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16 **UNITED STATES DISTRICT COURT**

17 **CENTRAL DISTRICT OF CALIFORNIA**

18 ABDUL R. D. SALEM,

19 Plaintiff,

20 vs.

21 UNITED STATES OF AMERICA,
22 LOS ANGELES FIRE
23 DEPARTMENT, and DOES 1-10,
24 inclusive,

25 Defendants.

26 **Case No.:**

27 **COMPLAINT FOR DAMAGES**

- 28 1. Violation of 4th Amend.
Unreasonable Search and Seizure
(*Bivens*)
- 2. Violation of 4th Amend. Excessive
Force (*Bivens*)
- 3. Violation of 5th Amend. Equal
Protection (*Bivens*)
- 4. Assault (Federal Tort claim)
- 5. Battery (Federal Tort claim)
- 6. False Imprisonment (Federal Tort
claim)

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- 7. Intentional Infliction of Emotional Distress (Federal Tort claim)
- 8. Negligent Infliction of Emotional Distress (Federal Tort claim)
- 9. Negligence (Federal Tort claim & State Claim)

Jury Trial Demanded

INTRODUCTION

1. Plaintiff Abdul R. D. Salem, Ph.D. (“Plaintiff”) brings this lawsuit pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), the Constitution of the United States, and the Federal Tort Claims Act for violations of his constitutionally protected rights and for various torts arising from an abuse of power by United States Customs and Border Protection officers. Plaintiff is a 77 year-old United States citizen who was forcibly restrained, searched, injured, and detained by CBP agents.

2. The actions of the CBP officers were unwarranted and excessive. Plaintiff was forcibly stopped, injured, and detained by CBP officers after clearing the Transportation Security Administration’s (“TSA”) security checkpoint without incident, remitting his boarding pass to gate agents, and entering the passenger boarding bridge. Plaintiff never behaved in a manner that could give rise to

1 filed a governmental claim form with the Office of the City Clerk (“City Clerk”)
2 for the City of Los Angeles, State of California for state claims against the Los
3 Angeles Fire Department. On or around August 19, 2014 Plaintiff received
4 confirmation of receipt from the City Clerk. More than 45 days have elapsed since
5 the claims were accepted.
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8 7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§
9 1391(b)(2) and 1402(b) because all of the events which give rise to this action
10 occurred within this judicial district.
11

12 **PARTIES**

13 8. Plaintiff Abdul R. D. Salem, Ph.D. is, and at all times relevant was, a
14 naturalized citizen of the United States and a resident of Redlands, California.
15 Plaintiff is also a native citizen of Egypt.
16

17 9. Defendant United States of America (“United States”) is the
18 government of the United States of America and is the appropriate defendant under
19 the Federal Tort Claims Act, 28 U.S.C. §2671, *et seq.*, for the tort claims in this
20 complaint.
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22 10. Plaintiff is unaware of the true names and capacities of defendants sued
23 herein as Does 1 through 10, inclusive, and sues these defendants under such
24 fictitious names. Plaintiff will seek leave to amend this complaint to name such
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1 defendants when their true names and capacities have been ascertained. Plaintiff is
2 informed and believes, and on that basis alleges, that each of the fictitiously named
3 defendants is in some manner responsible for the acts and omissions herein alleged.
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5 11. Plaintiff is informed and believes, and on that basis alleges, that Does
6 1 through 4 are employees of CBP, an agency of the government of the United
7 States of America charged with the enforcement of customs and immigration laws.
8 At all times relevant to this complaint, Does 1 through 4 were acting within the
9 course and scope of their employment for CBP, and under color of law. Plaintiff is
10 informed, believes and thereupon alleges that each of the individual defendants’
11 acts were known to, discovered by, approved and/or ratified by CBP and the
12 government of the United States, by and through policy makers, and/or supervisors.
13 Defendant Does 1 through 4 are sued in their individual capacity.
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18 12. Plaintiff is informed and believes, and on that basis alleges, that
19 Defendant Los Angeles Fire Department (“LAFD”), is, and at all times relevant was,
20 a municipal subdivision of the City of Los Angeles that provides paramedical
21 services within the geographical borders of the City of Los Angeles, State of
22 California.
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25 13. Plaintiff is informed and believes, and on that basis alleges, that Does
26 5 through 7 are, and were at all times mentioned in this Complaint, employees of
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1 LAFD and were acting within the course and scope of their employment for LAFD,
2 and under color of law. Plaintiff is informed, believes and thereupon alleges that
3 each of the individual defendants' acts were known to, discovered by, approved
4 and/or ratified by LAFD, by and through policy makers, and/or supervisors.
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7 **FACTUAL ALLEGATIONS PERTINENT TO ALL COUNTS**

