.

4. Plaintiffs JUAN ANTONIO MENDOZA and ARTURO MENDOZA, residents of Lufkin, are permanent lawful resident aliens of the United States and are of Mexican descent.

5. Plaintiff DALIA MENDOZA, a minor child, is an American citizen of Mexican descent. Plaintiff DALIA MENDOZA is four years old and brings this action through her father and best friend, JUAN ANTONIO MENDOZA.

6. Plaintiff FELIX VELIZ, a resident of Diboll, is a United States citizen by birth and is of Mexican origin.

7. Plaintiff MARIA DE LOS ANGELES VELIZ, a resident of Diboll, is a permanent lawful resident alien of the United States and is of Mexican descent.

8. Plaintiff IGNACIO MORALES, a resident of Diboll, is a United States citizen by birth, and is of Mexican descent.

9. Plaintiff ESPERANZA MORALES, a resident of Diboll, is a permanent lawful resident alien of the United States and is of Mexican descent.

10. Plaintiff JACK R. GARTNER, is a United States citizen, resident of Lufkin, Texas.

IV.

DEFENDANTS

11. Defendant BENJAMIN CIVILETTI, is Attorney General of the United States and is in charge of the U. S. Department of Justice.
12. Defendant the Immigration and Naturalization Service is an agency of the Justice Department (hereinafter "INS").
13. Defendant DAVID CROSLAND is the acting Commissioner of INS.
14. Defendant DURWARD E. POWELL, JR., is the Acting Regional Commissioner of INS and is located in Dallas, Texas. He has jurisdiction over all INS activities challenged in this complaint.
15. Defendant PAUL B. O'NEILL is the District Director of INS in Houston, Texas.
16. Defendant CLAUDE BARTH was, at times material hereto, the Assistant District Director of INS in Houston in charge of investigations.
17. Defendant V. P. HENDERSON is the Assistant District Director of INS in Houston in charge of investigations.
18. Defendant LEONARD LATHAM is sued individually and in his official capacity as Chief of Police for the City of Lufkin, which is a Municipal Corporation or political subdivision of the State of Texas, County of Angelina. As Chief of Police he was at all times herein responsible for and exercising supervisory authority over the activities of the Lufkin Police Department (hereinafter "LPD") and the LPD police officers mentioned herein.
19. Defendant BURK "PETER" McBRIDE is sued individually and in his official capacity as County Sheriff for the County of Angelina in the State of Texas. As County Sheriff, he was at all times herein responsible for and exercising supervisory authority over the activities of Angelina County Sheriff's Department.
20. Defendant DEWEY WOLF is sued individually and in his official capacity as Chief of Police for the City of Diboll, Texas, which is a Municipal Corporation or political subdivision of the State of Texas, County of Angelina. As Chief of Police, he was at all times herein responsible for and exercising supervisory authority over the activities of the Diboll Police Department (hereinafter "DPD").
21. Defendant the CITY OF LUFKIN is a city located in the State of Texas.

IV.

DEFENDANTS

11. Defendant BENJAMIN CIVILETTI, is Attorney General of the United States and is in charge of the U. S. Department of Justice.

12. Defendant the Immigration and Naturalization Service is an agency of the Justice Department (hereinafter "INS").

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21. Defendant the CITY OF LUFKIN is a city located in the State of Texas.

22. Defendant the CITY OF DIBOLL is a city located in the State of Texas.

23. Defendants UNKNOWN AGENTS OF THE IMMIGRATION AND NATURALIZATION SERVICE, in their official capacity and individually, participated in the activities alleged herein.

24. Defendants UNKNOWN AGENTS OF LOCAL AND STATE LAW ENFORCEMENT AGENCIES, individually and in their official capacity, participated in the alleged activities herein.

V.

25. Plaintiffs, MARCOS ESPINOSA, JUAN ANTONIO MENDOZA, ARTURO MENDOZA, FELIX VELIZ, MARIA DE LOS ANGELES VELIZ, IGNACIO MORALES, and ESPERANZA MORALES, bring this action as a class action on their own behalf and on behalf of all others similarly situated, pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure. The classes which plaintiffs represent are as follows:

a. For the purposes of injunctive and declaratory relief against defendants CIVILETTI, IMMIGRATION AND NATURALIZATION SERVICE, CROSLAND, O'NEILL, V. P. HENDERSON, and Unknown Agents of Immigration and Naturalization Service, plaintiffs bring this action on behalf of all persons of latin ancestry within the Southern region of the Immigration and Naturalization Service, who have in the past, are now, or will in the future be subjected to these defendants' practices and policies as challenged herein; and

b. For the purposes of injunctive and declaratory relief against defendants LATHAM, McBRIDE, WOLF and Unknown Agents of the State and local law enforcement agencies, the CITY OF LUFKIN, and the CITY OF DIBOLL, plaintiffs bring this action on behalf of all persons of latin ancestry within Angelina County, Texas, who have in the past, are now, or will in the future be subjected to these defendants practices and policies as challenged herein.

c. There are common questions of law growing from common questions of fact affecting the rights of the members of these classes, who have in the past and continue to be subjected to the unlawful policies and practices complained of herein. These persons are so numerous that joinder of all members of the class is impracticable. The interests of the class are and will be adequately represented by the plaintiffs. Plaintiffs have no interest or raise no claim which is antagonistic to the members of the class herein. Defendants have acted or refused to act on grounds generally applicable to the class.

VI.

FIRST CAUSE OF ACTION

26. Paragraphs 1 through 25 are incorporated herewith by reference as if fully stated.

27. Plaintiff MARCOS ESPINOSA alleges that INS agents, on November 6, 1979, forced open a window in the rear of his apartment to attempt entry without warrant or consent in violation of 8 U.S.C. §1357 and the Fourth Amendment to the United States Constitution.

28. The actions described in paragraph 27 also violated Article I Section 9 of the Texas Constitution.

VII.

SECOND CAUSE OF ACTION

29. Paragraphs 1 through 25 are hereby incorporated by reference as if fully stated.

30. On or about November 6, 1979, INS agents entered the apartment home of plaintiff MARCOS ESPINOSA, located at 913 C, 2nd Street, Lufkin, Texas, without a warrant, consent or exigent circumstances justifying the entry; said conduct violated 8 U.S.C. §1357, the Fourth Amendment to the United States Constitution, Texas Constitution, Article I, Section 9 (unreasonable search and seizure).

31. On or about November 6, 1979, INS agents entered the home of plaintiffs JUAN ANTONIO MENDOZA, wherein Plaintiff DALIA MENDOZA lived, and ARTURO MENDOZA, located at 913 E. 2nd Street, Lufkin, Texas, without a warrant, consent or exigent circumstances to justify the entry; said conduct violated 8 U.S.C. §1357, the Fourth Amendment to the United States Constitution, Texas Constitution, Article I, Section 9.

32. On or about November 6, 1979, INS agents entered the property of plaintiffs IGNACIO MORALES and ESPERANZA MORALES, located at 405 Neil Pickett and 311 Locust Street, Diboll, Texas, without warrant, consent or exigent circumstances to justify the entry; said conduct violated 8 U.S.C. §1357, the Fourth Amendment to the United States Constitution, Texas Constitution, Article I, Section 9.

VIII.

THIRD CAUSE OF ACTION

33. Plaintiffs reallege paragraphs 1 through 25 as if fully set forth herein.

34. On or about November 8, 1979, unknown agents of the INS and unknown agents of the state and local law enforcement agencies, surrounded and entered on the

business premises of plaintiff GARTNER, without warrant, plaintiff's consent or exigent circumstances. Upon inquiry to unknown agents of State and local law enforcement agencies and defendant LATHAM, plaintiff GARTNER was threatened with arrest and/or incarceration for failure to cooperate and allow entry; said conduct violating 8 U.S.C. §1357, the First, Third, Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States as well as Article I, Section 9 of the Constitution of the State of Texas and plaintiff GARTNER'S common law right to privacy.

IX.

FOURTH CAUSE OF ACTION

35. Plaintiffs hereby incorporate by reference paragraphs 1 through 25 as if fully set forth herein.

36. Defendants Unknown Immigration and Naturalization Service Agents of the State and local law enforcement agencies approached the homes of plaintiffs MARCOS ESPINOSA, JUAN ANTONIO MENDOZA, wherein Plaintiff DALIA MENDOZA lived, ARTURO MENDOZA, and the property of IGNACIO MORALES and ESPERANZA MORALES, and entered into and on these various premises and property and therein searched and interrogated persons without a reasonable belief that aliens unlawfully within the United States, were located therein in violation of 8 U.S.C. §1357 and the First, Third, Fourth, Fifth, Ninth, and Fourteenth Amendments to the Constitution of the United States, Article 1 Sections 3, 9, and 19 of the Constitution of the State of Texas, and plaintiffs common law right to privacy.

X.

FIFTH CAUSE OF ACTION

37. Plaintiffs hereby incorporate by reference paragraphs 1 through 25 as if fully set forth herein.

38. Unknown Agents of the Immigration and Naturalization Service who entered the homes of plaintiffs as described in plaintiffs' First and Second Causes of Action conducted general searches in those various premises in violation of 8 U.S.C. §1357, the First, Third, Fourth, Fifth, Ninth and Fourteenth Amendments to the United States Constitution.

XI.

SIXTH CAUSE OF ACTION

39. Plaintiffs hereby incorporated by reference paragraphs 1 through 25 as if fully set forth herein.

40. On or about November 6, 1979, INS agents, without a warrant, detained and interrogated plaintiffs FELIX VELIZ and MARIA DE LOS ANGELES VELIZ, without a reasonable belief that said plaintiffs were aliens unlawfully present in the United States. Said detention took place in Diboll, Texas, and plaintiffs were detained for approximately 10 minutes. Plaintiff FELIX VELIZ is a United States citizen and plaintiff MARIA DE LOS ANGELES VELIZ is a permanent resident alien. Said conduct violated 8 U.S.C. §1357 and the Fourth Amendment to the United States Constitution.

41. On or about November 6, 1979, plaintiff MARCOS ESPINOSA was detained and interrogated without a warrant by INS agents working with Lufkin police without a reasonable belief that he is an alien unlawfully in the United States. Said conduct took place in his home. Said conduct violated 8 U.S.C. §1357, the First, Third, Fourth, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution.

42. On or about November 6, 1979, plaintiffs JUAN ANTONIO MENDOZA and ARTURO MENDOZA were detained and interrogated without warrant by INS agents working with Lufkin police officers without a reasonable belief that they were aliens unlawfully in the United States. Said conduct took place in their home. Said conduct violated 8 U.S.C. §1357 and the First, Third, Fourth, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution.

XII.

SEVENTH CAUSE OF ACTION

43. Plaintiffs herein incorporate by reference paragraphs 1 through 25 as if fully set forth herein.

44. All of the acts described in all but the THIRD CAUSE OF ACTION and done by INS agents and Lufkin and Diboll, Texas, police officers were directed at the plaintiffs because of their Latin ancestry. Said acts and conduct therefore also violated the rights to equal protection provided to plaintiffs by the Fifth and Fourteenth Amendments to the United States Constitution and Texas Constitution, Article I, Section 9.

