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IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF ARIZONA

Terrence Bressi,  
  
Plaintiff,

Case No. 4:18-cv-00186-DCB  
  
PROPOSED SECOND AMENDED  
COMPLAINT

vs.

- (1) Pima County Sheriff Mark Napier, in his individual and official capacities;
- (2) Pima County Board of Supervisors;
- (3) Former Pima County Sheriff Christopher Nanos, in his individual capacity;
- (4) Pima County Deputy Sheriff Ryan Roher, in his individual capacity;
- (5) Pima County Deputy Sheriff Brian Kunze, in his individual capacity;
- (6) United States Department of Homeland Security;
- (7) United States Customs & Border Protection;
- (8) United States Office of Border Patrol;

(9) Kevin K. McAleenan, Acting Secretary, United States Department of Homeland Security, in his official capacity;

(10) John P. Sanders, Acting Commissioner, United States Customs & Border Protection, in his official capacity;

(11) Carla L. Provost, Chief, United States Border Patrol, in her official capacity;

(12) Rodolfo Karisch, Chief Patrol Agent-Tucson Sector, in his official capacity;

(13) United States of America,

Defendants.

Plaintiff amends his First Amended Complaint as follows:

**JURISDICTION AND VENUE**

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343, and 1346(b), 42 U.S.C. § 1983, and the United States Constitution.

**Deny subject matter jurisdiction over injunctive/declarative relief against county defendants; admit jurisdiction over other federal claims.**

2. This Court has jurisdiction over the claims brought against the United States of America pursuant to 28 U.S.C. § 1346(b), as Plaintiff timely filed a notice of claim properly served upon the federal government. On September 20, 2018, by letter, the federal government denied Plaintiff's claim

1 in full. Plaintiff is timely filing this action following the September 20, 2018  
2 denial.

3 Neither admits nor denies as paragraph is alleged against federal  
4 government defendants only. In the event an answer is required, it is  
5 denied.

6 3. This Court has supplemental jurisdiction over the state law  
7 claims against the County Defendants pursuant to 28 U.S.C. § 1367, as the  
8 state law claim is so closely related to the claims arising under the U.S.  
9 Constitution and federal statutes as to form part of the same case or  
10 controversy.

11 Admit in part, deny in part. Admit court has supplemental jurisdiction  
12 over state-law claims against county defendants.

13 4. This Court has authority to award injunctive and declaratory  
14 relief pursuant to 28 U.S.C. §§ 1343, 2201, and 2202.

15 Deny because court lacks jurisdiction over claims of  
16 injunctive/declaratory relief as set forth in county's pending partial  
17 motion to dismiss.

18 5. This Court has authority to award a reasonable attorneys' fees  
19 pursuant to 42 U.S.C. § 1988(b).

1 Deny on basis that plaintiff is only entitled to reasonable atty fee under  
2 42 U.S.C. § 1988 if he is the prevailing party.

3 6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), as  
4 Plaintiff resides in the District of Arizona and all events or omissions giving  
5 rise to this claim occurred in the District of Arizona.

6 Admit.

7 **PARTIES**

8 6. At all times relevant herein, Plaintiff has been a United States  
9 citizen.

10 Without information to form belief as to truth/falsity as this paragraph  
11 is misnumbered. Deny same.

12 7. At all times relevant herein, Plaintiff has been a resident of Pima  
13 County, Arizona.

14 W/O information to form a belief as to truth or falsity and therefore  
15 deny same.

16 8. Defendants Ryan Roher and Brian Kunze were, at all relevant  
17 times, employees of the Pima County Sheriff's Department ("PCSD"). These  
18 Defendants are hereafter referred to collectively as the "Individual County  
19 Defendants."

1 Affirmatively allege Defendants Roher and Kunze are employees of  
2 PCSD, deny remaining allegations.

3 9. Defendant Mark Napier is the current Sheriff of Pima County.  
4 Admit.

5 10. Defendant Napier was the Sheriff of Pima County on April 10,  
6 2017.

7 Admit.

8 11. Pursuant to A.R.S. § 11-401, Defendant Napier is an officer of  
9 Pima County.

10 Admit only Napier is a county officer, affirmatively allege the Bd of  
11 Supv has no control over Sheriff's execution of law-enforcement  
12 duties.

13 12. Defendant Napier is the chief law enforcement officer in the  
14 unincorporated portions of Pima County.

15 Admit.

16 13. Pursuant to *Monell v. Department of Social Services*, 436 U.S.  
17 658 (1978), Sheriff Napier is a final policymaker of Pima County in the area  
18 of law enforcement.

19 Deny because allegation sets forth a purely legal conclusion w/o  
20 reference to facts.

1           14. From January 2017 to the present time, Defendant Napier acted  
2 under color of state law.