8 14. Plaintiff is a 77 year-old Egyptian-American who has lived in the
9 United States for more than 40 years. He earned a doctor of philosophy degree from
10 the University of California, Los Angeles and is an accomplished playwright
11 responsible for creating new artistic works as well as translating numerous plays
12 from English to Arabic.
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15 15. He is approximately five feet five inches in height and weighs
16 approximately 175 pounds. Like many senior citizens, Plaintiff suffers from myriad
17 age related diseases including osteoporosis, a medical condition that results in
18 fragile and brittle bones, and high blood pressure, which is exacerbated during
19 periods of high stress.
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22 16. Plaintiff has no criminal record in the United States or in Egypt. He
23 regularly travels to Egypt to serve as an adjunct professor of literature at the
24 Academy of Arts in Cairo. For the past several years, he has traveled to Egypt
25 approximately once per year to serve as an adjunct professor at the Academy of
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1 Arts. On each of those occasions, Plaintiff was never subjected to a stop, seizure,
2 or search by airport authorities.

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4 17. On February 21, 2014 Plaintiff was scheduled to travel to Cairo, Egypt
5 on British Airways flight 263 (“BA 263”), departing Los Angeles International
6 Airport (“LAX”) at 8:45 p.m. Plaintiff arrived at LAX around 6:45 p.m. and
7 checked his baggage with British Airways personnel at approximately 7:15 p.m.
8 Shortly thereafter, he went through the Transportation Security Administration
9 (“TSA”) security checkpoint with two carry-on bags.
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12 18. At approximately 7:30 p.m., Plaintiff submitted his boarding pass and
13 United States passport to TSA officials. Because his name on his boarding pass did
14 not exactly match his name as stated in his United States passport, TSA officials
15 would not permit him to pass the security checkpoint. Plaintiff provided TSA
16 officials with his Egyptian passport, which lists his full legal name, as an alternate
17 form of identification. TSA officials then allowed Plaintiff to pass through the
18 security checkpoint.
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22 19. He arrived at the departure gate at approximately 7:45 p.m. where he
23 waited for approximately thirty minutes before British Airways personnel began
24 boarding BA 263. Once boarding commenced, Plaintiff stood in line, remitted his
25 boarding pass to the gate personnel, and entered the passenger boarding bridge
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1 (“bridge”) with his two screened carryon bags. While walking toward the aircraft,
2 an unknown female officer (“Officer Doe 1”) waived her hand at Plaintiff and
3 demanded to inspect his passport.
4