45. Said conduct further violated the Civil Rights Act of 1871, 42 U.S.C. §1983, in that defendants LATHAM, McBRIDE, WOLF, and Unknown Agents of State and local law enforcement agencies acted under color of State law in subjecting persons of Latin ancestry to the deprivations described above of rights secured by the

ARTURO MENDOZA, FELIX VELIZ, MARIA DE LOS ANGELES VELIZ, IGNACIO MORALES, and ESPERANZA MORALES allege that defendants conspired to deprive them and the members of their class of equal protection of the laws and equal privileges and immunities in violation of 42 U.S.C. §§1985(3). Defendants failure to prevent or attempt to prevent the same, constitutes a violation of plaintiffs' rights under 42 U.S.C. §1986.

XVI.

ELEVENTH CAUSE OF ACTION

52. Plaintiffs hereby incorporate by reference paragraphs 1 through 25 as if fully set forth herein.

53. Defendants local police and cities are prohibited from enforcing the non-criminal provisions of the Immigration and Nationality Act under the Supremacy Clause of the United States Constitution. Defendants' actions of enforcing said Act is therefore preempted by the Federal Government and was unlawful in all respects.

54. As a result of the acts of the defendants herein, known and unknown, plaintiffs and each of them, have suffered and will continue to suffer pain, mental anguish, humiliation, embarrassment, and frustration from being subjected to the unlawful and discriminatory conduct and acts of the defendants. Further plaintiffs are suffering and will continue to suffer from a fear that defendants will subject them or cause them to be subjected to the same or similar conduct in the future.

The acts of the defendants herein, known and unknown, have disrupted plaintiffs' personal, professional and family lives; threatened and intimidated their children, including plaintiff DALIA MENDOZA; invaded the integrity and privacy of their homes and property; and disturbed their peace of mind for which defendants and each of them, known and unknown, are liable to plaintiffs for their damages.

PRAYER

WHEREFORE, plaintiffs pray that:

1. This Court assume jurisdiction of this cause;
2. This Court certify this action as a class action pursuant to Rule 23(a), (b)(2), Federal Rules of Civil Procedure;
3. This Court issue a declaratory judgment declaring defendants' challenged practices to be unlawful;
4. This Court issue injunctive relief restraining defendants from continuing in the policies and practices challenged herein; such remedy is required in order to avoid plaintiffs' ongoing suffering of irreparable injury;

First, Third, Fourth, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution, the Immigration and Nationality Act, 8 U.S.C. §§1101 et seq., and the Administrative Procedure Act (as is more fully set forth in plaintiffs' EIGHTH and NINTH CAUSES OF ACTION).

XIII.

EIGHTH CAUSE OF ACTION

46. Plaintiffs hereby incorporate by reference paragraphs 1 through 25 as if fully set forth herein.

47. Plaintiffs, and each of them, have been substantially affected by a change in defendant INS' policy allowing INS agents to begin enforcement activities in residential and recreational areas without providing notice and an opportunity for comment as required by the Administrative Procedure Act, 5 U.S.C. §553.

XIV.

NINTH CAUSE OF ACTION

48. Plaintiffs hereby incorporate by reference paragraphs 1 through 25 as if fully set forth herein.

49. Plaintiffs, and each of them, have been substantially affected by a change in INS policy allowing local police officers to engage in enforcement of the non-criminal sections of the Immigration and Nationality Act without providing notice and an opportunity for comment as required by the Administrative Procedure Act, 5 U.S.C. §553.

XV.

TENTH CAUSE OF ACTION

50. Plaintiffs hereby incorporate by reference paragraphs 1 through 25 as if fully set forth herein.

51. All of the acts described above and attributed to the officers and agents of defendants were done with the knowledge and/or acquiescence of defendants and defendants are therefore liable for said acts. Defendants knew or should have known that said acts were unlawful. Further, plaintiffs allege that the conduct complained of herein by all defendants, known and unknown, was done with willful, intentional and reckless disregard for the established rights of plaintiffs, for which defendants, and each of them, are liable to the plaintiffs for the resulting damage. Further, Plaintiffs MARCOS ESPINOSA, JUAN ANTONIO MENDOZA, DALIA MENDOZA,

5. Award damages, both general, special and punitive to all plaintiffs according to proof at trial;
6. Award attorneys' fees to plaintiffs and their costs of suit;
7. Award such other relief as may be just and proper.

Respectfully submitted,

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By _____

By *Robert C. Ericson*

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ST. ANTHONY, IDAHO 83445

June 4, 1979

Dear Fr. Francis X. Riley,

Thank you for your letter of May 29th and for the information that you sent along with it. Before I loose the letter in the file I wish to make an immediate response. The following may be a bit hectic.

- 1) I do feel and I continue to think over the raid of Feb. 16th. Not one event that has taken place since them will make me change my mind about the the immorality of the raid. The center of my concern has been that we as a people continue to violate basic human rights, rights granted by God, according to our founding fathers. Immoral law does not make enforcement moral.
- 2) I see no difference between the border patrol and the Gestapo. Each was charged with carrying out immoral law. Both are traficing against human rights. Both were legal bodies. As I told Mr. Scharr of the patrol, I am sure that Gestapo agents had humanity and that they too could be kind to their victems.
- 3) The people who disagreed with my thoughts on the border patrol have stressed the LAW. There is a certain feeling that God handed down to "The United States" a code of divine law that all must obey. Little thought has been demonstrated as to the orgin of the present bag of garbage that we call immigration law. It seems that no one is upset that the law is out of agreement with the intent of our faunding fathers, "We hold these truthes to be self evident....."
- 3) I am discusted with the lies told in the international dialogues between Carter and President Portillo. How that idiot from Georgia can live with himself is beyond me. How Carter can call the deportation of families "fair and decent treatment" and expect people to believe him, This is beyond me. His term in office is an insult to the human rights movement in the world.
- 4) The only part of my letter to the NCR that I might have phrased differently was one line that might lead one to conclude that all families were sent first to jail and then taken away. The families were not sent first to jail, only the men were sent to jail. I was asked to write a disclaimer. I did not and I will not. Mr. Scharr said that he had checked with the weather service and that St. Anthony didn't have snow on the day of the raid. Yet when he was visiting me I was still getting red of snow banks. St. Anthony did have the snow. Some one placed great importance upon a first person account. My sources were those who were helping people get away from the raid.
- 5) A few questions remain concerning the raid. Local border patrol called it a routine raid and left the impression that this was the normal seasonal raid. Mr. Scharr says that the raids--he doesn't like that term--are only conducted after the patrol recieves a few complaints. More events have transpired here to throw into question who did the complaining. It is possible that part of our organised crime placed at least one of the complaints. I've more investigtting to do.

6) Mr. Scharr would be quite incorrect to report that I now do not feel that the families taken in the raid were mistreated or abused. Leaving aside the emotional impact upon the people snatched from their homes, we have only to look at the economic impact to see part of the abuse. The cost of just returning these people to their homes was several thousand dollars. They experienced a real loss of income. Even at this late date not all of the families have been able to return to their homes yet. The only event in the life of most of the people taken from St. Anthony that happened in Mexico was their birth. Most had only spend a few months in Mexico and that was because it was cheaper to give birth in Mexico than in the United States. Some had even been born here.

7) Mr. Scharr wanted to make the patrol look good. It was not my intension to make the patrol look good. My intension was to point out the atrocities being perpetrated against humanity and showing that what happened in Germany is happening here.

8) I am a political conservative. I am a law and order person. But deeper and more importantly I am a Christian. At one time I even thought of voting for Carter. Then he came to Boise and lied about even thinking of Sen. Frank Church as Secretary of State. Since that time I have learned much much of the ties between the White House and our modern day robber barrons. Concerning the Feb. 16th raid in St. Anthony, I wrote to him. I have yet to get a response. I have been asked if I think that Carter is concerned with Human Rights. I laugh and say "no". Until human rights makes money for the Trilateral Commission, the worst of organised crime, Carter will continue to mouth about rights while seeing that the real issues of human rights are not advanced in this nation.

My final thoughts concern the inevitability of the actions that will be taken within the nation as citizens take upon themselves the right of enforcing laws. I see a time coming when border patrol agents will be open game for rural justice---a body found months after death in an isolated spot. When that day comes, men of reason will sit down to assess the why's. I assume the British did the same over our Declaration of Independence. The stupidity of it is that bloodshed and suffering could all be avoided. But we don't learn to be creative and try something new like solving problems before they get out of hand.

I notice that you also seem to think that Carter isn't pushing for redoing the immigration laws. From what I see there is no real pressure on him to move in that direction. He has said the public things and may feel that grand statements take the place of action. If you really want action, get David Rockefeller involved. I think that he has a great impact upon current White House thought.

Again, thanks for the letter.

Fr. Tom
Fr. Tom Loucks

STATE OF TEXAS
COUNTY OF ANGELINA

§

§

AFFIDAVIT OF JUAN ANTONIO MENDOZA

I, JUAN ANTONIO MENDOZA, freely declare that the following information is correct to the best of my knowledge:

1. "I reside at 913 East 2nd St., Lufkin, Texas and am 24 years of age, having been born May 15, 1955.
2. "I reside with my wife and four year old daughter, who is a U. S. citizen.
3. "I am employed at Texas Foundries in Lufkin, where I work as a laborer on the night shift.
4. "On November 6, 1979, at approximately 7:30 a.m., a man followed me up the stairs at my apartment building. As we reached the top of the stairs, the man showed me a badge and identified himself as an immigration officer. He asked me where I lived and I pointed to my door.
5. "Before I entered my apartment, the officer asked me for my immigration papers. I showed him my alien registration receipt card (form I-151) showing me to be a permanent resident.
6. "The officer then instructed me to knock on my door, which I did. My brother opened the door and the officer asked him for his papers. My brother also showed the officer his alien registration receipt card.
7. "At approximately 2:00 p.m. the same day, my wife awakened me and told me that immigration officers were back in the building going from door to door.
8. "Approximately ten (10) minutes from the time I was awakened, I heard a loud knock at my door. Someone called from outside, in Spanish, to open up because they were immigration officers.
9. "I opened the door, and two men walked into the apartment. I, at no time, asked them to come inside.
10. "The men asked me if I was an American citizen. I replied that I was not a citizen, but that I am a permanent resident. They asked me for my documents and I showed them my alien registration receipt card. They also checked my brother's alien registration receipt card.

11. "One of the men asked who was in the bedroom. I responded that my wife was in there. The man immediately opened the door and entered the bedroom. He did not inquire whether she was dressed or in bed prior to entering.

12. "My wife, who was four (4) months pregnant at the time, and my daughter were in bed. They were very frightened by the man's entrance into the bedroom. The man then walked out of the room and both men left the apartment.

13. "While the immigration officers were in the building, I saw three Lufkin police officers in the street pointing to the apartments where Mexican-Americans live. One of the police officers had previously been to my apartment to tell me to lower the radio. There were two Lufkin Police Department cars, one immigration car and an immigration van parked outside the building.

14. "I saw the police officers stop two cars with Mexican-Americans. The immigration officers questioned them before the cars were allowed to leave.

15. "The following day, I asked my daughter to check the mail in our mail box downstairs. She walked outside the door and stood at the top of the stairs but did not go down. I asked her if there was any mail, and she told me that there was not any. My brother then went outside and accompanied her downstairs to the mail box.

16. "My daughter was afraid to go downstairs for several days. To this date, she is still afraid that her mother will be taken away.

17. "At no time during either entrance by the immigration officers into my apartment, did they show me a warrant or any other document giving the authority to enter my home to search for any individual."

