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13 *Attorneys for Plaintiff Abdul R. D. Salem*

14 **UNITED STATES DISTRICT COURT**  
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 ABDUL R. D. SALEM,  
17 Plaintiff,

18 v.

19 UNITED STATES OF AMERICA, LOS  
20 ANGELES FIRE DEPARTMENT, and  
21 DOES 1-10, inclusive,  
22 Defendants.

Case No.: 5:15-cv-02091-JGB-SP

**FIRST AMENDED COMPLAINT**

1. Violation of 4th Amend. Unreasonable Search & Seizure (*Bivens*)
2. Violation of 4th Amend. Excessive Force (*Bivens*)
3. Violation of 5th Amend. Equal Protection (*Bivens*)
4. Assault (28 U.S.C. § 2671, *et seq.*)
5. Battery (28 U.S.C. § 2671, *et seq.*)
6. False Imprisonment (28 U.S.C. § 2671, *et seq.*)
7. Intentional Infliction of Emotional Distress (28 U.S.C. § 2671, *et seq.*)
8. Negligent Infliction of Emotional Distress (28 U.S.C. § 2671, *et seq.*)
9. Negligence (28 U.S.C. § 2671, *et seq.*) & Cal. Civ. Code § 1714)
10. Violation of Substantive Due Process; Denial of Medical Attention (42 U.S.C. § 1983)

**Demand for Jury Trial**

*Assigned to the Honorable  
Jesus G. Bernal*

**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, the Federal Tort Claims Act (28 U.S.C. § 2671, *et seq.*)(“FTCA”), and 42 U.S.C. § 1983 for violations of his constitutionally protected rights and for various torts arising from an abuse of power by federal Customs and Border Protection (“CBP”) officers and local paramedics. 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 suspicion of criminal activity, and no contraband was found in his carry-on bags or checked luggage. He fully cooperated with the CBP officers at all times. Despite his cooperation, CBP officers used unnecessary and disproportionate force against Plaintiff. Plaintiff was seen by paramedics during his detention, was not treated despite suffering from an obvious arm fracture caused by the CBP officers, and then released from custody without being charged for any offense.

3. This incident was a violation of Plaintiff’s constitutionally protected rights. It also directly caused him to experience significant physical and emotional injuries, the treatment of which has caused him to incur medical expenses and lose work productivity. Plaintiff seeks relief from this Court for his injuries.

1  
2 **JURISDICTION AND VENUE**

3 4. This Court has subject matter jurisdiction over Plaintiff’s federal claims  
4 under 28 U.S.C. §§ 1331 and 1346(b).

5 5. This Court also has supplemental jurisdiction over the state claims and  
6 over defendants pursuant to 28 U.S.C. § 1367.

7 6. Plaintiff exhausted his administrative remedies. Pursuant to the FTCA,  
8 Plaintiff filed an administrative complaint with CBP on or around December 4, 2014.  
9 On or around April 15, 2015, CBP issued a letter denying Plaintiff’s federal tort claim.  
10 On or around August 12, 2014, Plaintiff filed a governmental claim form with the Of-  
11 fice of the City Clerk (“City Clerk”) for the City of Los Angeles, State of California for  
12 state claims against the Los Angeles Fire Department. On or around August 19, 2014  
13 Plaintiff received confirmation of receipt from the City Clerk. More than 45 days have  
14 elapsed since the claims were accepted.

15 7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§  
16 1391(b)(2) and 1402(b) because all of the events giving rise to this action occurred  
17 within this judicial district.

18 **PARTIES**

19 8. Plaintiff Abdul R. D. Salem, Ph.D. is, and at all times relevant was, a nat-  
20 uralized citizen of the United States and a resident of Redlands, California. Plaintiff is  
21 also a native citizen of Egypt.

22 9. Defendant United States of America (“United States”) is the government  
23 of the United States of America and is the appropriate defendant under the FTCA for  
24 the tort claims in this complaint.

