

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

ROBERTO MUÑIZ, ANTONIO)
TORRES-FRANCO, JUANA MUÑIZ-TORRES,)
LUIS ENRIQUE MUÑIZ-MUÑIZ,)
MARÍA MUÑIZ-MUÑIZ,)
EMETERIO NIETO-MEDINA, ROCÍO ANANI)
SAUCEDO-CARRILLO, ROSA)
CARRILLO-VASQUEZ,)
MARÍA DE BELÉN MARTÍNEZ-CASTRO,)
ALFONSO PALAFOX, JOSÉ SAMUEL)
CONTRERAS GARCÍA,)
JESÚS RODRÍGUEZ-PÉREZ,)
individually and on behalf of a)
class of others similarly situated,)
the OHIO IMMIGRANT WORKER PROJECT,)
and the FARM LABOR ORGANIZING)
COMMITTEE (FLOC), AFL-CIO,)
Plaintiffs,)

No. 3:09-cv-2865-JZ

Judge Jack Zouhary

Magistrate Judge
James Knepp

v.)

UNITED STATES DEPARTMENT OF)
HOMELAND SECURITY, CUSTOMS AND)
BORDER PROTECTION; UNITED STATES OF)
AMERICA;)
RANDY L. GALLEGOS, individually and in)
his capacity as Chief Patrol Agent, Detroit)
Sector, United States Border Patrol; COREY)
BAMMER, United States Border Agent in Charge,)
Sandusky Bay Station, in his official capacity;)
BRADLEY SHAVER, United States Border Patrol)
Agent, individually and in his official capacity;)
RAMIRO CORONA, United States Border Patrol)
Agent, individually and in his official capacity;)
MATHEW RICHARDSON, individually and in his)
official capacity; ANDRE DARIO, United States)
Border Patrol Agent, individually and in his official)
capacity; SANTIAGO MATEO-DELEON, United)
States Border Patrol Agent, individually and in his)
official capacity; ROBERT SIMON, United States)
Border Patrol Agent, individually and in his official)

TABLE OF CONTENTS

I.	INTRODUCTION	4
II.	JURISDICTION AND VENUE	5
III.	PLAINTIFFS	5
IV.	DEFENDANTS	8
V.	CIVIL IMMIGRATION ENFORCEMENT - LEGAL BACKGROUND ...	12
	A. Local Law Enforcement Agencies' Lack of Authority to Enforce Immigration Law	12
	B. Limits on Border Patrol Agents' Authority to Make Warrantless Arrests and Issue Immigration Detainers	13
VI.	FACTUAL ALLEGATIONS	14
	A. Civil Immigration Enforcement By Attica And Norwalk Police Departments Unaccompanied By Border Patrol Agents	14
	B. Allegations Applicable To All Incidents Herein Involving Border Patrol Agents And Local Law Enforcement Officers	16
	C. Individual Plaintiffs' Allegations	17
	i. Plaintiffs Rocío Anani Saucedo-Carrillo and Rosa Carrillo- Vasquez	17
	ii. Plaintiffs Roberto Muñoz, Emeterio Nieto-Medina, María Muñiz-Muñiz, Antonio Torres-Franco, Juana Muñoz-Torres, and Luis Enrique Muñoz-Muñiz	20
	iii. Plaintiff María de Belén Martínez-Castro	22
	iv. Plaintiff Alfonso Palafox	23
	v. Plaintiff José Samuel Contreras García	24
	vi. Plaintiff Jesús Rodríguez-Pérez	24
	D. Organizational Plaintiffs' Allegations	25
	i. Plaintiff Immigrant Worker Project	25
	ii. Plaintiff Farm Labor Organizing Committee, AFL-CIO (FLOC) 27	27
	E. Other Facts Showing Profiling By The Defendants	29
	i. Disparate Impact on Hispanics by Defendant Border Patrol's Actions and Local Defendant Law Enforcement Agencies	29
	ii. Intentional Discrimination By Defendant Border Patrol and Local Defendant Law Enforcement Agencies	30
	iii. Other Evidence Of Discriminatory Intent By Attica Defendants	32
	iv. Other Evidence Of Discriminatory Intent By Norwalk Defendants	37
	v. Border Patrol Pattern Or Practice Of Profiling And Encouraging Local Law Enforcement Agencies To Profile	43
	F. Class Action Allegations	46
VII.	CLAIMS FOR RELIEF	49
VIII.	PRAYER FOR RELIEF	74

I. INTRODUCTION

1. The individual Plaintiffs and class members are Hispanics. The organizational plaintiffs, the Ohio Immigrant Worker Project (IWP) and the Farm Labor Organizing Committee, AFL-CIO (FLOC), work with and organize Hispanics to vindicate their rights and to enhance their lives. The individual Plaintiffs and members of both the IWP and FLOC have been restrained, interrogated, and sometimes arrested by the Defendants.
2. Plaintiffs bring this lawsuit to remedy their and their members being restrained (seized) and interrogated by Ohio law enforcement agencies and United States Border Patrol agents about their immigration status because they are Hispanics. This restraint, interrogation, and arrest regarding immigration status based solely on their being Hispanic will be referred to herein as "profiling."
3. This profiling of Hispanics for immigration status questioning is done even though Ohio local law enforcement authorities have no jurisdiction regarding the enforcement of the civil provisions of federal immigration law and the Border Patrol agents were and are without reasonable suspicion or probable cause to believe Plaintiffs and the class members are non-citizens in the United States without proper authorization.
4. Plaintiffs and class members seek relief against the illegal and unconstitutional actions of the Border Patrol Agents stationed at or working out of the Sandusky Bay Station, Detroit Sector, of the U.S. Border Patrol. Agents of that Station are engaged in a pattern or practice of restraining, interrogating, and arresting persons regarding their immigration status based on their being Hispanic. These seizures and interrogations have taken place in bus stations, gas stations, retail establishments, during traffic stops, at soccer games, and in other public settings.
5. The actions of the Border Patrol agents have caused fear and concern in Hispanic communities.
6. The actions of the Border Patrol agents violate the 4th Amendment prohibition against unreasonable searches and seizures, and the 5th and 14th Amendments' guarantees of Due Process and Equal Protection of the law.
7. The Border Patrol has extensively communicated with local law enforcement agencies in northwest Ohio encouraging those agencies to initiate contact with, stop, restrain, detain and interrogate Hispanics regarding their immigration status.

8. The Border Patrol has also stated to these local law enforcement agencies that the Border Patrol will come, immediately if possible, to sites where Hispanics are being detained by the local law enforcement agencies. Additionally, the Border Patrol requests that Hispanics encountered by local law enforcement agencies be detained while Border Patrol Agents are en route to the site.
9. The Border Patrol has offered to interpret or help identify persons as a ruse to obtain local law enforcement cooperation in profiling Hispanics for stops, consensual encounters, detentions, seizures, and arrests.
10. Local law enforcement authorities in Ohio, including the Defendant Attica and Norwalk police departments, have profiled and stopped, restrained, and interrogated the individual Plaintiffs and class members regarding their immigration status. These actions violate the 14th Amendment's guarantees for Due Process and Equal Protection of the law.

II. JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 (federal question) and 1343 (civil rights), and 42 U.S.C. §§ 1983, 1985(3), and 1986. Because this lawsuit alleges violations of the United States Constitution as well as violations of federal statutes and regulations, it raises questions of federal law. The actions of the Defendants also constitute a conspiracy to deprive the individual plaintiffs, the class, and members of the IWP and FLOC of their constitutional rights to due process and equal protection of the laws and protection against unreasonable searches and seizures. The case also arises under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 – 2680.
12. This Court has the authority to grant injunctive relief, declaratory relief, and other related relief pursuant to 28 U.S.C. § 1331 and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.
13. Venue is proper pursuant to 28 U.S.C. §§ 1391(b)(2) and (e)(2) because a substantial part of the events or omissions giving rise to the claims occurred in this district.

III. PLAINTIFFS

14. Plaintiff Rocío Anani Saucedo-Carrillo is a Hispanic female resident of Norwalk, Huron County, Ohio. She is married with two children. She is a 2005 graduate of Norwalk

- High School. She was restrained, interrogated and arrested by a Border Patrol Agent at a Marathon gas station in Norwalk, Ohio, on September 13, 2009.
15. Rosa Carrillo-Vasquez is a Hispanic female resident of Norwalk, Huron County, Ohio. She was restrained, interrogated, and arrested by a Border Patrol Agent at a Marathon gas station in Norwalk, Ohio, on September 13, 2009.
 16. Emeterio Nieto-Medina is a Hispanic male resident of McAllen, Hidalgo County, Texas, and works and lives during the agricultural season in Willard, Huron County, Ohio. He was restrained and interrogated about his immigration status by Village of Attica, Ohio, police officers on September 27, 2009.
 17. Roberto Muñiz is a Hispanic male resident of Tulsa, Oklahoma. He was restrained and interrogated about his immigration status by a Village of Attica, Ohio, police officer on September 27, 2009. At the time Mr. Muñiz was temporarily residing in an agricultural labor camp in Willard, Huron County, Ohio.
 18. María Muñiz-Muñiz is a Hispanic female resident of Tulsa, Oklahoma. She was restrained and interrogated about her immigration status by a Village of Attica, Ohio, police officer on September 27, 2009. At the time Mrs. Muñiz was temporarily residing in an agricultural labor camp in Willard, Huron County, Ohio.
 19. Antonio Torres-Franco is a Hispanic male resident of McKinney, Collin County, Texas. He was restrained and interrogated about his immigration status by a Village of Attica, Ohio, police officer on September 27, 2009. At the time Mr. Torres was temporarily residing in an agricultural labor camp in Willard, Huron County, Ohio.
 20. Juana Muñiz-Torres is a Hispanic female resident of McKinney, Collin County, Texas. She was restrained and interrogated about her immigration status by a Village of Attica,

Ohio, police officer on September 27, 2009. At the time Mrs. Muñiz was temporarily residing in an agricultural labor camp in Willard, Huron County, Ohio, with her husband, Antonio Torres-Franco.

21. Luis Enrique Muñiz-Muñiz is a Hispanic male resident of Tulsa, Oklahoma. He was restrained and interrogated about his immigration status by a Village of Attica, Ohio, police officer on September 27, 2009. At the time Mr. Muñiz was temporarily residing at an agricultural labor camp in Willard, Huron County, Ohio, with his parents, Roberto Muñiz and María Muñiz-Muñiz.
22. María de Belén Martínez-Castro is a Hispanic female resident of Norwalk, Huron County, Ohio. She has been followed on several occasions and asked her immigration status by a Norwalk Police Department officer when she was escorting her son from school.
23. Alfonso Palafox is a Hispanic male resident of Fremont, Sandusky County, Ohio. He was restrained and interrogated on the street in Fremont, Ohio, by Border Patrol agents on November 3, 2009.
24. José Samuel Contreras García is a Hispanic male resident of Ixtapaluca, Estado de Mexico, Mexico. He was restrained, interrogated, and arrested by Border Patrol Agents at the Toledo, Ohio, Greyhound bus station on December 17, 2009.
25. Jesús Rodríguez-Pérez is a Hispanic male resident residing in Mexico. He was restrained, interrogated, and arrested by Border Patrol Agents at the Toledo, Ohio, Greyhound bus station on December 29, 2009.
26. The Ohio Immigrant Worker Project (IWP), an unincorporated association, is dedicated to the struggle for justice and human dignity for Ohio's rural immigrant workers from

Latin America. The Project's membership includes persons who have been and/or are imminently susceptible to being injured by Defendants' unlawful practices, as well as family members of such persons. The IWP has also had to divert resources to assist victims of the Defendant Border Patrol's illegal profiling of Hispanics. Most, if not all, of IWP's members are Hispanic.

27. The Farm Labor Organizing Committee, AFL-CIO (FLOC), an Ohio non-profit corporation, is both a social movement and a labor union. FLOC's membership includes persons who have been and/or are imminently susceptible to being injured by Defendants' unlawful practices, as well as family members of such persons. FLOC has also had to divert resources to assist victims of the Defendant Border Patrol's illegal profiling of Hispanics. Most, if not all, of FLOC's members are Hispanic.

IV. DEFENDANTS

28. Defendant Department of Homeland Security, Customs and Border Protection (CBP) exists under the Constitution and laws of the United States. The United States Border Patrol is within the CBP.
29. Defendant United States of America exists under the Constitution and laws of the United States. The United States is the proper Defendant for the alleged violations of the Federal Tort Claims Act claims herein.
30. Defendant Randy L. Gallegos is the Chief Agent of the Detroit Border Patrol Sector. As Chief Agent Defendant Gallegos is the supervisor of the Detroit, Gibraltar, Marysville, Sault Sainte Marie, and Sandusky Border Patrol Stations that encompass the Detroit Sector. Gallegos oversees the daily activities of the Border Patrol Agents within those five Stations and is responsible for ensuring that their duties are carried out in a legal

manner. At all relevant times, Defendant Gallegos was acting under color of law, as an agent, employee, and/or representative of the United States. Defendant Gallegos is sued in his individual and official capacities.

31. Defendant Corey Bammer is a Border Patrol Agent and is the Agent In Charge of the Sandusky Bay Station. At all relevant times, Defendant Bammer was acting under color of law as an agent, employee, and/or representative of the United States. He is sued in his individual and official capacities.
32. Defendant Ramiro Corona is a Border Patrol Agent. At all relevant times, Defendant Corona was acting under color of law, as an agent, employee, and/or representative of the United States. He is sued in his individual and official capacities.
33. Defendant Bradley Shaver is a Border Patrol Agent. At all relevant times, Defendant Shaver was acting under color of law, as an agent, employee, and/or representative of the United States. He is sued in his individual and official capacities.
34. Defendant Andre Dario is a Border Patrol Agent. At all relevant times, Defendant Dario was acting under color of law, as an agent, employee, and/or representative of the United States. He is sued in his individual and official capacities.
35. Defendant Santiago Mateo-Deleon is a Border Patrol Agent. At all relevant times, Defendant Mateo was acting under color of law, as an agent, employee, and/or representative of the United States. He is sued in his individual and official capacities.
36. Defendant Robert Simon is a Border Patrol Agent. At all relevant times, Defendant Simon was acting under color of law, as an agent, employee, and/or representative of the United States. He is sued in his individual and official capacities.