JUAN ANTONIO MENDOZA
Affiant

SWORN TO AND SUBSCRIBED before me the undersigned authority on the _____ day
of _____, 1979.

Notary Public in and for
Angelina County, State of Texas

STATE OF TEXAS
COUNTY OF ANGELINA

§
§

AFFIDAVIT OF IGNACIO MORALES

Being first duly sworn, I, IGNACIO MORALES, hereby depose and state:

1. "I am a U. S. citizen by birth and am of Mexican descent. I own and reside at the house located at 405 Neil Pickett, Diboll, Texas. I have resided at these premises for the past eight years. I also am the owner of the residential premises located at 311 Locust, Diboll, Texas.
2. "My wife, Esperanza Morales and our four U. S. citizen minor children (ages 9, 7, 5, and 1½ years) reside with me at 405 Neil Pickett. My wife is a lawful permanent resident of the United States. My wife is of Mexican descent also.
3. "A large percentage of the inhabitants in my neighborhood where I reside are of Mexican descent.
4. "On November 6, 1979, Immigration and Naturalization Service officers in civilian clothes and carrying a gun strapped to their waist entered the residential premises located at 405 Neil Pickett without my consent and without a warrant and arrested a man that was renting a small house located in my backyard of 405 Neil Pickett. The entire yard of these premises is fenced off. The INS officers did not identify themselves to me.
5. "On November 9, 1979, INS officers in civilian clothes and carrying a gun strapped to their waist entered the residential premises that I own at 311 Locust, Diboll, Texas, without any consent and without a warrant and arrested a man that was residing in the home located at 311 Locust. The entire yard at 311 Locust is fenced off and the gate is always kept locked and was locked on November 9, 1979, at the time of the arrival of the INS officers. The INS officers forceably opened the gate to the fence at 311 Locust and entered the residential premises without my consent and without a warrant.
6. "Due to the above mentioned incidents, my four minor children were frightened and remain very fearful that the INS officers will take them away. My children have suffered emotional harm as a result.
7. "Due to the above mentioned incidents, my wife Esperanza Morales was frightened and remains very fearful of the INS and has suffered emotional harm as a result."

IGNACIO MORALES
Affiant

SUBSCRIBED AND SWORN TO before me the undersigned authority on the _____ day of _____, 1979.

Notary Public in and for
Angelina County, State of Texas

STATE OF TEXAS
COUNTY OF ANGELINA

¶
¶

AFFIDAVIT OF MARCOS ESPINOSA

I, MARCOS ESPINOSA, freely declare the following to be true and correct to the best of my knowledge:

"My name is MARCOS ESPINOSA, age 24, and I live at 913 C, 2nd St., in Diboll, County of Angelina, Texas. I am married to Hermina Espinosa, and have 2 children, Sonia who is 3 years of age, and Rosario who is 1 year of age and who reside in South Texas.

I was born in Rio Brega, Tamaulipas, Mexico on April 25, 1955. My wife is a U. S. citizen, born in Mercedes, Texas. I was married in McAllen, Texas. One child was born in Weslaco, Texas and one in Florida. Sonia was born in October of 1976; Rosario was born in May of 1978.

I have resided in Lufkin for 2 months and will commence work with Lufkin Industries.

On or about Tuesday, November 6, 1979, at about 12:30 p.m., 2 INS officers came to the back of the apartment and forced open a window. I was in the living room and heard the window pushed forcefully and saw the 2 INS officers in plain clothes trying to get in. (I had been outside and had been confronted by about 15 INS officers and asked for documents). I showed them my visa. When they saw me, they asked me to come over there. I opened the door in the back and they came in. They never asked me for permission to come in. They came in, looked around and opened a closet door. The closet door came undone and the door was left off of the hinges. The INS officers did not ask for permission to proceed upstairs and proceeded to go upstairs. They proceeded to go through the bedroom where the husband and wife and children were. The husband was in the shower and came out in a towel. The wife was in the bedroom and the children were in bed. An INS officer looked through closets and looked under the bed. Also, they proceeded to go to the other 2 rooms and go through all the closets. They came down and asked the husband for papers. He showed them his visa. The wife is undocumented and the INS officers advised him to get his wife documented. The INS officers then left.

I have read and had read to me the previous statement. It is true and correct to the best of my knowledge."

Signed this _____ day of November, 1979.

MARCOS ESPINOSA, Affiant
213 C, 2nd St.
Lufkinm Texas
Ph: 713/639-3602 (neighbor)

SUBSCRIBED AND SWORN TO before me, the undersigned authority, on the _____ day of _____; 1979.

Notary Public in and for
Angelina County, State of Texas

G. ILLEGAL ENFORCEMENT OF IMMIGRATION LAWS BY
LAW-ENFORCEMENT AGENCIES.

- Affidavits and/or Declarations
- Formal Complaints
- Official Documents
- Transcripts
- Fact Sheets
- News Articles

1 FACTS

2 Raid on Saliba's Park and Shop Market

3 September 13, 1977.

4 25. On September 13, 1977, at about 7:00 P.M.,
5 approximately 15 Peoria police officers surrounded Saliba's
6 Park and Shop Market located at the corner of 83rd Avenue
7 and Washington Street in Peoria, Arizona. The officers
8 blocked both the front and rear exits. They interrogated
9 only persons of Mexican descent leaving the store as to their
10 immigration status and demanded that they produce identification
11 and documentary proof of the legality of their presence in
12 the United States. None of the officers spoke Spanish.

13 26. The police officers were acting under the
14 direction and under the control of the Chief of Police,
15 Newlin Happersett, and the Deputy Chief of Police, Donald
16 Cukor. Both men were at the scene of this incident and super-
17 vised the police officers. Deputy Chief of Police Donald Cukor,
18 told the owner of the store, Richard Saliba, that they had
19 come to arrest "illegal aliens" who were shopping in the store.

20 27. Police officers then entered into the store
21 and stopped, detained and interrogated persons of Mexican
22 descent who had been shopping in the store as to their
23 immigration status.

24 28. As a result of the detentions and interrogations
25 inside the store, the officers arrested four people and took
26 them into custody. On information and belief, no charges were
27 filed against them and they were held until Border Patrol agents
28 arrived to take custody and control over them. No arrest
29 warrants were obtained in connection with the arrest and
30 interrogations which took place that evening.

31 29. As a result of these activities, persons of
32 Mexican descent and appearance suffered loss of certain constitu-

1 tional rights, including the right to be free from unreasonable
2 searches and seizures and the right to due process and equal
3 protection, as well as, shame, humiliation and mental suffering.

4 Arrests in Front of Saliba's Park and Shop
5 Market, February 18, 1978.

6 30. On Saturday, February 18, 1978, at approximately
7 4:00 P.M., Reinaldo Arbiso, Pedro Ramirez, Camino Casiano,
8 Alberto Jimenez, Raul Aguilar, Hopolito Casiano and Abelardo
9 Martinez, seven persons of Mexican descent, purchased groceries
10 at Saliba's Park and Shop Market located at the corner of 83rd
11 Avenue and Washington Street in Peoria, Arizona.

12 31. They began to load their groceries into a truck
13 in which they had come when a patrolman passing by in a
14 Peoria police car stopped at the intersection adjacent to
15 Saliba's Market. The Officer then proceeded to park in
16 a parking stall next to the truck in which the above persons
17 were placing their groceries.

18 32. The patrolman stepped out of the patrol car
19 and began to question the driver of the truck, Ruben Villegas,
20 as to what was going on. Mr. Villegas replied, "nothing."
21 The officer then turned to the other persons and excitedly
22 exclaimed, "wetbacks." The officer restrained the men
23 by extending his arms, although they made no attempt to leave
24 and offered no resistance.

25 33. The store owner, Richard Saliba, questioned
26 the officer's authority to detain the men. The officer
27 responded that he had such authority, since they were "illegal,"
28 and that he was going to haul them in for "immigration."

29 34. Within three or four minutes, two more Peoria
30 police cars arrived carrying four more officers. They immediately
31 jumped out of their vehicles.

32 35. At that point, without asking any questions, and

1 without announcing their purpose or authority to arrest them,
2 the police officers began to handcuff all of the above named
3 detainees.

4 36. They were then marched to the Peoria Police
5 Station. The driver was allowed to leave after producing
6 positive identification and proof of citizenship.

7 37. At the Peoria Police Station, the arrested
8 persons were asked their names and ages, and were instructed
9 to remove everything from their pockets. At no time were
10 they advised of any charges against them, instructed as
11 to their Miranda rights, or informed that they had the privilege
12 of making a telephone call to an attorney.

13 38. Reinaldo Arbiso, Pedro Ramirez, Camino Casiano,
14 Alberto Jimenez, Raul Aguilar, Hopolito Casiano, and
15 Abelardo Martinez, were detained at the Peoria Police Station
16 for about an hour.

17 39. They were then told to sign a paper, which
18 they did not understand because it was written in English.
19 Nevertheless, they signed as instructed.

20 40. They were then transferred to the jail at the
21 police station in Glendale, Arizona, where they were asked
22 no questions. They remained locked up there, until the
23 Border Patrol arrived on Monday, February 20, 1978, at about
24 11:00 A.M. and took them to Phoenix for processing.

25 41. During their entire period of custody by the
26 Peoria and Glendale police, Reinaldo Arbiso, Pedro Ramirez,
27 and the other arrested persons were never informed of the
28 charges against them, nor were they told what was to become
29 of them. This uncertainty caused much emotional and physical
30 suffering including fear and anxiety.

31 42. They were not advised of any procedural rights
32 which they may have under Arizona Rules of Criminal Procedure

1 in particular, the right to an initial appearance or the right
2 to counsel. Further the arrested persons were not instructed
3 as to what rights they might avail themselves to under the
4 Immigration and Nationality Act, including the right to have
5 a hearing to determine bond.

6 "Night Maneuvers" on Bodine's Ranch

7 43. One night in late February, 1978, members of
8 the Peoria Police Department conducted a concerted maneuver
9 against Mexican workers who live in the fields of Bodine's
10 Ranch located at 83rd Avenue and Bell Road in Maricopa County,
11 Arizona. On information and belief, the purpose of this raid
12 was to present a "show of force" to the Mexican residents of
13 Bodine's Ranch and was motivated out of racial animus toward
14 those persons. Upon information and belief, this maneuver
15 was initiated with the knowledge, approval, and direction
16 of Defendant Newlin Happersett acting in his official capacity
17 as Chief of Police. Defendant Happersett actively participated
18 throughout the raid.

19 44. This maneuver involved a number of Peoria
20 police officers and several police vehicles. On information
21 and belief, the participants were utilizing "special weapons
22 and tactics" (S.W.A.T.) gear and method of operation, including
23 the deployment of M-16 automatic weapons.

24 45. On information and belief, the officers
25 operated manually the sirens on their several vehicles to
26 produce a sound which was extremely frightening and uncomfortable
27 to human ears.

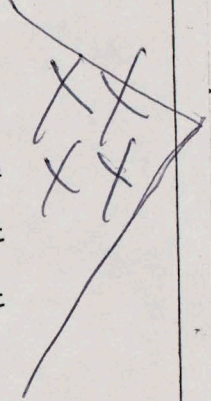
28 46. Although they made no arrests, the Peoria police
29 cars blazed through the fields with their sirens blaring, their
30 emergency red lights flashing and their search lights rotating.
31 The sight frightened Bernabe Garay and the other residents
32 of the fields who fled for cover of trees and irrigation canals

1 to escape. Many workers suffered minor injuries attempting
2 to climb trees in the darkness in an effort to escape.

