

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANASTACIO GRANILLO,

Plaintiff,

v.

Civ. No. 21-777 GJF/SMV

UNITED STATES OF AMERICA,

Defendant.

UNITED STATES' ANSWER TO PLAINTIFF'S COMPLAINT

COMES NOW, Defendant United States of America ("Defendant"), by and through its undersigned counsel, and hereby respectfully submits this Answer to Plaintiff's Complaint for Civil Rights Violations ("Complaint"). Defendant denies any and all allegations in Plaintiff's Complaint that are not specifically admitted.

Defendant, without waiving any defenses or affirmative defenses to which it may be entitled, hereby admits, denies, or otherwise avers as follows:

PARTIES, JURISDICTION, AND VENUE

1. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 1 of the Complaint, and therefore denies the same.
2. Defendant denies the allegation contained in paragraph 2 of the Complaint.
3. Defendant admits to the allegation contained in paragraph 3 of the Complaint.
4. Defendant admits to the allegation contained in paragraph 4 of the Complaint.
5. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 5 of the Complaint, and therefore denies the same.

FACTUAL BACKGROUND

6. Defendant admits that on June 18, 2019, Anastacio Granillo arrived at the Columbus Port of Entry, located in Columbus, New Mexico, along the U.S.-Mexico international border. Defendant is without sufficient information or knowledge to either admit or deny the remaining allegations contained in paragraph 6 of the Complaint, and therefore denies the same.

7. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 7 of the Complaint, and therefore denies the same.

8. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 8 of the Complaint, and therefore denies the same.

9. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 9 of the Complaint, and therefore denies the same.

10. Defendant admits that when Plaintiff reached the front of the line, CBP Officer Oscar Orrantia, a uniformed on-duty CBP officer, approached the driver's side of Plaintiff's vehicle. Defendant is without sufficient information or knowledge to either admit or deny the remaining allegations contained in paragraph 10 of the Complaint, and therefore denies the same.

11. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 11 of the Complaint, and therefore denies the same.

12. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 12 of the Complaint, and therefore denies the same.

13. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 13 of the Complaint, and therefore denies the same.

14. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 14 of the Complaint, and therefore denies the same.

15. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 15 of the Complaint, and therefore denies the same.

16. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 16 of the Complaint, and therefore denies the same.

17. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 17 of the Complaint, and therefore denies the same.

18. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 18 of the Complaint, and therefore denies the same.

19. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 19 of the Complaint, and therefore denies the same.

20. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 20 of the Complaint, and therefore denies the same.

21. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 21 of the Complaint, and therefore denies the same.

22. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 22 of the Complaint, and therefore denies the same.

23. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 23 of the Complaint, and therefore denies the same.

24. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 24 of the Complaint, and therefore denies the same.

25. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 25 of the Complaint, and therefore denies the same.

26. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 26 of the Complaint, and therefore denies the same.

27. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 27 of the Complaint, and therefore denies the same.

28. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 28 of the Complaint, and therefore denies the same.

29. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 29 of the Complaint, and therefore denies the same.

30. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 30 of the Complaint, and therefore denies the same.

31. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 31 of the Complaint, and therefore denies the same.

32. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 32 of the Complaint, and therefore denies the same.

33. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 33 of the Complaint, and therefore denies the same.

34. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 34 of the Complaint, and therefore denies the same.

35. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 35 of the Complaint, and therefore denies the same.

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38. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 38 of the Complaint, and therefore denies the same.

39. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 39 of the Complaint, and therefore denies the same.

40. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 40 of the Complaint, and therefore denies the same.

41. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 41 of the Complaint, and therefore denies the same.

42. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 42 of the Complaint, and therefore denies the same.

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45. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 45 of the Complaint, and therefore denies the same.

46. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 46 of the Complaint, and therefore denies the same.

47. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 47 of the Complaint, and therefore denies the same.

48. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 48 of the Complaint, and therefore denies the same.

49. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 49 of the Complaint, and therefore denies the same.

50. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 50 of the Complaint, and therefore denies the same.

51. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 51 of the Complaint, and therefore denies the same.

52. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 52 of the Complaint, and therefore denies the same.

53. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 53 of the Complaint, and therefore denies the same.

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68. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 68 of the Complaint, and therefore denies the same.

69. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 69 of the Complaint, and therefore denies the same.

70. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 70 of the Complaint, and therefore denies the same.

71. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 71 of the Complaint, and therefore denies the same.

72. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 72 of the Complaint, and therefore denies the same.

73. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 73 of the Complaint, and therefore denies the same.

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75. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 75 of the Complaint, and therefore denies the same.

76. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 76 of the Complaint, and therefore denies the same.

77. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 77 of the Complaint, and therefore denies the same.

78. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 78 of the Complaint, and therefore denies the same.

79. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 79 of the Complaint, and therefore denies the same.

80. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 80 of the Complaint, and therefore denies the same.

81. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 81 of the Complaint, and therefore denies the same.

82. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 82 of the Complaint, and therefore denies the same.

83. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 83 of the Complaint, and therefore denies the same.

84. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 84 of the Complaint, and therefore denies the same.

85. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 85 of the Complaint, and therefore denies the same.

86. Defendant is without sufficient information or knowledge to either admit or deny the allegation contained in paragraph 86 of the Complaint, and therefore denies the same.

**FIRST CAUSE OF ACTION
ASSAULT
LIABILITY UNDER FEDERAL TORT CLAIMS ACT**

87. Paragraph 87 is an incorporation of the preceding numbered paragraphs of the Complaint. As its answer to Paragraph 87 of the Complaint, Defendant restates and incorporates by reference its answers as set forth in the preceding paragraphs.

88. Defendant admits the allegation contained in paragraph 88 of the Complaint.

89. Defendant admits the allegation contained in paragraph 89 of the Complaint.

90. Defendant denies the allegation contained in paragraph 90 of the Complaint.

91. Defendant denies the allegation contained in paragraph 91 of the Complaint.

92. Paragraph 92 of the Complaint represents Plaintiff's characterization of the case and conclusions of law to which no response is required. To the extent an answer is required, Defendant denies the same.

93. Paragraph 93 of the Complaint represents Plaintiff's characterization of the case and conclusions of law to which no response is required. To the extent an answer is required, Defendant denies the same.

94. Defendant denies the allegation contained in paragraph 94 of the Complaint.

95. Defendant denies the allegation contained in paragraph 95 of the Complaint.

96. Paragraph 96 of the Complaint represents Plaintiff's characterization of the case and conclusions of law to which no response is required. To the extent an answer is required, Defendant denies the same.

97. Paragraph 97 of the Complaint represents Plaintiff's characterization of the case and conclusions of law to which no response is required. To the extent an answer is required, Defendant denies the same.

98. Defendant admits to the allegation contained in paragraph 98 of the Complaint.

99. Defendant denies the allegation contained in paragraph 99 of the Complaint.

**SECOND CAUSE OF ACTION
BATTERY
LIABILITY UNDER FEDERAL TORT CLAIMS ACT**

100. Paragraph 100 is an incorporation of the preceding numbered paragraphs of the Complaint. As its answer to Paragraph 100 of the Complaint, Defendant restates and incorporates by reference its answers as set forth in the preceding paragraphs.

101. Defendant admits the allegation contained in paragraph 101 of the Complaint.

102. Defendant admits to the allegation contained in paragraph 102 of the Complaint.

103. Defendant denies the allegation contained in paragraph 103 of the Complaint.

104. Defendant denies the allegation contained in paragraph 104 of the Complaint.

105. Paragraph 105 of the Complaint represents Plaintiff's characterization of the case and conclusions of law to which no response is required. To the extent an answer is required, Defendant denies the same.

106. Paragraph 106 of the Complaint represents Plaintiff's characterization of the case and conclusions of law to which no response is required. To the extent an answer is required, Defendant denies the same.

107. Defendant denies the allegation contained in paragraph 107 of the Complaint.

108. Paragraph 108 of the Complaint represents Plaintiff's characterization of the case and conclusions of law to which no response is required. To the extent an answer is required, Defendant denies the same.

109. Paragraph 109 of the Complaint represents Plaintiff's characterization of the case and conclusions of law to which no response is required. To the extent an answer is required, Defendant denies the same.

110. Defendant admits to the allegation contained in paragraph 110 of the Complaint.

111. Defendant denies the allegation contained in paragraph 111 of the Complaint.

**THIRD CAUSE OF ACTION
FALSE ARREST AND/OR IMPRISONMENT
LIABILITY UNDER FEDERAL TORT CLAIMS ACT**

112. Paragraph 112 is an incorporation of the preceding numbered paragraphs of the Complaint. As its answer to Paragraph 112 of the Complaint, Defendant restates and incorporates by reference its answers as set forth in the preceding paragraphs.

113. Defendant admits the allegation contained in paragraph 113 of the Complaint.

114. Defendant admits to the allegation contained in paragraph 114 of the Complaint.

115. Defendant denies the allegation contained in paragraph 115 of the Complaint.

116. Defendant denies the allegation contained in paragraph 116 of the Complaint.

117. Defendant denies the allegation contained in paragraph 117 of the Complaint.

118. Paragraph 118 of the Complaint represents Plaintiff's characterization of the case and conclusions of law to which no response is required. To the extent an answer is required, Defendant denies the same.

119. Paragraph 119 of the Complaint represents Plaintiff's characterization of the case and conclusions of law to which no response is required. To the extent an answer is required, Defendant denies the same.

