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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

Gustavo VARGAS RAMIREZ,)	Case No.: _____
Plaintiff,)	
v.)	
UNITED STATES OF AMERICA,)	COMPLAINT FOR DAMAGES
Defendant.)	

INTRODUCTION

1. Plaintiff Gustavo Vargas Ramirez was imprisoned for more than two months after United States Border Patrol (USBP) unlawfully and arbitrarily arrested him. Mr. Vargas was driving to his art studio when he was taken into custody by the Anacortes Police Department (APD) in Anacortes, Washington, pursuant to an improper and baseless request by USBP.

2. A routine traffic stop, arising from Mr. Vargas’s alleged failure to signal a left turn, quickly turned into an immigration enforcement action when APD contacted USBP to inquire about Mr. Vargas’s immigration status even though Mr. Vargas had a valid driver’s license and automobile registration with proof of insurance.

1 3. After Mr. Vargas refused to speak to a USBP agent on the phone at the scene of
2 the stop, that agent advised the APD officer to seize Mr. Vargas and transport him to the APD
3 station until another USBP agent arrived. USBP ordered Mr. Vargas's arrest despite having no
4 reasonable suspicion, much less probable cause, to believe that Mr. Vargas had violated or was
5 violating any law over which USBP had jurisdiction.
6

7 4. Once at the APD station, Mr. Vargas was locked up in a cold jail cell until the
8 USBP agent arrived from out of town. When the agent finally got there, he proceeded to
9 aggressively interrogate Mr. Vargas despite the latter's numerous requests to speak to a lawyer
10 first. Eventually, the agent took Mr. Vargas into custody notwithstanding his lack of legal
11 authority to do so.
12

13 5. In a blatant effort to cover up its egregious racial profiling and unlawful
14 practices, USBP's subsequent report of Mr. Vargas's arrest is replete with fabricated details
15 attempting to provide a justification for the arrest—details that contradict those found in two
16 APD police reports of the incident. For instance, the USBP report falsely states that a USBP
17 agent appeared at the scene of the traffic stop to help with interpretation and then took Mr.
18 Vargas into custody after he admitted he was from Mexico. No such request for interpretation
19 was ever made—and no agent ever arrived on the scene. A USBP agent first spoke to Mr.
20 Vargas in person at the APD station after Mr. Vargas had been ordered arrested by USBP.
21
22

23 6. USBP eventually transferred Mr. Vargas to the Northwest Detention Center in
24 Tacoma, Washington, where he remained imprisoned for over two months while removal
25 proceedings were initiated against him. These proceedings were subsequently closed, but the
26 arrest and detention have caused Mr. Vargas considerable professional, physical, and
27 psychological harm.
28

1 7. Mr. Vargas brings this action under the Federal Tort Claims Act (FTCA), 28
2 U.S.C. §§ 1346(b) and 2671-2680, to vindicate his rights.

3 **JURISDICTION**

4 8. This action arises under the Constitution and laws of the United States, including
5 the FTCA. This court has jurisdiction over the subject matter of this complaint pursuant to 28
6 U.S.C. §§ 1331 (federal question statute) and 1346(b) (United States as a defendant).
7

8 **EXHAUSTION**

9 9. Pursuant to 28 U.S.C. § 2675(a), Plaintiff submitted an administrative tort claim
10 to Customs and Border Protection (CBP), the division of the Department of Homeland Security
11 (DHS) of which USBP is a part, on March 12, 2013.

12 10. CBP has failed to issue a final disposition within the required six-month period;
13 such failure is considered a denial of the claim. 28 U.S.C. § 2675(a). Plaintiff has thus
14 exhausted all available administrative remedies and is filing this complaint in accordance with
15 the FTCA.
16

17 **VENUE**

18 5. Venue in the U.S. District Court for the Western District of Washington is proper
19 under 28 U.S.C. § 1402(b). At all times relevant to this complaint, Plaintiff resided in Skagit
20 County, Washington, which is within the jurisdiction of this court. In addition, the acts and
21 omissions central to this complaint occurred in Skagit and Whatcom counties.
22

23 **PARTIES**

24 6. Plaintiff Gustavo Vargas is a resident of Skagit County, Washington. He is an
25 artist and a cook. He is Latino.
26
27
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1 7. Defendant United States of America is the appropriate defendant for claims
2 brought pursuant to the FTCA. 28 U.S.C. § 1346(b).