3 48. At no time were the residents of the fields
4 informed as to the reason for the activity. On information
5 and belief, this maneuver was conducted solely to harass
6 and intimidate persons of Mexican descent.

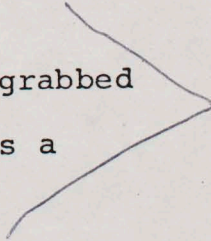
7 49. As a result of this maneuver, Plaintiff Bernabe
8 Garay suffered anxiety, fear and humiliation. *w/o knowledge*

9 Arrests in Front of Bodine's Market, April 15, 1978

10 50. On Saturday afternoon, April 15, 1978,
11 Guadalupe Junior Sanchez, Urban Guerrero, Socorro Guerra,
12 Pablo Trejo, and Florencio Castro, five persons of Mexican
13 descent, purchased groceries at Bodine's Market located at
14 83rd Avenue and Bell Road and remained outside for a short
15 while afterward. 

16 51. Shortly thereafter, several Peoria police
17 patrol cars arrived. The patrolmen stepped out and immediately
18 began to detain and interrogate persons of Mexican descent
19 who were in the vicinity of the Market. Although the detainees
20 offered no resistance to the police officers, they were
21 manhandled by them. One officer drew and pointed his pistol
22 as he approached one of the Mexican persons, Socorro Guerra,
23 who is old and partially blind.

24 52. At no time did the officers address the persons
25 of Mexican descent in Spanish, nor did they state the reason
26 for the arrest or their identity or authority to make arrests.
27 Several bystanders asked the police officers the grounds for
28 arrest, but the officers never told the bystanders or the arrested
29 men what the charges were.

30 53. Plaintiff Guadalupe Junior Sanchez was grabbed
31 by the arm and dragged to a patrol car, although he was a
32 United States citizen and only 13 years old. 

1 54. The officer asked him if he had any immigration
2 papers. Plaintiff Sanchez then told him in English, that
3 he did have papers and that he was a United States citizen. The
4 officer released him.

5 55. The same officer asked Urben Guerrero if he
6 had any papers. Although the officer spoke in English which
7 Guerrero did not understand, he managed to produce evidence
8 of a special permit which allowed him to remain in this
9 country legally. Urben Guerrero was held in custody until
10 the officer apparently ascertained the truth of his statement
11 over the police radio.

12 56. The three other above mentioned persons were
13 arrested and taken to the Peoria police jail. They were not
14 asked to produce any identification nor advised of their
15 constitutional rights.

16 57. Later that evening, the above persons were
17 transferred to Glendale jail, where they remained until the
18 Border Patrol took custody of them at about 10:30 A.M.,
19 Monday, April 17, 1978. During their three days of custody
20 in local jails, they were never informed of any charges against
21 them.

22 Arrest of Raul Gonzales, Aurelio Gonzales,
23 Gustavo Gonzales, and Jose Quintanilla, June 26, 1978.

24 58. On Monday, June 26, 1978, at approximately
25 4:45 P.M., Raul Gonzales and Jose Quintanilla, who are both
26 lawful permanent residents of the United States, and Aurelio
27 Gonzales and Gustavo Gonzales went to the Peoria Post Office
28 near the City complex in Peoria, Arizona. All four men are
29 of Mexican descent and their appearance reflected the fact
30 that they had just returned from working the agricultural fields
31 which are located near the City of Peoria, Arizona.

32 59. The four above named persons left the Peoria

1 Post Office and entered their car which was parked in front of
2 the Post Office. The above named persons pulled out and made
3 a left hand turn at the corner. An officer followed and
4 signaled them with his siren to stop after the turn.

5 60. After stopping, Jose Quintanilla exited his
6 vehicle as the officer approached. The other persons
7 stayed in the car. The officer then asked him if he had
8 Immigration papers or alien registration receipt card, "a
9 green card." Jose Quintanilla then showed the officer his
10 green card.

11 61. The officer then asked Raul Gonzales who was
12 seated in the right front passenger seat, if he had his
13 green card. The officer spoke only in English. Raul
14 Gonzales then showed his green card to the officer. The officer
15 then sought to ascertain the immigration status of Aurelio
16 Gonzales and Gustavo Gonzales.

17 62. Another patrol car arrived manned by a single
18 officer. The officers then removed Aurelio Gonzales and Gustavo
19 Gonzales and took one in each car. Jose Quintanilla was asked
20 to produce an auto registration certificate which he did. Joe
21 Quintanilla and Raul Gonzales were then allowed to leave.

22 63. At no time were the persons in the car advised
23 of the purpose of the stop, the identity of the officer nor his
24 authority to make such an arrest. On information and belief,
25 the sole purpose of the stop was to ascertain the immigration
26 status of the persons within the vehicle.

27 Violations Of Constitutional Rights Committed
28 By Defendants' Pattern and Practice Of
29 Enforcing Federal Immigration Laws.

30 64. It is the adopted pattern and practice of the
31 Peoria Police Department to stop, detain and interrogate persons
32 of Mexican descent while they are either walking or driving through

LEGAL SERVICES FOR FARMWORKERS

12221 GRAND AVENUE

P.O. BOX 999

EL MIRAGE, ARIZONA 85335

TELEPHONE: (602) 974-5854

1 the Peoria police jurisdiction as to their right to remain
2 in this country. Those persons who are unable to satisfy
3 the patrolmen as to their right to remain in this country
4 are arrested. *deny*

5 65. The Peoria police force is not acting under the
6 direction or in cooperation with any federal agency with
7 responsibility for enforcing immigration law. The police *deny*
8 officers were not authorized by or acting in conjunction with the
9 Immigration and Naturalization Service or the Border Patrol.
10 On information and belief, no officers of the Border Patrol or
11 Immigration and Naturalization Service were present at the *admit*
12 scene of any complained arrests and detentions. On information
13 and belief, Border Patrol or Immigration agents have been
14 contacted or requested to assume custody of the detainees *deny*
15 only after the illegal arrests were complete, sometimes days
16 after.

17 66. The practice of detaining and interrogating
18 persons of Mexican descent as to their immigration status *deny*
19 is a policy and custom of the City of Peoria and is conducted
20 at the direction of its agents, City Manager Mel Clow, Mayor
21 Bob Hensley, the Peoria City Council, Chief of Police Melvin
22 Happersett and Deputy Chief of Police Donald Cukor.

23 67. On several occasions, Peoria police officers
24 have invaded without legal warrant, probable cause, or *admit*
25 reasonable suspicion, the homes of persons of Mexican descent
26 in Peoria in search of "illegal aliens." These searches are
27 conducted solely because persons of Mexican descent and *deny*
28 appearance frequent these homes. These and other such abuses
29 of persons of Mexican descent evidence Defendants' policy
30 and practice and reflect racial animus.

31 68. On information and belief, no Defendant at any
32 time had probable cause or reasonable suspicion to believe that *deny*

Statement of ANGEL HERNANDEZ concerning
the work-related accident which cause
the fracture of his spinal cord and left
him an invalid (paralysis of legs and hands)

DEC 11 1979

I worked in a company that managed various ranches. I worked at three of these ranches. Two days I went to one, and two days to the other. I worked loading and unloading bales (stacks of alfalfa or wheat). The employer was one man (his name is on the check they are holding for me in the nurse's quarters at BCMC). I had been working 8 days in that company when I had my accident. This happened in a rural area between Clovis and Portales (New Mexico). During the time I worked with the company, I worked with two trucks. They were old trucks, more or less 1948 models, of about 6 tons. One of them had an extension added to the back of the cargo area, held tightened by screws, and was about 4 meters long, in order to hold more cargo. The bed and the extension did not have a safety rail. All this rested on the four wheels of the truck. There were no other wheels nor beams of support. I had loaded and unloaded this truck about six times before the accident with six bales of alfalfa. At the time of the accident, we were loading bales of wheat. The other times I was careful that there always remained more or less 1 meter of empty space at the back in order that the bales would not be crushed. At the time of the accident, another worker loaded the space in the back. It was the first time that this worker did this work here. It was his first day of work in the company. I don't remember his name. The bosses must know it. He loaded the truck evenly to the back all the way to the edge. I was loading the front part. When I realized that the other worker had loaded the truck up to the edge, I told him to take out the bales in the back. He took out some 4 bales, but he still left various bales towards the edge kind of like a ladder. He got down from the truck and the truck lifted up from the front part from the weight of the load in the back, leaving it sitting towards the back. With the weight, various bales fell (10 more or less). Then the two drivers helped (one from each truck, one of them told me he was the boss' son) and they took out a few more bales until the truck levelled off. All this time, I was on top of the cargo without falling; but at that moment, the rest of the bales fell apart and were no longer stacked. The truck with the cargo travelled about 1 km. from there, not by a road but through the middle of the countryside which was somewhat rough. I travelled on top of the cargo at the front part. The one who drove the truck was the same one I thought was the son of the boss. Upon arriving at the place for unloading, I began to throw down the bales that were in the front part of the truck. I had finished throwing down about ten bales when, on stepping on one bale that was on the edge, the stack fell from the truck. In order to stop myself from falling from the truck, I threw myself toward the back, but then the rest of the bales came apart and began to fall towards the back; I then lost control and could not avoid falling head first from the truck, from a height of more or less 2 meters; I fell from the left side of it towards the corner of the back. I fell to the ground, I tried to protect myself with my arm but I could not hold back the weight and I hit my head, breaking my neck. I did not become unconscious. The driver of the truck tried to help me to get up but my chest pained me so badly, I thought it better to stay lying down. Then they went to call an ambulance.

Witnesses of this were: -The new worker, whose name I don't know.
-The two drivers.

Person who knows about the company and the boss: Perfecto Lira,
Hotel Meritz, Room 7, Portales, New Mexico

ANGEL HERNANDEZ

September 14, 1979 - Albuquerque, N. M.

Declaración de Angel Hernandez acerca del accidente del trabajo que le significó la fractura de la columna cervical y quedar inválido (parálisis de piernas y manos).