120. Defendant denies the allegation contained in paragraph 120 of the Complaint.

121. Paragraph 121 of the Complaint represents Plaintiff's characterization of the case and conclusions of law to which no response is required. To the extent an answer is required, Defendant denies the same.

122. Paragraph 122 of the Complaint represents Plaintiff's characterization of the case and conclusions of law to which no response is required. To the extent an answer is required, Defendant denies the same.

123. Defendant admits to the allegation contained in paragraph 123 of the Complaint.

124. Defendant denies the allegation contained in paragraph 124 of the Complaint.

**FOURTH CAUSE OF ACTION
NEGLIGENCE
LIABILITY UNDER FEDERAL TORT CLAIMS ACT**

125. Paragraph 125 is an incorporation of the preceding numbered paragraphs of the Complaint. As its answer to Paragraph 125 of the Complaint, Defendant restates and incorporates by reference its answers as set forth in the preceding paragraphs.

126. Defendant admits the allegation contained in paragraph 126 of the Complaint.

127. Defendant admits to the allegation contained in paragraph 127 of the Complaint.

128. Paragraph 128 of the Complaint represents Plaintiff's characterization of the case and conclusions of law to which no response is required. To the extent an answer is required, Defendant denies the same.

129. Defendant denies the allegation contained in paragraph 129 of the Complaint.

130. Defendant denies the allegation contained in paragraph 130 of the Complaint.

131. Defendant admits to the allegation contained in paragraph 131 of the Complaint.

132. Defendant denies the allegation contained in paragraph 132 of the Complaint.

RELIEF REQUESTED

The final unnumbered WHEREFORE paragraph is a request for relief to which no response is required. To the extent the request for relief is deemed to allege facts to which a response is required, Defendant denies same.

ADDITIONAL AND/OR AFFIRMATIVE DEFENSES

The following defenses are applicable, where appropriate, to Plaintiff's claims for relief.

I. This Court lacks subject matter over the subject matter of some of the claims in this action.

II. The Complaint fails to state a claim upon which relief can be granted.

III. Plaintiff's recovery, if any, against Defendant, United States, is limited to the damages recoverable under the FTCA, specifically the monetary amount set forth in Plaintiff's administrative tort claim, 28 U.S.C. § 2675(b); Plaintiff is prohibited from recovering any amount of pre-judgment interest or punitive damages against Defendant, 28 U.S.C. § 2674; Plaintiff cannot recover attorney's fees, 28 U.S.C. § 2412(d)(1)(A); attorney's fees are limited to 25% of any amount recovered, 28 U.S.C. § 2678; and Plaintiff has no right to a jury trial for allegations made against the United States under the FTCA, 28 U.S.C. § 2402.

IV. To the extent that any of Plaintiff's claims were not the subject of an administrative tort claim, this Court lacks jurisdiction over those claims. 28 U.S.C. § 2675(a).

V. Plaintiff's damages, if any, were due in whole or part to Plaintiff's own negligent acts or omissions, or those of others, known or unknown, over whom Defendant had no control.

VI. If Defendant was negligent, which it expressly denies, under the FTCA, the comparative negligence or fault of Plaintiff and/or others should be used to offset in whole or in part any recovery by Plaintiff against Defendant, and Defendant may only be held responsible for its proportionate share of the fault, if any.

VII. In the event Plaintiff establishes any basis for recovery against the United States, such recovery should be offset against any benefits that Plaintiff has heretofore received or will receive in the future.

VIII. Defendant, through its employees, agents, and servants, acted at all relevant times with due care and diligence, and therefore Defendant could not have breached any actionable duty owed to Plaintiff.

IX. Plaintiff's claims against Defendant are barred by the customs duty exception to the FTCA.

X. Defendant has, or may have, further and additional defenses which are not yet known to Defendant, but which may become known through future discovery. Defendant reserves the right to later assert each and every defense as may be ascertained through future discovery herein.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendant, United States of America, prays that Plaintiff's Complaint be dismissed with prejudice, or in the alternative, judgment be entered for the United States, that Plaintiff be denied any and all relief, that the United States be awarded its costs incurred in defending this action, and that the United States be granted such other further relief as the Court deems appropriate.

Respectfully Submitted,

FRED J. FEDERICI
Acting United States Attorney

/s/ Cassandra Casaus Currie 10/22/2021
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E-mail: cassandra.currie@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2021, I filed the foregoing pleading electronically through the CM/ECF system which caused the following parties or counsel of record to be served by electronic means as more fully reflected on the Notice of Electronic Filing:

Rebecca Fae Sherman Sheff: rsheff@aclu-nm.org

Zoila Yamid Alvarez Hernandez: zalvarez@aclu-nm.org

/s/ Cassandra Casaus Currie 10/22/21

CASSANDRA CASAUS CURRIE

Assistant United States Attorney