3 **FACTS**

4 **Stop and Arrest**

5
6 9. On June 23, 2011, at or around 9:00 p.m., Mr. Vargas was on his way to his art
7 studio when he was stopped by APD Officer R.W. Leetz in Anacortes, Washington, for
8 allegedly failing to signal a left turn.

9 10. Mr. Vargas speaks English and Spanish and he and Officer Leetz interacted in
10 English.

11
12 11. When prompted, Mr. Vargas provided Officer Leetz with his valid license, proof
13 of insurance, and automobile registration. Officer Leetz took these documents back to his car.

14 12. According to Officer Leetz's police report, while inspecting Mr. Vargas's
15 documents in his car, Officer Leetz noticed that the information associated with Mr. Vargas's
16 driver's license provided a "000-00-0000" for his Social Security number.¹

17
18 13. In Washington State, drivers may obtain a driver's license without providing a
19 Social Security number so long as they present adequate proof of state residence.²

20 14. However, despite the fact that Mr. Vargas's license was valid, Officer Leetz
21 contacted USBP to inquire as to Mr. Vargas's immigration status.³

22
23 15. The USBP agent who took Officer Leetz's call advised the officer that he would
24 call back after running Mr. Vargas's name through the agency's databases.⁴

25
26 _____
¹ Ex. A, Anacortes Police Report (June 23, 2011), at 2.

27 ² See, e.g., Wash. Rev. Code Ann. § 46.20.091; Wash. Admin. Code § 308-104-014(4).

28 ³ Ex. A at 2.

⁴ *Id.*

1 16. Officer Leetz informed the USBP agent that he could only wait for the return call
2 while he processed Mr. Vargas for the traffic infraction, “unless [USBP] specifically request[s]
3 me to detain [him].”⁵
4

5 17. According to the police report, the USBP agent purportedly called Officer Leetz
6 back before the latter completed the infraction process. The agent informed Officer Leetz that
7 USBP did not have any information on Mr. Vargas.⁶

8 18. When Officer Leetz asked the agent whether USBP wanted him to detain Mr.
9 Vargas, the agent asked Officer Leetz to put Mr. Vargas on the phone.⁷
10

11 19. Mr. Vargas was making sketches in a notepad while waiting for Officer Leetz to
12 return. Mr. Vargas did not feel free to leave—Officer Leetz had stopped him and still had his
13 documents—but he did not feel worried. All his documents were in order and he believed at
14 worse he would only receive a ticket.

15 20. When Officer Leetz came back, however, he told Mr. Vargas that Border Patrol
16 had some questions for him and held his cellular phone to Mr. Vargas’s ear.

17 21. On the other end of the line, Mr. Vargas heard someone questioning him as to
18 where he was born and his immigration status.
19

20 22. The person did not identify himself beyond saying he was a USBP agent.

21 23. Mr. Vargas responded clearly, and in English, that he would not answer any
22 questions without a lawyer.
23

24 24. Officer Leetz confirmed in his police report that Mr. Vargas refused to answer
25 any questions over the phone.⁸
26

27 ⁵ *Id.*

28 ⁶ *Id.*

⁷ *Id.*

1 25. Upon hearing Mr. Vargas's response, Officer Leetz took the phone and went
2 back to his car for several more minutes.

3 26. Mr. Vargas did not understand what was happening or why Officer Leetz was
4 delaying. Officer Leetz had not told him he was free to go, had not yet given him any sort of
5 ticket, and had not returned his driving documents to him.

6 27. Despite the fact that Mr. Vargas refused to answer any questions, the USBP
7 agent instructed Officer Leetz to detain Mr. Vargas, telling him that a USBP unit from
8 Bellingham would meet them at the APD station.⁹

9 28. When Officer Leetz finally returned to Mr. Vargas, he had Mr. Vargas's driver's
10 license and other documents in a clear plastic bag. He directed Mr. Vargas to step out of the
11 vehicle and informed him that he was being detained at USBP's request.¹⁰

12 29. Mr. Vargas exited the car, and Officer Leetz handcuffed him, patted him down
13 for weapons, and placed him in the back of the police vehicle.

14 30. During this interaction Mr. Vargas told Officer Leetz that he would not speak to
15 anyone without first speaking to an attorney.¹¹

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19 **Continued Arrest in Anacortes and Bellingham**

20 31. Once at the APD station, Officer Leetz locked Mr. Vargas up in a holding cell,
21 where the latter waited for about 40 minutes until a USBP agent arrived.