37. Defendant Mathew Richardson is a Border Patrol Agent. At all relevant times, Defendant Richardson was acting under color of law, as an agent, employee, and/or representative of the United States. He is sued in his individual and official capacities.
38. Defendant Hugh Campbell III is a Border Patrol Agent. At all relevant times, Defendant Campbell was acting under color of law, as an agent, employee, and/or representative of the United States. He is sued in his individual and official capacities.
39. Defendant David B. York is a Border Patrol Agent and is the Field Operations Supervisor for the Border Patrol Sandusky Bay Station. At all relevant times, Defendant York was acting under color of law, as an agent, employee, and/or representative of the United States. He is sued in his individual and official capacities.
40. Defendant Stephanie Wrisley is a Border Patrol Agent. At all relevant times, Defendant Wrisley was acting under color of law, as an agent, employee, and/or representative of the United States. She is sued in her individual and official capacities.
41. Defendant Village of Attica (Attica) is a political subdivision of the State of Ohio that can sue and be sued in its own name. Upon information and belief, Defendant Attica includes, operates, governs, and is responsible for the Attica Police Department pursuant to the laws of the State of Ohio.
42. Defendant Jeffrey A. Briggs is the former Police Chief of the Attica, Ohio Police Department in Seneca County, Ohio. At the time of the incidents detailed herein he was the Police Chief of Attica, Ohio. As such he was responsible for the policies, practices, and customs of the Attica Police Department. The Police Chief also directs the hiring, screening, training, retention, supervision, discipline, counseling, and control of the

police officers under his supervision and command. At all relevant times Defendant Briggs was acting under color of law. He is sued in his individual capacity.

43. Defendant Police Chief of Attica Ohio Police Department is the Police Chief of the Attica, Ohio Police Department in Seneca County, Ohio, and is responsible for the policies, practices, and customs of the Attica Police Department. The Police Chief also directs the hiring, screening, training, retention, supervision, discipline, counseling, and control of the police officers under his supervision and command. At all relevant times Defendant Police Chief was acting under color of law. He is sued in his official capacity.
44. Defendant City of Norwalk is a political subdivision of the State of Ohio that can sue and be sued in its own name. Upon information and belief, Defendant Norwalk includes, operates, governs, and is responsible for the Norwalk Police Department pursuant to the laws of the State of Ohio.
45. Defendant Dave Light is the Police Chief of the Norwalk, Ohio Police Department in Huron County, Ohio, and is responsible for the policies, practices, and customs of the Norwalk Police Department. Defendant Light also directs the hiring, screening, training, retention, supervision, discipline, counseling, and control of the police officers under his supervision and command. At all relevant times Defendant Light was acting under color of law. He is sued in his individual and official capacities.
46. Defendant Joshua Querin was a police officer of the Attica, Ohio Police Department in 2009. At all relevant times, Officer Querin was acting under color of law. At all relevant times, Defendant Querin was acting under color of law, as an agent, employee, and/or representative of the Attica Ohio Police Department. He is sued in his individual capacity.

47. Defendant John Doe 1 is a police officer of the Norwalk, Ohio Police Department. At all relevant times, John Doe 1 was acting under color of law. Plaintiffs are not aware of his identity after reasonable efforts, but will amend this complaint to add or substitute him as a named Defendant when Plaintiffs become aware of his identity. At all relevant times, Defendants John Doe 1 was acting under color of law, as an agent, employee, and/or representative of the Norwalk Ohio Police Department. John Doe 1 is sued in his individual and official capacities.
48. Defendants will hereinafter be referred to either individually, Federal Defendants, or Local Defendants. Federal Defendants include the U.S. Border Patrol and all named Defendant Border Patrol Agents. Local Defendants include the Village of Attica, the Attica Police Chief, former Attica Police Chief Briggs, former Attica Officer Querin, the City of Norwalk, Norwalk Police Chief David Light, and Norwalk Police Department Officer John Doe 1.

V. CIVIL IMMIGRATION ENFORCEMENT – LEGAL BACKGROUND

A. Local Law Enforcement Agencies' Lack of Authority to Enforce Immigration Law

49. State and federal law do not authorize state or local law enforcement agencies such as the Attica and Norwalk Police Departments, to arrest or detain individuals based on suspected civil immigration violations. *FLOC v. Ohio State Highway Patrol*, 991 F.Supp. 895, 904 (N.D. Ohio 1997); *Gonzales v. City of Peoria*, 722 F.2d 468, 472-75(9th Cir. 1983); *Mena v. City of Simi Valley*, 322 F.3d 1255, 1265 n. 15 (9th Cir. 2003), *vacated and remanded sub nom. Muehler v. Mena*, 544 U.S. 93 (2005); *Carrasca v. Pomeroy*, 313 F.3d 828, 837 (3d Cir. 2002); Ohio Op. Att'y Gen. 2007-18.

50. Federal law preempts local law enforcement agencies from enforcing civil immigration law except as specifically provided by statute.
51. The “enforcement of the civil provisions of federal immigration law” is defined for purposes of this Second Amended Complaint as removal, formerly deportation proceedings, a civil administrative proceeding under 8 U.S.C. § 1227.
52. In Ohio, local law enforcement agencies may enforce criminal immigration law within the restrictions of state law. Ohio Op. Att’y Gen. 2007-18
53. In Ohio, local law enforcement authorities may make warrantless arrests only where they have probable cause to believe the arrestee has committed a crime in their presence and certain specified crimes and felony offenses outside their presence. Ohio Revised Code § 2935.03.
54. In Ohio, local law enforcement authorities do not have the authority to arrest for minor misdemeanors committed in their presence. *State v. Brown*, 99 Ohio St. 3d 323 (2003).
55. The Attica Police Department has not entered into an agreement with the United States pursuant to 8 U.S.C. § 1357(g) to authorize their police officers to enforce federal immigration law.
56. The Norwalk Police Department has not entered into an agreement with the United States pursuant to 8 U.S.C. § 1357(g) to authorize their police officers to enforce federal immigration law.

**B. Limits on Border Patrol Agents’ Authority to Make Warrantless Arrests and Issue
Immigration Detainers**

57. Border Patrol Agents are authorized to arrest individuals without a warrant only if they
(a) have reason to believe that the individuals are in the United States in violation of

immigration law, and (b) have reason to believe that the individuals are likely to escape before a warrant can be obtained for their arrest. 8 U.S.C. § 1357.

58. Border Patrol Agents must provide certain procedural protections to individuals arrested for civil immigration violations without a warrant. These protections include: the right to be examined by a non-arresting officer without unnecessary delay; notice of the charges against them and their right to a hearing with counsel at their own expense; lists of available pro bono counsel and free legal services; and notice that statements made by the arrestee may be used against him in a subsequent proceeding. 8 U.S.C. §§ 1226, 1229, 1357; 8 C.F.R. § 287.3. A bond determination and a decision whether to issue a Notice to Appear must be made within 48 hours of arrest except in the case of emergency or extraordinary circumstances. *Id.*
59. 8 C.F.R. § 287.7 allows Border Patrol Agents to issue immigration detainers requesting that other law enforcement agencies maintain custody of a suspected noncitizen already within that law enforcement agency's custody on an independent criminal charge to permit the Border Patrol to assume custody of the suspected noncitizen. 8 C.F.R. § 287.7 does not, however, authorize Border Patrol Agents to issue immigration detainers to instruct local law enforcement agencies to detain or arrest individuals who are not already in the custody of those agencies.

VI. FACTUAL ALLEGATIONS

A. Civil Immigration Enforcement By Attica And Norwalk Police Departments

Unaccompanied By Border Patrol Agents

60. The Local Defendants have adopted the policy, practice, and custom of initiating encounters with, stopping, detaining, questioning, and/or searching Hispanics and

interrogating them about their immigration status outside the presence of Border Patrol Agents solely on the person's being Hispanic.

61. These racially-motivated encounters are frequently unsupported by reasonable suspicion or probable cause that the person or persons stopped have violated any criminal law.
62. Even where such stops may be initially supported by reasonable suspicion of criminal activity or traffic infractions, the Local Defendants have adopted the policy, practice, and custom of prolonging the initial stop to interrogate individuals about their immigration status and sometimes conducting searches of their persons and vehicles despite having neither any criminal basis to prolong the detention nor any investigatory or safety justification for the searches. Instead, the individual's being Hispanic is cause for the Local Defendants' prolonged detention, interrogation, and search of such individuals.
63. Border Patrol Agents assigned to the Sandusky, Ohio Border Patrol Station have targeted Hispanics in the area for restraint and interrogation regarding their immigration status without any reasonable suspicion or probable cause that the individual Hispanic has no right to be or to remain in the United States.
64. Border Patrol Agents assigned to the Sandusky Bay Station have adopted a pattern or practice of targeting Hispanics encountered in public settings for encounters, restraint and interrogation and without any specific articulable facts other than their being Hispanic.
65. Sandusky Border Patrol Station Agents have initiated communications with local law enforcement agencies, including the Local Defendant Police Departments, encouraging those local law enforcement agencies to target Hispanics for encounters, restraint, and interrogation about their immigration status.

66. The Federal and Local Defendants caused, and are liable for, the unconstitutional and unlawful conduct and resulting injuries alleged here, by, among other things, personally participating in said conduct or acting jointly with others who did so; by authorizing, acquiescing or setting in motion policies, plans or actions that led to the unlawful conduct; by failing to take action to prevent the unlawful conduct; by failing or refusing with deliberate indifference to maintain adequate training and supervision; and/or by ratifying the unlawful conduct taken by employees under their direction and control. The Federal and Local Defendants' actions were pursuant to a policy, custom or practice of the Border Patrol, and the Attica and Norwalk police departments.

B. Facts Applicable To All Incidents Herein Involving Border Patrol Agents And Local Law Enforcement Officers

67. In all incidents mentioned herein all Border Patrol Agents were in uniform, carrying a visible, holstered sidearm on their hip, and were carrying at least one form of intermediate force weapon.
68. All Border Patrol Agents are required to carry at least one intermediate force weapon for which they are certified.
69. The three types of intermediate force weapons for which Border Patrol certification is available are a Taser, pepper spray, and a collapsible steel baton.
70. Border Patrol Agents may carry more than one intermediate force weapon so long as they are certified for such.
71. In all incidents mentioned herein both Village of Attica Police Department officers and City of Norwalk Police Department officers were in uniform and armed with a visible, holstered firearm on their hip.

C. Individual Plaintiffs' Experiences

i. Plaintiffs Rocío Anani Saucedo-Carrillo and Rosa Carrillo-Vasquez

72. Plaintiff Rocío Anani Saucedo-Carrillo (Saucedo) parked at a gas pump in the Marathon gasoline station on U.S. 250/Milan Road, in Norwalk, Huron County, Ohio, in the early afternoon of September 13, 2009.
73. Saucedo went into the station to pay in advance and when she exited the station to return to the pump she saw a Border Patrol Chevrolet Suburban SUV traveling south on Rte. 250.
74. Saucedo observed the Agent driving the vehicle see her and then suddenly turn into the gasoline station.
75. The Border Patrol officer quickly pulled into the Marathon gas station and parked his car directly in front of and perpendicular to Plaintiff Saucedo's pickup truck, blocking Plaintiff Saucedo's exit.
76. Saucedo's pickup truck had Ohio license plates.
77. The Border Patrol Agent, Bradley Shaver, dressed and armed as described earlier, exited the Border Patrol vehicle and approached her as she was pumping gas.
78. Border Patrol Agent Shaver started interrogating Saucedo in English. He did not introduce himself nor explain why he approached her. He asked for an ID. He then asked for her "papers," which she understood to mean immigration documents. He then asked for her resident card. She presented an unexpired Michigan driver's license to Agent Shaver.

79. Saucedo did not believe she was free to leave the Marathon station or refuse to answer the Agent's questions due to his blocking her exit with his vehicle, his uniform and weapons, and the aggressive form of his questioning.
80. Eventually Agent Shaver told Saucedo to move her pickup truck from the gas pump area to a small parking lot on the side of the building.
81. Agent Shaver then interrogated Saucedo's mother, Plaintiff Rosa Carrillo-Vasquez (Carrillo), a passenger in Saucedo's pickup truck, about her immigration status.
82. Plaintiff Carrillo did not believe she was free to leave nor to refuse to answer Agent Shaver's questions based on his ordering Plaintiff Saucedo to move her pickup truck, Shaver's uniform and weapons, and the nature of the questions and Shaver's tone of voice.
83. Agent Shaver then arrested Plaintiffs Saucedo and Carrillo.
84. Plaintiff Saucedo asked Agent Shaver if she could give the keys to her vehicle to a young woman Saucedo knew who was walking past the Marathon gas station.
85. Shaver gave Plaintiff Saucedo permission to give her truck's keys to Saucedo's acquaintance.
86. Agent Shaver then placed the Plaintiffs in the locked part of his Border Patrol vehicle.
87. On the way to the Border Patrol Station in Sandusky, Plaintiffs Saucedo and Carrillo started to cry. Agent Shaver told them "No tears, or you'll leave (the United States) right now."
88. Plaintiff Saucedo was seven months pregnant on September 13, 2009, and has since delivered her baby.