25 10. Plaintiff is unaware of the true names and capacities of defendants sued  
26 herein as Does 1 through 10, inclusive, and sues these defendants under such fictitious  
27 names. Plaintiff will seek leave to amend this complaint to name such defendants  
28 when their true names and capacities have been ascertained. Plaintiff is informed and

1 believes, and on that basis alleges, that each of the fictitiously named defendants is in  
2 some manner responsible for the acts and omissions herein alleged.  
3

4 11. Plaintiff is informed and believes, and on that basis alleges, that Does 1  
5 through 4 are employees of CBP, an agency of the government of the United States of  
6 America charged with the enforcement of customs and immigration laws. At all times  
7 relevant to this complaint, Does 1 through 4 were acting within the course and scope of  
8 their employment for CBP, and under color of law. Plaintiff is informed, believes and  
9 thereupon alleges that each of the individual defendants' acts were known to, discov-  
10 ered by, approved and/or ratified by CBP and the government of the United States, by  
11 and through policy makers, and/or supervisors. Defendant Does 1 through 4 are sued  
12 in their individual capacity.

13 12. Plaintiff is informed and believes, and on that basis alleges, that Defend-  
14 ant Los Angeles Fire Department ("LAFD"), is, and at all times relevant was, a munic-  
15 ipal subdivision of the City of Los Angeles that provides paramedical services within  
16 the geographical borders of the City of Los Angeles, State of California.

17 13. Plaintiff is informed and believes, and on that basis alleges, that Does 5  
18 through 7 are, and were at all times mentioned in this Complaint, employees of LAFD  
19 and were acting within the course and scope of their employment for LAFD, and under  
20 color of law. Plaintiff is informed, believes and thereupon alleges that each of the in-  
21 dividual defendants' acts were known to, discovered by, approved and/or ratified by  
22 LAFD, by and through policy makers, and/or supervisors.

23 **STATEMENT OF FACTS**

24 14. Plaintiff is a 77 year-old Egyptian-American who has lived in the United  
25 States for more than 40 years. He earned a doctor of philosophy degree from the Uni-  
26 versity of California, Los Angeles and is an accomplished playwright responsible for  
27 creating new artistic works as well as translating numerous plays from English to Ara-  
28 bic.

1  
2 15. He is approximately five feet five inches in height and weighs approxi-  
3 mately 175 pounds. Like many senior citizens, Plaintiff suffers from myriad age relat-  
4 ed diseases including osteoporosis, a medical condition that results in fragile and brittle  
5 bones, and high blood pressure, which is exacerbated during periods of high stress.

6 16. Plaintiff has no criminal record in the United States or in Egypt. He regu-  
7 larly travels to Egypt to serve as an adjunct professor of literature at the Academy of  
8 Arts in Cairo. For the past several years, he has traveled to Egypt approximately once  
9 per year to serve as an adjunct professor at the Academy of Arts. On each of those oc-  
10 casions, Plaintiff was never subjected to a stop, seizure, or search by airport authorities.

11 17. On February 21, 2014 Plaintiff was scheduled to travel to Cairo, Egypt on  
12 British Airways flight 263 (“BA 263”), departing Los Angeles International Airport  
13 (“LAX”) at 8:45 p.m. Plaintiff arrived at LAX around 6:45 p.m. and checked his bag-  
14 gage with British Airways personnel at approximately 7:15 p.m. Shortly thereafter, he  
15 went through the Transportation Security Administration (“TSA”) security checkpoint  
16 with two carry-on bags.

17 18. At approximately 7:30 p.m., Plaintiff submitted his boarding pass and  
18 United States passport to TSA officials. Because the name on his boarding pass did  
19 not exactly match his name as stated in his United States passport, TSA officials did  
20 not permit him to pass the security checkpoint. Plaintiff provided TSA officials with  
21 his Egyptian passport, which lists his full legal name, as an alternate form of identifica-  
22 tion. TSA officials then allowed Plaintiff to pass through the security checkpoint.

23 19. He arrived at the departure gate at approximately 7:45 p.m. where he  
24 waited for approximately thirty minutes before British Airways personnel began board-  
25 ing BA 263. Once boarding commenced, Plaintiff stood in line, remitted his boarding  
26 pass to the gate personnel, and entered the passenger boarding bridge (“bridge”) with  
27 his two screened carry-on bags. While walking toward the aircraft, an unknown fe-

1 male officer (“Officer Doe 1”) waived her hand at Plaintiff and demanded to inspect  
2 his passport.  
3

4 20. He asked Officer Doe 1 why he was being singled out when other passen-  
5 gers were being permitted to board the aircraft without incident. When Officer Doe 1  
6 ignored Plaintiff’s query, he attempted to comply with Officer Doe 1’s instructions.  
7 Before he was able to submit his passport and boarding pass to Officer Doe 1, Officer  
8 Doe 2, Office Doe 3, and Officer Doe 4—all male officers wearing blue uniforms—  
9 intercepted Plaintiff and began to angrily yell accusations that Plaintiff was a “bad  
10 man.”