Yo trabajaba en una compañía que manejaba varios ranchos. Yo trabajé en 3 de esos ranchos. Dos días iba a uno, dos días iba a otro. Yo trabajaba cargando y descargando pacas (paquetes de alfalfa o trigo). El pagador era un solo patrón (su nombre está en el cheque que me tienen guardado en la enfermería del BCMC). Llevaba 8 días trabajando en esa compañía cuando me accidenté. Esto ocurrió en un lugar de campo entre Clovis y Portales (New Mexico). El tiempo que trabajé a esa compañía lo hice con dos camiones. Eran camiones viejos, modelos de mas o menos 1948, de unas 6 toneladas. Uno de ellos tenía un agregado en la carrocería de atrás de unos 4 metros de largo, fijo, atornillado, para hacerle más carga. La carrocería de atrás y el agregado no tenían baranda de protección. Todo esto descansaba sobre las cuatro ruedas del camión. No habían mas ruedas de soporte, ni vigas de soporte. Yo había cargado y descargado ese camión unas 6 veces antes del accidente con pacas de alfalfa. La vez del accidente cargamos pacas de trigo. En las otras veces yo me cuidaba que quedara mas o menos 1 metro sin cargar por atrás para evitar que se derrumbaran las pacas. La vez del accidente otro trabajador cargó la parte de atrás. Era primera vez que ese trabajador hacía este trabajo ahí. Era su primer día de trabajo en la compañía. No me acuerdo de su nombre. Los patrones tienen que saberlo. El le cargó parejo al camión atrás, hasta el borde. Yo estaba cargando la parte delantera. Cuando me di cuenta que el otro trabajador había cargado hasta el borde le dije que quitara las pacas de atrás. El sacó unas 4 hileras de pacas, pero siempre dejó varias hasta el borde, quedando como en escalera. Ahí él se bajo del camión y el camión se levantó de la parte de delante por el peso de la carga de atrás quedando sentado hacia atrás. Con el remezco varias pacas se cayeron (mas o menos unas diez). Entonces acudieron los dos choferes (uno por cada camión, uno de ellos me habían dicho que era hijo del patrón) y sacaron unas cuantas pacas mas hasta que el camión se niveló. Todo esto lo pasé arriba de la carga sin caerme; pero ya en ese momento se descompusieron el resto de las pacas, no quedando bien colocadas. El camión con la carga fue conducido a mas o menos 1 Km de allí, no por un camino sino por el medio de un campo que estaba algo áspero. Yo viajé arriba de la carga en la parte de adelante. El que conducía el camión era el mismo que creo era hijo del patrón. Al llegar al lugar de descargue empecé a botar las pacas que estaban en la parte de adelante. Había alcanzado a botar unas diez pacas cuando al pisar una paca que estaba a la orilla, ésta se soltó y calló del camión. Yo, para no caerme del camión, me tiré hacia atrás, pero entonces las demás pacas se descompusieron y empezaron a derrumbarse para atrás; ahí yo perdí control y no pude evitar caer de cabeza del camión, desde una altura de mas o menos 2 metros; cai por el lado izquierdo de él, hacia atrás, hacia la esquina. Cai al suelo, traté de protegerme con un brazo pero no resistió el peso y fui a pegar con la cabeza, doblándose me el cuello. No perdí el conocimiento. El chofer del camión me trato de ayudar a levantarme, pero me dolió mucho el pecho y mejor me quedé tendido. Ahí fueron a llamar por una ambulancia.

Testigos de esto fueron: -El trabajador nuevo, que no le se el nombre.

-Los dos choferes.

Quien conoce de la compañía y del patrón es: Perfecto Lira, Hotel Meritz, cuarto Nr. 7, Portales, N. Mexico.

Angel Hernandez.

14 de Septiembre de 1979, Albuquerque, N.M.

F. RAIDS OF COMMUNITY AND WORK PLACE BY INS/BORDER
PATROL AND LAW-ENFORCEMENT AGENCIES.

- Affidavits and/or Declarations
- Formal Complaints
- Official Documents
- Transcripts
- Fact Sheets
- News Articles

Daniel Hernandez, General Secretary
Frente de Los Pueblos Unidos
P.O. Box 4847
Panorama City, CA 91412
Tel. (213) 891-4461

*Frente
reun*

April 3, 1981

Herman Baca, Chairperson
Committee on Chicano Rights
1837 Highland AV
National City, CA 92050

Estimado Hermano,

Our organization, Frente de Los Pueblos Unidos, has received your call for a Chicano National Immigration Tribunal.

Since the formation of "El Frente" we have as a matter of principal worked in every capacity for the democratic-rights and unity of Chicanos and Mexicanos.

The main thurst of our organization is the struggle of the Vogre Coach 13. This case clearly reperesents La Lucha of undocumented workers in the U.S. It reperesents the actual right of immigrant workers to organize themselves into unions without the fear of having the INS deport them for such Just activities.

Recently the U.S. Ninth Circuit Court of Appeals heard arguments in the deporotation appeal of the Vogue Coach 13. At this time we are wating for a decidition from that court.

We would like to have the oppportunity to participate and present testimony of violations of the constitutional rights of these undocumented workers by the INS.

Please let me know your decidition as to whether we can present our testimony to the panel of distnguished national leaders, as soon as posible so that we may prepare accordingly.

I have enclosed our most recent literature on the case for your review.

Sincerely,

Daniel Hernandez
Daniel Hernandez

LOS 13 DE VOGUE COACH

Hace mas de tres anos que los obreros latinos de la compania ensambladora de Vogue Coach (localizada en Sun Valley, California) iniciaron una campana para ser representados por el sindicato de UAW (Union de Trabajadores Automotrices).

La compania intentando quebrar la unidad de los trabajadores que luchaban por sindicalizarse, repetidamente llamo al Servicio de Inmigracion y Naturalizacion para intimidar a los trabajadores a que abandonaran su derecho a ser sindicalizados.

Los obreros inmigrantes atreves del pais han sido continuamente maltratados y secuestrados por la migra en las fabricas.

Y fue esto lo que tambien sucedio en Vogue Coach que despues de muchos meses de estar sufriendo las redadas en la fabrica, 13 de los trabajadores decidieron dar la lucha y pelear por no ser deportados en las cortes.

Ellos esperaban que su caso ayudaria para parar la constante represion contra sus companeros.

Recientemente la corte de Apelacion del Circuito Noveno escucho los argumentos, y la apelacion de los 13 de Vogue Coach.

Companeros y Companeras les pedimos su apoyo en la defensa de nuestros 13 hermanos el parar la deportacion de estos hermanos significaria una victoria para toda la gente que lucha contra la opresion.

Solo la unidad de la gente puede garantizar justicia para nuestros 13 hermanos.

UNAMONOS EN LA DEFENSA DE LOS 13 DE VOGUE COACH!

**INMEDIATA RESIDENCIA LEGAL E INCONDICIONAL PARA
LOS OBREROS INDOCUMENTADOS!**

Para mas informacion--

El Comite de los 13 de Vogue Coach
P.O. Box 4847, Panorama City, CA 91412

¡TRABAJADORES INDOCUMENTADOS!

¡DEFIENDE LOS DERECHOS DE LOS

VOGUE COACH 13

More than three years ago the predominantly Latino workers at the Vogue Coach assembly plant in Sun Valley, California began a union drive to have the United Autoworkers Union represent them.

The company, in an attempt to break the unity of the workers for a union, repeatedly called in the Immigration and Naturalization Service (INS) in an effort to intimidate the workers into abandoning their right to be in a union.

Immigrant workers throughout the country were being harrassed continually by the INS factory raids. As long as the immigrant workers were willing to work for substandard wages, under often intolerable conditions, they were relatively safe from the INS raids. As soon as they tried to organize themselves into unions their employers would call the INS, who then deported the workers.

Such was the case at Vogue Coach. After months of raids on the plant, 13 of the workers decided to fight their deportation orders in the courts. They hoped their own case would serve to halt this constant repression against their brothers and sisters.

Recently the U.S. Ninth Circuit Court of Appeals heard arguments in the deportation appeal of the Vogue Coach 13. This appeal should have far reaching effects on the actual right of immigrant workers to organize themselves into unions.

Brothers and Sisters, we ask for your support in the defense of our 13 brothers. A victory in stopping their deportation will be a victory for all people who are against oppression. Only the unity of the people can guarantee justice for our 13 brothers.

**BROTHERS AND SISTERS, UNITE IN DEFENSE OF THE
13 FROM VOGUE COACH!**

**IMMEDIATE UNCONDITIONAL RESIDENCE FOR ALL
UNDOCUMENTED WORKERS!**

For more information--

The Vogue Coach 13 Committee
P.O. Box 4847, Panorama City, CA 91412

DEFEND THE RIGHTS OF UNDOCUMENTED WORKERS!

BEFORE THE NATIONAL
IMMIGRATION TRIBUNAL
SAN DIEGO, CALIFORNIA

IN THE MATTER OF:

JUAN DIAZ CHAIDEZ,

)
)
)
)

DECLARATION OF JUAN DIAZ CHAIDEZ

I, Juan Diaz Chaidez, make this declaration to the distinguished panelists selected to hear testimony concerning the violation of civil, human, and constitutional rights of Chicano/Latino people.

On August 24, 1979, I was arrested at my place of employment at Naperville, Illinois, by agents of the Chicago Immigration and Naturalization Service.

I was taken to an office of the Immigration Service in Chicago, Illinois where I was interrogated by one of the criminal investigators. Because I was planning to marry a United States citizen, I inquired of the investigator about whether I could remain longer in the United States. The investigator told me that I could stay for only two to three weeks if I paid INS \$2,000 to \$2,500. I also requested permission to place a telephone call so that I

could make arrangements to have my car which had been left at my place of employment at Naperville, Illinois picked up. The investigator and other agents of the Immigration Service refused to allow me the opportunity to call anyone.

At the conclusion of the interrogation, I was told that I had to return to Mexico. The criminal investigator then ordered me to sign Form I-274 authorizing my departure to Mexico by the earliest available transportation and waiving my rights to a deportation hearing before an Immigration Judge to determine my deportability. Because I was not aware of any alternative, I was coerced to sign the Form I-274 authorizing my expulsion to Mexico. At no time was I advised of my post-custodial due process rights.

The criminal investigator then ordered me to sign various other forms which were neither read nor explained to me. I believe one of these forms was Form I-214 which waived certain of my post-custodial rights.

At no time did the criminal investigator explain to me the significance of any of these forms or my right to consult with an attorney prior to signing them. In addition, the forms executed by me did not contain any specification of the reason for the arrest nor information concerning the Immigration Service's duty to make a decision within twenty-four hours as to whether I would remain in custody or be released on bond or personal recognizance nor that

the conditions for custody could be reviewed at a bond redetermination hearing before an Immigration Judge.

For these reasons, I did not knowingly or intelligently waive my rights to: remain silent, consult with an attorney, seek release on bond or personal recognizance, obtain a bond redetermination hearing or assert my right to a deportation hearing.

Before I was actually sent to Mexico, the Chicago Legal Assistance Foundation (LAF) was contacted to secure representation for me. An LAF attorney filed a Form G-28 (Notice of Entry of Appearance as Attorney) with the INS and arranged an interview with me. Upon being advised of my right to a bond, the availability of free legal services, and a deportation hearing, I chose to exercise my rights.

The LAF attorney informed an agent of the Immigration Service personally on August 24, 1979 that I was retracting my Form I-274 and that I wanted to be released on bond. The INS agent confirmed with me that I was retracting my Form I-274 and assured the LAF attorney that a bond could be posted on my behalf on Monday, August 27, 1979.

On Monday, August 27, 1979, and Tuesday, August 28, 1979 I was interrogated on four separate occasions by four different criminal investigators without my attorney being notified or being present. I was told that I had no right to stay in the United States and that I should return to Mexico immediately. I was told that if I stayed the immigration judge was going to deport me and deny me voluntary departure. My motives in getting married to a United States citizen were repeatedly challenged in that the investigators

accused me of wanting to marry solely for the purpose of obtaining lawful immigration status. All of these efforts were calculated to coerce me into departing the United States under the I-274 program without a deportation hearing.

Finally on August 28, 1979, I was released when my United States citizen fiancée paid a \$1,000 bond on my behalf.

My fiancée and I were married on September 4, 1979. Pursuant to INS regulations my fiancée has filed with the Chicago District INS office a visa petition to classify me as an immediate relative immigrant visa applicant. Under regulations, I am entitled to remain in the United States while the visa petition is processed.