22 32. Officer Leetz demanded that Mr. Vargas take off his shoes prior to ordering him
23 into the cell, such that Mr. Vargas was forced to enter the cell in socks. It was very cold. Mr.
24 Vargas asked Officer Leetz for a blanket, but the officer ignored him.
25

26 ⁸ *Id.*

27 ⁹ *Id.*

28 ¹⁰ *Id.*

¹¹ *Id.*

1 33. Mr. Vargas was worried about the cold because he has suffered from health
2 problems and chronic pain for several years. At the time of his arrest, his doctor had detected
3 early symptoms of psoriatic arthritis; moreover, some ten years prior, Mr. Vargas had his right
4 knee replaced because of a tumor. Over the years, he had seen several doctors for pain in his
5 hands, feet, and joints. Mr. Vargas's doctors had told him that the cold worsened these ills.

7 34. While in the APD cell, Mr. Vargas asked Officer Leetz if he could call someone
8 to pick up his car. Officer Leetz allowed him to do so. However, when he heard Mr. Vargas
9 speaking Spanish, Officer Leetz demanded that Mr. Vargas only speak English, barking "No
10 Spanish!"

12 35. During this time, Mr. Vargas repeatedly asked for an attorney, but Officer Leetz
13 ignored his requests and did not give him the opportunity to contact one.

14 36. Mr. Vargas felt frightened and distressed. He had never been arrested before,
15 much less held in a cell. He felt he was being treated like a criminal, but he did not know what
16 crime he was accused of having committed. He did not know what to do.

18 37. After some time, a different officer appeared at the door of the cell. He did not
19 identify himself by name. On information and belief, that officer was USBP Agent John Orr.

20 38. Agent Orr asked Mr. Vargas where he was born, how long he had been in the
21 United States, and what his immigration status was.

22 39. Mr. Vargas refused to answer any questions and instead requested to speak to a
23 lawyer.

24 40. Ignoring Mr. Vargas's reply, Agent Orr continued interrogating him, asking him
25 the same questions over and over again. Mr. Vargas continued asking for an immigration
26 attorney.
27
28

1 41. Mr. Vargas felt caged and outnumbered. He was afraid and intimidated by Agent
2 Orr's aggressive and unrelenting questioning. He was cold and hungry, and he began to fear that
3 he would remain arrested unless he gave Agent Orr the answers he seemed to want. Mr. Vargas
4 did not believe he had the choice to stay silent.
5

6 42. Agent Orr handcuffed Mr. Vargas and took him to the Bellingham Border Patrol
7 Station, where he was held overnight.

8 43. Despite more persistent questioning in the Bellingham station, Mr. Vargas
9 remained unresponsive, demanding instead the opportunity to speak to an attorney. The USBP
10 agents ignored his numerous requests. They ran his fingerprints for background checks but
11 found no criminal or immigration record for Mr. Vargas.
12

13 44. These agents attempted to pressure Mr. Vargas into signing some forms without
14 giving him adequate time to inspect them. When Mr. Vargas refused to sign, the agents put him
15 in a cell but would periodically bring him out and try to get him to sign the forms. They would
16 also periodically pound on his cell walls in what Mr. Vargas felt was an attempt to intimidate
17 and coerce him to sign the forms. Mr. Vargas declined to sign all paperwork except for one
18 form in which he requested to see a judge in Tacoma.
19

20 45. USBP agents wrote up the arrest record, Form I-213 "Record of
21 Deportable/Inadmissible Alien," and the charging document, Form I-862 "Notice to Appear,"
22 and served Mr. Vargas with a copy of both forms.
23

24 46. Mr. Vargas asked about the possibility of posting bond, but the agents told him
25 that he did not qualify. Although the background checks they had run on Mr. Vargas had turned
26 up no criminal or immigration records, the agents told him he was in mandatory detention.
27
28

1 47. A day after his arrest, on June 24, 2011, USBP agents transported Mr. Vargas—
2 shackled at the wrists and ankles—to the Northwest Detention Center in Tacoma, Washington,
3 where he was transferred to the custody of Immigration and Customs Enforcement (ICE), who
4 thereafter initiated removal proceedings.
5

6 48. Mr. Vargas was in immigration detention for approximately 10 weeks until he
7 was finally permitted to post bond on September 1, 2011.