11 21. Officer Doe 2 was a heavily built male with dark skin and black hair. Of-  
12 ficer Doe 3 was fair skinned with medium build and blonde to light blonde hair. Of-  
13 ficer Doe 4 had a light build and blonde to light blonde hair. Plaintiff is informed and  
14 believes that Officer Doe 1, Officer Doe 2, Officer Doe 3, and Officer Doe 4 (collec-  
15 tively, “officers”) were CBP employees. Moreover, Plaintiff is informed and believes  
16 that Officer Doe 3 supervised Officer Doe 1, Officer Doe 2, and Officer Doe 4.

17 22. Once the officers stopped Plaintiff, he was accused of intending to physi-  
18 cally strike Officer Doe 1 despite the fact that he made no verbal or non-verbal indica-  
19 tion that he intended to do so. While on the bridge, one of the male officers tightly  
20 grabbed Plaintiff’s right arm. A second male officer tightly grabbed his left arm and a  
21 third male officer tightly gripped Plaintiff’s neck. One of these male officers ex-  
22 claimed that they had the right to search him.

23 23. Plaintiff made absolutely no attempt to resist the officer’s stop or physical  
24 restraint or to attempt to flee from the officers. His speech was limited to queries as to  
25 why he was being treated like a criminal and pleas to stop hurting him. No evidence of  
26 contraband, weapons, or illegal activity was found on Plaintiff’s person.

27 24. The officers then physically directed Plaintiff approximately ten feet away  
28 from the aircraft but within the bridge area. They instructed him to place his two car-

1  
2 ry-on bags, which were already inspected by TSA, on a nearby table. Plaintiff again  
3 inquired why he was being singled out while other passengers were permitted to une-  
4 ventfully board the aircraft. The officers ignored his query and forcefully instructed  
5 him to remain silent while Officer Doe 1 and Officer Doe 2 searched through Plain-  
6 tiff's two carry-on bags.

7 25. Officers Doe 3 and Doe 4 continued to physically restrain Plaintiff. He  
8 did not resist their physical restraint or attempt to flee. Instead, he cooperated with  
9 every request by the officers. One of the officers then informed Plaintiff that he would  
10 not be boarding his flight that day.

11 26. Officer Doe 1's and Officer Doe 2's search of Plaintiff's carry-on bags  
12 took approximately 15 to 20 minutes. Like the prior TSA searches, nothing objection-  
13 able was found in the carry-on bags. The officers found no evidence of contraband,  
14 weapons, or illegal activity during their search.

15 27. Plaintiff did not attempt to obstruct Officer Doe 1's or Officer Doe 2's  
16 search of his carry-on bags. He did not resist Officer Doe 3's and Officer Doe 4's  
17 physical restraint nor did he attempt to flee. Plaintiff's speech was limited to queries  
18 as to why he was being treated like a criminal and pleas to stop hurting him.

19 28. Despite finding no evidence of contraband, weapons, or illegal activity on  
20 Plaintiff's person or luggage, Plaintiff was forcefully escorted out of the bridge and in-  
21 to two separate interrogation rooms at LAX where he was detained, interrogated, and  
22 physically battered and assaulted over the course of several hours. While Plaintiff was  
23 forcefully escorted to the first detention room, he did not resist the officers and did not  
24 attempt to flee. His speech was limited to queries as to why he was being treated like a  
25 criminal and pleas to stop hurting him.

26 29. Due to his age, Plaintiff has limited flexibility. During the custodial  
27 search and interview in the first interrogation room, Officers Doe 2 and Doe 3 forcibly  
28 caused Plaintiff to bend his back down to a 90-degree angle on a table, which caused



1 Plaintiff significant physical and emotional pain. Officer Doe 2 forcibly slammed his  
2 head against the table and forcibly pulled Plaintiff's right arm behind his back in order  
3 to place handcuffs on Plaintiff, which also caused Plaintiff significant physical and  
4 emotional pain.  
5

6 30. While Officer Doe 2 forcibly pulled Plaintiff's right arm behind his back,  
7 he repeatedly cried out in pain and asked for the officers to please stop. Officer Doe 2  
8 ignored Plaintiff's pleas and a loud sharp crack emanated from his arm. Plaintiff  
9 screamed in pain, nearly fainted, and began inconsolably sobbing. Once his bones au-  
10 dibly cracked, Officer Doe 3 directed Officer Doe 2 to use "long handcuffs" so that  
11 Plaintiff's lack of flexibility could be accommodated.