3           Deny because allegation that Napier acted under color of state law sets  
4 forth a purely legal conclusion w/o reference to facts. Affirmatively  
5 allege Napier could not act under color of law for conduct undertaken  
6 as a private citizen.

7           15. Defendant Napier is sued in both his individual capacity and  
8 official capacity.

9           Admit only Bressi has alleged individual and office capacity claims.  
10 Affirmatively allege that said allegations fail to state a claim as set forth  
11 in the county defendants' partial mtn to dismiss and may fail to state a  
12 claim on other grounds.

13           16. Defendant Christopher Nanos served as the Sheriff of Pima  
14 County from August 2015 through December 31, 2016.

15           Admit.

16           17. Pursuant to A.R.S. § 11-401, Defendant Nanos was an officer of  
17 Pima County during his tenure as Sheriff.

18           Admit Nanos was an officer of Pima county during tenure as Sheriff;  
19 deny Bd of Supv had any control over Nanos' execution of law-  
20 enforcement duties.

1           18.    During his tenure as Sheriff, Defendant Nanos acted under color  
2 of state law in relation to the acts and omissions alleged in this action.

3           Admit only Nanos would have been acting under color of law for all  
4 actions taken as Sheriff; deny said conduct was unlawful or violated  
5 Bressi's constitutional rights; deny Nanos would have been acting  
6 under color of law for acts not taken as Sheriff.

7           19.    During his tenure as Sheriff, Defendant Nanos was responsible  
8 for ensuring proper training and supervision of the Sheriff's deputies  
9 employed by PCSD, including proper training and supervision related to the  
10 performance of their law enforcement duties at interior checkpoints.

11           Admit. Affirmatively allege that conduct at issue in this lawsuit  
12 occurred in April 2017, well after Nanos stopped holding office of PC  
13 Sheriff; further affirmatively allege Bressi has failed to connect any  
14 conduct of Nanos to his claims regarding April 10, 2017, incident;  
15 affirmatively allege any allegations arising prior to January 1, 2016, are  
16 barred by the applicable statute of limitations and as to state claims, by  
17 Bressi's failure to file a notice of claim; further affirmatively allege that  
18 deputies are employed by the Sheriff, not the PCSD.

19           20.    Defendant Nanos is being sued in his individual capacity.

1 Admit only that Bressi's 2<sup>nd</sup> Amd Cmplt alleges his claims against  
2 Nanos are individual capacity claims.

3 21. At all relevant times herein, the Individual County Defendants  
4 were all sworn peace officers who were certified by Arizona Peace Officer  
5 Standards & Training Board ("POST"), a nonprofit entity that was chartered  
6 by the Arizona Legislature, receives annual state appropriations, and retains  
7 exclusive authority to certify Arizona peace officers.

8 Admit.

9 22. At all relevant times herein, the Individual County Defendants  
10 were employed by PCSD as sworn peace officers.

11 Deny. The individual county defendants Roher/Kunze were employed  
12 by Pima County Sheriff, not PCSD. The PCSD is a nonjural entity.  
13 Further allege Napier was the elected Sheriff of Pima County and Def  
14 Nanos stopped being Sheriff of PC as of December 31, 2016.

15 23. By virtue of their certification as peace officers by POST and  
16 their employment by PCSD, the Individual County Defendants had the  
17 authority from the state of Arizona to enforce Arizona state criminal statutes.

18 Admit that individual county defendants had legal authority to enforce  
19 AZ's criminal statutes; deny "there" [sic] were employed by the PCSD  
20 for the reasons set forth in para. 22 above.



1           24.    At all times relevant herein, pursuant to A.R.S. § 13-3883, the  
2 Individual County Defendants were clothed with state authority to effectuate  
3 warrantless arrests for misdemeanor and felony crimes where probable cause  
4 exists to believe the person arrested committed such crime.

5           Admit only that A.R.S. § 13-3883 allows for warrantless arrests for  
6 misdemeanor and felony crimes where probable cause exists to believe the  
7 person arrested committed such crime.

8           25.    At all relevant times herein, the Individual County Defendants  
9 acted under color of state law.

10           Admit only that Sheriff Napier, Roher, and Kunze were acting under color of  
11 law with respect to the April 10, 2017, incident at issue in this case. Deny that  
12 Defendant Nanos was acting under color of law at that time as he was no  
13 longer the Pima County Sheriff and because Bressi does not allege any  
14 personal participation by Nanos with respect to the subject incident.

15           26.    Defendant Pima County Board of Supervisors is the legislative  
16 body of Pima County, Arizona.