89. Agent Shaver then transported Plaintiffs Saucedo and Carrillo to the Sandusky Border Patrol Station where they were fingerprinted, photographed and interrogated further.
90. Plaintiffs Saucedo and Carrillo signed documents requesting an immigration hearing before an Immigration Judge presented to them by Border Patrol Agents.
91. A relative of the Plaintiffs came to pick them up in Sandusky and take them back to their homes in Norwalk.
92. The next day, September 14, 2009, Agent Shaver called Plaintiff Saucedo and told her he needed her and Plaintiff Carrillo's signatures on some documents he had failed to have them sign on the 13th. The Plaintiffs met with Agent Shaver around noon in Norwalk and signed as requested.
93. Plaintiffs Saucedo and Carrillo are agricultural workers and at the time of their arrest by Agent Shaver were so employed.
94. Upon information and belief the Sandusky Border Patrol Station has also restrained, interrogated and arrested Hispanics at soccer games, in grocery stores, and at the same gasoline station as Plaintiffs Saucedo and Carrillo.
95. Upon information and belief the restraint and interrogation of Hispanics by the Sandusky Border Patrol Station Agents was not based on reasonable suspicion or probable cause, but solely on their being Hispanics.
96. According to the sworn deposition testimony of Agent in Charge Corey Bammer, Sandusky Bay Station Border Patrol Agents are not allowed to consider perceived race or ethnicity in their determinations of reasonable suspicion or probable cause to believe an individual is in the United States without legal immigration status.

97. The Sandusky Bay Station has restrained and interrogated persons who were or are U.S. citizens, Lawful Permanent Residents, or immigrants lawfully admitted and present in the United States.
98. At least 53 of those persons described in paragraph 97 were U.S. citizens, although not all persons selected for consensual encounters, immigration inspections, restraint, or interrogation appear in the Apprehension Log because the Border Patrol does not require its Agents to document or maintain such records.
- ii. **Plaintiffs Roberto Muñiz, Emeterio Nieto-Medina, María Muñiz-Muñiz, Antonio Torres-Franco, Juana Muñiz-Torres, and Luis Enrique Muñiz-Muñiz**
99. Plaintiff Roberto Muñiz (Muñiz) was stopped by the Attica Police Department on or about September 27, 2009. There were a total of six persons in the Muñiz pickup truck. Two occupants of the vehicle, Emeterio Nieto-Medina and Muñiz's minor son, Luis Enrique Muñiz-Muñiz, were placed in the Attica Police Department vehicle in the locked rear seat of the vehicle by Officer Joshua Querin.
100. Officer Querin gave no reason for ordering Plaintiffs Emeterio Nieto-Medina and Luis Enrique Muñiz-Muñiz to exit the vehicle and enter the back seat of the Attica Police Department vehicle.
101. Muñiz and the other five occupants of the vehicle were asked by Officer Querin for their immigration documents and "who doesn't have papers?" The pretext for the stop was that the light on the rear license plate was "too dim." No ticket was issued by Officer Querin.
102. Plaintiff Emeterio Nieto-Medina was a passenger in the vehicle driven by Plaintiff Roberto Muniz when stopped by the Officer Querin as described in paragraph 87 *supra*.

103. Mr. Nieto was riding in the back of Mr. Muniz's pickup truck within a camper shell. When stopped, Officer Querin shined a flashlight into the camper shell, ordered Mr. Nieto out, searched him, and then placed Mr. Nieto in the locked back seat of the Attica police car.
104. Querin asked Mr. Nieto for his "papers" and whether he was "illegal."
105. Plaintiff María Muñiz-Muñiz (Muñiz-Muñiz) was a passenger in the truck driven by her husband, Plaintiff Roberto Muñiz, when stopped by the Officer Querin as described in paragraph 99 *supra*.
106. Mrs. Muñiz-Muñiz heard Querin ask her and the other occupants of the vehicle whether anyone was "illegal" and for their "documents."
107. By "documents" Querin meant immigration documents.
108. Plaintiff Antonio Torres-Franco was a passenger in the vehicle driven by Plaintiff Roberto Muniz when stopped by the Querin as described in paragraph 87 *supra*.
109. Mr. Torres heard Officer Querin ask him and the other occupants of the vehicle whether anyone was "illegal" and for their "documents."
110. Plaintiff Juana Muñiz-Torres was a passenger in the vehicle driven by Plaintiff Roberto Muniz when stopped by the Attica Police Department as described in paragraph 99 *supra*.
111. Mrs. Muñiz-Torres heard Officer Querin ask her and the other occupants of the vehicle whether anyone was "illegal" and for their "documents."
112. Plaintiff Luis Enrique Muñiz-Muñiz was a passenger in the vehicle driven by his father, Plaintiff Roberto Muniz, when stopped by the Attica Police Department as described in paragraph 99 *supra*.

113. Mr. Muñiz-Muñiz was riding in the back of his father's pickup truck within a camper shell. When stopped by the Attica Police Department the Attica officer shined a flashlight into the camper shell, ordered Mr. Muñiz-Muñiz out, searched him, and then placed Mr. Muñiz-Muñiz in the locked back seat of the Attica police car.
114. The Attica police officer, Querin, asked Mr. Muñiz-Muñiz for his "papers" and whether he was "illegal."
115. The length of the stop was approximately twenty minutes and exceeded the time for a traffic stop, even though no traffic citations were issued. The stop here was prolonged beyond the initial stop for the purpose of interrogating individuals about their immigration status and conduct searches of their persons and vehicle despite the Attica police officer having neither any criminal basis to prolong the detention nor any investigatory or safety justification for the searches.
116. Plaintiffs Roberto Muñiz, Emeterio Nieto-Medina, María Muñiz-Muñiz, Antonio Torres-Franco, Juana Muñiz-Torres, and Luis Enrique Muñiz-Muñiz are Hispanic.

iii. Plaintiff María de Belén Martínez-Castro

117. Plaintiff María de Belén Martínez-Castro was pregnant and escorting her son from school when she was approached by a Norwalk police officer, John Doe 1, who asked her if she was "legal." She responded: "Why are you asking me? Because I'm brownie?" John Doe 1 stopped questioning her and left.
118. On several other occasions Norwalk police officers followed her while she was taking her son from or to his elementary school in Norwalk. On another occasion she was followed when she went into a drug store. A Norwalk police officer who had followed her parked

his car and waited for her outside of the drug store. When she came out of the drug store she walked home while the Norwalk police officer watched her.

119. The encounter, stop, interrogation, and observations of Plaintiff were not based on any suspicion of criminal activity and were based solely on Plaintiff being Hispanic.

iv. Plaintiff Alfonso Palafox

120. Plaintiff Alfonso Palafox was walking with his 4-year-old son on the sidewalk of a residential street in Fremont, Ohio, on November 3, 2009, after picking up his son from Head Start.
121. A U.S. Border Patrol vehicle came alongside him and a Border Patrol Agent in the vehicle asked Palafox if he knew the location of a particular street.
122. Palafox answered that he did not know the street.
123. The Border Patrol Agents then asked Palafox where he was from, and then continued interrogating Palafox, asking him if he used drugs or knew anyone who sold drugs. The Border Patrol Agents also asked Palafox if he knew of any more Hispanics in the area. Palafox told them the Hispanics had all left the area.
124. The Border Patrol Agents asked Palafox for his date of birth, phone number and address and told him to take care of his son. One Agent also told him not to change his phone number so they could have business dealings later. The Agents refused him permission to take a picture of their vehicle and also asked if Palafox was working.
125. Palafox did not believe he was free to leave during this interrogation because Palafox could see the Border Patrol Agent's gun, and the Agent kept his hand on his gun throughout the Agents' questioning of Palafox. Palafox was afraid of the Agents. In

addition, Palafox's son was crying during the Agents' questioning of Palafox. Despite this, the Agents continued their questioning of Palafox for approximately thirty minutes.

v. Plaintiff José Samuel Contreras García

126. Plaintiff José Samuel Contreras García was traveling between Florida and Indiana as a passenger on a Greyhound bus on December 17, 2009.
127. The bus stopped at the Toledo Greyhound bus station, 811 Jefferson Avenue, Toledo, Ohio, to load and unload passengers.
128. The bus contained approximately fifty (50) passengers when it arrived at the station.
129. When the bus stopped a number of passengers exited the bus. A Border Patrol Agent, Defendant Ramiro Corona, then boarded the bus and asked the only three Hispanic-appearing persons remaining on the bus for their identity documents.
130. Plaintiff José Samuel Contreras García was one of the three Hispanics Defendant Corona restrained and interrogated about their identity and immigration status. Corona then arrested Plaintiff José Samuel Contreras García.
131. None of the passengers on the bus who appeared white or African-American were restrained and interrogated about their identity or immigration status by Defendant Corona.
132. Plaintiff did not believe he was free to leave during this encounter.

vi. Plaintiff Jesús Rodríguez-Pérez

133. Plaintiff Jesús Rodríguez-Pérez was traveling between Kentucky and Toledo, Ohio, as a passenger on a Greyhound bus on December 29, 2009.
134. The bus stopped at the Toledo Greyhound bus station, 811 Jefferson Avenue, Toledo, Ohio, to load and unload passengers.

135. When the bus stopped a number of passengers exited the bus, including Plaintiff Jesús Rodríguez-Pérez.
136. Approximately fifteen passengers exited the bus; Plaintiff Jesús Rodríguez-Pérez was about the tenth person in line exiting the bus.
137. Defendant Border Patrol Agents Andre Dario and S. Wrisley were at the Toledo Greyhound station at the bus exit watching the fifteen passengers exit the bus.
138. Defendants Dario and Wrisley approached the plaintiff and asked for his "papers," his "green card," an "ID," and then asked if he was "illegal." The agents also asked the person who had come to pick up the plaintiff, a Hispanic female, if she was a U.S. citizen.
139. Defendants Dario and Wrisley did not question any of the other passengers exiting the bus. None of the other passengers exiting the bus were Hispanic.
140. Plaintiff Jesús Rodríguez-Pérez was arrested by the agents and taken to the Border Patrol Station in Sandusky, Ohio. There he was issued a Notice to Appear by the Acting Patrol Agent in Charge, Defendant David B. York.
141. Plaintiff Jesús Rodríguez-Pérez did not believe he was free to leave during his restraint and interrogation by Defendants.

D. Organizational Plaintiffs' Allegations

i. Plaintiff Immigrant Worker Project

142. The IWP was initiated in 1999 as a result of a study commissioned by the Ohio Catholic Rural Life Conference. The IWP works with and organizes immigrants on subjects such as workplace rights, human and immigration rights, leadership training, Limited English

Proficiency (LEP) rights and health care, advocacy and networking, cultural and pastoral celebrations, educational programs, and microenterprise.

143. IWP has members, or Hispanics who have worked with them, who have been restrained, interrogated, and sometimes arrested by local law enforcement authorities or Sandusky Bay Station Border Patrol Agents because of their being Hispanic. This illegal and unconstitutional behavior by the Defendants has deprived IWP members of the equal protection of the laws and has also made some fearful of travel and association in the Ohio communities in which they live.
144. The IWP's activities and membership are focused on the Hispanic community. The IWP's members in northwest Ohio are especially likely to be subjected to the profiling activities of the Defendants.
145. The IWP has been, and continues to be, harmed by Defendants' practices because those practices undermine IWP's organizational missions and divert IWP resources from the pursuit of other, related goals.
146. The IWP staff and members believe and have witnessed the fear caused in the Hispanic community by the Defendants' pattern or practice of profiling Hispanics for restraint, interrogation, and possible arrest in northwest Ohio.
147. Profiling has injured the IWP as profiling has made IWP's organizing and empowerment activities more difficult due to Hispanics' reluctance to attend activities and to come forward regarding violations of their rights.
148. Law enforcement activities based on profiling of Hispanics chills the rights of IWP's members and the entire Hispanic community without regard to immigration status.

149. IWP members injured by the profiling activities of the Border Patrol include Alvaro Guzman, Jose Rafael Puentes aka Rafael Fuentes-Valdez, Pedro Mendoza Rodriguez, Maria De Belem Martinez, Jorge Alberto Ramos Cruz, Angelica Maria Cervanes, Juan Bravo Guillen, Miguel Luciano-Maldonado, Ariana Rodriguez Montalvo, Rocio Anani Saucedo Carrillo, Lizbeth Garza-Salazar, Rene Perez Arguelo, Rigoberto Ocegüera Escobar, William Buatista-Moralesk, Maria Del Socorro Salazar De Garza, Rosa Maria Sifuentes, and German Diaz Fernando.
150. The IWP seeks only injunctive and declaratory relief from Defendants, as discussed below.
- ii. Plaintiff Farm Labor Organizing Committee, AFL-CIO (FLOC)**
151. FLOC was started in 1968 in Ohio in order to obtain collective bargaining agreements with agricultural processors and farmers. Although not protected by the National Labor Relations Act, 29 U.S.C. 141 et seq., FLOC has sought to protect and enhance labor protections throughout its history by, among other methods, negotiating three party collective bargaining agreements between the union, agricultural processors, and farmers.
152. FLOC's immediate constituency is migrant workers in the agricultural industry, but FLOC is also involved with immigrant workers, Hispanics, local communities, and national and international coalitions concerned with justice. The FLOC vision emphasizes human rights as the standard and self-determination as the process for achieving these rights. FLOC struggles for full justice for those who have been marginalized and exploited for the benefit of others, and works to change the structures of society to enable these people a direct voice in their own conditions. FLOC has negotiated collective bargaining contracts for workers in both Ohio and North Carolina.

153. FLOC's members, and Hispanics who have worked with FLOC, who have been restrained, interrogated, and sometimes arrested by local law enforcement authorities or Sandusky Bay Station Border Patrol Agents because of their being Hispanic. This illegal and unconstitutional behavior by the Defendants has deprived FLOC members of the equal protection of the laws and has also made some fearful of travel and association in the Ohio communities in which they live.
154. FLOC's activities and membership are focused on the farmworker and Hispanic communities. These constituencies are especially likely to be subjected to the profiling activities of the Defendants. Indeed, most of the individual named plaintiffs were agricultural workers working in Northwest Ohio.
155. FLOC has been, and continues to be, harmed by Defendants' practices because those practices injure FLOC's members, frustrate FLOC's organizational missions and divert FLOC resources from the pursuit of other, related goals.
156. FLOC staff and members have witnessed the fear caused in the Hispanic and farmworker communities by the Defendants' pattern or practice of profiling Hispanics for restraint, interrogation, and possible arrest in northwest Ohio.
157. Profiling has injured FLOC as it has made FLOC's organizing and empowerment activities more difficult due to farmworkers' and Hispanics' reluctance to attend activities and to come forward regarding violations of their rights. Law enforcement activities based on profiling of Hispanics chills the rights of the farmworker and Hispanic communities without regard to immigration status.
158. FLOC seeks only injunctive and declaratory relief from Defendants, as discussed below.