12 31. During his pleas, Plaintiff repeatedly stated that he was a 75 year-old man  
13 and that he had done nothing illegal. He further explained that he has never been  
14 stopped or detained by law enforcement in his life. The officers ignored his pleas and  
15 continued their interrogation in an excessively abusive manner.

16 32. At no point did the CBP officers explain to Plaintiff why he was being de-  
17 tained, or why a custodial search and seizure was being conducted. Shortly thereafter,  
18 he was escorted to a second detention room on a subterranean floor at LAX.

19 33. Plaintiff is informed and believes that this second sublevel detention room  
20 was a maximum-security room. There, the officers physically searched Plaintiff's  
21 checked luggage, which had been removed from flight BA 263, and informed him that  
22 he would be arrested and incarcerated if any contraband or objectionable items were  
23 found in his luggage. This search also failed to uncover any evidence of contraband,  
24 weapons, or illegal activity.

25 34. Officer Doe 3 then instructed Officer Doe 2 to remove the handcuffs worn  
26 by Plaintiff. At approximately 10:00 p.m., nearly two hours after initially being unlaw-  
27 fully stopped, seized, arrested, and abused, Officer Doe 2 returned Plaintiff's luggage  
28



1 to him and advised him that he was free to leave and that he had not done anything  
2 wrong.  
3

4 35. Plaintiff requested medical attention from the officers because the bones  
5 in his right arm were visibly protruding out of place under his skin. He is informed  
6 and believes that Officer Doe 2 and Officer Doe 3 contacted the Los Angeles Fire De-  
7 partment (“LAFD”). Around 10:15 or 10:30 p.m., LAFD sent three (3) Emergency  
8 Medical Services paramedics. Upon their initial examination, LAFD paramedics diag-  
9 nosed his injuries as an “obvious” fractured right arm.

10 36. LAFD paramedics advised Officer Doe 2 and Officer Doe 3 that Plaintiff  
11 required further medical attention. Although Plaintiff was in the officers’ custody and  
12 received a diagnosis from the LAFD paramedics, neither the officers nor LAFD para-  
13 medics fulfilled their legal duty by offering any medical assistance to treat his fractured  
14 arm or transport to a nearby hospital for immediate medical attention.

15 37. At approximately 1:00 a.m., nearly four hours after he was originally de-  
16 tained, Plaintiff was released from custody. Plaintiff’s cell phone was not returned.

17 38. Throughout this encounter, the officers were acting within the course and  
18 scope of their employment with CBP. As the agency charged with securing the bor-  
19 ders of the United States, CBP authorizes its officers to enforce customs and immigra-  
20 tion laws. To achieve this purpose, officers are given the authority to conduct searches  
21 without a warrant and arrest individuals pursuant to 8 U.S.C. § 1357 and 8 C.F.R. §  
22 287.5. The search of Plaintiff’s person and property, along with his detainment, were  
23 conducted under this authority.

24 39. The U.S. Constitution, however, prohibits officers from conducting unrea-  
25 sonable searches and seizures and from using excessive force. Indeed, on April 26,  
26 2013, the secretary of the Department of Homeland Security wrote, “In all we do to se-  
27 cure America, our strategies and our actions must be consistent with the individual  
28

1 rights and civil liberties by the Constitution and the rule of law.”<sup>1</sup> Nevertheless, exces-  
2 sive use of force appears to be a cultural problem at CBP. For example, on March 10,  
3 2014, the American Civil Liberties Union wrote to the United Nations Human Rights  
4 Committee complaining of CBP’s pervasive use of excessive force and lack of trans-  
5 parency. Similarly, in February 2013, The Police Executive Research Forum, a non-  
6 partisan think tank, found CBP was not diligent in internal investigations of alleged  
7 excessive use of force cases and that its lax approach to internal investigations could  
8 “lead to tacit approval of bad practices.”<sup>2</sup>

9  
10 40. As a direct and proximate result of the officers’ excessive use of force ac-  
11 tions, Plaintiff sustained injury to his right arm and head. He has suffered, continues to  
12 suffer, and will continue to suffer from reduced strength, motion, and utility in his right  
13 arm.