17           Admit.

18           27.    Pursuant to A.R.S. § 11-251, the Pima County Board of  
19 Supervisors is vested with authority to “supervise the official conduct of all  
20 county officers,” including that of the Sheriff.

1 Deny because it sets forth a purely legal conclusion. Affirmatively  
2 allege Bd does not have lawful authority to supervise or direct the  
3 conduct of PC Sheriff in the execution of the Sheriff's statutorily-  
4 imposed law enforcement duties.

5 28. Pursuant to A.R.S. § 11-444, the Pima County Board of  
6 Supervisors has the authority to limit certain line items of Sheriff funding for  
7 those expenses determined to cause illegal or unwarranted activities.

8 Deny that A.R.S. § 11-444 states what Bressi alleges; further deny on  
9 basis that the allegations set forth a purely legal conclusion w/o  
10 application to fact.

11 29. Pursuant to A.R.S. § 11-201, the Pima County Board of  
12 Supervisors is responsible for setting the budget of all elected county officers,  
13 including that of the Sheriff.

14 Admit.

15 30. Overall, the Pima County Board of Supervisors has several tools  
16 available to it to prospectively redress ongoing constitutional violations  
17 caused by the acts or omissions of the Sheriff.

18 Admit that Bd has some authority; deny Bd of Supv has supervisory  
19 authority over Sheriff's execution of statutorily-imposed law  
20 enforcement duties.

1           31. The Pima County Board of Supervisors has the authority to  
2 accept, reject, and condition federal grants offered to elected county officers,  
3 including grants offered to the Sheriff.

4           **Deny. Purely legal conclusion.**

5           32. Among the federal grants over which the Pima County Board of  
6 Supervisors has authority to accept, reject, and condition is a federal grant  
7 program referred to as “Operation Stonegarden,” (also sometimes referred to  
8 as “OPSG”) which is central to Plaintiff’s constitutional deprivation at issue  
9 in this action.

10           **Admit only that Bd has exercised such authority in the past w/respect to**  
11           **Operation Stonegarden; deny any other allegations and legal**  
12           **conclusion.**

13           33. At various times relevant to this action, individual county  
14 Defendants were supervised by employees of Defendant United States Border  
15 Patrol, pursuant to the terms of the federal Operation Stonegarden grant  
16 described in more detail below.

17           **Deny because the term “supervised” is not defined nor is the precise**  
18           **conduct at issue defined in this allegation; deny Border Patrol could**  
19           **supervise individual county defendants or county employees for**

1 purposes of conduct at issue in this case, including the enforcement of  
2 AZ's traffic and criminal laws.

3 34. Defendant Department of Homeland Security ("DHS") is a  
4 Cabinet-level department that is responsible for the coordination and  
5 unification of national security efforts. Defendant DHS consists of several  
6 agencies, including United States Customs & Border Protection and United  
7 States Border Patrol. DHS has authority over policies, procedures, and  
8 practices relating to the operation of U.S. Border Patrol interior vehicle  
9 checkpoints. Defendant DHS is sued as it relates to claims for declaratory and  
10 prospective injunctive relief.

11 This paragraph pertains to the federal defendants thus the county  
12 defendants are w/o sufficient information to admit or deny and  
13 therefore deny same.

14 35. Defendant United States Customs & Border Protection ("CBP")  
15 is an agency within DHS. Defendant CBP has authority over policies,  
16 procedures, and practices relating to the operation of Border Patrol interior  
17 vehicle checkpoints. Defendant CBP is sued as it relates to claims for  
18 declaratory and prospective injunctive relief.

1 This paragraph pertains to the federal defendants thus the county  
2 defendants are w/o sufficient information to admit or deny and  
3 therefore deny same.

4 36. Defendant Office of Border Patrol (“Border Patrol”) is a sub-  
5 agency within CBP. Border Patrol is a federal law enforcement agency  
6 responsible for the enforcement of federal immigration laws. Border Patrol  
7 has responsibility for and oversight over policies, procedures, and practices  
8 relating to the operation of Border Patrol interior vehicle checkpoints.  
9 Defendant Border Patrol is sued as it relates to claims for declaratory and  
10 prospective injunctive relief.

11 This paragraph pertains to the federal defendants thus the county  
12 defendants are w/o sufficient information to admit or deny and  
13 therefore deny same.

14 37. Defendant Kirstjen Nielsen is the Secretary of Homeland  
15 Security, vested with all functions of all officers, employees, and  
16 organizational units of DHS. Defendant Nielsen has authority over all DHS  
17 policies, procedures, and practices relating to Border Patrol interior  
18 checkpoint operations. Defendant Nielson is sued in her official capacity as it  
19 relates to claims for declaratory and prospective injunctive relief.

1 This paragraph pertains to the federal defendants thus the county  
2 defendants are w/o sufficient information to admit or deny and  
3 therefore deny same.