5 20. He asked Officer Doe 1 why he was being singled out when other
6 passengers were being permitted to board the aircraft without incident. When
7 Officer Doe 1 ignored Plaintiff’s query, he attempted to comply with Officer Doe
8 1’s instructions. Before he was able to submit his passport and boarding pass to
9 Officer Doe 1, three additional unknown male officers wearing blue uniforms
10 intercepted Plaintiff and began to angrily yell accusations that he was a “bad man.”
11
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13 21. One of the officers was a heavily built male with dark skin and black
14 hair (“Officer Doe 2”). Another officer was fair skinned with medium build and
15 blonde to light blonde hair (“Officer Doe 3”). Finally, the third male officer had a
16 light build and blonde to light blonde hair (“Officer Doe 4”). Plaintiff is informed
17 and believes that Officer Doe 1, Officer Doe 2, Officer Doe 3, and Officer Doe 4
18 (collectively, “officers”) were CBP employees. Moreover, Plaintiff is informed and
19 believes that Officer Doe 3 supervised Officer Doe 1, Officer Doe 2, and Officer
20 Doe 4.
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25 22. Once the officers stopped Plaintiff, he was accused of intending to
26 physically strike Officer Doe 1 despite the fact that he made no verbal or non-verbal
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1 indication that he intended to do so. While on the bridge, one of the male officers
2 tightly grabbed Plaintiff's right arm. A second male officer tightly grabbed his left
3 arm and a third male officer tightly gripped Plaintiff's neck. One of these male
4 officers exclaimed that they had the right to search him.
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7 23. Plaintiff made absolutely no attempt to resist the officer's stop or
8 physical restraint or to attempt to flee from the officers. His speech was limited to
9 queries as to why he was being treated like a criminal and pleas to stop hurting him.
10

11 24. The officers then physically directed Plaintiff approximately ten feet
12 away from the aircraft but within the bridge area. They instructed him to place his
13 two carry-on bags on a nearby table. Plaintiff again inquired why he was being
14 singled out while other passengers were permitted to uneventfully board the aircraft.
15 The officers ignored his query and forcefully instructed him to remain silent while
16 Officer Doe 1 and Officer Doe 2 searched through Plaintiff's two carry-on bags.
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19 25. Officers Doe 3 and Doe 4 continued to physically restrain Plaintiff. He
20 did not resist their physical restraint or attempt to flee. Instead, he cooperated with
21 every request by the officers. One of the officers then informed Plaintiff that he
22 would not be boarding his flight that day.
23

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25 26. Officer Doe 1's and Officer Doe 2's search of Plaintiff's carry-on bags
26 took approximately 15 to 20 minutes. Like the prior TSA searches, nothing
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1 objectionable items were found in his luggage. This search also failed to uncover
2 and contraband or objectionable items.

3
4 34. Officer Doe 3 then instructed Officer Doe 2 to remove the handcuffs
5 worn by Plaintiff. At approximately 10:00 p.m., Officer Doe 2 returned Plaintiff's
6 luggage to him and advised him that he was free to leave and that he had not done
7 anything wrong.
8

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10 35. Plaintiff requested medical attention from the officers because the
11 bones in his right arm were visibly protruding out of place under his skin. He is
12 informed and believes that Officer Doe 2 and Officer Doe 3 contacted the Los
13 Angeles Fire Department ("LAFD"). Around 10:15 or 10:30 p.m., LAFD sent three
14 (3) Emergency Medical Services paramedics. Upon their initial examination,
15 LAFD paramedics diagnosed his injuries as an "obvious" fractured right arm.
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18 36. LAFD paramedics advised Officer Doe 2 and Officer Doe 3 that
19 Plaintiff required further medical attention. Although Plaintiff was in the officers'
20 custody and received a diagnosis from the LAFD paramedics, neither the officers
21 nor LAFD paramedics fulfilled their legal duty by offering any medical assistance
22 to treat his fractured arm or transport to a nearby hospital for immediate medical
23 attention.
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1 45. By their actions described above, including the detention and
2 interrogation of Plaintiff, Defendant Does 1 through 4 acted under the color of
3 federal law to deprive Plaintiff of his right to be free from unreasonable searches
4 and seizures, by searching, seizing, and detaining Plaintiff without reasonable
5 suspicion or probable cause that he had committed or was committing a crime, in
6 violation of the Fourth Amendment to the U.S. Constitution.
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9 46. This cause of action for the violation of Plaintiff's Fourth Amendment
10 right is brought pursuant to *Bivens v. Six Unknown Agents*, 403 U.S. 388 (1971).
11

12 **SECOND CAUSE OF ACTION**

13 **Excessive Force in Violation of the Fourth Amendment to the U.S.**

14 **Constitution Against Defendant Does 1 through 4**

15 ***(Bivens Claim)***

16
17 47. Plaintiff incorporates here all allegations set forth in the preceding
18 paragraphs.
19