The Chicago District office of the Immigration and Naturalization Service is engaged in a routine practice of coercing persons of Mexican descent to sign the Form I-274 and leave the United States without exercising their right to a deportation hearing by not informing them in a timely manner of their rights to counsel, the availability of free legal services, the possibility of release on bond or recognizance, and a bond redetermination hearing. In addition, the Immigration and Naturalization coerces persons of Mexican descent into signing waivers of their rights when they do not understand the significance of the waivers and/or when such waivers come after improper interrogations. Consequently, I am

involved in a class action lawsuit challenging the Immigration and Naturalization Service racist and unconstitutional treatment of Mexican workers. I have attached a copy of the complaint in this case which is presently being litigated.

Juan Diaz-Chaidez
Juan Diaz-Chaidez
Attorney for Juan
Diaz-Chaidez

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ELIASAR ESCAMILLA-MONTOYA, EVERARDO)
GUTIERREZ-TORREZ, GUADALUPE CARDENAS-)
CASTILLO, MANUEL LOPEZ-LUPERCIO,)
JUAN DIAZ-CHAIDEZ, individually and)
on behalf of all others similarly)
situated,)

Plaintiffs,)

vs.)

MICHAEL J. LANDON, JR., Acting Dis-)
trict Director of the Immigration)
and Naturalization Service;)
THEODORE GIORGETTI, Assistant)
District Director for Investigation)
of the Chicago District of the)
Immigration and Naturalization)
Service; HOMER A. GEYMER, Chief)
Supervisor of Criminal Investig-)
ators of the Chicago District of)
the Immigration and Naturalization)
Service; RICHARD O. HUGG, Supervisor of Criminal)
Investigators of the Chicago)
District of the Immigration and)
Naturalization Service; NINE)
UNKNOWN CRIMINAL INVESTIGATORS)
of the Immigration and Natural-)
ization Service, all in their)
official capacities,)

Defendants.)

RECEIVED

SEP - 10 1978

UNITED STATES DISTRICT COURT

NO.

79C3874

JUDGE LEIGHTON

RECEIVED

SEP 17 1978

U. S. DISTRICT OFFICE
CHICAGO, ILL.

C O M P L A I N T

1. Plaintiffs bring this action to declare unlawful and enjoin the practices and procedures of Chicago District officials of the Immigration and Naturalization Service (hereinafter referred to as either "the Immigration Service" or "INS") of not providing adequate notice to persons subjected to custodial interrogation of the following rights (hereinafter referred to as "post-custodial rights"):

(a) right to be represented by counsel; (b) right to be advised that any statement made may be used against them in a subsequent criminal or civil proceeding; (c) right to be advised that a decision will be made within 24 hours as to whether he or she will be continued in custody or released on bond or personal recognizance; (d) right to a bond redetermination hearing before an Immigration Judge to review the status of custody; (e) right to a deportation hearing; and (f) the right to be provided with a list of available free legal services programs and other qualified organizations providing free legal services to indigent aliens.

2. This action arises under the Fifth Amendment to the United States Constitution; the Declaratory Judgment Act (28 U.S.C. §§2201 and 2202); the Administrative Procedure Act (5 U.S.C. §§701-706); and the Immigration and Nationality Act (8 U.S.C. §§1101 et seq.) and regulations promulgated thereunder.

J U R I S D I C T I O N

3. Jurisdiction is conferred on this court by 28 U.S.C. §1331, giving this court federal question jurisdiction, and 8 U.S.C. §1329, giving this court jurisdiction over actions brought under the Immigration and Nationality Act,

specifically 8 U.S.C. §1252. Declaratory relief is authorized by 28 U.S.C. §§2201 and 2202.

P A R T I E S

4. Plaintiffs are Eliasar Escamilla-Montoya, Everardo Gutierrez-Torrez, Guadalupe Cardenas-Castillo, Manuel Lopez-Lupercio and Juan Diaz-Chaidez. Plaintiffs are persons of Mexican descent and they reside in the United States. They speak little or no English and have little formal education.

5. Plaintiffs bring this action on behalf of themselves and pursuant to Rule 23(a) and (b) (2) of the Federal Rules of Civil Procedure on behalf of others similarly situated who are persons of Mexican descent within the Chicago District of the Immigration Service taken into custody and interrogated by officers of the Chicago District Office of the Immigration Service without being properly advised of their post-custodial rights. As the class consists of thousands of persons who have been, are being, or will be subject to post-custodial interrogations by the Chicago District Office of the Immigration Service, it is so numerous that joinder of all members is impracticable. Defendants' practices and procedures relating to notifying persons taken into custody of their rights raise questions of law and fact common to all members of the class. The named Plaintiffs will fairly and adequately protect the interests of the class. Further, Defendants have acted or refused to act on grounds

generally applicable to the class, thereby making declaratory and injunctive relief for the class as a whole appropriate.

6. Defendant Michael J. Landon, Jr., is the Acting District Director of the Chicago District Office of the Immigration Service and as such is responsible for the administration of that agency in Chicago pursuant to 8 C.F.R. §100.2(j).

7. Defendant Theodore Giorgetti is the Assistant District Director for Investigation of the Chicago District Office of the Immigration Service. His duties include the overall supervision of criminal investigators who conduct interrogations of persons taken into custody and who administer the I-274 program which involves the departure under custody of persons of Mexican descent without a deportation hearing, pursuant to 8 U.S.C. §1252(b).

8. Defendant Homer A. Geymer is the Chief Supervisor of criminal investigators of the Chicago District Office of the Immigration Service. His duties include the supervision of criminal investigators who conduct interrogations of persons taken into custody and who administer the I-274 program which involves the departure under custody of persons of Mexican descent without a deportation hearing, pursuant to 8 U.S.C. §1252(b).

9. Defendant Richard O. Hugg is the Supervisor of criminal investigators of the Chicago District Office of the Immigration Service. His duties include the supervision of criminal investigators who conduct interrogations of persons taken into custody and who administer the I-274 program which involves the departure under custody of persons of Mexican descent without a deportation hearing, pursuant to 8 U.S.C. §1252(b).

10. Defendant Nine Unknown Criminal Investigators are responsible for the post-custodial interrogations of Plaintiffs and some members of their class. They are responsible for the processing of Plaintiffs and some members of their class under the I-274 program which involves their expulsion under custody without a deportation hearing, pursuant to 8 U.S.C. §1252(b).

S T A T E M E N T O F T H E C A S E

11. The Immigration and Nationality Act (8 U.S.C. §§1101 et seq.), in particular 8 U.S.C. §1252, and regulations promulgated thereunder give to every alien arrested and taken into custody by the Immigration Service the right to seek release on bond or personal recognizance and the right to a deportation hearing before an Immigration Judge to determine whether the alien is deportable under one of the grounds of deportability specified in 8 U.S.C. §1251.

12. At any time prior to the commencement of deportation proceedings, any alien arrested and taken into custody may apply to the Immigration Service for permission to leave the United States voluntarily without a deportation hearing under 8 U.S.C. §1252(b) and 8 C.F.R. §242.5. Before sending persons of Mexican descent to Mexico under this procedure, the Immigration Service has such persons sign a Form I-274. Persons of Mexican descent who sign a Form I-274 waive their right to a deportation hearing and are sent back to Mexico by the earliest available transportation under the supervision of the Immigration Service.

13. On April 9, 1979, Plaintiff Escamilla was arrested and taken into custody by agents of the Immigration Service. The following events then took place:

(a) Plaintiff Escamilla was taken to an office of the Immigration Service where he was interrogated by one of the Defendant criminal investigators.

(b) At one point during the course of the interrogation, Plaintiff Escamilla showed the Defendant criminal investigator a picture of his fiancée, who he identified as a United States citizen. Plaintiff told the investigator that she was six months pregnant with his child.

The investigator told him that having a pregnant fiancée did not give him the right to stay here and continued with the interrogation.

(c) At the conclusion of the interrogation, the criminal investigator told Plaintiff Escamilla that he had to return to Mexico and that he had to sign Form I-274 authorizing his departure to Mexico by the earliest available transportation and waiving his right to a deportation hearing before an Immigration Judge to determine his deportability. The investigator did not explain to Plaintiff the significance of signing the Form I-274 nor did he explain to Plaintiff his post-custodial rights. Unaware of the alternative procedures available to him, including the availability of free legal services and the right to seek release on bond or personal recognizance, Plaintiff was coerced to sign the Form I-274 authorizing his expulsion to Mexico.

(d) The Defendant criminal investigator then ordered Plaintiff to sign various other forms. On information and belief, one of these was a Form-214 which waived certain of Plaintiff's post-custodial rights.

(e) At no time did the Defendant explain to Plaintiff the significance of any of these forms or his right to consult with an attorney prior to signing them. In addition, the forms executed by Plaintiff did not contain any specification of the reasons for the arrest, nor information concerning the Immigration Services's duty to make a decision within twenty-four hours as to whether he would remain in custody or be released on bond or personal recognizance nor that the conditions of custody could be reviewed at a bond redetermination hearing by an Immigration Judge.

(f) For these reasons, Plaintiff did not knowingly or intelligently waive his rights to: remain silent, consult with an attorney, seek release on bond or personal recognizance, obtain a bond redetermination hearing, or assert his right to a deportation hearing.

(g) In the late afternoon of April 9, 1979, Plaintiff's fiancée contacted the Legal Assistance Foundation of Chicago (LAF) to secure representation for Plaintiff. She requested that LAF help her bring back her future husband who she was sure was sent to Mexico by mistake as they were planning to get married in June, and she was over six months pregnant with his child. An attorney

from LAF contacted the Immigration Service to request that Plaintiff be returned to Chicago to allow Plaintiff the opportunity to consult with his attorney and to exercise his right to a deportation hearing, if he so chose. The Immigration Service refused to return Plaintiff to Chicago so that he could consult with his attorney.

(i) Finally, the Immigration Service agreed to allow Plaintiff the opportunity to call his attorney from El Paso, Texas. On April 11, 1979, Plaintiff consulted with an LAF attorney by telephone from El Paso, Texas. Plaintiff chose to exercise his right to have a bond set and to have a deportation hearing.

(j) On April 19, 1979, Plaintiff's fiancée posted a \$2,000 immigration bond and Plaintiff was released from Defendants' detention facility in El Paso. Plaintiff took a bus back to Chicago at his own expense.

(k) Plaintiff and his fiancée were married on April 23, 1979. On April 24, 1979, Plaintiff appeared at a deportation hearing and he was granted until July 24, 1979, or until any extensions beyond that date as may be granted by the Immigration Service to depart the United States voluntarily.

(1) Pursuant to 8 U.S.C. §1154(a), Plaintiff's fiancée has filed with the Chicago District Immigration and Naturalization Service office a visa petition to classify Plaintiff as an immediate relative immigrant visa applicant. Under 8 C.F.R. §242.5 and Immigration and Naturalization Service Operation Instructions §242.10(a) and §242.1(a)(25), Plaintiff is entitled to remain in the United States while the visa petition is adjudicated and until the visa application is processed. Pursuant to these provisions, the Immigration Service has granted Plaintiff an extension of voluntary departure until January 24, 1980 and permission to work.

14. On February 14, 1979, Plaintiff Cardenas was arrested and taken into custody by agents of the Immigration Service. The following events then took place:

(a) Plaintiff Cardenas was taken to offices of the INS where he was detained overnight.