8 49. Mr. Vargas’s removal proceedings were administratively closed on February 6,
9 2013.
10

11 50. There was no lawful basis to arrest and imprison Mr. Vargas.

12 51. USBP did not have a warrant for Mr. Vargas’s arrest nor any reason to believe
13 that he was likely to escape before a warrant could be obtained.

14 52. USBP’s decision to arrest Mr. Vargas simply to *investigate* his alleged
15 immigration status and the methods it employed to do so were grossly improper and unlawful.
16

17 **Consequences of the unlawful arrest and imprisonment**

18 53. Mr. Vargas’s physical health worsened as a result of his arrest and imprisonment.
19 Before his arrest, Mr. Vargas had a history of health problems, including early symptoms of
20 psoriatic arthritis, but he had been managing his chronic hand, feet, and joint pain fairly well.
21 His detention gravely exacerbated many of his health problems, however. After his release, for
22 example, Mr. Vargas’s doctor found that Mr. Vargas had begun to suffer from psoriatic
23 arthritis—something that had been a mere possibility before his arrest.
24

25 54. Mr. Vargas also sustained economic and professional harm, as he was unable to
26 participate in an important arts festival due to his unlawful arrest and confinement. Mr. Vargas
27 paints large oil canvases that he showcases and sells from his studio and at festivals and other
28

1 community events. He had been invited to participate in the 2011 Anacortes Arts Festival,
2 which is held in the summer and was going to provide a valuable platform for him to feature his
3 talent, grant a monetary stipend, and further hone his craft. The festival also offered Mr. Vargas
4 with an opportunity to interact with youth interested in the arts as well as art lovers visiting the
5 town. He was devastated when he missed the festival because of his arrest.
6

7 55. Moreover, Mr. Vargas lost his job as a result of his unlawful arrest and
8 imprisonment. He was only able to secure full-time employment more than nine months later;
9 the job search was complicated by the fact that his chronic pain, which had worsened, limited
10 his job prospects. Mr. Vargas was extremely stressed as he saw himself forced to spend his
11 entire life's savings in order to meet his needs during his unemployment.
12

13 56. His unfounded arrest and subsequent imprisonment have also caused Mr. Vargas
14 serious anxiety and depression. Mr. Vargas had never been detained or arrested before. The
15 experience deeply affected him and, since then, Mr. Vargas has had to receive regular
16 counseling based on the post-traumatic stress he suffers.
17

18 57. In fact, shortly after his release, Mr. Vargas went to see a doctor who noted that
19 he "presents with anxiety" and had symptoms that included "anxiety, difficulty concentrating,
20 excessive worry, insomnia, nervousness and sleep disruption" that were accompanied by
21 headaches and other physical pain.¹² Subsequent reports note that Mr. Vargas's anxiety and
22 depression were "[i]n response to [his] June 2011 arrest and detention."¹³ Such symptoms
23 continue to plague Mr. Vargas and he attends counseling regularly. Before his arrest he took
24 some medications for his physical ailments, but never for his emotional health; now he takes
25 medication for both and in greater quantities.
26

27 ¹² Ex. B, Sea Mar History & Physical Report # 20 (Oct. 3, 2011).

28 ¹³ See Exs. C & D, Sea Mar History & Physical Report ## 21 (Oct. 25, 2011) and 22 (Nov. 22, 2011).

1 64. This claim contradicts Officer Leetz’s police report, which does not mention any
2 request for interpretation assistance, but instead documents that Officer Leetz contacted USBP
3 to inquire about Mr. Vargas’s immigration status.¹⁵
4

5 65. Moreover, Mr. Vargas speaks English and had effectively communicated with
6 Officer Leetz during the stop. Indeed, the traffic stop and infraction notice were all completed
7 without the presence, let alone the help, of any USBP agent or interpreter.