4 38. Defendant Kevin K. McAleenan is Commissioner of CBP. In  
5 that capacity, Defendant McAleenan has authority over all CBP policies,  
6 procedures, and practices relating to Border Patrol interior checkpoint  
7 operations. Defendant McAleenan is sued in his official capacity as it relates  
8 to claims for declaratory and prospective injunctive relief.

9 This paragraph pertains to the federal defendants thus the county  
10 defendants are w/o sufficient information to admit or deny and  
11 therefore deny same.

12 39. Defendant Carla L. Provost is Chief of the Border Patrol. In that  
13 capacity, Defendant Provost has direct responsibility for and oversight over  
14 Border Patrol policies, procedures, and practices relating to Border Patrol  
15 interior checkpoint operations. Defendant Provost is sued in her official  
16 capacity as it relates to claims for declaratory and prospective injunctive  
17 relief.

18 This paragraph pertains to the federal defendants thus the county  
19 defendants are w/o sufficient information to admit or deny and  
20 therefore deny same.

1           40. Defendant Rodolfo Karisch is the Chief Patrol Agent for the  
2 Tucson Sector of the Border Patrol. In that capacity, Defendant Karisch has  
3 direct responsibility for and oversight over the Tucson Sector Border Patrol  
4 policies, procedures, and practices relating to Border Patrol interior  
5 checkpoint operations in the Tucson Sector. Defendant Karisch is sued in his  
6 official capacity as it relates to claims for declaratory and prospective  
7 injunctive relief.

8           This paragraph pertains to the federal defendants thus the county  
9 defendants are w/o sufficient information to admit or deny and  
10 therefore deny same.

11           41. Defendants DHS, CBP, Border Patrol, Nielsen, McAleenan,  
12 Provost, and Karisch are collectively referred to herein as the “Federal  
13 Defendants”.

14           This paragraph pertains to the federal defendants thus the county  
15 defendants are w/o sufficient information to admit or deny and  
16 therefore deny same.

17           42. Defendant United States of America is sued for Plaintiff’s  
18 personal injuries and harms caused by the negligent or wrongful acts or  
19 omissions of its employees. Those employees were acting within the scope of  
20 their office or employment with the federal government under circumstances

1 where the United States, if a private person, would be liable to Plaintiff in  
2 accordance with the laws of the State of Arizona. *See* 28 U.S.C. § 1346(b).

3 This paragraph pertains to the federal defendants thus the county  
4 defendants are w/o sufficient information to admit or deny and  
5 therefore deny same.

### 6 FACTUAL ALLEGATIONS

#### 7 Arizona State Route 86 Checkpoint

8 43. From 1993 to the present, Plaintiff has routinely traveled Arizona  
9 State Route 86 (hereafter “SR-86”) in Pima County, in the District of Arizona.

10 W/O information to form a belief as to truth/falsity, deny same.

11 44. SR-86 is an east-west state highway that does not intersect the  
12 United States/Mexico border at any point.

13 Admit.

14 45. At its nearest point in Sells, Arizona, SR-86 is approximately 21  
15 air miles from the nearest point along the United States/Mexico border.

16 W/O information to form a belief as to truth/falsity, deny same.

17 46. Between 2005 and 2007, Defendants CBP and Border Patrol  
18 operated an interior checkpoint along SR-86 near milepost 145 in Pima  
19 County, at irregular times and on irregular dates.

20 W/O information to form a belief as to truth/falsity, deny same.



1           47. Between January 2008 and July 2010, Defendants CBP and  
2 Border Patrol operated an interior checkpoint near milepost 145 on SR-86 in  
3 Pima County.

4           W/O information to form a belief as to truth/falsity, deny same.

5           48. In August 2010, Defendants CBP and Border Patrol began to  
6 operate a checkpoint at milepost 146.5 on SR-86 in Pima County.

7           W/O information to form a belief as to truth/falsity, deny same.

8           49. The checkpoint described at Paragraph 48 has operated  
9 continuously at milepost 146.5 on SR-86 from 2010 to the present time.

10          W/O information to form a belief as to truth/falsity, deny same.

11          50. The checkpoint described at Paragraph 48 is located in an  
12 unincorporated portion of Pima County.

13          Admit.

14          51. The checkpoint described in Paragraph 48 is located  
15 approximately 49 air miles from the nearest point along the United  
16 States/Mexico border.

17          W/O information to form a belief as to truth/falsity, deny same.

18          52. SR-86 does not serve as the functional equivalent of the border.

19          W/O information to form a belief as to truth/falsity, deny same.

1           53. The interior checkpoint described in Paragraph 48 is operated for  
2 the primary purpose of general crime control.