14 41. In addition to his physical injuries, Plaintiff also suffered psychiatric  
15 trauma as a direct and proximate result of the officers’ excessive use of force actions.  
16 The excessive use of force actions of the officers’ were carried out against Plaintiff be-  
17 cause he is of Egyptian ethnicity and national origin. Moreover, the excessive use of  
18 force actions of the officers was egregious and purposeful and carried out with the in-  
19 tent to cause harm and distress to Plaintiff.

20 42. As a 77 year-old playwright accustomed to writing with a pen and paper,  
21 Plaintiff’s right arm fracture has been significantly debilitating. Prior to his injuries, he  
22 shared a *joie de vivre* in his work and had no intention of retiring. As a result of the

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23 <sup>1</sup> Janet Napolitano, The Department of Homeland Security’s Commitment to Nondiscrimina-  
24 tory Law Enforcement and Screening Activities (Dep’t of Homeland Sec., Apr. 26, 2013), *available*  
25 *at* [https://www.dhs.gov/sites/default/files/publications/secretary-memo-race-neutrality-2013\\_0\\_1.pdf](https://www.dhs.gov/sites/default/files/publications/secretary-memo-race-neutrality-2013_0_1.pdf)  
(last visited Apr. 28, 2016).

26 <sup>2</sup> U.S. Customs and Border Protection Use of Force Review: Cases and Policies (The Police  
27 Executive Research Forum, Feb. 2013), *available at* [https://www.cbp.gov/sites/default/files/](https://www.cbp.gov/sites/default/files/documents/PERFReport.pdf)  
28 [documents/PERFReport.pdf](https://www.cbp.gov/sites/default/files/documents/PERFReport.pdf) (last visited Apr. 28, 2016); *see also* Vahe Mesropyan, United States  
Customs And Border Protection Engages In Excessive Force For Which There Is No Accountability  
(United Nations Universal Periodic Review, Apr. – May 2015), *available at* [https://uprdoc.ohchr.org/](https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=1632&file=EnglishTranslation)  
[uprweb/downloadfile.aspx?filename=1632&file=EnglishTranslation](https://uprweb/downloadfile.aspx?filename=1632&file=EnglishTranslation) (last visited Apr. 28, 2016).

1 fracture sustained during his encounter with CBP, however, Plaintiff has been unable  
2 to write and teach in the same manner as before this incident. In addition, as a frequent  
3 traveler, he is now fearful of every interaction with airport law enforcement. The CBP  
4 officers' abusive conduct is indelibly etched in Plaintiff's mind and he continues to  
5 suffer emotional trauma when he invariably thinks of the incident.  
6

7 43. As a consequence, Plaintiff has incurred medical expenses and suffered a  
8 loss of income.

9 **FIRST CAUSE OF ACTION**  
10 **Unreasonable Search, Seizure, False Arrest, and False Imprisonment in Violation**  
11 **of the Fourth Amendment to the U.S. Constitution**  
12 **Against Defendant Does 1 through 4**  
13 **(*Bivens* Claim)**

14 44. Plaintiff re-alleges each and every allegation above, incorporates them by  
15 reference here, and further alleges the following:

16 45. By their actions described above, including the detention and interrogation  
17 of Plaintiff, Defendant Does 1 through 4 acted under the color of federal law to deprive  
18 Plaintiff of his right to be free from unreasonable searches and seizures, by searching,  
19 seizing, and detaining Plaintiff without reasonable suspicion or probable cause that he  
20 had committed or was committing a crime, in violation of the Fourth Amendment to  
21 the U.S. Constitution.

22 46. This cause of action for the violation of Plaintiff's Fourth Amendment  
23 right is brought pursuant to *Bivens v. Six Unknown Agents*, 403 U.S. 388 (1971).

24 **SECOND CAUSE OF ACTION**  
25 **Excessive Force in Violation of the Fourth Amendment**  
26 **Against Defendant Does 1 through 4**  
27 **(*Bivens* Claim)**

28 47. Plaintiff re-alleges each and every allegation above, incorporates them by  
reference here, and further alleges the following:

1  
2 48. Defendant Does 1 through 4 acted under the color of federal law to de-  
3 prive Plaintiff of his right to be free from unreasonable searches and seizures, as guar-  
4 anteed by the Fourth Amendment to the U.S. Constitution, by using excessive force  
5 against Plaintiff in detaining him.

6 49. By their actions described above, Defendant Does 1 through 4's use of  
7 force directly and proximately caused physical and emotional injury to Plaintiff. The  
8 force was excessive under the circumstances set forth in this Complaint and was objec-  
9 tively unreasonable. No evidence of contrabands, weapons, or illegal activity was  
10 found on Plaintiff's person. No evidence of contraband, weapons, or illegal activity  
11 was found in Plaintiff's carry-on or checked luggage.