20 48. Defendant Does 1 through 4 acted under the color of federal law to
21 deprive Plaintiff of his right to be free from unreasonable searches and seizures, as
22 guaranteed by the Fourth Amendment to the U.S. Constitution, by using excessive
23 force against Plaintiff in detaining him.
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1 of flight, to the same treatment, Defendants, acting under color of law federal law,
2 engaged in profiling and discrimination against Plaintiff and deprived Plaintiff of
3 equal protection of the laws, as guaranteed by the Fifth Amendment to the
4 Constitution of the United States.
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7 54. As a direct and proximate result of Defendants' actions, Plaintiff
8 experienced psychiatric trauma and emotional distress for being profiled on account
9 of his ethnicity, race, and/or national origin.
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11 55. Defendant Does 1 through 4 were acting under the color of federal law
12 in their capacity as CBP officers and their actions were conducted within the scope
13 of their official duties or employment.
14

15 56. This cause of action for the violation of Plaintiff's Fifth Amendment
16 right is brought pursuant to *Bivens v. Six Unknown Agents*, 403 U.S. 388 (1971).
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18 **FOURTH CAUSE OF ACTION**

19 **Assault in Violation of California Law Against Defendant United States of**
20 **America**

21 **(Federal Tort Claims Act claim)**
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23 57. Plaintiff incorporates here all allegations set forth in the preceding
24 paragraphs.
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1 58. By their actions described above, including stopping, searching, and
2 detaining Plaintiff, Defendant Does 1 through 4 intentionally and knowingly
3 physically injured Plaintiff. In addition, Defendant Does 1 through 4 intentionally
4 and knowingly threatened Plaintiff with imminent harmful and offensive contact,
5 and in fact caused Plaintiff to apprehend imminent contact.
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8 59. As a proximate result of the acts alleged herein Plaintiff suffered harm,
9 entitling him to damages in an amount to be proven at trial. Defendant Does 1
10 through 4 committed these actions as law enforcement officers employed by the
11 CBP while acting under the course and scope of their employment and Defendant
12 United States is liable for authorizing and/or acquiescing in the actions of, and/or
13 employing Does 1 through 4.
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16 60. This action is brought pursuant to the Federal Tort Claims Act under
17 which Defendant United States is liable for the actions of Defendants Does 1
18 through 4.
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21 **FIFTH CAUSE OF ACTION**

22 **Battery in Violation of California Law Against Defendant United States**
23 **(Federal Tort Claims Act claim)**

24 61. Plaintiff incorporates here all allegations set forth in the preceding
25 paragraphs.
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SIXTH CAUSE OF ACTION

**False Imprisonment in Violation of California Law Against Defendant
United States of America
(Federal Torts Claims Act claim)**

65. Plaintiff incorporates here all allegations set forth in the preceding paragraphs.

66. By their actions described above, including stopping, searching, detaining Plaintiff, and forcibly pushing Plaintiff's head against the table and forcibly pulling his arms behind Plaintiff's back and causing injury to Plaintiff's skull and arm, Defendants intended to deprive Plaintiff of freedom of movement by use of physical force. Plaintiff did not consent to such confinement by Defendants. Defendants' actions caused actual harm in the form of physical, emotional and economic injuries. Defendants conduct was the substantial factor in causing Plaintiff's harm.