E. Other Facts Showing Profiling By The Defendants

i. Disparate Impact on Hispanics by Defendant Border Patrol's Actions and Local Defendant Law Enforcement Agencies

159. The Sandusky Bay Station Apprehension Log covering the period from December 2008 through October 31, 2011, shows the disparate impact directed against Hispanics by Sandusky Bay Station Border Patrol Agents.
160. Of the 1,880 persons listed on the Apprehension Log, 1,654 are Hispanic. 87.97% of the apprehensions by the Agents were Hispanic.
161. Of those 1,880 apprehensions only 176, or 9.36% were apprehensions with the "border zone."
162. Of those 1,880 apprehensions only 395, or 21.01%, were patrol or traffic check activities by Sandusky Bay Station Border Patrol Agents.
163. Of those 1,880 apprehensions 1,198, or 63.72%, were labeled as referrals from other state or local law enforcement agencies.
164. Of those 1,880 apprehensions 287, or 15.26%, were labeled as Transportation Check apprehensions by Sandusky Bay Station Border Patrol Agents.
165. 109 of the 287 Transportation Check apprehensions were at the Toledo bus and Amtrak stations.
166. Of those 1,880 apprehensions 1,345, or 71.54%, were of persons who had been in the United States over a year.
167. Of those 1,880 apprehensions, not a single one was of a person attempting to enter the United States without inspection by coming across Lake Erie and arriving in the State of Ohio.

168. Of those 1,880 apprehensions 3, or .15%, were apprehended on Lake Erie islands. Only one of those persons was placed in removal proceedings; he had been in the U.S. for over a year. The other two apprehensions were of a U.S. citizen and a Canadian citizen; the U.S. citizen was turned over to another agency and the Canadian citizen was released.

169. Of those 1,880 apprehensions, only 1 was apprehended at the Lake Erie Island Ferry System. That person, a 51 year old female U.S. citizen, was turned over to another agency.

ii. Intentional Discrimination By Defendant Border Patrol and Local Defendant Law Enforcement Agencies

170. At the Sandusky Bay Station Border Patrol Agents sometimes refer to persons they apprehend as [REDACTED]

171. Sandusky Bay Station Border Patrol Agents understand that the term [REDACTED] is another word for or abbreviation of [REDACTED]

172. Sandusky Bay Station Border Patrol Agents understand that the term [REDACTED] originated on the southern U.S. border to refer to undocumented Mexican nationals who attempted to enter the United States without inspection by swimming or wading across the Rio Grande River.

173. "Operation Wetback" was an official program carried out by the United States Border Patrol in 1954.

174. "Operation Wetback" transferred hundreds of Border Patrol Agents from the Canadian border and the Florida Gulf Coast region to the southern border in order to remove "the huge number of Mexican nationals who were in this country in violation of the immigration laws."

175. During 1954 the Border Patrol apprehended more than one million Mexican nationals.

176. The program was ended and in 1955, for example, the Border Patrol apprehended only 242,608 Mexican nationals, and in 1956 only 72,442 Mexican nationals.
177. The Border Patrol, in November of 1956, instructed Border Patrol Agents that the word “wetback” should be deleted from the vocabulary of Agents and “criminal alien” or “deportable alien” should be used in the future. November 2, 1956, “Nomenclature with Respect to Aliens, from Chief Enforcement Officer, Southwest Region, San Pedro, California, to Assistant Commissioner, Enforcement Division, Washington, D.C.; and November 15, 1956, “Nomenclature with Respect to Aliens,” from E.J. Wildblood to General Partridge (NARA 56364/43.3, 94, 59A2038).¹
178. The words [REDACTED] refer to Hispanics.
179. The words [REDACTED] are derogatory racial or ethnic slurs.
180. The Civil Rights Division of the United States Department of Justice considers “wetback” or “wetbacks” as derogatory racial or ethnic slurs. In its Findings Letter to the Maricopa County Arizona Attorney on December 15, 2011, the Civil Rights Division, in a section titled “Direct Evidence of Discriminatory Bias,”:

In MCSO's jails, detention officers direct racial slurs at Latino inmates. Detention officers also insult or ignore Latino inmates when they attempt to communicate in Spanish. A detention officer confirmed that officers on her shift frequently tell Latino LEP inmates to speak in English. Other detention officers observed similar hostility: detention officers learn curse words in Spanish, enabling them to swear at Latino inmates, and report hearing staff using slurs when referring to Latino persons. **Our investigation also found that MCSO detention officers call Latinos “wetbacks,” “Mexican bitches,” “fucking Mexicans,” and “stupid Mexicans” when either talking among themselves or addressing Latino inmates.**²

¹ Plaintiffs have requested certified copies of these documents from the U.S. National Archives and Records Administration. The documents are cited and discussed in *Migra!: A History of the U.S. Border Patrol* by UCLA History Professor Kelly Lytle Hernández (University of California Press: 2010).

² http://www.justice.gov/crt/about/spl/documents/mcso_findletter_12-15-11.pdf

181. No disciplinary action has been taken against any Sandusky Bay Station Border Patrol Agents for using the term [REDACTED] or [REDACTED]
182. In both emails produced to date by the Defendant Border Patrol to Plaintiffs the words [REDACTED] was used in the context of referring to a Mexican or a group of Mexicans.
183. Plaintiffs have been informed that more emails will be turned over by Defendant Border Patrol with the word [REDACTED] or [REDACTED]. Plaintiffs have been advised that these emails will be forthcoming in May, 2012.

iii. Other Evidence Of Discriminatory Intent By Attica Defendants

184. Plaintiffs served its First Set of Requests for the Production of Documents to Defendant Attica on January 11, 2011. Doc. 87. Plaintiffs specifically requested "All communications of any kind written by the Attica Police Department officers that describe or concern contacts with the U.S. Border Patrol or Immigration and Customs Enforcement." Defendant Attica responded to Plaintiffs' Request on March 14, 2011. In its response, Defendant Attica stated "None."
185. Documents produced by Defendant Border Patrol in discovery – I-213's (Record of Deportable/Inadmissible Alien) – contradict Defendant Attica's responses to Plaintiffs' First Amended Complaint and Plaintiffs' discovery requests.
186. The Border Patrol produced nineteen Form I-213s of persons referred by the Attica Police Department to the Border Patrol. All nineteen persons referred were people of Hispanic origin.
187. The Attica Defendants produced Attica Police Department documents about the incidents described in ¶ 183. The following is the comparison of the Border Patrol's I-213's with the Attica Police Department's Incident Reports:

Name	Date	Reason for Initial Stop: According to I-213 Attachment 2 to Doc. 130 [Page Number]	Reason for Initial Stop: According to Attica PD Incident Report Attachment 3 to Doc. 130 [Page Number]
Alfredo Barrientos-Guerrero	07/21/09	Attica PD "was out on a traffic stop with four individuals that he believed to be in the United States illegally." "All subjects were taken into custody by Officer [] as per instructions of SBY Agents and transported to the Attica City Jail until agents could take custody." [1592-1595]	No specific violation stated. "Officer reported after stopping a motorist [license plate information] for a traffic violation, he found the four occupants to be illegal aliens from Mexico. U.S. Border Patrol contacted and requested we hold them until they arrive." No mention of any ticket or warning issued. [1]
Eliseo Cruz-Cruz	Same as above.	Same as above. [1596-1598]	Same as above. [1]
Alejandro Dominguez-Cruz	Same as above.	Same as above. [1599-1601]	Same as above. [1]
Isidro Garcia-Bello	Same as above.	Same as above. [1602-1607]	Same as above. [1]
Sergio Geovanny Pineda-Murrales	08/09/09	Attica PD "in contact" with two individuals "on a traffic stop." "The officer stated that the individuals spoke broken English and the driver was not in possession of a valid driver's license." [1611-1613]	Speeding, but specifics not mentioned. "After stopping a motorist for speed it was determined the owner did not have an Ohio license. It was determined that both occupants of the vehicle were in the United States illegally. Both subjects admitted that they have been in the United States for approximately ten years illegally. Subject were taken into custody and turned over to Border Patrol." No mention of any ticket or warning issued. [2]
Maria Guadalupe Corona-Tinoco	Same as above.	Same as above. [1614-1616]	Same as above. [2]

Angel Cruz-Cruz	08/30/09	Attica PD "encountered four individuals who were intoxicated in public. They attempted to speak with the individuals; however, the four individuals were unable to communicate effectively in the English language and were not in possession of any valid form of identification." Interviews took place at the Seneca County Jail. [1617-1620]	"While on patrol, [Officer] witnessed [the vehicle with] only one headlight in operation. After stopping the vehicle, it was determined the [four] occupants were all in the United States illegally. Suspects were transported to the Attica Police Department where the U.S. Border Patrol responded and took custody of the above subjects." No mention of any ticket or warning issued. [3]
Rene Paz-Hernandez	Same as above.	Same as above. [1621-1624]	Same as above. [3]
Martimiano Candia-Mendoza	Same as above.	Same as above. [1625-1627]	Same as above. [3]
Ricardo "Ricky" Morales-Domingo	Same as above.	Same as above. [1628-1630]	Same as above. [3]
Victorina Aguilar-Morales	09/14/09	Attica PD "believed they had encountered six individuals whom they suspected of being in the United States illegally." [1642-1645]	"After stopping a motorist for a traffic violation, it was determined that the six occupants of the vehicle were in the United States illegally. All six subjects were held at the scene and turned over to Border Patrol agents."
David Castro-Tum	Same as above.	"Traffic stop." The Attica PD officers stated "that the individuals did not speak English and were attempting to communicate with the officer in what he believed to be the Spanish language." [1646-1649]	Same as above.
Miguel Hilario-Lopez	Same as above.	Same as above. [1650-1652]	Same as above.
Augustin Visoso-Mendez	Same as above.	Same as above. [1653-1655]	Same as above.

Gustavo Daniel Perez-Fernandez	Same as above.	Same as above. [1656-1658]	Same as above.
Salomon Campos-Hernandez	Same as above.	Same as above. [1659-1662]	Same as above.
Marcial Unzueta-Terrazas	10/04/09	Failing to maintain lanes and obstruction of license plate. Officer requested assistance from SBY "because some of the occupants did not speak English and he believed some of the occupants to be undocumented aliens." [1631-1633]	"After stopping a motorist for marked lanes and obstructed plate it was determined three of the passengers were in the United States illegally. They were taken into custody and turned over to Border Patrol." No mention of any ticket or warning issued. [4-5]
Daniel Santeyan-Acuna	Same as above.	Same as above. [1634-1637]	Same as above. [4-5]
Francisca Gonzalez-Morales	11/19/09	The Attica Police Department was "requesting translation assistance" with a "routine vehicle stop." [1638-1641]	Possible DUI. Officer stopped the vehicle, and "it was determined the driver was not impaired however she did not have a valid license." "It was also determined that the driver was in the United States illegally. Border Patrol was contacted and they took the female into custody." [6-7]

188. The Border Patrol has characterized communication from the Attica Police Department as a request for "translation assistance."
189. The U.S. Border Patrol is a law enforcement agency that is trained to enforce United States immigration laws, not in providing interpretation and translation services to local law enforcement agencies.
190. The Attica Police Department receives federal funding or uses dispatch and other law enforcement resources that receive federal funding, e.g., LEADS and NCIC.

191. The Attica Police Department is under an affirmative duty pursuant to Title VI of the Civil Rights Act of 1964 to provide their own translation and interpretation services when performing its duties.
192. The Border Patrol Agent in Charge of the Sandusky Bay Station testified in his deposition that Ohio state and local law enforcement agencies are not authorized under state law or federal caselaw to enforce the civil provisions for federal immigration law.
193. The stop of Imelda Gordillo by the Attica Police Department is illustrative of and especially telling of the Defendant Attica's motivation in stopping Hispanics.³
194. On October 4, 2009, the Attica Police Department stopped Ms. Gordillo, the driver, for marked lanes and an obstructed license plate. However, after initiating the stop, the report contains no additional details about this stated purpose for the stop. The report continues by saying that "it was determined three of the passengers were in the United States illegally. They were taken into custody and turned over the Border Patrol." There is no mention of Ms. Gordillo being cited or warned about her alleged traffic violations. In fact, her role in the incident was that of "witness," not "known suspect" according to the report. The three passengers, who were taken into custody by the Attica Police Department, were labeled as "known suspect[s]," although there is no mention of any traffic or criminal offense claimed by the Attica Police Department.
195. The Attica Police Department is targeting Hispanics for immigration enforcement activities in the Village of Attica.

³ Doc. 130, Attachment 3, pp. 4-5.

196. There is no consistency between the reasons for the initial stop given in the Attica reports compared to the Border Patrol I-213s. In the matters of Angel Cruz-Cruz, Rene Paz-Hernandez, Martimiano-Candia, and Ricardo Morales-Domingo above, the Attica Incident Report states that the vehicle was stopped because only one headlight was in operation, but the I-213 states the Attica Police Department encountered these four individuals who were intoxicated in public. No mention of alcohol is listed in the local report.
197. Most of the nineteen individuals stopped by the Attica Police Department were taken into custody (arrested) by the Attica Police and turned over to the Border Patrol, but only one was ticketed or cited for any traffic offense. Francisca Gonzalez-Morales was cited for driving without a license - an offense that a police officer cannot know of until after executing a stop.
198. Through discovery with the U.S. Border Patrol, Plaintiffs obtained a contact list of law enforcement agencies used by the U.S. Border Patrol Sandusky Bay Station. The contact list includes a listing for the Attica Police Department, and it lists Attica's Police Chief, Jeff Briggs. Doc. 130, Attachment 4.
199. The Attica Police Department's communications with the United States Border Patrol after October 1, 2008, about individuals have only concerned Spanish surnamed and/or Spanish-speaking individuals.

iv. Other Evidence Of Discriminatory Intent By Norwalk Defendants

200. The Norwalk Police Department has adopted an official policy or custom of reporting persons believed to be civil immigration violators to the Border Patrol. On June 9, 2009,

at 3:54 p.m. Captain Jack O'Neil of that Department sent the following email to "All Police Personnel":

"Bradley Beldin from the United States Border Patrol stopped in and spoke to me. He wanted us to be aware they are here to help us with any illegal Alien (sic) problems we encounter. He advised if you have illegals and need help you can call them and they will come out to assist with interrogations and even as far as arresting them with being here illegally.