3           W/O information to form a belief as to truth/falsity, deny same.

4           54. Defendant CBP's and Defendant Border Patrol's primary  
5 purpose for operating the interior checkpoint described at Paragraph 48 is not  
6 to intercept unauthorized aliens.

7           55. The interior checkpoint described at Paragraph 48 is not a  
8 sobriety checkpoint.

9           W/O information to form a belief as to truth/falsity, deny same.

10          56. The interior checkpoint described at Paragraph 48 is not  
11 conducted for the purpose of checking motorists' drivers' licenses.

12          W/O information to form a belief as to truth/falsity, deny same.

13          57. The interior checkpoint described at Paragraph 48 is not located  
14 at the entrance to a state or federal park and is not conducted for the purpose  
15 of enforcing animal hunting or poaching laws.

16          W/O information to form a belief as to truth/falsity, deny same.

17          58. The checkpoint described at Paragraph 48 is not conducted for  
18 the purpose of verifying that motorists possess automobile insurance.

19          W/O information to form a belief as to truth/falsity, deny same.

1           59. The checkpoint described at Paragraph 48 is not conducted for  
2 the purpose of enforcing laws related to vehicle weight limits.

3           **W/O information to form a belief as to truth/falsity, deny same.**

4           60. The checkpoint described at Paragraph 48 has as its primary  
5 purpose the detection and interdiction of illegal narcotics.

6           **W/O information to form a belief as to truth/falsity, deny same.**

7           61. During the six-month period from October 29, 2015, through  
8 April 29, 2016, there were zero immigration-related arrests at the SR-86  
9 checkpoint. During the same time period, there were six narcotic-related  
10 arrests at the SR-86 checkpoint.

11           **W/O information to form a belief as to truth/falsity, deny same.**

12           62. During the six-month period from April 29, 2016, through  
13 October 29, 2016, there were 14 immigration-related arrests at the SR-86  
14 checkpoint. During the same time period, there were 21 narcotics-related  
15 arrests at the SR-86 checkpoint.

16           **W/O information to form a belief as to truth/falsity, deny same.**

17           63. Since commencing routine and regular federal checkpoint  
18 operations in 2008, Defendant Border Patrol has applied for and been granted  
19 state highway encroachment permits from the Arizona Department of  
20 Transportation (“ADOT”).

1           W/O information to form a belief as to truth/falsity, deny same.

2           64.    Under ADOT regulations, permits are required to be renewed on  
3 an annual basis.

4           W/O information to form a belief as to truth/falsity, deny same.

5           65.    Prior to April 21, 2017, one of the terms of the encroachment  
6 permit issued to Defendant Border Patrol for the SR-86 checkpoint is that the  
7 checkpoint may be operated only at irregular times and on irregular dates.

8           W/O information to form a belief as to truth/falsity, deny same.

9           66.    On April 21, 2017, Defendant Border Patrol represented to the  
10 State of Arizona that the activity to be performed at the SR-86 interior  
11 checkpoint was to include the deterrence of narcotics smuggling.

12          W/O information to form a belief as to truth/falsity, deny same.

13          67.    On April 21, 2017, Defendant Border Patrol represented to the  
14 State of Arizona that a license plate camera recognition system (“LPR”)  
15 would operate at the SR-86 checkpoint.

16          W/O information to form a belief as to truth/falsity, deny same.

17          68.    At least one of the LPR systems revealed to the State of Arizona  
18 in the April 2017 application is monitored by the United States Drug  
19 Enforcement Agency (“DEA”).

20          W/O information to form a belief as to truth/falsity, deny same.

1           69. According to an official website of the Department of Homeland  
2 Security maintained at [https://www.cbp.gov/border-security/along-us-  
4 borders/](https://www.cbp.gov/border-security/along-us-<br/>3 borders/), the purpose of interior checkpoints is to: “(1) detect and apprehend  
5 illegal aliens attempting to travel further into the interior of the United States  
6 after evading detection at the border; and (2) to detect illegal narcotics.”

6           W/O information to form a belief as to truth/falsity, deny same.

7                           Plaintiff’s Interactions at the SR-86 Checkpoint

8           70. Between 2005 and February 2018, Plaintiff has passed through  
9 the SR-86 checkpoint approximately 419 times.

10           W/O information to form a belief as to truth/falsity, deny same.

11           71. Between March 2011 and February 2018, Plaintiff has passed by  
12 the LPR system described in Paragraph 67 approximately 294 times.

13           W/O information to form a belief as to truth/falsity, deny same.

14           72. At all times relevant herein, Plaintiff was driving his personal  
15 vehicle.

16           W/O information to form a belief as to truth/falsity, deny same.

17           73. Plaintiff’s personal vehicle was widely known to and recognized  
18 by individual County and Federal Defendants as belonging to Plaintiff.