8 66. In addition, the police report documents that Officer Leetz advised USBP that he
9 could not detain Mr. Vargas unless USBP explicitly requested that he be detained—making it
10 clear why he was contacting USBP and plainly contradicting USBP’s claim that it was
11 contacted to provide interpretation assistance.
12

13 67. Second, the I-213 asserts that Agent Orr was patrolling in the city of Anacortes,
14 Washington, when he received the alleged interpretation request.¹⁶
15

16 68. To the contrary, Officer Leetz was informed by the USBP agent who advised
17 him to detain Mr. Vargas that “a unit was enroute [*sic*] to Anacortes from Bellingham.”¹⁷
18

19 69. Third, the I-213 also makes a patently false assertion that the USBP agent met
20 Officer Leetz “on scene at the intersection of 11th Street and Q Avenue.”¹⁸
21

22 70. That intersection is where Mr. Vargas allegedly made the signal-less turn—not
23 where Officer Leetz stopped him. Instead, he was stopped about four blocks from that
24 intersection, on the 900 block of 7th Street.¹⁹
25

26 71. Moreover, no USBP agent ever arrived on the scene.²⁰
27

28 ¹⁵ See Ex. A at 2.

¹⁶ Ex. E at 2.

¹⁷ Ex. A at 2.

¹⁸ Ex. E at 2.

¹⁹ Ex. A at 2; see Ex. F, Law Supplemental Narrative (Aug. 18, 2011), at 2.

1 72. Fourth, the I-213 claims that Agent Orr questioned Mr. Vargas about his
2 “citizenship” after arriving and identifying himself as a USBP agent, and that Mr. Vargas
3 “stated that he was not going to answer any questions without the presence of an attorney” but
4 then strangely claims that Mr. Vargas “did state that he was born in Mexico and that he arrived
5 here approximately ten years ago; however he gave no further information.”²¹

7 73. This alleged concession at the scene of the traffic stop was, according to the I-
8 213, the basis for Agent Orr’s determination that he had sufficient evidence to arrest Mr. Vargas
9 and take him to the Bellingham Border Patrol Station “for further investigation and
10 processing.”²² Agent Orr concluded that, given the information he had purportedly obtained at
11 the scene of the stop, “further information was necessary in order to determine [Mr. Vargas’s]
12 current immigration status.”²³

14 74. None of this ever happened, however, as the USBP agent did not appear at the
15 scene of the stop and Officer Leetz documented, and Mr. Vargas confirmed, that Mr. Vargas
16 categorically refused to talk with the USBP agent on the phone.²⁴

18 75. The I-213 does acknowledge that any immigration and criminal checks made
19 with regard to Mr. Vargas by USBP while Mr. Vargas was stopped in his car demonstrated no
20 prior immigration or criminal history on record for him.²⁵

22 76. Upon being made aware of the inconsistencies between the I-213 and Officer
23 Leetz’s police report, the APD Chief requested that Officer Leetz review the documents. In a
24 statement dated August 18, 2011, Officer Leetz attested to the accuracy and veracity of his

25 ²⁰ Ex. A at 2-3; *see* Ex. F at 2.

26 ²¹ Ex. E at 2.

27 ²² *Id.*

28 ²³ *Id.*

²⁴ Ex. A at 2.

²⁵ Ex. E at 2.

1 original report and specifically confirmed that the USBP report incorrectly states that the USBP
2 agent arrived at the traffic stop and took custody of Mr. Vargas there.²⁶

3 77. In his statement, Officer Leetz again clarified that the USBP agent on the phone
4 requested that he transport Mr. Vargas to the APD station, where the latter was held until
5 another USBP agent arrived, about one hour after Officer Leetz first stopped Mr. Vargas.²⁷

6
7 **FIRST CLAIM FOR RELIEF**

8 **Federal Tort Claims Act – False Arrest**

9 78. Mr. Vargas re-alleges and incorporates by reference as if set forth fully herein
10 the statements above.

11 79. USBP has legal authority to briefly detain a person for questioning where its
12 agents have reasonable suspicion that the person “is, or is attempting to be, engaged in an
13 offense against the United States or is an alien illegally in the United States.”²⁸

14 80. USBP also has legal authority to make a warrantless arrest of an immigrant if a
15 USBP agent “has reason to believe that the alien so arrested is in the United States in violation
16 of any . . . law or regulation [made in pursuance of law regulating the admission, exclusion,
17 expulsion, or removal of immigrants] and is likely to escape before a warrant can be
18 obtained.”²⁹

19 81. USBP restrained and interfered with Mr. Vargas’s liberty of movement by a
20 show of force and by a showing of the agency’s authority when its agent advised Officer Leetz
21 to arrest Mr. Vargas, transport him to the local jail, and hold him in the APD station until a
22 USBP agent arrived, thereby procuring and instigating Mr. Vargas’s arrest; when Agent Orr
23
24
25

26 _____
²⁶ Ex. F at 2.