I put his card on the board in the officers room. Also he advised they do not have to have charges against them for them to come out and assist and to have them deported. There (sic) office is in Sandusky.

Bradley Beldin
Border Patrol Agent
Sandusky Bay Agent

Office: (419) 624-0009
Fax: (419) 624-0011
Dispatch: (800) 537-3220
Cell: (567) 2289042 "

201. "All Police Personnel" in the previous paragraph refers to all Norwalk Police Department personnel.
202. Norwalk Police Department officers also responded to a Border Patrol restraint and interrogation of three Hispanics at the same gasoline station in Norwalk involving Agent Shaver, *supra*. This incident took place on September 16, 2009. The Border Patrol agents approached two Hispanic men at the gasoline station to question them about their immigration status. When the men fled the scene Norwalk Police assisted Border Patrol Agents in the search for an hour to an hour and a half. The Border Patrol Agent at the scene, Corey Bammer, was quoted as saying "I'd hesitate to call it a manhunt," but declined to say why the suspects were initially approached by the Border Patrol Agents.

203. The suspects were initially approached by the Border Patrol Agents because they were Hispanic and the intended restraint and interrogation concerned alleged civil immigration violations, not criminal ones.
204. The Norwalk Police Department and its officers have adopted a custom, policy or practice of profiling Hispanics for encounters, stops, restraint, and interrogation about their immigration status based solely on their status as Hispanics.
205. On March 19, 2010, Defendant Norwalk answered Plaintiffs' First Amended Complaint. Doc. 40. The Defendant admitted that the e-mail herein referenced was sent. *Id.* at ¶106. Norwalk then denied that the U.S. Border Patrol had been in communication with the Norwalk Police Department to restrain and interrogate Hispanics about their immigration status and then call the U.S. Border Patrol to request assistance if any of those restrained and interrogated Hispanics appeared to be without proper immigration documentation specific allegation was denied. Doc. 40, ¶163.
206. Defendant Norwalk added: "In fact, no seminars, trainings or communications have occurred between the Norwalk Police Department or any of its personnel and the Sandusky Station of the U.S. Border Patrol, or any of its personnel of the type described in Paragraph 163 of the Complaint." *Id.*
207. Plaintiffs served their First Set of Requests for the Production of Documents to Defendant Norwalk on January 11, 2011. Doc. 88. Plaintiffs specifically requested "All communications of any kind written by the Norwalk Police Department officers that describe or concern contact with the U.S. Border Patrol or Immigration and Customs Enforcement." Defendant Norwalk responded to Plaintiffs' Request on February 21, 2011. Doc. 130, Attachment 5.

208. Attachment 5 referenced only two communications: “(1) an e-mail sent by Capt. Jack O’Neil to personnel regarding an unplanned visit by U.S. Border Patrol personnel; and (2) documents reporting an incident made by responding officers who assisted, for a short time, in an on-foot chase involving U.S. Border Patrol agents.” Doc. 130, Attachment 5, RFPD 3 (p. 3). Attachment 8 is the email by Capt. O’Neil.
209. There have been at least seven referrals made by the Norwalk Police Department to the U.S. Border Patrol since the opening of the U.S. Border Patrol Sandusky Bay Station.
210. All seven of these Norwalk Police Department referrals were people of Hispanic origin.
211. Defendant Border Patrol produced seven Form I-213 forms, Record of Deportable/Inadmissible Alien, wherein Hispanics were referred by the Norwalk Police Department to Defendant Border Patrol.
212. In addition, the Norwalk Police Department has produced corresponding local records regarding these incidents. The Form I-213’s and local incident reports are attached to this Memorandum, and a side-by-side summary is provided below:

Name	Date	Reason for Initial Stop, According to I-213 Doc. 130, Attachment 6 [Page Number]	Reason for Initial Stop, According to Norwalk PD Incident Report Doc. 130, Attachment 7 [Page Number]
Santos Gonzalez-Roblero	06/25/09	Norwalk encountered individual “on a vehicle stop” for a “traffic violation.” Noted that occupants “did not speak English.” [1567-1570]	Investigated for “disorderly conduct.” Issued a citation for “disorderly conduct by intoxication.” [1-5]
Huziel Gonzalez-Roblero	Same as above.	Same as above. [1571-1573]	Arrested – No citation issued. [1-5]
Jose Dolores-Morales	Same as above.	Same as above. [1574-1577]	Noted “J-D-M- couldn’t speak English, but the back seat

			passenger could.” Issued a citation for driving without a license. [1-5]
Bersain Morales-Ramirez	06/12/09	Norwalk PD “encountered” an individual and “were requesting assistance because B-M-R- was unable to communicate in the English language very well.” [1578-1580]	Investigated for domestic violence. Arrested for obstructing official business and issued a summons for disorderly conduct by intoxication. [6-8]
Angel Gabriel Galvez-Sanchez	11/30/09	Failing to obey a traffic control device. A-G-G-S- “admitted to the judge during municipal court that he was illegally present in the United States.” Norwalk PD then contacted BP. [1581-1583]	Violated sign that forbids making turns during school hours. Citation issued. A-G-G-S- “had difficulty communicating because of a language barrier.” [9-10]
Anibal Calderon-Zapot	03/08/10	Running through a red light. [1584-1587]	Running through a red light. Citation issued for No Operators License. Warning issued for red light violation. [11-12]
Ricardo Gutierrez-Giron	11/30/11	A “traffic stop.” Norwalk PD requested “assistance with translation and identification.” [1588-1591]	Driving straight through intersection while in right turn only lane. Citation issued for No Operators License. [13-16]

213. As with Attica, the inability to speak English is mentioned repeatedly in the I-213s and the local incident reports.
214. An inability to speak English is not indicative of any criminal behavior.
215. There is no law that is violated when a person cannot demonstrate English-speaking proficiency.
216. The Norwalk Police Department referred individuals to the U.S. Border Patrol for assistance in translation and interpretation.

217. The U.S. Border is a law enforcement agency that is tasked with enforcing our nation's immigration laws, not in providing interpretation and translation services to local law enforcement agencies.
218. The City of Norwalk Police Department receives federal funding or uses dispatch and other law enforcement resources that are federally funded, e.g., LEADS and NCIC, and is under an affirmative duty under Title VI of the Civil Rights Act of 1964 to provide its own translation and interpretation services when performing its duties.
219. Plaintiffs obtained a contact list of law enforcement agencies used by the U.S. Border Patrol Sandusky Bay Station. The contact list includes a listing for the Norwalk Police Department, and it lists the Norwalk Police Chief, Kevin Cashen. Doc. 130, Attachment 4. It contains the agency's address and telephone number. The "description of SBY [Sandusky Bay] interaction" states that Norwalk is outside of the station's "Primary Operational Domain." It also notes that Norwalk has a "large Hispanic population."
220. In an email from Border Patrol Agent in Charge Corey A. Bammer, the head of the Sandusky Bay Station, to another Agent, Bammer stated in part ". . . just met with the new sheriff of Huron County and his command staff. They have a HUGE IA Mex population – three very large corporate farms that harbor wets." (emphasis in original).⁴ Doc. 130, Attachment 9.
221. Another list produced in discovery with the U.S. Border Patrol shows an "Ohio Terrorism Liaison Officer Listing." Doc. 130, Attachment 4. This listing also includes the Norwalk Police Department, specifically Captain Michael Conney. It contains the agency's address and telephone number. The listing also notes that the Norwalk Police Department is "trained."

⁴ Bammer stated during his deposition that "IA" means Illegal Alien and that "Mex" means Mexican.

222. The Norwalk Police Department's communications with the United States Border Patrol after October 1, 2008, about individuals have only concerned Spanish surnamed and/or Spanish-speaking individuals.

v. Border Patrol Pattern Or Practice Of Profiling And Encouraging Local Law

Enforcement Agencies To Profile

223. Upon information and belief, the Federal Defendants have initiated extensive communications with local law enforcement agencies, including Defendants Attica and Norwalk Police Departments, encouraging those law enforcement agencies to restrain and interrogate Hispanics about their immigration status and then call the Sandusky Bay Border Patrol Station to request assistance if any of those restrained and interrogated Hispanics appear to be without proper immigration documentation.

224. Upon information and belief the Federal Defendants have not monitored the local law enforcement agencies ("LEAs") in those agencies' restraint and interrogation of Hispanics or have shown deliberate indifference to the restraint and interrogation of Hispanics by those LEAs, resulting in the restraint and interrogation of Hispanics by the LEAs without any reasonable belief that they have violated immigration laws of the United States.

225. The Federal Defendants know or should know that their encouragement of local law enforcement agencies to restrain and interrogate Hispanics about their immigration status results in those Hispanics being deprived of the equal protection of the laws of the United States and is unconstitutional.

226. The Federal Defendants know or should know that suppression of unlawfully obtained evidence is very difficult in Immigration Court hearings and thus believed that their

illegal restraint and interrogation of Hispanics and their encouragement of local law enforcement agencies to do the same would go unnoticed or unpunished.

227. The Local Defendants had extensive communication with the Federal Defendants about restraining and interrogating Hispanics about their immigration status.
228. These restraints and interrogations have been as a result of the class members' being Hispanic.
229. Local law enforcement, the Sandusky Ohio County Sheriff's office, have had to respond to an inquiry about Agent Mateo of the Sandusky Ohio Border Patrol Station trespassing on private property allegedly assisting the Ohio State Highway Patrol in a marijuana eradication program. Sandusky County Sheriff Overmyer had to order Agent Mateo and possibly another Agent to terminate their activities. An incident report dated September 18, 2009, obtained by ABLE from the Sandusky County Sheriff's Department, through an Public Records Act request, states in relevant part:

"This office received a complaint of a low flying airplane in the area of Cr. 260 & Cr. 183. The complainant stated that the airplane was circling the area for more than an hour and thought it was suspicious. Dispatch contacted Det. Capt. Consolo and asked if we were currently conducting any investigations using a low flying aircraft in that area. Dispatch was advised we were not. Det. Capt. Consolo & Det. Sgt. Meyer responded to the area to investigate the suspicious low flying aircraft. Upon arrival detectives located an US Boarder Patrol unit parked along the Cr. 260 roadway. Detectives Consolo spoke with boarder patrol agent Mateo and asked what was going on. The agent responded that they conducting a marijuana eradication investigation with the State Highway Patrol aviation unit. Det. Consolo asked agent Mateo under who's authority they were operating under due to neither having the authority or jurisdiction to conduct such an investigation on private property. After speaking with agent Mateo for sometime he then refused to cooperate or answer anymore questions concerning the matter and called his supervisor. Sheriff Overmyer was contacted and responded to the scene. After speaking with the Boarder Patrol agents Sheriff Overmyer advised

them that since they nor the State Highway Patrol have any authority or jurisdiction to conduct such an investigation on private property it was to be terminated immediately. Report Filed. Det. Capt. James M. Consolo”

230. The Border Patrol Agents at the Sandusky Ohio Border Patrol Station do not have adequate training regarding their duties and the manner in which they must be carried out consistent with the United States Constitution.
231. The Border Patrol Agents at the Sandusky Ohio Border Patrol Station do not have enough work preventing the “illegal entry of aliens into the United States,” 8 U.S.C. § 1377(a)(3), across the Canada-U.S. border and have instead been given permission to engage in the restraint and interrogation of Hispanics and other activities unrelated to preventing illegal entries into the U.S.
232. The Local Defendants’ police departments have official policies or a pattern or practice of restraining and interrogating Hispanics about their immigration status.
233. These official policies or a pattern or practice of restraining and interrogating Hispanics about their immigration status have been encouraged by the Federal Defendants.
234. Defendants have shown a deliberate indifference to the Plaintiffs’ right to equal protection under the laws of the United States.
235. The Federal Defendants have conspired to deprive Hispanics in Ohio of the equal protection of the laws by restraining and interrogating them about their immigration status solely based on their being Hispanic
236. The Defendants Attica, Briggs, Attica Police Chief, and Querin have conspired with the Sandusky Border Patrol Station defendants to deprive Hispanics in Ohio of the equal protection of the laws by restraining and interrogating them about their immigration status solely based on their being Hispanic.

237. The Defendants Norwalk, Light, and John Doe 1 of the Norwalk Ohio Police Department have conspired with the Federal Defendants to deprive Hispanics in Ohio of the equal protection of the laws by restraining and interrogating them about their immigration status solely based on their being Hispanic.
238. Defendant Randy L. Gallegos, the Chief Border Patrol Agent, Detroit Sector, has actual knowledge of the profiling of Hispanics by Sandusky Ohio Border Patrol Station Agents as a result of his supervision of those offices, statistics gathered by that office and reported to him, and his and their communication with local law enforcement agencies regarding the enforcement of the civil provisions of federal immigration law.
239. Defendant Gallegos had the authority to stop the profiling by his Agents and the authority to stop his Agents from encouraging and participating in profiling by local law enforcement agencies. He neglected or refused to prevent the profiling.
240. Defendant Gallegos had the authority to stop the use of racial or ethnic slurs by his Agents. He neglected or refused to take action.
241. Defendant Border Patrol, a subagency within Customs and Border Protection, U.S. Department of Homeland Security, has the responsibility to see that its responsibilities and duties under the Immigration and Nationality Act and the United States Constitution are carried out and has failed in those duties and responsibilities to comply with the law.