12 50. This cause of action for the violation of Plaintiff's Fourth Amendment  
13 right is brought pursuant to *Bivens v. Six Unknown Agents*, 403 U.S. 388 (1971).

14 **THIRD CAUSE OF ACTION**  
15 **Equal Protection in Violation of the Fifth Amendment**  
16 **Against Defendant Does 1 through 4**  
17 **(*Bivens* Claim)**

18 51. Plaintiff re-alleges each and every allegation above, incorporates them by  
19 reference here, and further alleges the following:

20 52. The Due Process Clause of the United States Constitution incorporates the  
21 guarantee of equal protection of the law, that "no one shall be deprived of life, liberty  
22 or property without due process of law," as applied to the federal government.

23 53. As a person of Egyptian ethnicity, race, and national origin, Plaintiff is a  
24 member of a protected class. By their actions described above, including stopping and  
25 selecting Plaintiff for investigation, at least in part, on the basis of his ethnicity, race  
26 and/or national origin, and not subjecting other boarding passengers of flight, to the  
27 same treatment, Defendants, acting under color of law federal law, engaged in profiling  
28 and discrimination against Plaintiff and deprived Plaintiff of equal protection of the  
laws, as guaranteed by the Fifth Amendment to the Constitution of the United States.

1  
2 54. As a direct and proximate result of Defendants' actions, Plaintiff experi-  
3 enced psychiatric trauma and emotional distress for being profiled on account of his  
4 ethnicity, race, and/or national origin.

5 55. Defendant Does 1 through 4 were acting under the color of federal law in  
6 their capacity as CBP officers and their actions were conducted within the scope of  
7 their official duties or employment.

8 56. This cause of action for the violation of Plaintiff's Fifth Amendment right  
9 is brought pursuant to *Bivens v. Six Unknown Agents*, 403 U.S. 388 (1971).

10 **FOURTH CAUSE OF ACTION**  
11 **Assault in Violation of California Law**  
12 **Against Defendant United States of America**  
13 **(28 U.S.C. § 2647)**

14 57. Plaintiff re-alleges each and every allegation above, incorporates them by  
15 reference here, and further alleges the following:

16 58. By their actions described above, including stopping, searching, and de-  
17 taining Plaintiff, Defendant Does 1 through 4 intentionally and knowingly physically  
18 injured Plaintiff. In addition, Defendant Does 1 through 4 intentionally and knowingly  
19 threatened Plaintiff with imminent harmful and offensive contact, and in fact caused  
20 Plaintiff to apprehend imminent contact.

21 59. As a direct and proximate result of the acts alleged herein Plaintiff suf-  
22 fered harm, entitling him to damages in an amount to be proven at trial. Defendant  
23 Does 1 through 4 committed these actions as law enforcement officers employed by  
24 the CBP while acting under the course and scope of their employment and Defendant  
25 United States is liable for authorizing and/or acquiescing in the actions of, and/or em-  
26 ploying Does 1 through 4.

27 60. This action is brought pursuant to the FTCA under which Defendant Unit-  
28 ed States is liable for the actions of Defendants Does 1 through 4.

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**FIFTH CAUSE OF ACTION**  
**Battery in Violation of California Law**  
**Against Defendant United States of America**  
**(28 U.S.C. § 2647)**

61. Plaintiff re-alleges each and every allegation above, incorporates them by reference here, and further alleges the following:

62. By their actions described above, including stopping, searching, and detaining Plaintiff, and forcibly slamming Plaintiff's head against the table and forcibly pulling his arms behind his back and causing injury to Plaintiff's head and arm, Defendants intended to cause harmful contact, and in fact caused harmful contact to Plaintiff in the form of a bone fracture.

63. As a direct and 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.

64. This action is brought pursuant to the FTCA under which Defendant United States is liable for the actions of Defendants Does 1 through 4.

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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 re-alleges each and every allegation above, incorporates them by reference here, and further alleges the following:

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 head and arm, Defendants intended to deprive Plaintiff of freedom of movement by use of physical force. Plain-

1  
2 tiff did not consent to such confinement by Defendants. Defendants' actions caused  
3 actual harm in the form of physical, emotional and economic injuries. Defendants'  
4 conduct was the substantial factor in causing Plaintiff's harm.