67. As a proximate result of the acts alleged herein Plaintiff suffered harm, entitling him to damages in an amount to be proven at trial. Defendant Does 1 through 4 committed these actions as employees of the CBP while acting under the course and scope of their employment and Defendant United States is liable for

1 authorizing and/or acquiescing in the actions of, and/or employing Does 1 through
2 4.
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4 68. This action is brought pursuant to the Federal Tort Claims Act under
5 which Defendant United States is liable for the actions of Defendants Does 1
6 through 4.
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8 **SEVENTH CAUSE OF ACTION**
9 **Intentional Infliction of Emotional Distress in Violation of California Law**
10 **Against Defendant United States of America**
11 **(Federal Torts Claims Act claim)**
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13 69. Plaintiff incorporates here all allegations set forth in the preceding
14 paragraphs.
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16 70. By the actions described above, including, but not limited to, angrily
17 yelling accusations that he was a “bad man;” refusing to allow board his flight
18 despite finding no evidence of contraband or illegal activity during their search;
19 forcefully escorting Plaintiff out of the bridge and into two separate interrogation
20 rooms at LAX, detaining, interrogating; and, causing physical injury to Plaintiff to
21 the point of causing Plaintiff to nearly faint despite his pain-filled pleas, the
22 Defendants engaged in extreme and outrageous conduct with the intention and/or
23 with reckless disregard to the probability of causing severe emotional distress to
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1 Plaintiff. Plaintiff in fact suffered severe emotional distress and Defendants'
2 actions were a substantial factor in causing such distress.
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4 71. As a proximate result of the acts alleged herein Plaintiff suffered harm,
5 entitling him to damages in an amount to be proven at trial. Defendant Does 1
6 through 4 committed these actions as law enforcement officers employed by the
7 CBP while acting under the course and scope of their employment and Defendant
8 United States is liable for authorizing and/or acquiescing in the actions of, and/or
9 employing Does 1 through 4.
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12 72. This action is brought pursuant to the Federal Tort Claims Act under
13 which Defendant United States is liable for the actions of Defendants Does 1
14 through 4.
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16 **EIGHTH CAUSES OF ACTION**

17 **Negligent Infliction of Emotional Distress in Violation of California Law**
18 **Against Defendant United States of America**
19 **(Federal Torts Claims Act claims)**
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21 73. Plaintiff incorporates here all allegations set forth in the preceding
22 paragraphs.
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24 74. By the actions described above, including, but not limited to, angrily
25 yelling accusations that he was a "bad man," refusing to allow board his flight
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1 despite finding no evidence of contraband or illegal activity during their search;
2 forcefully escorting Plaintiff out of the bridge and into two separate interrogation
3 rooms at LAX, detaining, interrogating, and causing physical injury to Plaintiff to
4 the point of causing Plaintiff to nearly faint despite his pain-filled pleas, Defendants
5 engaged in negligent conduct as law enforcement officers insofar as there was no
6 reasonable suspicion or probable cause to select Plaintiff for interrogation and
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suffered severe emotional distress as a result of Defendants' negligence, which was a substantial factor in causing the emotional distress.

75. As a proximate result of the acts alleged herein Plaintiff suffered harm, entitling him to damages in an amount to be proven at trial. Defendant Does 1 through 4 committed these actions as law enforcement officers employed by the CBP while acting under the course and scope of their employment and Defendant United States is liable for authorizing and/or acquiescing in the actions of, and/or employing Does 1 through 4.

76. This action is brought pursuant to the Federal Tort Claims Act under which Defendant United States is liable for the actions of Defendants Does 1 through 4.

NINTH CAUSE OF ACTION

**Negligence in Violation of California Law Against Defendant United States of America, Defendant Los Angeles Fire Department, and Does 5 through 7
(Federal Torts Claims Act claim and California Civil Code §1714)**

77. Plaintiff incorporates here all allegations set forth in the preceding paragraphs.

78. Defendant Does 5 through 7 furnished a medical diagnosis by identifying Plaintiff suffered from a fractured arm. Defendant Does 5 through 7 owed a duty of care to Plaintiff but breached that duty by not treating Plaintiff's fractured arm on the spot or immediately transporting him to a hospital for further medical attention. Defendant Does 1 through 4 owed a duty of care to Plaintiff as a result of holding him in custody but breached that duty by not allowing Plaintiff to receive medical treatment.

79. Defendants breached their duty of reasonable care by negligently acting or omitting to act in such a way that resulted in Plaintiff's wrongful detention, the use of excessive force against Plaintiff, and failure to provide subsequent medical assistance to Plaintiff which these Defendants knew or should have known posed a substantial risk of grave harm to Plaintiff.