27 ²⁷ *Id.*

28 ²⁸ 8 C.F.R § 287.8(b)(2).

29 ²⁹ 8 U.S.C. § 1357(a)(2).

1 interrogated Mr. Vargas in the APD cell and transported him to the Bellingham Border Patrol
2 Station; as well as when USBP agents interrogated him, forced him to undergo biometric
3 fingerprint analysis, held Mr. Vargas at the Bellingham Border Patrol Station overnight and
4 then transferred him in handcuffs and shackles to the custody of ICE.
5

6 82. USBP arrested Mr. Vargas without probable cause—without even reasonable
7 suspicion—to believe that he had or was engaged in the commission of an offense against the
8 United States.

9 83. Mr. Vargas was stopped for a minor traffic infraction. He had neither committed
10 a felony nor a misdemeanor constituting a breach of the peace, nor was there any indication he
11 was engaged in the commission of an offense against the United States.
12

13 84. Additionally, USBP did not have sufficient information to develop reasonable
14 suspicion, much less probable cause, to believe that Mr. Vargas was an immigrant unlawfully in
15 the United States. Mr. Vargas had a valid Washington driver's license and did not provide
16 USBP with any information about his alleged immigration status.
17

18 85. Moreover, USBP arrested Mr. Vargas without a warrant and without any reason
19 to believe that Mr. Vargas would flee prosecution for any alleged violation of the law prior to
20 obtaining a warrant.

21 86. Thus, USBP procured Mr. Vargas's arrest without legal authority, constituting a
22 violation of state tort law of false arrest.
23

24 87. Mr. Vargas suffered harm, including but not limited to, loss of liberty, severe
25 emotional distress, and invasion of privacy as a result of the false arrest to which he was
26 subjected by USBP.
27
28

1 88. Defendant United States of America is liable for these acts and omissions under
2 the FTCA.

3 **SECOND CLAIM FOR RELIEF**

4 **Federal Tort Claims Act – False Imprisonment**

5
6 89. Mr. Vargas re-alleges and incorporates by reference as if set forth fully herein
7 the statements above.

8 90. USBP intentionally confined Mr. Vargas when its agent advised Officer Leetz to
9 arrest and imprison him until a USBP agent arrived and Officer Leetz did so. USBP procured
10 and instigated Mr. Vargas's imprisonment.

11
12 91. USBP continued to intentionally confine Mr. Vargas when Agent Orr transported
13 him to the Bellingham station, where he was kept overnight until they transferred him to ICE
14 custody at the Northwest Detention Center.

15 92. USBP's intentional acts deprived Mr. Vargas of his freedom of movement,
16 restraining him and violating his personal liberty.

17
18 93. USBP did not have reasonable suspicion or probable cause to believe that Mr.
19 Vargas was in the United States unlawfully. Mr. Vargas had a valid Washington driver's license
20 and at no point provided USBP or Officer Leetz with any information about his alleged
21 immigration status. Mr. Vargas, moreover, was not required to provide a Social Security
22 number in order to obtain a driver's license in Washington State.

23
24 94. Additionally, USBP arrested Mr. Vargas without a warrant and without reason to
25 believe that Mr. Vargas would flee prosecution for any alleged violation of the law prior to
26 obtaining a warrant for his arrest.

1 101. USBP breached this duty when it advised Officer Leetz to arrest Mr. Vargas
2 without any legal foundation for doing so, as it did not have reasonable suspicion or probable
3 cause to believe that Mr. Vargas was in the country unlawfully.
4

5 102. USBP continued to breach this duty when Agent Orr transferred Mr. Vargas to
6 the Bellingham Border Patrol Station; when USBP agents forced Mr. Vargas to undergo
7 biometrics fingerprint analysis; when USP agents kept Mr. Vargas imprisoned overnight and
8 used intimidating tactics in attempting to pressure him into signing immigration forms; and
9 when USBP agents transferred Mr. Vargas to ICE custody—lacking at all times reasonable
10 suspicion or probable cause to believe that Mr. Vargas was in the country unlawfully.
11

12 103. USBP’s breaches actually and proximately caused Mr. Vargas’s unlawful arrest
13 and imprisonment and the damage that resulted to him from them, including, but not limited to,
14 severe emotional distress.
15