(b) At about 9:00 a.m. on February 15, 1979, Plaintiff was interrogated by one of the Defendant criminal investigators.

(c) At the conclusion of the interrogation, Plaintiff was told that he had to return to Mexico. The Defendant criminal investigator then ordered Plaintiff to sign a Form I-274 authorizing Plaintiff's departure to Mexico by the earliest available transportation and waiving his right to a deportation hearing before an Immigration Judge to determine his deportability. Because Plaintiff was not aware of any alternative, he was coerced to sign the Form I-274 authorizing his expulsion to Mexico. At no time was Plaintiff advised of his post-custodial rights.

(d) The Defendant criminal investigator then ordered Plaintiff to sign various other forms which were neither read nor explained to him. On information and belief, one of these forms was a Form I-214 which waived certain of his post-custodial rights.

(e) At no time did the Defendant explain to Plaintiff the significance of any of these forms or his right to consult with an attorney prior to signing them. In addition, the forms executed by Plaintiff did not contain any specification of the reason for the arrest nor information concerning the Immigration Service's duty to

make a decision within twenty-four hours as to whether he would remain in custody or be released on bond or personal recognizance nor that the conditions of custody could be reviewed at a bond redetermination hearing before an Immigration Judge.

(f) For these reasons, Plaintiff did not knowingly or intelligently waive his rights to: remain silent, consult with an attorney, seek release on bond or personal recognizance, obtain a bond redetermination hearing, or assert his right to a deportation hearing.

(g) On February 15, 1979, a friend of the Plaintiff contacted the Legal Assistance Foundation of Chicago (LAF) to secure representation for Plaintiff. An attorney from LAF contacted the Immigration Service to arrange an interview with Plaintiff. They advised the LAF attorney that Plaintiff was at the airport about to be flown to Mexico.

(h) Plaintiff's attorney requested that the Immigration Service return Plaintiff to allow him the opportunity to consult with his attorney and to exercise his right to a deportation hearing if he chose. Plaintiff was given the opportunity

to speak with an LAF attorney and he chose to have a bond set and to have a deportation hearing.

(i) As Plaintiff was unable to pay the \$1,000 bond set by the INS, Plaintiff was represented by an LAF attorney at a bond redetermination hearing, at which time his bond was reduced to \$500. He posted bond and was released pending his deportation hearing.

15. On January 30, 1979, at about 4:30 a.m. Plaintiff Gutierrez was arrested and taken into custody by agents of the Immigration Service. The following events then took place:

(a) Plaintiff Gutierrez was taken to the INS offices in Chicago where at about 11:00 a.m., he was interrogated by one of the Defendant criminal investigators.

(b) At one point during the course of the interrogation, Plaintiff told the investigator that he had a brother who was a citizen of the United States in Denver, Colorado. The investigator did not believe Plaintiff and asked him to prove it. Plaintiff offered his brother's telephone number and asked the investigator to call him. The investigator refused to call.

(c) At the conclusion of the interrogation, Plaintiff was told that he had to return to Mexico. The Defendant criminal investigator then ordered Plaintiff to sign a Form I-274 authorizing his departure to Mexico by the earliest available transportation and waiving his right to a deportation hearing before an Immigration Judge to determine his deportability. Because Plaintiff was not told of any alternative to the I-274 program, Plaintiff was coerced to sign the Form I-274 authorizing his expulsion to Mexico. At no time was Plaintiff advised of his post-custodial rights.

(d) The Defendant criminal investigator then had Plaintiff sign various other forms which were neither read nor explained to him. On information and belief, one of these forms was Form I-214 which waived certain of Plaintiff's post-custodial rights.

(e) At no time did Defendants explain to Plaintiff the significance of these forms or his right to consult with an attorney prior to signing them. In addition, the form executed by Plaintiff did not contain any specification of the reason for the arrest nor information concerning the Immigration Service's duty to make a decision within twenty-four hours as to whether he would remain in custody or be released on bond or

personal recognizance nor that the conditions of custody could be reviewed at a bond redetermination hearing by an Immigration Judge.

(f) For these reasons, Plaintiff did not knowingly or intelligently waive his rights to: remain silent, consult with an attorney, seek release on bond or personal recognizance, obtain a bond redetermination hearing, or assert his right to a deportation hearing.

(g) Shortly before Plaintiff was scheduled to depart to Mexico, LAF was contacted to secure representation for Plaintiff. An LAF attorney arranged an interview with Plaintiff who upon being advised of his right to a bond, the availability of free legal services, and a deportation hearing, chose to exercise his right to a bond and a deportation hearing.

(h) As Plaintiff was unable to pay the \$1,000 bond set by the INS, Plaintiff was subsequently represented at a bond redetermination hearing by an LAF attorney, at which time his bond was reduced to \$500. He posted bond and was released pending his deportation hearing.

(i) Pursuant to 8 U.S.C. §1154(a), Plaintiff's brother, who is a United States citizen, has filed a petition at the Denver District Immigration and Naturalization Service office to classify Plaintiff as a fifth preference immigrant visa applicant.

(j) On June 16, 1978, Plaintiff appeared at a deportation hearing and he was granted until September 12, 1978, or until any extensions beyond that date as may be granted by the Immigration Service to depart the United States voluntarily. On September 12, 1978, Plaintiff's attorney requested that the INS grant such an extension.

16. On July 7, 1978 between the hours of 8:00 and 9:00 a.m., Plaintiff Manuel Lopez-Lupercio was arrested at his place of employment in Onarga, Illinois, and taken into custody by agents of the Immigration Service. The following events then took place:

(a) Plaintiff Lopez's fiancée, Estella Lopez, a United States citizen, contacted the Legal Assistance Foundation of Chicago (LAF) to seek representation for Plaintiff Lopez.

(b) A staff attorney of LAF agreed to represent Plaintiff Lopez, and by 10:00 a.m. on the morning of July 7, 1978, had contacted the Immigration and Naturalization Service. Persons in the Investigations Section denied any knowledge of any INS operations at Onarga that day.

(c) It was not until approximately 1 p.m. on the afternoon of July 7, 1978 that Defendant Richard O. Hugg acknowledged to Plaintiff Lopez's counsel that an area control operation had in fact been conducted at Onarga. In response to a question by Plaintiff Lopez's counsel concerning what time the Plaintiff would be brought to the Chicago INS office for processing, Defendant Hugg replied that he did not know.

(d) At approximately 2:00 p.m. on the afternoon of July 7, 1978, Plaintiff Lopez's counsel again telephoned Defendant Hugg, and asked why Plaintiff Lopez and other detainees had not yet arrived in Chicago for processing. Defendant Hugg replied that he did not know, but agreed to inform Plaintiff's counsel by telephone when the Onarga detainees arrived in Chicago.

(e) At approximately 4:30 p.m., Plaintiff Lopez's counsel again telephoned Mr. Hugg and asked if the Plaintiff and other detainees were being processed in Onarga, Illinois, and expelled from the country without being brought to the Chicago INS office. Defendant Hugg replied that most of the persons arrested that day had been processed in Ashkum, Illinois and already put on a bus to Mexico.

(f) Defendants Hugg, Giorgetti, and Geymer refused the request of Plaintiff's attorney to inform Plaintiff Lopez that an attorney had been retained to represent him, and further, refused the attorney's request to halt the bus carrying Plaintiff Lopez to Mexico in order that Plaintiff could be so informed and could confer with the attorney.

(g) After Plaintiff Lopez was taken into custody at his place of work on the morning of July 7, 1978, he was transported to Ashkum, Illinois, where he was interrogated by ~~unknown~~ Defendant criminal investigators.

(h) Plaintiff Lopez informed the Defendant investigator that he was engaged to marry a young woman who is a citizen of the United States. The Defendant investigator told Plaintiff that being engaged to a U.S. citizen gave him no right to remain in the United States, and continued with the interrogation.

(i) At the conclusion of the interrogation, Plaintiff was told that he had to return to Mexico, and that if he did not agree to leave immediately, his bond would be \$1,000-\$1,500. Plaintiff Lopez was not informed of his right to seek reduction of bond before an immigration law judge.

(j) The Defendant criminal investigator had Plaintiff sign a Form I-274 authorizing his departure to Mexico by the earliest available transportation and waiving his right to a

deportation hearing before an Immigration Judge to determine his deportability. The investigator did not inform Plaintiff of his post-custodial rights. Unaware of the alternative procedures available to him, including the retention of counsel to represent him, and the right to a bond redetermination hearing before an Immigration Judge, Plaintiff was coerced to sign the Form I-274 authorizing his expulsion to Mexico.

(k) The Defendant criminal investigator then ordered Plaintiff to sign various other forms. On information and belief, one of these was a Form I-214 which waived certain of Plaintiff's post-custodial rights.

(l) At no time did the Defendant explain to Plaintiff the significance of any of these forms or his right to consult with an attorney prior to signing them. In addition, the forms executed by Plaintiff did not contain any specification of the reason for the arrest, nor information concerning the Immigration Service's duty to make a decision within twenty-four hours as to whether he would remain in custody or be released on bond or personal recognizance nor that the conditions of custody could be reviewed at a bond redetermination hearing by an Immigration Judge.

(m) For these reasons, Plaintiff did not knowingly or intelligently waive his rights to: remain silent, consult with his attorney, seek release on bond or personal recognizance, obtain a bond redetermination hearing, or assert his right to a deportation hearing.

(n) On July 9, 1978, Plaintiff's attorney travelled to El Paso, Texas to confer with Plaintiff who was incarcerated at the INS detention facility in El Paso, Texas. After Plaintiff conferred with the attorney, Plaintiff chose to exercise his right of a deportation hearing and to seek release on bond.

(o) On July 10, 1978, Plaintiff was returned to the Chicso District Office of the INS, where a \$1,000 bond was set by the District Director as a condition for his release. Plaintiff was granted a reduction of bond to \$500 by an immigration law judge. Plaintiff's fiancée posted the \$500 bond and Plaintiff was released from custody.

(p) Plaintiff and his fiancée were married on August 25, 1978. On September 19, 1978, Plaintiff appeared at a deportation hearing, at which time he was granted until December 18, 1978, or until any extensions beyond that date as may be granted by the Immigration Service to depart the United States voluntarily.

(q) On August 29, 1978, Plaintiff's wife filed a visa petition with the Chicago District INS office to classify Plaintiff an immediate relative visa applicant pursuant to 8 U.S.C. §1154(a). The visa petition was approved by the INS in November, 1978 and forwarded to the U.S. Consulate in Toronto, Canada, where Plaintiff is registered as an immediate relative immigrant visa applicant.

(r) Under 8 C.F.R §242.5, Plaintiff Lopez is entitled to remain in the United States pending processing of his visa application. Pursuant to this regulation, the INS has granted Plaintiff employment authorization and extensions of his time in which to voluntarily depart the United States.

17. On August 24, 1979, Juan Diaz-Chaidez was arrested at his place of employment at Naperville, Illinois, by agents of the Immigration Service. The following events then took place:

(a) Plaintiff Diaz was taken to an office of the Immigration Service in Chicago, Illinois where he was interrogated by one of the Defendant criminal investigators.