F. Class Action Allegations

242. Plaintiffs bring this class action on behalf of themselves and all others similarly situated. The proposed Classes are defined as follows:

Class 1: All Hispanics who have been or will be consensually encountered, restrained and interrogated on or after January 1, 2009, by Border Patrol Agents stationed at the Sandusky Bay Border Patrol station.

Class 2: All Hispanics who have been or will be consensually encountered, restrained and interrogated on or after January 1, 2009, by officers of the Attica or Norwalk police departments.

243. Plaintiffs and members of the Classes bring this action for equitable, declaratory, and injunctive relief pursuant to subdivision (b)(2) of Rule 23 of the Federal rules of Civil Procedure.
244. Plaintiffs are informed and believe and based thereon allege that members of the Class are so numerous that individual joinder of all of their members would be impracticable. Joinder is also impracticable because the Hispanic population of the counties in the area of the Sandusky Border Patrol Station undergoes considerable change as one of the busiest agricultural areas for migrant farm workers in Ohio, because many class members are unaware of their rights, and, because class members' access to legal services and representation is hampered by language, cultural, and economic barriers.⁵
245. There were approximately 282,603 Hispanics residing in the State of Ohio in 2007. Of these residents, Erie County has 1,896, Huron County has 3,064, Ottawa County has 1,685, Sandusky County has 4,698, and Lucas County has 23,168. Additionally, Hispanic residents of counties in the Eastern Division number 16,184 in Lorain County and 52,960 in Cuyahoga County. <http://pewhispanic.org/states/?stateid=OH>. Hispanic

⁵ These farm workers are entitled to a presumption of legal status due to their employers being required under federal law to ensure that persons employed are either U.S. citizens or work-authorized foreign nationals.

residents of Lorain and Cuyahoga Counties frequently travel to or through counties in the Western Division of the Northern District.

246. There are tens of thousands of Hispanics within the Western Division of the Northern District of Ohio who could encounter profiling by various Defendants. There are also thousands of Hispanics who reside in close proximity to the Western Division of the Northern District of Ohio who are subject to profiling while traveling through or to the counties within the Western Division of the Northern District.

247. There are many questions of law and fact common to the representative Plaintiffs and the members of the Class, including the following:

a. The legality of the restraint, interrogation, and arrest of Plaintiffs and members of the classes based on their being Hispanic.

b. The existence of the policy or pattern and practice of the Sandusky Bay Station of the U.S. Border Patrol to restrain, interrogate, and arrest Plaintiffs and members of the Classes based on their being Hispanic.

c. The existence of the policy or pattern and practice of the Sandusky Bay Station of the U.S. Border Patrol to encourage local law enforcement agencies and their officers to initiate consensual encounters, seize, detain, interrogate, and arrest Plaintiffs and members of the Classes based on their being Hispanic.

d. The existence of the policies or patterns and practices of Attica and Norwalk, and the Attica and Norwalk Police Departments to restrain, interrogate, and arrest Plaintiffs and members of the Classes based on their being Hispanic.

e. The failure of any of the Defendants to stop the policy or pattern and practice of restraining, interrogating, and arresting Plaintiffs and members of the Classes based on their being Hispanic.

The claims of the named Plaintiffs are typical of the claims of the Class because the named Plaintiffs have been subjected to or threatened with policies or practices that are identical or substantially similar to the policies and practices to which the class members have been subjected or with which the members of the Class have been threatened.

248. The organizational Plaintiffs, IWP and FLOC, have memberships that are wholly or primarily Hispanic. Their members have been subjected to profiling by the Defendants.
249. The named Plaintiffs will fairly and adequately protect the interests of the class. There is no conflict between the Plaintiffs and other class members. Moreover, Plaintiffs have retained counsel who are experienced in class action litigation and can adequately represent the interests of the class members as well as those of the named Plaintiffs.
250. Defendants have acted on grounds generally applicable to both the named Plaintiffs and other class members, making appropriate final declaratory and injunctive relief with respect to the members of the Class. The injuries suffered by the named Plaintiffs and other class members as a result of Defendants' actions are capable of repetition yet may evade review, thereby making individual and class relief appropriate.

VII. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Fourth Amendment and 8 U.S.C. § 1357 (*Bivens* and 5 U.S.C. § 702)

Unreasonable Searches and Seizures

Individual plaintiffs Saucedo-Carrillo, Carrillo-Vasquez, Palafox, Contreras García, and Rodríguez-Pérez, the IWP and FLOC, and Class 1 class members against defendants

Border Patrol, Gallegos, Bammer, York, Simon, Shaver, Corona, Richardson, Mateo-Deleon, Campbell, Dario, and Wrisley.

251. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.

252. Individual plaintiffs Saucedo-Carrillo, Carrillo-Vasquez, Palafox, Contreras García, and Rodríguez-Pérez, the IWP, FLOC, and Class 1 members seek injunctive and declaratory relief against the above-described policies, practices and conduct of Defendants Border Patrol, Gallegos, Bammer, York, Simon, Shaver, Corona, Richardson, Mateo-Deleon, Campbell, Dario, and Wrisley in their official capacities, enjoining them from continuing to engage in the above-described policies, practices and conduct violating the rights of Plaintiffs, their members, and Class 1 members to be free from unreasonable searches and seizures under the Fourth Amendment of the United States Constitution, including but not limited to:

- a. Stopping persons and vehicles without reasonable suspicion of criminal activity or of their being noncitizens present in the U.S. without authorization;
- b. Initiating consensual encounters, initiating pedestrian or traffic stops, or restraining and interrogating persons based solely on their being Hispanic;
- c. Conducting personal and vehicle searches without probable cause to believe that the areas searched contain evidence of criminal activity or a reasonable belief that the person search or car's occupants are dangerous and may gain access to a weapon in the area searched;
- d. Unreasonably arresting individuals without warrants and without probable cause to believe they are noncitizens present in violation of civil immigration laws; and,

e. Unreasonably arresting individuals for suspected civil immigration violations without warrants and without reason to believe they are likely to escape before a warrant can be obtained.

253. Plaintiff Alfonso Palafox seeks compensatory and punitive damages against Defendants Gallegos, Bammer, York, Corona, and Richardson in their personal capacities for violations of his right to be free from unreasonable seizure, including seizing (restraining) him based on his being Hispanic and then interrogating him.
254. Plaintiff Rocio Saucedo-Carrillo seeks compensatory and punitive damages against Defendants Gallegos, Bammer, Shaver, and Simon in their personal capacities for violations of her right to be free from unreasonable seizure, including seizing (restraining) her based on her being Hispanic and then interrogating her.
255. Plaintiff Rosa Carrillo-Vasquez seeks compensatory and punitive damages against Defendants Gallegos, Bammer, Shaver, and Simon in their personal capacities for violations of her right to be free from unreasonable seizure, including seizing (restraining) her based on her being Hispanic and then interrogating her.
256. Plaintiff José Samuel Contreras García seeks compensatory and punitive damages against Defendants Gallegos, Bammer, York, Corona, Simon, Mateo-Deleon, and Campbell in their personal capacities for violations of his right to be free from unreasonable searches and seizures, including but not limited to, detaining, interrogating, and arresting him without reasonable suspicion of criminal activity or that he was a noncitizen present in the United States without authorization, these actions by Defendants at a bus station being based solely on his being Hispanic.

257. Plaintiff Jesús Rodríguez-Pérez seeks compensatory and punitive damages against Defendants Gallegos, Bammer, York, Dario, Wrisley, and Simon in their personal capacities for violations of his right to be free from unreasonable searches and seizures , including but not limited to, detaining, interrogating, and arresting him without reasonable suspicion of criminal activity or that he was a noncitizen present in the United States without authorization, these actions by Defendants at a bus station being based solely on his being Hispanic.

SECOND CLAIM FOR RELIEF

Fifth Amendment, 8 U.S.C. §1357, 8 C.F.R. § 287.3

Bivens and 5 U.S.C. § 702

Due Process

Individual plaintiffs Saucedo-Carrillo, Carrillo-Vasquez, Palafox, Contreras García, and Rodríguez-Pérez, the IWP and FLOC, and and Class 1 class members against defendants Border Patrol, Gallegos, Bammer, York, Simon, Shaver, Corona, Richardson, Mateo-Deleon, Campbell, Dario, and Wrisley.

258. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.
259. A federal agency's failure to follow its own governing statutes and regulations violates due process guaranteed by the Fifth Amendment of the United States Constitution.
260. Plaintiffs Saucedo-Carrillo, Carrillo-Vasquez, Palafox, Contreras García, and Rodríguez-Pérez, the IWP and FLOC, and Class 1 class members seek declaratory and injunctive relief against defendants Border Patrol, Gallegos, Bammer, York, Simon, Shaver, Corona, Richardson, Mateo-Deleon, Campbell, Dario, and Wrisley in their official capacities, enjoining them from continuing to engage in the above-described policies,

practices and conduct violating the rights of Plaintiffs to due process under the Fifth Amendment of the United States Constitution, including but not limited to:

- a. Violating 8 U.S.C. § 1357 by profiling Hispanics for restraint and interrogation about their immigration status based solely on their being Hispanic and without a reasonable belief that they are noncitizens or aliens without the right to be or to remain in the United States; and,
- b. Violating the terms of 8 U.S.C. § 1357 and 8 C.F.R. § 287.3 and its authorizing statutes by failing to provide procedural protections required for persons arrested without a warrant for civil immigration violations.

261. Plaintiffs José Samuel Contreras García and Jesús Rodríguez-Pérez seek compensatory and punitive damages against Defendants Gallegos, Bammer, Simon, Corona, Mateo-Deleon, Campbell, Dario, and Wrisley in their personal capacities for violations of their right to due process under the Fifth Amendment of the United States Constitution, including but not limited to, detaining, interrogating, and arresting them without reasonable suspicion of criminal activity or that they were noncitizens present in the United States without authorization, these actions by Defendants at a bus station being based solely on their being Hispanic.
262. Plaintiff Rocio Saucedo-Carrillo seeks compensatory and punitive damages against Defendants Gallegos, Bammer, Shaver, and Simon in their personal capacities for violations of her right to right to due process under the Fifth Amendment of the United States Constitution, including but not limited to, initiating contact with, detaining, interrogating, and arresting her without reasonable suspicion of criminal activity or that

she was a noncitizen present in the United States without authorization, these actions by Defendants at a gasoline station being based solely on her being Hispanic.

263. Plaintiff Rosa Carrillo-Vasquez seeks compensatory and punitive damages against Defendants Gallegos, Bammer, Shaver, and Simon in their personal capacities for violations of her right to right to due process under the Fifth Amendment of the United States Constitution, including but not limited to, initiating contact with, detaining, interrogating, and arresting her without reasonable suspicion of criminal activity or that she was a noncitizen present in the United States without authorization, these actions by Defendants at a gasoline station being based solely on her being Hispanic.

THIRD CLAIM FOR RELIEF

Fifth Amendment, 8 U.S.C. §1357, 8 C.F.R. § 287.3

(Bivens and 5 U.S.C. § 702)

Equal Protection

Individual plaintiffs Saucedo-Carrillo, Carrillo-Vasquez, Palafox, Contreras García, and Rodríguez-Pérez, the IWP, FLOC, and Class 1 class members against defendants Border Patrol, Gallegos, Corona, Dario, Mateo, Simon, York, Wrisley, and John Does 1 – 9

264. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.
265. As Hispanics, the individual Plaintiffs and members of Class 1 are members of a protected class.
266. Plaintiffs Saucedo-Carrillo, Carrillo-Vasquez, Palafox, Contreras García, and Rodríguez-Pérez, the IWP and FLOC, and Class 1 class members seek declaratory and injunctive relief against defendants Border Patrol, Gallegos, Bammer, York, Simon, Shaver, Corona, Richardson, Mateo-Deleon, Campbell, Dario, and Wrisley in their official

capacities, enjoining them from continuing to engage in the above-described policies, practices and conduct violating the rights of Plaintiffs to be free from discrimination on the basis of race, ethnicity, or national origin, including but not limited to:

- a. Using race as a motivating factor to stop, detain, interrogate and/or search persons who are Hispanic; and,
- b. Using race as a motivating factor to unreasonably prolong detentions in order to question persons regarding their citizenship and immigration status.

267. Plaintiffs José Samuel Contreras García and Jesús Rodríguez-Pérez seek compensatory and punitive damages against Defendants Gallegos, Corona, Simon, Dario, Wrisley, York, and unknown John Does in their personal capacities for violations of their right to be free from discrimination on the basis of race, ethnicity, or national origin, including but not limited to:

- a. Using race as a motivating factor to stop, detain, interrogate and/or search persons who are Hispanic; and,
- b. Using race as a motivating factor in deciding to unreasonably prolong detentions in order to question persons regarding their citizenship and immigration status.

FOURTH CLAIM FOR RELIEF

Fourth Amendment (42 U.S.C. § 1983)

Unreasonable Search and Seizure

42 U.S.C. § 1983 Claims for Violation of the Fourth Amendment Prohibition Against

Unreasonable Searches and Seizures

Plaintiffs Nieto, Muniz, Torres-Franco, Muñoz-Torres, María Muñoz-Muñoz, Luis Enrique Muñoz-Muñoz, and Class 2 class members against defendants Attica, Attica Ohio Police Chief, former Police Chief Jeffrey Briggs, and former Officer Joshua Querin.

268. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.
269. Plaintiffs Nieto, Muniz, Torres-Franco, Muñiz-Torres, María Muñiz-Muñiz, Luis Enrique Muñiz-Muñiz, the IWP, FLOC, and Class 2 class members seek injunctive and declaratory relief against Defendants Village of Attica, Police Chief of Attica Ohio Police Department, former Chief Jeffrey Briggs, and former Officer Joshua Querin in their official capacities, enjoining them from continuing to engage in the above-described policies, practices and conduct violating the rights of Plaintiffs to be free from unreasonable searches and seizures under the Fourth Amendment of the United States Constitution, including but not limited to:
- a. Stopping person and vehicles without reasonable suspicion of criminal activity or traffic infraction;
 - b. Using race as a motivating factor to stop, detain, interrogate and/or search persons who are Hispanic; and,
 - c. Using race as a motivating factor in deciding to unreasonably prolong detentions in order to question persons regarding their citizenship and immigration status.
270. Plaintiffs Nieto, Muniz, Torres-Franco, Muñiz-Torres, María Muñiz-Muñiz, Luis Enrique Muñiz-Muñiz seek compensatory damages against Defendant Attica and compensatory and punitive damages against former Chief Briggs, the Police Chief of Attica Ohio Police Department and former Officer Querin in their personal capacities for violations of Plaintiffs' rights to be free from unreasonable searches and seizures , including but not limited to:

- a. Stopping persons and vehicles without reasonable suspicion of criminal activity or traffic infraction;
- b. Using race as a motivating factor to stop, detain, interrogate and/or search persons who are Hispanic;
- c. Using race as a motivating factor in deciding to unreasonably prolong detentions in order to question persons regarding their citizenship and immigration status; and,
- d. Engaging in the enforcement of the civil provisions of federal immigration law.

FIFTH CLAIM FOR RELIEF

Fourth Amendment (42 U.S.C. § 1983)

Unreasonable Search and Seizure

42 U.S.C. § 1983 Claims for Violation of the Fourth Amendment Prohibition Against

Unreasonable Searches and Seizures

Plaintiffs María de Belén Martínez-Castro, the IWP, FLOC, and Class 2 class members against defendants Norwalk, Light, and John Doe 1

271. Plaintiffs María de Belén Martínez-Castro, the IWP, FLOC, and Class 2 class members seek injunctive and declaratory relief against Defendants Norwalk, Light, and John Doe 1 in their official capacities, enjoining them from continuing to engage in the above-described policies, practices and conduct violating the rights of Plaintiffs to be free from unreasonable searches and seizures under the Fourth Amendment of the United States Constitution, including but not limited to:

- a. Stopping persons and vehicles without reasonable suspicion of criminal activity or traffic infraction;
- b. Using race as a motivating factor to stop, detain, interrogate and/or search persons who are Hispanic;

c. Using race as a motivating factor in deciding to unreasonably prolong detentions in order to question persons regarding their citizenship and immigration status; and,

d. Engaging in the enforcement of the civil provisions of federal immigration law.

272. Plaintiff María de Belén Martínez-Castro seeks compensatory damages against Defendant Norwalk and compensatory and punitive damages against Light and John Doe 1 in their personal capacities for violations of her right to be free from unreasonable searches and seizures , including but not limited to:

a. Stopping her without reasonable suspicion of criminal activity or traffic infraction;

b. Using race as a motivating factor to follow, stop, detain, interrogate and/or search her because she is Hispanic;

c. Using race as a motivating factor in deciding to unreasonably prolong detentions in order to question her regarding her citizenship and immigration status.

SIXTH CLAIM FOR RELIEF

Fourteenth Amendment (42 U.S.C. § 1983)

Equal Protection

Plaintiffs Nieto, Muniz, Torres-Franco, Muñiz-Torres, María Muñiz-Muñiz, Luis Enrique Muñiz-Muñiz, the IWP, FLOC, and Class 2 class members against defendants Village of Attica, Attica Ohio Police Chief, former Chief Briggs, and former Officer Querin.

273. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.

274. Plaintiffs Nieto, Muniz, Torres-Franco, Muñiz-Torres, María Muñiz-Muñiz, Luis Enrique Muñiz-Muñiz, the IWP, FLOC, and Class 2 class members seek injunctive and declaratory relief against Defendants Village of Attica, Police Chief of Attica Ohio Police

Department, former Chief Briggs, and former Officer Querin in their official capacities, enjoining them from continuing to engage in the above-described policies, practices and conduct violating the rights of Plaintiffs to be free from discrimination on the basis of race, ethnicity, or national origin, including but not limited to:

- a. Using race as a motivating factor to initiate encounters, stops, detentions, interrogations and/or search persons who are Hispanic;
- b. Using race as a motivating factor in deciding to unreasonably prolong detentions in order to question persons regarding their citizenship and immigration status;
- c. Using race as a motivating factor in deciding to contact Border Patrol Agents or Immigration and Customs Enforcement (ICE) agents regarding the immigration status of persons.

275. Plaintiffs Nieto, Muniz, Torres-Franco, Muñiz-Torres, María Muñiz-Muñiz, Luis Enrique Muñiz-Muñiz seek compensatory damages against Defendant Village of Attica and compensatory and punitive damages against Defendants Briggs and Querin in their personal capacities for violations of their rights to be free from discrimination on the basis of race, ethnicity, or national origin, , including but not limited to:

- a. Using race as a motivating factor to stop, detain, interrogate and/or search persons who are Hispanic;
- b. Using race as a motivating factor in deciding to unreasonably prolong detentions in order to question persons regarding their citizenship and immigration status;
- c. Using race as a motivating factor in deciding to contact Border Patrol Agents or Immigration and Customs Enforcement (ICE) agents regarding the immigration status of persons.

SEVENTH CLAIM FOR RELIEF

Fourteenth Amendment (42 U.S.C. § 1983)

Equal Protection

Plaintiffs María de Belén Martínez-Castro, the IWP, FLOC, and Class 2 class members against defendants City of Norwalk, Light and John Doe 1

276. Plaintiffs María de Belén Martínez-Castro, the IWP, FLOC, and Class 2 class members seek injunctive and declaratory relief against Defendants City of Norwalk, Light, and John Doe 1 in their official capacities, enjoining them from continuing to engage in the above-described policies, practices and conduct violating the rights of Plaintiffs to be free from discrimination on the basis of race, ethnicity, or national origin, including but not limited to:
- a. Using race as a motivating factor to stop, detain, interrogate and/or search persons who are Hispanic;
 - b. Using race as a motivating factor in deciding to unreasonably prolong detentions in order to question persons regarding their citizenship and immigration status;
 - c. Using race as a motivating factor in deciding to contact Border Patrol Agents or Immigration and Customs Enforcement (ICE) agents regarding the immigration status of persons.
277. Plaintiff María de Belén Martínez-Castro seeks compensatory damages against Defendant City of Norwalk and compensatory and punitive damages against Defendants Light and John Doe 1 in their personal capacities for violations of her right to be free from discrimination on the basis of race, ethnicity, or national origin, , including but not limited to:

- a. Using race as a motivating factor to follow, stop, detain, interrogate and/or search persons who appear to be Hispanic;
- b. Using race as a motivating factor in deciding to unreasonably prolong detentions in order to question persons regarding their citizenship and immigration status;
- c. Using race as a motivating factor in deciding to contact Border Patrol Agents or Immigration and Customs Enforcement (ICE) agents regarding the immigration status of persons.

EIGHTH CLAIM FOR RELIEF

Fourteenth Amendment (42 U.S.C. § 1983)

Due Process

Plaintiffs Nieto, Muniz, Torres-Franco, Muñiz-Torres, María Muñiz-Muñiz, Luis Enrique Muñiz-Muñiz, the IWP, FLOC, and Class 2 class members against defendants Village of Attica, Attica Ohio Police Chief, former Chief Briggs, and former Officer Joshua Querin

278. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.
279. Plaintiffs Nieto, Muniz, Torres-Franco, Muñiz-Torres, María Muñiz-Muñiz, Luis Enrique Muñiz-Muñiz, the IWP, FLOC, and Class 2 class members seek injunctive and declaratory relief against Defendants Village of Attica, the Police Chief of Attica Ohio Police Department, former Chief Briggs and Officer Querin in their official capacities, enjoining them from continuing to engage in the above-described policies, practices and conduct violating the rights of Plaintiffs to due process under the Fourteenth Amendment of the United States Constitution, including but not limited to:

a. Restraining and interrogating individuals without probable cause of criminal activity and for civil immigration violations without any lawful authority, in violation of the persons' rights to substantive due process; and,

b. Aiding and abetting Defendant Border Patrol Agents in denying procedural protections due civil immigration arrestees who are arrested without a warrant.

280. Plaintiffs Nieto, Muniz, Torres-Franco, Muñiz-Torres, María Muñiz-Muñiz, Luis Enrique Muñiz-Muñiz seek compensatory damages against Defendant Village of Attica and compensatory and punitive damages against Defendants Police Chief of Attica Ohio Police Department, former Chief Briggs, and Officer Querin in their personal capacities for violations of their rights to due process, , including but not limited to:

a. Restraining and interrogating them without probable cause of criminal activity and for civil immigration violations without any lawful authority, in violation of their rights to substantive due process; and,

b. Aiding and abetting Defendant Border Patrol Agents in denying procedural protections due civil immigration arrestees who are arrested without a warrant.

NINTH CLAIM FOR RELIEF

Fourteenth Amendment (42 U.S.C. § 1983)

Due Process

Plaintiffs María de Belén Martínez-Castro, the IWP, FLOC, and Class 2 class members against defendants City of Norwalk, Chief Light and John Doe 1

281. Plaintiffs María de Belén Martínez-Castro, the IWP, FLOC, and Class 2 class members seek injunctive and declaratory relief against Defendants City of Norwalk, Chief Light, and John Doe 1 in their official capacities, enjoining them from continuing to engage in the above-described policies, practices and conduct violating the rights of Plaintiffs to

due process under the Fourteenth Amendment of the United States Constitution, including but not limited to:

- a. Restraining and interrogating individuals without probable cause of criminal activity and for civil immigration violations without any lawful authority, in violation of the persons' rights to substantive due process; and,
- b. Aiding and abetting Defendant Border Patrol Agents in denying procedural protections due civil immigration arrestees who are arrested without a warrant.

282. Plaintiff María de Belén Martínez-Castro seeks compensatory damages against Defendant City of Norwalk and compensatory and punitive damages against Defendants Light and John Doe 1 in their personal capacities for violations of her right to due process, , including but not limited to:

- a. Restraining, following, and interrogating her without probable cause of criminal activity and for civil immigration violations without any lawful authority, in violation of her rights to substantive due process.

TENTH CLAIM

42 U.S.C. § 1983, 42 U.S.C. § 1985(3)

Conspiracy

Plaintiffs Nieto, Muñoz, Torres-Franco, Muñoz-Torres, María Muñoz-Muñoz, Luis Enrique Muñoz-Muñoz, the IWP, FLOC, and Class 2 class members against defendants Village of Attica, Briggs, Attica Police Chief, Officer Joshua Querin and Defendants Border Patrol, Gallegos, Bammer, and York.

283. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.
284. Defendants Attica, Attica Police Chief, and Officer Joshua Querin conspired with Border Patrol, Gallegos, Bammer, and York by entering into a mutual understanding and

agreement and committing overt acts in furtherance of their agreement to violate Plaintiffs' constitutional and statutory rights, including their right to equal protection under law, in violation of 42 U.S.C. § 1985(3), , including but not limited to the following:

- a. Using race as a motivating factor to stop, detain, interrogate and/or search persons who are Hispanic;
- b. Using race as a motivating factor in deciding to unreasonably prolong detentions in order to question persons regarding their citizenship and immigration status;
- c. Using race as a motivating factor in deciding to contact Border Patrol Agents or Immigration and Customs Enforcement (ICE) agents regarding the immigration status of persons.

285. As a direct and proximate cause of the aforementioned conspiracy between Defendants through individual actions and policies and practices, Plaintiffs Nieto, Muñiz, Torres-Franco, Muñiz-Torres, María Muñiz-Muñiz, Luis Enrique Muñiz-Muñiz have been deprived of their rights to be free from unreasonable and unlawful searches and seizures, to equal protections under the laws, and to substantive and procedural due process rights, as secured by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution.

286. Plaintiffs Nieto, Muñiz, Torres-Franco, Muñiz-Torres, María Muñiz-Muñiz, Luis Enrique Muñiz-Muñiz, the IWP, FLOC, and Class 2 class members seek injunctive and declaratory relief against Defendants Attica, Attica Police Chief, Border Patrol, Gallegos, Bammer, and York in their official capacities, enjoining them from continuing to engage

in the above-described conspiracy to violate the constitutional and statutory rights of Plaintiffs.

287. Plaintiffs Nieto, Muñiz, Torres-Franco, Muñiz-Torres, María Muñiz-Muñiz, Luis Enrique Muñiz-Muñiz seeks compensatory damages against Defendant Attica and compensatory and punitive damages against Defendants Briggs, Attica Police Chief, Border Patrol, Gallegos, Bammer, and York for conspiring to violate their constitutional and statutory rights , including but not limited to:

- a. Agreeing to and intentionally subjecting them to discriminatory treatment on the basis of their race, ethnicity, or national origin;
- b. Agreeing to and intentionally subjecting them to unreasonable searches and seizures; and,
- c. Agreeing to and intentionally denying them substantive and procedural due process.

ELEVENTH CLAIM FOR RELIEF

42 U.S.C. § 1983, 42 U.S.C. § 1985(3)

Conspiracy

Plaintiff Martinez, the IWP, FLOC, and Class 2 class members against Defendants Norwalk, Light, John Doe 1, and Border Patrol, Gallegos, Bammer, and York.

288. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.