16 104. Mr. Vargas suffered severe and long-lasting emotional distress, which is
17 supported by medical records documenting that Mr. Vargas routinely experienced “anxiety,
18 difficulty concentrating, excessive worry, insomnia, nervousness and sleep disruption”
19 accompanied by headaches and physical pain after being released from immigration detention—
20 and while in immigration detention as well.³⁰ Mr. Vargas’s stress was brought about by, *inter*
21 *alia*, the indignation, shock, fear, and frustration at being arrested by USBP without
22 justification; by the way the Bellingham station USBP agents treated him while he was detained
23 there overnight; by the fact that he was unable to keep up with his medical and exercise
24 regimen, which he knew would (and did) worsen his physical illnesses; by the knowledge that
25 he could not participate in the Anacortes Arts Festival, which provided him with tremendous
26
27

28 ³⁰ Ex. B.

1 professional prospects; and by the fact that he was locked up for almost 10 weeks and denied
2 the opportunity to interact with his family and friends and to continue to make a living.

3 105. This stress was exacerbated by his long search for a job after being released from
4 immigration detention and his need to spend his entire life's savings to support himself during
5 that time.
6

7 106. USBP should have foreseen that its acts and omissions would result in the
8 unlawful detention of Mr. Vargas and cause him severe emotional distress. USBP knew that it
9 was not authorized to arrest someone without a warrant or probable cause that the person was in
10 the country unlawfully—in this case, USBP did not even have reasonable suspicion to justify
11 briefly detaining Mr. Vargas. Moreover, USBP agents knew that Mr. Vargas did not have a
12 prior criminal history, such that his contacts with law enforcement were minimal, and that arrest
13 and detention would be likely to cause someone unaccustomed to jails and detention severe
14 emotional distress.
15

16 107. Defendant United States of America is liable for these acts and omissions under
17 the FTCA.
18

19 **FOURTH CLAIM FOR RELIEF**

20 **Federal Tort Claims Act – Intentional Infliction of Emotional Distress**

21 108. Mr. Vargas re-alleges and incorporates by reference as if set forth fully herein
22 the statements above.
23

24 109. USBP's conduct was both extreme and outrageous. Arresting someone without
25 any legal justification is intolerable in a civilized community governed by the rule of law. USBP
26 ordered the arrest of an individual it had no reasonable suspicion, much less probable cause, to
27 suspect of being in the country unlawfully, as certainly having a Latino/Latin American name
28

1 and not having a Social Security number listed in a database that did not require the provision of
2 such a number could not constitute sufficient evidence to develop such reasonable suspicion or
3 probable cause. Moreover, the agency had various opportunities to correct its error—when
4 Agent Orr interrogated Mr. Vargas, when Mr. Vargas’s fingerprints were run and a background
5 check revealed no immigration or criminal history—yet did not do so. The agents’ tactics,
6 including attempting to pressure Mr. Vargas into signing immigration forms and creating the
7 fabricated I-213 form, evidence the unlawfulness of the arrest, USBP’s awareness of such
8 illegality, and the agency’s attempts to cover up its unlawful actions.
9

10
11 110. Mr. Vargas suffered severe emotional distress actually and proximately caused
12 by USBP’s unlawful actions. Mr. Vargas had never been arrested before; being handcuffed,
13 imprisoned, and shackled at the feet were extremely traumatizing and stigmatizing experiences
14 for him, causing him a deep sense of helplessness and much anger, frustration, humiliation, and
15 fright. The USBP agents’ actions while he was in the Bellingham Border Patrol Station—
16 forcing him to undergo biometrics fingerprint analysis in searching for evidence to support his
17 detention, pounding on the walls of his cell, forcing him out of his cell on repeated occasions to
18 try to coerce him to sign immigration forms they did not explain to him—compounded the
19 trauma Mr. Vargas was already experiencing.
20

21 111. Mr. Vargas’s severe and long-lasting emotional distress is supported by medical
22 records documenting that he continued to experience “anxiety, difficulty concentrating,
23 excessive worry, insomnia, nervousness and sleep disruption” accompanied by headaches and
24 physical pain even after his release from immigration custody.³¹ Mr. Vargas’s stress was
25 brought about by the fear, indignation, and shock of being arrested by USBP without
26
27

28 ³¹ *Id.*

1 justification; by his exacerbated health problems; by the knowledge that he could not participate
2 in the Anacortes Arts Festival; and by the fact that he was imprisoned for almost 10 weeks and
3 deprived of the opportunity to interact with his family and friends and to continue to make a
4 living.