(b) Because Plaintiff was planning to marry a United States citizen, Plaintiff Diaz inquired of the investigator about whether he could remain longer in the United States. The investigator told Plaintiff that he could stay for only two to three weeks if he paid INS \$2,000 to \$2,500. Plaintiff also requested permission to place a telephone call so that he could make arrangements to have his car which had been left at his place of employment at Naperville, Illinois picked up. The investigator and other agents of Defendants refused to allow Plaintiff the opportunity to call anyone.

(c) At the conclusion of the interrogation, Plaintiff was told that he had to return to Mexico. The Defendant criminal investigator then ordered Plaintiff to sign Form I-274 authorizing Plaintiff's departure to Mexico by the earliest available transportation and waiving his right to a deportation hearing before an Immigration Judge to determine his deportability. Because Plaintiff was not aware of any alternative, he was coerced to sign the Form I-274 authorizing his expulsion to Mexico. At no time was Plaintiff advised of his post-custodial rights.

(d) The Defendant criminal investigator then ordered Plaintiff to sign various other forms which were neither read nor explained to him. On information and belief, one of these forms was a Form I-214 which waived certain of his post-custodial rights.

(e) At no time did the Defendant explain to Plaintiff the significance of any of these forms or his right to consult with an attorney prior to signing them. In addition, the forms executed by Plaintiff did not contain any specification of the reason for the arrest nor information concerning the Immigration Services's duty to make a decision within twenty-four hours as to whether he would remain in custody or be released on bond or personal recognizance nor that the conditions of custody could be reviewed at a bond redetermination hearing before an Immigration Judge.

(f) For these reasons, Plaintiff did not knowingly or intelligently waive his rights to: remain silent, consult with an attorney, seek release on bond or personal recognizance, obtain a bond redetermination hearing, or assert his right to a deportation hearing.

(g) Before Plaintiff was actually sent to Mexico, LAF was contacted to secure representation for Plaintiff. An LAF attorney filed a Form G-28 (Notice of Entry of Appearance as Attorney) with the INS and arranged an interview with Plaintiff who upon being advised of his right to a bond, the availability of free legal services, and a deportation hearing, chose to exercise his rights.

(h) The LAF attorney informed an agent of Defendant personally on August 24, 1979 that Plaintiff was retracting his Form I-274 and that Plaintiff wanted to be released on bond. The INS agent confirmed with Plaintiff that he was retracting his Form I-274 and assured the LAF attorney that a bond could be posted on his behalf on Monday, August 27, 1979.

(i) On Monday, August 27, 1979, and Tuesday, August 28, 1979 Plaintiff was interrogated on four separate occasions by four different Defendant criminal investigators without his attorney being notified or being present. Plaintiff was told that he had no right to stay in the United States and that he should return to Mexico immediately. Plaintiff was told that if he stayed the Immigration Judge was going to deport him and deny him voluntary departure. Plaintiff's motives in getting married to a United States citizen were repeatedly challenged in that the investigators

accused him of wanting to marry solely for the purpose of obtaining lawful immigration status. All of these efforts were calculated to coerce Plaintiff into departing the United States under the I-274 program without a deportation hearing.

(g) Finally on August 28, 1979, Plaintiff was released when his United States citizen fiancée paid a \$1,000 bond on his behalf.

(h) Plaintiff and his fiancée were married on September 4, 1979. Pursuant to 8 U.S.C. §1154(a), Plaintiff's fiancée has filed with the Chicago District INS office a visa petition to classify Plaintiff as an immediate relative immigrant visa applicant. Under 8 C.F.R. §242.5 and INS Operation Instructions §242.10(a) and §242.1(a)(25), Plaintiff is entitled to remain in the United States while the visa petition is processed.

18. At the time of their arrest, the Plaintiffs all had grounds for seeking release from custody on bond or personal recognizance, for challenging their deportability and for seeking relief from deportation. But for Defendants' conduct, Plaintiffs would have been able to assert (a) their right to counsel (8 U.S.C. §1252.5, 8 C.F.R. §§242.2, 242.13, 242.16 and 292.5 and INS Investigator's Handbook chapter 7); (b) their

right to remain silent (8 C.F.R. §§242.2 and 287.3 and the I.N.S. Investigator's Handbook chapter 7); (c) their right to seek release on bond or personal recognizance (8 C.F.R. §§242.2 and 287.3); (d) their right to a hearing before an Immigration Judge to review the status of custody (8 C.F.R. §§242.2 and 287.3); (e) their right to a deportation hearing (8 U.S.C. §1252, 8 C.F.R. §242) and; (f) their right to be advised of the availability of free legal services (8 C.F.R. §§242.2 and 287.3).

19. The manner in which Plaintiffs were treated when interrogated is typical of the manner, pattern and practice in which Defendants routinely conduct the post-custodial interrogations and processing of members of Plaintiffs' class. Defendants routinely commence post-custodial interrogations of members of Plaintiffs' class without informing them of their post-custodial rights. Specifically, Defendants have the practice and procedure of:

(a) Failing to warn each person before commencing the post-custodial interrogations of his/her right to remain silent and that anything he/she says may be used against him/her in a deportation proceeding or criminal prosecution.

(b) Failing to advise each person in a timely manner of his/her right to obtain an attorney and confer with the attorney before conducting the post-custodial interviews.

(c) Failing to provide each person taken into custody with a list of available free legal services in a timely manner.

(d) Failing to advise each person in a timely manner of the reason for the arrest and that a decision to hold him/her or release him/her on bond or personal recognizance will be made within twenty-four hours.

(e) Coercing persons of Mexican descent to sign a Form I-274 and leave the United States without exercising their right to a deportation hearing by not informing them in a timely manner of their right to counsel, the availability of free legal services, the possibility of release on bond or recognizance, and their right to a bond redetermination hearing.

(f) Coercing persons of Mexican descent into signing waivers of their rights when they do not understand the significance of such waivers and/or when such waivers come after improper interrogations.

(g) Using forms which do not contain information concerning the reason for the arrest, the availability of free legal services or notice

that a decision will be made within twenty-four hours as to whether he/she would be continued in custody or released on bond and that the conditions of custody can be reviewed at a bond redetermination hearing by an Immigration Judge.

20. At the time of their arrests, members of Plaintiffs' class have the right to challenge their deportability at a deportation hearing and to seek relief from deportation. But for Defendants' conduct, members of Plaintiffs' class would be able to assert their rights as set forth in paragraph 18.

21. The practices and procedures utilized in the custodial interrogations of Plaintiffs and members of their class have been approved and ratified by Defendants Landon, and his predecessors, Giorgetti and Geymer. In particular, these Defendant supervisors know that criminal investigators under their supervision are conducting post-custodial interrogations of Plaintiffs and members of their class without properly advising them of their post-custodial rights prior to commencing custodial interrogations and prior to presenting such individuals with the Form I-274 for their signature waiving their right to a deportation hearing and authorizing their immediate expulsion from the United States. The Defendant supervisors have not adopted the use of forms which adequately

inform persons ordered to sign them of their post-custodial rights. The Defendant supervisors have generally failed to assure that Plaintiffs and members of their class are processed in conformity with the requirements of the Due Process Clause of the Fifth Amendment to the United States Constitution, the Immigration and Nationality Act, 8 U.S.C. §1101 et seq., regulations promulgated thereunder, in particular §§287 and 242.2, and the Immigration and Naturalization Service Investigators Handbook, in particular chapter 7.

22. By acting in the foregoing manner, the Defendants have violated Plaintiffs' rights under the Due Process Clause of the Fifth Amendment of the United States Constitution and under the Immigration and Nationality Act 8 U.S.C. §1101 et seq.; regulations promulgated thereunder, in particular 8 C.F.R. §§287.3 and 242.2; and the Immigration and Naturalization Service Investigator's Handbook, in particular chapter 7. Under these provisions, persons arrested and taken into custody by the Immigration Service have the right to be advised of their post-custodial rights prior to commencement of their interrogations and prior to being requested to sign Form I-274 authorizing their expulsion from the United

States under custody and without a deportation hearing.

23. Similarly, by acting in the foregoing manner, the Defendants have violated, are violating and will violate the rights of members of Plaintiffs' class under the Due Process Clause of the Fifth Amendment of the United States Constitution and under the Immigration and Nationality Act 8 U.S.C. §1101 et seq.; regulations promulgated thereunder, in particular 8 C.F.R. §§287.3 and 242.2; and the Immigration and Naturalization Service Investigator's Handbook, in particular chapter 7. Under these provisions, persons arrested and taken into custody by the Immigration Service have the right to be advised of their post-custodial rights prior to commencement of their interrogations and prior to being requested to sign Form I-274 authorizing their expulsion from the United States under custody and without a deportation hearing.

24. Plaintiffs and members of their class have suffered, are suffering, and will continue to suffer irreparable harm by Defendants' unlawful acts for which Plaintiffs do not have an adequate remedy at law.

RELIEF REQUESTED

Wherefore, Plaintiffs request that this court.

1. Declare unlawful Defendants' policy and practice of:
 - (a) Failing to warn each person before commencing the post-custodial interrogation

of his/her right to remain silent and that anything he/she says may be used against him/her in a deportation proceeding or criminal prosecution;

(b) Failing to advise each person in a timely manner of his/her right to obtain an attorney and confer with the attorney before conducting the post-custodial interviews;

(c) Failing to provide each person taken into custody with a list of available free legal services in a timely manner;

(d) Failing to advise each person in a timely manner of the reason for the arrest and that a decision to release him/her on bond or personal recognizance will be made within twenty-four hours;

(e) Coercing persons of Mexican descent to sign the Form I-274 and leave the United States without exercising their right to a deportation hearing by not informing them in a timely manner of their rights to counsel, the availability of free legal services, the possibility of release on bond or recognizance, and a bond redetermination hearing;

(f) Coercing persons of Mexican descent into signing waivers of their rights when they do not understand the significance of the waivers and/or when such waivers come after improper interrogations;

(g) Using forms which do not contain information concerning the reason for the arrest, the availability of free legal services, or notice that a decision will be made within twenty-four hours as to whether he/she will be continued in custody or released on bond, or that the conditions of custody can be reviewed at a bond redetermination hearing by an Immigration Judge.

2. Enjoin Defendants from:

(a) Failing to warn each person before commencing the post-custodial interrogations of his/her right to remain silent and that anything he/she says may be used against him/her in a deportation proceeding or criminal prosecution;

(b) Failing to advise each person in a timely manner of his/her right to obtain an attorney and confer with the attorney before conducting the post-custodial interviews.

(c) Failing to provide each person taken into custody with a list of available free legal services in a timely manner;

(d) Failing to advise each person in a timely manner of the reason for the arrest and that a decision to hold him/her on bond or release him/her on bond or personal recognizance will be made within twenty-four hours;

(e) Coercing persons of Mexican-descent to sign the Form I-274 and leave the United States without exercising their right to a deportation hearing by not informing them in a timely manner of their rights to counsel, the availability of free legal services, the possibility of release on bond or recognizance and a bond redetermination hearing;

(f) Coercing persons of Mexican-descent into signing waivers of their rights when they do not understand the significance of the waivers and/or when such waivers come after improper interrogations;

(g) Using forms which do not contain information concerning the reason for the arrest, or notice that a decision will be made within twenty-four hours as to whether the alien will be continued in custody or released on bond, or that the conditions of custody can be reviewed at a bond redetermination hearing

by an Immigration Judge

3. Grant Plaintiffs reasonable costs and such other relief as this Court deems just. .

Juan M. Soliz
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