19           W/O information to form a belief as to truth/falsity as to federal  
20 defendants, deny same; deny as to county defendants.

1           74. At all times relevant herein, Defendant Roher was aware that  
2 Plaintiff is a U.S. citizen.

3           Deny.

4           75. At all times relevant herein, employees of the Federal Defendants  
5 were aware that Plaintiff is a U.S. citizen.

6           W/O information to form a belief as to truth/falsity as to federal  
7 defendants, deny same

8           76. Plaintiff always traveled alone through the SR-86 checkpoint, a  
9 fact of which employees of the Federal Defendants were aware. This action  
10 was predictable to the Federal Defendants. As such, Plaintiff's presence  
11 traveling through the SR-86 checkpoint raised absolutely no suspicion of  
12 criminal wrongdoing under federal laws.

13           W/O information to form a belief as to truth/falsity, deny same.

14           77. Employees of the Federal Defendants have routinely seized  
15 Plaintiff at the SR-86 checkpoint, despite knowing Plaintiff's identity and  
16 citizenship and despite an absence of reasonable suspicion or probable cause  
17 of criminal wrongdoing under federal laws.

18           W/O information to form a belief as to truth/falsity, deny same.

19

1           78. Defendant Border Patrol routinely uses law enforcement K-9  
2 units at the SR-86 checkpoint.

3           W/O information to form a belief as to truth/falsity, deny same.

4           79. On occasion, PCSD allows Defendant Border Patrol to use PCSD  
5 K-9 units.

6           W/O information to form a belief as to truth/falsity, deny same.

7           80. Defendant Border Patrol trains its K-9 units to detect for the  
8 scent of more than one type of illegal narcotic.

9           W/O information to form a belief as to truth/falsity, deny same.

10          81. At all times relevant herein, Defendants Napier, Nanos, Roher,  
11 and Kunze were personally aware that K-9 units operated by Defendant  
12 Border Patrol at the SR-86 checkpoint were trained for and capable of  
13 detecting the scent of narcotics.

14          W/O information to form a belief as to truth/falsity, deny same.

15          82. On two occasions prior to April 10, 2017, Defendant Border  
16 Patrol placed dogs in the bed of Plaintiff's pickup truck without lawful  
17 excuse, and without Plaintiff's consent.

18          W/O information to form a belief as to truth/falsity, deny same.

19

1           83. On several occasions, Defendant Border Patrol has detained  
2 Plaintiff at the SR-86 checkpoint for the exclusive purpose of conducting a K-  
3 9 drug-detection sniff around Plaintiff’s vehicle.

4           **W/O information to form a belief as to truth/falsity, deny same.**

5           84. Since April 10, 2017, Plaintiff has traveled through the SR-86  
6 checkpoint on multiple occasions and intends to continue traveling through  
7 the SR-86 checkpoint on a regular basis in the future.

8           **W/O information to form a belief as to truth/falsity, deny same.**

9           85. Since April 10, 2017, Plaintiff continues to be subject to  
10 unlawful suspicionless seizures on a regular basis at the SR-86 checkpoint.  
11 Since April 10, 2017, the Federal Defendants have chilled Plaintiff’s First  
12 Amendment speech while traveling through the SR-86 checkpoint.

13           **W/O information to form a belief as to truth/falsity, deny same.**

14                           Operation Stonegarden in Pima County

15           86. Since at least 2012, U.S. Border Patrol have conducted joint  
16 operations with PCSD under a federal grant program known as “Operation  
17 Stonegarden.”

18           **Admit only that PCSD deputies have worked under Operation**  
19 **Stonegarden; deny remaining allegations.**



1           87.    The stated purpose of Operation Stonegarden is to conduct “zero  
2 tolerance” traffic contacts in certain portions of Pima County determined by  
3 the U.S. Border Patrol to be areas of particular concern. This is sometimes  
4 referred to as “saturation” within the law enforcement community, as the  
5 purpose is to “saturate” a given geographic area with intensive traffic  
6 enforcement during a given time period.

7           **Admit only that Operation Stonegarden has consisted of saturation**  
8           **patrols; deny remaining allegations.**

9           88.    Operation Stonegarden is a federal grant program that pays  
10 state, county, and local law enforcement agencies situated close to an  
11 international border to work closely with the U.S. Border Patrol on federal  
12 border security missions.

13           **Admit.**

14           89.    Operation Stonegarden provides federal grant dollars to local law  
15 enforcement agencies, in part, to subsidize overtime wages of local law  
16 enforcement officers who volunteer to work in excess of 40 hours per week  
17 conducting joint missions with U.S. Border Patrol.