5
6 112. The acts and omissions of USBP agents in arresting Mr. Vargas despite the fact
7 that they did not have reasonable suspicion—much less probable cause—to believe he was in
8 the U.S. unlawfully or that he had committed or was committing a felony or a misdemeanor
9 amounting to a breach of the peace, were committed with, at minimum, reckless disregard of the
10 probability of causing severe emotional distress.

11
12 113. Defendant United States of America is liable for these acts and omissions under
13 the FTCA.

14 **FIFTH CLAIM FOR RELIEF**

15 **Federal Tort Claims Act – Abuse of Process**

16
17 114. Mr. Vargas re-alleges and incorporates by reference as if set forth fully herein
18 the statements above.

19 115. USBP arrested and imprisoned Mr. Vargas without probable cause—in fact,
20 without even reasonable suspicion—to believe that Mr. Vargas was in the country unlawfully.

21 116. Instead of correcting this unlawful action, USBP agents misused the legal
22 processes available to them to cover up their unlawful conduct.

23
24 117. USBP Agent Orr prolonged Mr. Vargas’s unlawful arrest by transferring him to
25 the Bellingham Border Patrol Station to give the agency additional opportunity to find a
26 justification for the arrest.

1 118. USBP agents in Bellingham placed Mr. Vargas through the biometrics
2 fingerprint system in seeking evidence to support his arrest and detention.

3 119. USBP agents in Bellingham attempted to pressure Mr. Vargas to sign
4 immigration forms without providing him with an explanation of what the forms were and
5 without giving him a proper amount of time to inspect them.
6

7 120. When these tactics failed to elicit the needed information to excuse the arrest,
8 USBP Agent Reyes crafted a fictitious account of USBP's initial encounter with Mr. Vargas on
9 the I-213 form in order to provide a legal justification for Mr. Vargas's arrest.
10

11 121. These agents acted with the improper purpose of covering up USBP's unlawful
12 arrest and imprisonment of Mr. Vargas.

13 122. Mr. Vargas suffered harm, including but not limited to, loss of liberty, severe
14 emotional distress, and invasion of privacy as a result of the abuse of process to which he was
15 subjected by USBP.
16

17 123. Defendant United States of America is liable for these acts and omissions under
18 the FTCA.
19

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff respectfully requests relief as follows:

- 22 a. Trial by judge on all claims so triable.
23 b. Compensatory damages in an amount to be proven at trial.
24 c. Costs and reasonable attorney fees.
25 d. The right to conform the pleadings to the proof and evidence presented at trial.
26 e. Such other relief as the Court deems just and equitable.
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DATED: December 27, 2013

By:

s/ Matt Adams
Matt Adams, WSBA No. 28287

Glenda Aldana Madrid, WSBA No. 46987
NORTHWEST IMMIGRANT
RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
Telephone: (206) 957-8611
Fax: (206) 587-4025
E-mail: matt@nwirp.org
E-mail: glenda@nwirp.org

s/ Elizabeth Hawkins
Elizabeth Hawkins, WSBA No. 43187
Bean Porter Hawkins PLLC
2200 Sixth Ave., Ste. 835
Seattle, WA 98121
Telephone: (206) 522-0618
Fax: (206) 524-3751
E-mail: ehawkins@bphlegal.com

Attorneys for Plaintiff
Gustavo Vargas Ramirez

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Gustavo VARGAS RAMIREZ,
Plaintiff,

v.

UNITED STATES OF AMERICA,
Defendant.

) Case No.: _____

) **EXHIBITS IN SUPPORT OF**
) **COMPLAINT FOR DAMAGES**

Exhibit	Exhibit Name	Page Number
A	Anacortes Police Report, dated June 23, 2011	25
B	Sea Mar History & Physical Report #20, dated Oct. 3, 2011	29
C	Sea Mar History & Physical Report #21, dated Oct. 25, 2011	31
D	Sea Mar History & Physical Report #22, dated Nov. 22, 2011	33
E	Form I-213, dated June 23, 2011	35
F	Law Supplemental Narrative, dated Aug. 18, 2011	39