1 80. The Defendants were negligent in performing their duties and failed,
2 neglected and/or refused to properly and fully discharge their responsibilities by,
3 among other things:
4

- 5 a. Failing to review readily available documentation provided by
6 Plaintiff, specifically his passport and boarding pass;
- 7 b. Failing to respond to Plaintiff's query as to why he was being detained;
- 8 c. Failing to protect Plaintiff from coercive interrogation tactics;
- 9 d. Creating and/or sanctioning policies, patterns, practices and customs
10 of selecting individuals to detain, interrogate and deny boarding based
11 on their race and/or ethnicity;
- 12 e. Failing to adequately train and supervise agents performing CBP
13 duties;
- 14 f. Failing to perform a reasonable search of Plaintiff's belongings and
15 failing to cease detention and interrogation of Plaintiff upon failure to
16 produce evidence of weapons and/or contraband;
- 17 g. Failing to provide subsequent medical attention; and
- 18 h. Detaining, holding and seriously injuring a United States citizen.

19 81. As a proximate result of the acts alleged herein Plaintiff suffered harm,
20 entitling him to damages in an amount to be proven at trial. Defendant Does 1
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1 through 4 committed these actions as employees of the CBP while acting under the
2 course and scope of their employment and Defendant United States is liable for
3 authorizing and/or acquiescing in the actions of, and/or employing Does 1 - 4.

5 82. This action as it applies to Defendant United States is brought pursuant
6 to the Federal Tort Claims Act under which Defendant United States is liable for
7 the actions of Defendants Does 1 through 4.

9 83. This action as it applies to Defendant LAFD is brought pursuant to
10 California Civil Code § 1714 and pursuant to the principles of *respondeat superior*
11 under which Defendant LAFD is liable for the actions of Does 5 through 7 who
12 committed the aforementioned actions as employees of Defendant LAFD while
13 acting in the course and scope of their employment and Defendants LAFD is liable
14 for authorizing and/or acquiescing in the actions of, and/or employing Does 5
15 through 7. *Perez v. Van Groningen & Sons, Inc.*, 41 Cal.3d 962, 967 (1986).

17 84. This action as it applies to Defendant Does 5 through 7 is brought
18 pursuant to California Civil Code §1714.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Court to award:

a. Compensatory damages for torts committed against Plaintiff in an amount to be proven at trial;

b. Compensatory damages for violation of constitutional rights in an amount to be proven at trial;

c. Declaratory relief for violation of constitutional rights and for violations of the Federal Tort Claims Act;

d. Punitive damages in an amount to be proven at trial;

e. Nominal damages;

f. Reasonable attorneys' fees, costs, and expenses of litigation; and

g. Such additional and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on any and all issues triable by a jury.

Respectfully submitted,



Fatima Dadabhoy
Yalda Satar
Shafiel A. Karim
Attorneys for Plaintiff

Dated: October 9, 2015

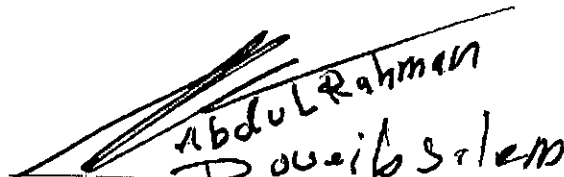
AFFIDAVIT OF PLAINTIFF ABDUL RAHMAN DOUEIB SALEM

I, Abdul Rahman Doucib Salem, declare as follows:

1. I am the plaintiff in this action. The factual allegations in this complaint are true. I make this declaration based on my personal knowledge and if called upon to do so, could and would testify competently thereto.

2. Based on my personal knowledge, Defendants are all residents or citizens of this judicial district, which is where the incidents giving rise to this complaint occurred.

I declare under penalty of perjury this 7 day of October 2015 in Cairo Egypt that the above and foregoing representations are true and correct to the best of my knowledge.


Abdul Rahman Doueib Salem