5 67. As a direct and proximate result of the acts alleged herein Plaintiff suf-  
6 fered harm, entitling him to damages in an amount to be proven at trial. Defendant  
7 Does 1 through 4 committed these actions as employees of the CBP while acting under  
8 the course and scope of their employment and Defendant United States is liable for au-  
9 thorizing and/or acquiescing in the actions of, and/or employing Does 1 through 4.

10 68. This action is brought pursuant to the FTCA under which Defendant Unit-  
11 ed States is liable for the actions of Defendants Does 1 through 4.

12 **SEVENTH CAUSE OF ACTION**  
13 **Intentional Infliction of Emotional Distress in Violation of California Law**  
14 **Against Defendant United States of America**  
15 **(28 U.S.C. § 2647)**

16 69. Plaintiff re-alleges each and every allegation above, incorporates them by  
17 reference here, and further alleges the following:

18 70. By the actions described above, including, but not limited to, angrily yell-  
19 ing accusations that he was a "bad man;" refusing to allow board his flight despite  
20 finding no evidence of contraband or illegal activity during their search; forcefully es-  
21 corting Plaintiff out of the bridge and into two separate interrogation rooms at LAX,  
22 detaining, interrogating; and, causing physical injury to Plaintiff to the point of causing  
23 Plaintiff to nearly faint despite his pain-filled pleas, the Defendants engaged in extreme  
24 and outrageous conduct with the intention and/or with reckless disregard to the proba-  
25 bility of causing severe emotional distress to Plaintiff. Plaintiff in fact suffered severe  
26 emotional distress and Defendants' actions were a substantial factor in causing such  
27 distress.

28 71. As a direct and proximate result of the acts alleged herein Plaintiff suf-  
fered harm, entitling him to damages in an amount to be proven at trial. Defendant



1 Does 1 through 4 committed these actions as law enforcement officers employed by  
2 the CBP while acting under the course and scope of their employment and Defendant  
3 United States is liable for authorizing and/or acquiescing in the actions of, and/or em-  
4 ploying Does 1 through 4.  
5

6 72. This action is brought pursuant to the FTCA under which Defendant Unit-  
7 ed States is liable for the actions of Defendants Does 1 through 4.

8 **EIGHTH CAUSES OF ACTION**  
9 **Negligent Infliction of Emotional Distress in Violation of California Law**  
10 **Against Defendant United States of America**  
11 **(28 U.S.C. § 2647)**

12 73. Plaintiff re-alleges each and every allegation above, incorporates them by  
13 reference here, and further alleges the following:

14 74. By the actions described above, including, but not limited to, angrily yell-  
15 ing accusations that he was a “bad man,” refusing to allow board his flight despite  
16 finding no evidence of contraband, weapons, or illegal activity during their search;  
17 forcefully escorting Plaintiff out of the bridge and into two separate interrogation  
18 rooms at LAX, detaining, interrogating, and causing physical injury to Plaintiff to the  
19 point of causing Plaintiff to nearly faint despite his pain-filled pleas, Defendants’ en-  
20 gaged in negligent conduct as law enforcement officers insofar as there was no reason-  
21 able suspicion or probable cause to select Plaintiff for interrogation and detainment  
22 other than simply his race, ethnicity, and/or national origin. Plaintiff suffered severe  
23 emotional distress as a result of Defendants’ negligence, which was a substantial factor  
24 in causing the emotional distress.

25 75. As a direct and proximate result of the acts alleged herein Plaintiff suf-  
26 fered harm, entitling him to damages in an amount to be proven at trial. Defendant  
27 Does 1 through 4 committed these actions as law enforcement officers employed by  
28 the CBP while acting under the course and scope of their employment and Defendant

1 United States is liable for authorizing and/or acquiescing in the actions of, and/or em-  
2 ploying Does 1 through 4.

3  
4 76. This action is brought pursuant to the FTCA under which Defendant Unit-  
5 ed States is liable for the actions of Defendants Does 1 through 4.