18           **Admit only that PCSD deputies work overtime under Stonegarden.**

1           90. The Operation Stonegarden grant program does not confer any  
2 federal immigration enforcement authority on state, county or local law  
3 enforcement participants.

4           **Admit.**

5           91. Neither Pima County nor PCSD has a joint memorandum of  
6 agreement with the federal government under the program known as  
7 “287(g)”, codified at 8 U.S.C. § 1357(g).

8           **W/O information to form a belief as to truth/falsity, deny same.**

9           92. Nothing in federal law confers upon PCSD deputies the authority  
10 to detain a motorist for the exclusive purpose of investigating potential civil  
11 violations of federal immigration law.

12           **Admit.**

13           93. Under the terms of Operation Stonegarden, PCSD must  
14 coordinate its deployments with the U.S. Border Patrol.

15           **Admit only that deputies contact border patrol as to where their services**  
16 **are needed on any particular date; affirmatively allege that process has**  
17 **changed over time.**

18           94. Under the terms of Operation Stonegarden, the U.S. Border  
19 Patrol retains authority to direct PCSD Deputies to certain locations, during

1 certain times, and with specific objectives determined by the Tucson Sector of  
2 the U.S. Border Patrol.

3 Admit only that deputies contact border patrol as to where their services  
4 are needed on any particular date; affirmatively allege process has  
5 changed over time.

6 95. During all times relevant herein, commanders employed by  
7 Defendant Border Patrol routinely assigned PCSD deputies to the SR-86  
8 checkpoint during Operation Stonegarden work shifts.

9 W/O information to form a belief as to truth/falsity, deny same.

10 96. During all times relevant herein, during the times when PCSD  
11 deputies were assigned by Defendant Border Patrol to the SR-86 checkpoint,  
12 such deputies frequently would park their PCSD patrol vehicle on the  
13 shoulder of SR-86 alongside official U.S. Border Patrol vehicles.

14 W/O information to form a belief as to truth/falsity, deny same.

15 97. During all times relevant herein, employees of Defendant Border  
16 Patrol routinely allowed PCSD deputies to operate at the SR-86 checkpoint  
17 regardless of whether or not the deputies had been explicitly assigned there as  
18 part of the Operation Stonegarden grant program.

19 W/O information to form a belief as to truth/falsity, deny same.  
20

1           98.    During all times relevant herein, employees of Defendant Border  
2 Patrol who are assigned to work at the SR-86 checkpoint have allowed and  
3 encouraged PCSD deputies to engage in general law enforcement operations  
4 at the SR-86 checkpoint.

5           W/O information to form a belief as to truth/falsity, deny same.

6           99.    During all times relevant herein, PCSD deputies routinely had  
7 contacts with motorists who were temporarily seized at the SR-86 checkpoint.

8           W/O information to form a belief as to truth/falsity, deny same.

9           100. During all times relevant herein, PCSD deputies routinely issued  
10 state law traffic citations to motorists while they were temporarily seized at  
11 the SR-86 checkpoint.

12           Admit only that some traffic citations were issued at various times;

13           W/O information to form belief as to truth/falsity of remaining  
14           allegations and therefore deny same.

15           101. During all times relevant herein, PCSD deputies routinely issued  
16 state law traffic citations at the SR-86 checkpoint to motorists who had  
17 already been determined by U.S. Border Patrol agents to possess lawful  
18 immigration status.

1 Admit only that some traffic citations were issued at various time; W/O  
2 information to form a belief as to truth/falsity of remaining allegations  
3 and therefore deny same.

4 102. Prior to April 10, 2017, Defendant Roher routinely issued state  
5 law traffic citations at the SR-86 checkpoint to motorists who had already  
6 been determined by U.S. Border Patrol agents to possess lawful immigration  
7 status.

8 Admit only that Roher has issued traffic citations in the vicinity of the  
9 checkpoint, but are w/o information to form a belief as to truth/falsity  
10 of allegations because the term routinely is vague and therefore deny  
11 same.

12 103. Prior to April 10, 2017, Defendants Napier, Nanos, and Kunze  
13 were personally aware that PCSD routinely issued state law traffic citations at  
14 the SR-86 checkpoint to motorists who had already been determined by U.S.  
15 Border Patrol agents to possess lawful immigration status.

16 Deny because "PCSD" does not issue citations, only individual  
17 deputies issue citations; W/O sufficient information to admit or deny  
18 remaining allegations and therefore deny same.

19 104. When assigned to the SR-86 checkpoint, a PCSD Deputy  
20 routinely issues, on average, a larger number of state law traffic citations

1 during an 8-hour shift than he/she issues when patrolling for the same amount  
2 of time on portions of the open highways.