289. Defendants Norwalk, Light, John Doe 1 conspired with Border Patrol, Gallegos, Bammer, and York by entering into a mutual understanding and agreement and committing overt acts in furtherance of their agreement to violate Plaintiffs' constitutional and statutory rights, including their right to equal protection under law, in violation of 42 U.S.C. § 1985(3), including but not limited to the following:

- a. Using race as a motivating factor to stop, detain, interrogate and/or search persons who are Hispanic;
 - b. Using race as a motivating factor in deciding to unreasonably prolong detentions in order to question persons regarding their citizenship and immigration status;
 - c. Using race as a motivating factor in deciding to contact Border Patrol Agents or Immigration and Customs Enforcement (ICE) agents regarding the immigration status of persons.
290. As a direct and proximate cause of the aforementioned conspiracy between Defendants through individual actions and policies and practices, Plaintiff Martinez has been deprived of her right to be free from unreasonable and unlawful searches and seizures, to equal protections under the laws, and to substantive and procedural due process rights, as secured by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution.
291. Plaintiffs Martinez, the IWP, FLOC, and Class 2 class members seek injunctive and declaratory relief against Defendants Norwalk, Light, Gallegos, John Doe 1, and Border Patrol, Gallegos, Bammer, and York in their official capacities, enjoining them from continuing to engage in the above-described conspiracy to violate the constitutional and statutory rights of Plaintiffs.
292. Plaintiff Martinez seeks compensatory damages against Defendant Attica and compensatory and punitive damages against Defendants Light, John Does 1, Border Patrol, Gallegos, Bammer, and York for conspiring to violate her constitutional and statutory rights , including but not limited to:

- a. Agreeing to and intentionally subjecting her to discriminatory treatment on the basis of her race, ethnicity, or national origin;
- b. Agreeing to and intentionally subjecting her to unreasonable searches and seizures; and,
- c. Agreeing to and intentionally denying her substantive and procedural due process.

TWELTH CLAIM FOR RELIEF

42 U.S.C. § 1986

Failure to Stop Conspiracy to Violate Hispanics Right to Equal Protection of the Law

Plaintiffs Nieto, Muñiz, Torres-Franco, Muñiz-Torres, María Muñiz-Muñiz, Luis Enrique Muñiz-Muñiz, against Defendants Attica, Attica Police Chief, Gallegos, Border Patrol, Gallegos, Bammer, and York

293. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.
294. Plaintiffs Nieto, Muñiz, Torres-Franco, Muñiz-Torres, María Muñiz-Muñiz, Luis Enrique Muñiz-Muñiz seeks compensatory damages against Defendant Attica and compensatory and punitive damages against Defendants Attica Police Chief, Border Patrol, Gallegos, Bammer, and York for failing to stop the conspiracy to violate their constitutional and statutory rights , including but not limited to:
- a. Agreeing to and intentionally subjecting them to discriminatory treatment on the basis of their race, ethnicity, or national origin;
 - b. Agreeing to and intentionally subjecting them to unreasonable searches and seizures; and,
 - c. Agreeing to and intentionally denying them substantive and procedural due process.

THIRTEENTH CLAIM FOR RELIEF

**42 U.S.C. § 1986 Claim for Failure to Stop Conspiracy to Violate Hispanics Right to Equal
Protection of the Law**

**Plaintiff Martinez against Defendants City of Norwalk, Chief Light, John Doe 1, and
Border Patrol, Gallegos, Bammer, and York**

295. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.
296. Plaintiff Martinez seeks compensatory damages against Defendant City of Norwalk and compensatory and punitive damages against Defendants Light, John Does 13 - 15, Gallegos, and Gallegos, Bammer, and York for failing to stop the conspiracy to violate her constitutional and statutory rights , including but not limited to:
- a. Agreeing to and intentionally subjecting her to discriminatory treatment on the basis of her race, ethnicity, or national origin;
 - b. Agreeing to and intentionally subjecting her to unreasonable searches and seizures; and,
 - c. Agreeing to and intentionally denying her substantive and procedural due process.

FOURTEENTH CLAIM FOR RELIEF

Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 – 2680

**Federal Tort Claims Act Claims by Plaintiffs Carrillo-Vasquez and Saucedo-Carrillo
Against the United States of America and Border Patrol Defendant Agents Shaver and
Simon**

297. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.

298. Plaintiffs Carrillo-Vasquez and Saucedo-Carrillo both filed Federal Tort Claims Act administrative complaints with the Offices of Chief Counsel of both the U.S. Department of Homeland Security and U.S. Customs and Border Protection on August 31, 2011.
299. Plaintiffs Carrillo-Vasquez and Saucedo-Carrillo each alleged total claims of \$100,000.00 for the torts of ethnic profiling, false imprisonment, assault, deprivation of civil rights through intimidation, negligence, and intentional and negligent infliction of emotional distress.
300. No response has been received from either the Chief Counsel office of the Department of Homeland Security nor Customs and Border Protection. More than six months has passed since the filing of the FTCA administrative complaints.
301. Plaintiff Carrillo-Vasquez seeks damages against the Defendants United States of America, Shaver, and Simon for ethnic profiling, false imprisonment, assault, deprivation of civil rights through intimidation, negligence, and intentional and negligent infliction of emotional distress in the amount of \$100,000.00.
302. Plaintiff Saucedo-Carrillo seeks damages against the Defendants United States of America, Shaver, and Simon for ethnic profiling, false imprisonment, assault, deprivation of civil rights through intimidation, negligence, and intentional and negligent infliction of emotional distress in the amount of \$100,000.00.

FIFTEENTH CLAIM FOR RELIEF

Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 – 2680

Federal Tort Claims Act Claims by Plaintiff Alfonso Palafox Against the United States of America and Border Patrol Defendant Agents Richardson and Corona

303. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.

304. Plaintiff Alfonso Palafox filed Federal Tort Claims Act administrative complaints with the Offices of Chief Counsel of both the U.S. Department of Homeland Security and U.S. Customs and Border Protection on September 22, 2011.
305. Plaintiff Palafox alleged total claims of \$10,000.00 for the torts of false imprisonment, deprivation of civil rights through intimidation, and intentional and negligent infliction of emotional distress.
306. No response has been received from either the Chief Counsel office of the Department of Homeland Security nor Customs and Border Protection. More than six months has passed since the filing of the FTCA administrative complaint.
307. Plaintiff Palafox seeks damages against the Defendants United States of America, Richardson, and Corona for ethnic profiling, false imprisonment, assault, deprivation of civil rights through intimidation, negligence, and intentional and negligent infliction of emotional distress in the amount of \$10,000.00.

SIXTEENTH CLAIM FOR RELIEF

Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 – 2680

Federal Tort Claims Act Claims by Plaintiff Jesús Rodríguez-Pérez Against the United States of America and Border Patrol Defendant Agents Dario, Wrisley, Simon, and York

308. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.
309. Plaintiff Jesús Rodríguez-Pérez filed Federal Tort Claims Act administrative complaints with the Offices of Chief Counsel of both the U.S. Department of Homeland Security and U.S. Customs and Border Protection on September 22, 2011.

310. Plaintiff Jesús Rodríguez-Pérez alleged total claims of \$10,000.00 for the torts of false imprisonment, negligence, deprivation of civil rights through intimidation, and intentional and negligent infliction of emotional distress.
311. No response has been received from either the Chief Counsel office of the Department of Homeland Security nor Customs and Border Protection. More than six months has passed since the filing of the FTCA administrative complaint.
312. Plaintiff Jesús Rodríguez-Pérez seeks damages against the Defendants United States of America, Dario, Wrisley, Simon, and York for false imprisonment, assault, deprivation of civil rights through intimidation, negligence, and intentional and negligent infliction of emotional distress in the amount of \$10,000.00.

SEVENTEENTH CLAIM FOR RELIEF

Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 – 2680

Federal Tort Claims Act Claims by Plaintiff José Samuel Contreras García Against the United States of America and Border Patrol Defendant Agents Corona, Simon, Mateo-Deleon, and Campbell

313. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.
314. Plaintiff José Samuel Contreras García filed Federal Tort Claims Act administrative complaints with the Offices of Chief Counsel of both the U.S. Department of Homeland Security and U.S. Customs and Border Protection on September 22, 2011.
315. Plaintiff José Samuel Contreras García alleged total claims of \$10,000.00 for the torts of negligence, false imprisonment, deprivation of civil rights through intimidation, and intentional and negligent infliction of emotional distress.

316. No response has been received from either the Chief Counsel office of the Department of Homeland Security nor Customs and Border Protection.
317. Plaintiff José Samuel Contreras García seeks damages against the Defendants United States of America, Corona, Simon, Mateo-Deleon, and Campbell for false imprisonment, deprivation of civil rights through intimidation, negligence, and intentional and negligent infliction of emotional distress in the amount of \$10,000.00.

EIGHTEENTH CLAIM FOR RELIEF

Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 – 2680

Federal Tort Claims Act Claims by Plaintiff José Samuel Contreras García Against the United States of America and Border Patrol Defendant Agents Corona, Simon, Mateo-Deleon, and Campbell

318. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.
319. Plaintiff José Samuel Contreras García filed Federal Tort Claims Act administrative complaints with the Offices of Chief Counsel of both the U.S. Department of Homeland Security and U.S. Customs and Border Protection on September 22, 2011.
320. Plaintiff José Samuel Contreras García alleged total claims of \$10,000.00 for the torts of negligence, false imprisonment, deprivation of civil rights through intimidation, and intentional and negligent infliction of emotional distress.
321. No response has been received from either the Chief Counsel office of the Department of Homeland Security nor Customs and Border Protection. More than six months have passed since the filing of the FTCA administrative complaints.
322. Plaintiff José Samuel Contreras García seeks damages against the Defendants United States of America, Corona, Simon, Mateo-Deleon, and Campbell for false imprisonment,

deprivation of civil rights through intimidation, negligence, and intentional and negligent infliction of emotional distress in the amount of \$10,000.00.

NINETEENTH CLAIM FOR RELIEF

Title VI Claims, 42 U.S.C. § 2000d

Discrimination Against Plaintiffs and Class 2 Members In Federally Assisted Programs

Plaintiffs Nieto, Muñoz, Torres-Franco, Muñoz-Torres, María Muñoz-Muñoz, Luis Enrique Muñoz-Muñoz, the IWP, FLOC, and Class 2 class members against defendants Village of Attica and the Attica Police Chief

323. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.
324. Documents gained in discovery from Defendants Village of Attica Police Department state Attica Police Officers contact and involve the Sandusky Bay Station of the Border Patrol to provide interpretation.
325. Plaintiffs Nieto, Muniz, Torres-Franco, Muñoz-Torres, María Muñoz-Muñoz, Luis Enrique Muñoz-Muñoz, the IWP, FLOC, and Class 2 class members seek injunctive and declaratory relief against Defendants Village of Attica and the Police Chief of Attica Ohio Police Department, in his official capacity, enjoining Defendants from continuing to engage in the above-described policies, practices and conduct and require Defendants to provide language interpretation and translation without involving the United States Border Patrol or any other immigration enforcement authorities.

TWENTIETH CLAIM FOR RELIEF

Title VI Claims, 42 U.S.C. § 2000d

Discrimination Against Plaintiffs and Class 2 Members In Federally Assisted Programs

Plaintiffs María de Belén Martínez-Castro, the IWP, FLOC, and Class 2 class members against defendants Village of Attica and the Attica Police Chief

326. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.
327. Documents gained in discovery from Defendants City of Norwalk Police Department state Norwalk Police Officers contact and involve the Sandusky Bay Station of the Border Patrol to provide interpretation.
328. Plaintiffs María de Belén Martínez-Castro, the IWP, FLOC, and Class 2 class members seek injunctive and declaratory relief against Defendants City of Norwalk and Police Chief Light, in his official capacity, enjoining Defendants from continuing to engage in the above-described policies, practices and conduct and require Defendants to provide language interpretation and translation without involving the United States Border Patrol or any other immigration enforcement authorities.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

- a. Issue an order certifying this action to proceed as a class action pursuant to Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure;
- b. Appoint the undersigned as class counsel pursuant to Rule 23(g) of the Federal Rules of Civil Procedure;
- c. Issue a judgment declaring that Defendants' policies, practices, acts, and omissions described herein violate Plaintiffs' rights under the Constitution of the United States, and federal statutory law;
- d. Permanently enjoin Defendants, their subordinates, agents, employees, and all others acting in concert with them from subjecting Plaintiffs to the unconstitutional and illegal

conditions described herein and consistent with the relief requested in the individual Claims, and issue injunctive relief sufficient to rectify those conditions;

- e. An order allowing monitoring of the actions of the Sandusky Border Patrol Station by provision of redacted records of questioning, restraint of, interrogation of, and arrest of Hispanics and all others by that Station. These forms would include, but not be limited to, the I-213, I-862, and other documents and incident reports prepared by Sandusky Border Patrol Agents.
- f. An order that the Sandusky Border Patrol Station keep a written record of all consensual encounters and the race, ethnicity, and national origin of those persons encountered.
- g. Award damages as requested in the Claims herein.
- h. Grant Plaintiffs their reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 42 U.S.C. § 1988, and other applicable law.
- i. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

By: /s/ Mark Heller
Mark Heller (0027027)
/s/ Eugenio Mollo, Jr.
Eugenio Mollo, Jr. (0081860)
/s/Aneel L. Chablani
Aneel L. Chablani (0083043)
ADVOCATES FOR BASIC LEGAL EQUALITY, INC.
525 Jefferson Ave., Suite 300
Toledo, OH 43604
419.255.0814 (phone)
419.259.2880 (fax)
mheller@ablelaw.org
emollo@ablelaw.org
achablani@ablelaw.org

/s/John T. Murray

John T. Murray (0008793)

/s/Leslie O. Murray

Leslie O. Murray (0081496)

/s/ Michael Stewart

Michael Stewart (0082257)

MURRAY & MURRAY CO., L.P.A.

111 East Shoreline Drive

Sandusky, OH 44870-2517

419.987.4067 (phone)

419.624.0707 (fax)

jotm@murrayandmurray.com

lom@murrayandmurray.com

stewart@murrayandmurray.com

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2012, a copy of the foregoing Sealed Second Amended Complaint for Damages and Classwide Declaratory and Injunctive Relief was filed electronically under Seal. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system. An electronic version of the filing will be sent by e-mail this same date to counsel for the parties.

/s/ Mark R. Heller

Mark R. Heller

ADVOCATES FOR BASIC LEGAL EQUALITY, INC.

525 Jefferson Ave., Suite 300

Toledo, OH 43604

419.255.0814 (phone)

419.259.2880 (fax)

mheller@ablelaw.org