6 **NINTH CAUSE OF ACTION**  
7 **Negligence in Violation of California Law**  
8 **Against Defendant United States of America, Defendant Los Angeles Fire De-**  
9 **partment, and Does 5 through 7**  
10 **(28 U.S.C. § 2647 and California Civil Code § 1714)**

11 77. Plaintiff re-alleges each and every allegation above, incorporates them by  
12 reference here, and further alleges the following:

13 78. Defendant Does 5 through 7 diagnosed Plaintiff with a fractured arm. De-  
14 fendant Does 5 through 7 owed a duty of care to Plaintiff but breached that duty by not  
15 treating Plaintiff's fractured arm on the spot or immediately transporting him to a hos-  
16 pital for further medical attention. Defendant Does 1 through 4 owed a duty of care to  
17 Plaintiff because they were holding him in custody; Defendant Does 1 through 4  
18 breached their duty by not allowing Plaintiff to receive medical treatment.

19 79. Defendants breached their duty of reasonable care by negligently acting or  
20 omitting to act in such a way that resulted in Plaintiff's wrongful detention, use of ex-  
21 cessive force against Plaintiff, and failure to provide subsequent medical assistance to  
22 Plaintiff, which Defendant Does 1 through 4 knew or should have known posed a sub-  
23 stantial risk of grave harm to Plaintiff.

24 80. The Defendants were negligent in performing their duties and failed, ne-  
25 glected and/or refused to properly and fully discharge their responsibilities by, among  
26 other things:

- 27 a. Failing to review readily available documentation provided by Plain-  
28 tiff, specifically his passport and boarding pass;
- b. Failing to respond to Plaintiff's query as to why he was being detained;

- c. Failing to protect Plaintiff from coercive interrogation tactics;
- d. Creating and/or sanctioning policies, patterns, practices and customs of selecting individuals to detain, interrogate and deny boarding based on their race and/or ethnicity;
- e. Failing to adequately train and supervise agents performing CBP duties;
- f. Failing to perform a reasonable search of Plaintiff's belongings and failing to cease detention and interrogation of Plaintiff after finding no evidence of contraband, weapons, or illegal activity;
- g. Failing to provide subsequent medical attention; and
- h. Detaining, holding and seriously injuring a United States citizen.

81. As a direct and 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 authorizing and/or acquiescing in the actions of, and/or employing Does 1 - 4.

82. This action as it applies to Defendant United States is brought pursuant to the FTCA under which Defendant United States is liable for the actions of Defendants Does 1 through 4.

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

1 84. This action, as it applies to Defendant Does 5 through 7, is brought pursu-  
2 ant to California Civil Code §1714.  
3

4 **TENTH CAUSE OF ACTION**  
5 **Denial of Medical Attention in Violation of Substantive Due Process**  
6 **Against Defendant Los Angeles Fire Department and Does 5 through 7**  
7 **(42 U.S.C. § 1983)**

8 85. Plaintiff re-alleges each and every allegation above, incorporates them by  
9 reference here, and further alleges the following:

10 86. Plaintiff suffered from a fractured arm. Plaintiff had a serious medical  
11 need and his injury was so patently obvious that non-doctors could easily recognize his  
12 need for medical attention. By denying or delaying medical care, Plaintiff suffered  
13 from permanent physical injury and needless pain.

14 87. By their actions described above, including taking custody of Plaintiff,  
15 examining and assessing the extent of Plaintiff's injuries, and diagnosing the injury to  
16 his right arm as an "obvious" fracture, Defendant LAFD and Defendants does 5  
17 through 7 were deliberately indifferent to Plaintiff's serious need for medical attention.  
18 Defendants knew or should have known that Plaintiff was at excessive risk of perma-  
19 nent injury and pain by neglecting to treat Plaintiff's fractured arm.

20 88. Plaintiff had a fundamental right to medical attention when he suffered  
21 physical injuries while in the custody of Defendant LAFD and Defendant Does 5  
22 through 7.

23 89. By their actions described above, Defendant LAFD and Defendants Does  
24 5 through 7's deliberate indifference caused harm, continued pain and suffering, and  
25 physical injury to Plaintiff.

26 90. This action as it applies to Defendant LAFD and Does 5 through 7 is  
27 brought pursuant to 42 U.S. Code § 1983.

28 **PRAYER FOR RELIEF**

Plaintiff respectfully requests this Court award the following:

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

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

5 C. Declaratory relief for violation of constitutional rights, the FTCA, Civil  
6 Code § 1714, and 42 U.S.C. § 1983.

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

8 E. Nominal damages;

9 F. Reasonable attorneys’ fees, costs, and expenses of litigation; and

10 G. All other relief this Court deems just and proper.

11 **JURY TRIAL**

12 Plaintiff requests a trial by jury for all claims so triable.

13 Sincerely,

14 /s/ Shafiel A. Karim

15 Dated: May 2, 2016

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