3 Admit only that some traffic citations were issued at various times;  
4 W/O information to form belief as to truth/falsity of remaining  
5 allegations and therefore deny same.

6 105. During one 8-hour work shift while assigned to the SR-86  
7 checkpoint, Defendant Roher issued state law traffic citations to  
8 approximately thirty (30) different motorists who passed through the SR-86  
9 checkpoint.

10 Admit only that Roher has issued traffic citations; W/O information to  
11 form belief as to truth/falsity of allegations because no date is given and  
12 therefore deny same.

13 106. Most, if not all, of those motorists on that particular day had been  
14 determined by U.S. Border Patrol agents located at the SR-86 checkpoint to  
15 possess lawful immigration status prior to Defendant Roher's contact with  
16 those motorists.

17 Admit only that Roher has issued traffic citations; W/O information to  
18 form belief as to truth/falsity of allegations because no date is given and  
19 therefore deny same.

1           107. For example, on April 10, 2017, (the same day on which  
2 Defendant's underlying constitutional deprivations occurred) Defendant  
3 Roher observed that a vehicle in line at the SR-86 checkpoint had a long crack  
4 in its windshield, which is a vehicle equipment violation under Arizona state  
5 law.

6           Deputy Roher admits. The remaining defendants W/O sufficient  
7 information to admit or deny allegation and therefore deny same.

8           108. As the vehicle entered the primary lane of the SR-86 checkpoint,  
9 Defendant Roher asked the U.S. Border Patrol agent to refer the vehicle to the  
10 secondary lane within the Border Patrol checkpoint area.

11           Roher admits. Remaining defendants are W/O sufficient information to  
12 admit or deny allegation and therefore deny same.

13           109. Once in the secondary lane, Defendant Roher found that the  
14 driver's license had been suspended and proceeded to issue a state law  
15 citation to the driver and have the vehicle towed.

16           Roher admits. Remaining defendants are W/O sufficient information to  
17 admit or deny allegation and therefore deny same.

18

1 110. Defendants Roher and Kunze were both earning overtime wages  
2 on April 10, 2017, pursuant to PCSD's participation in the Operation  
3 Stonegarden program.

4 **Admit.**

5 111. On at least two occasions since 2013, U.S. Border Patrol agents  
6 have called PCSD deputies to the SR-86 checkpoint while detaining Plaintiff  
7 at the checkpoint's primary stop location.

8 **Admit.**

9 112. The PCSD deputies called to the scene on these occasions were  
10 conducting Operation Stonegarden deployments in collaboration with the U.S.  
11 Border Patrol.

12 **Admit.**

13 113. Defendant Pima County Board of Supervisors is authorized to  
14 approve each Operation Stonegarden grant award.

15 **Upon information and belief, admit.**

16 114. On February 16, 2016, Defendant Pima County Board of  
17 Supervisors approved the receipt of Operation Stonegarden funding to be  
18 distributed to PCSD. They approved such funding without qualification or  
19 conditions.

20 **Upon information and belief, admit.**



1           115. On May 16, 2017, Defendant Pima County Board of Supervisors  
2 approved the receipt of Operation Stonegarden funding to be distributed to  
3 PCSD. They approved such funding without qualification or conditions.

4           **Upon information and belief, admit.**

5           116. On February 20, 2018, Defendant Pima County Board of  
6 Supervisors voted to approve the receipt of \$1,429,175 of Operation  
7 Stonegarden funding contingent upon several specific conditions.

8           **Upon information and belief, admit.**

9           117. Upon information and belief, since February 20, 2018, no one  
10 has challenged Defendant Pima County Board of Supervisors' legal authority  
11 to approve such federal grant money on a conditional basis.

12           **W/O sufficient information to form belief as to truth/falsity of**  
13 **allegation and therefore deny same.**

14           Training and Supervision of Pima County Sheriff's Deputies

15           118. At all times relevant herein, PCSD did not have internal  
16 regulations, rules, guidelines, directives, written guidance, or protocols  
17 pertaining to Operation Stonegarden deployments.

18           **W/O sufficient information to form belief as to truth/falsity of**  
19 **allegation and therefore deny same; affirmatively allege department has**  
20 **written guidelines and policies in place regarding various aspect of law-**

1 enforcement duties; further affirmatively allege that the standard law-  
2 enforcement training, protocols, and policies applied to the execution of  
3 law enforcement duties.

4 119. At all times relevant herein, PCSD did not have internal  
5 regulations, rules, guidelines, directives, written guidance, or protocols  
6 pertaining to deputies who stationed themselves at a U.S. Border Patrol  
7 checkpoint.

8 W/O sufficient information to form belief as to truth/falsity of  
9 allegation and therefore deny same; affirmatively allege department has  
10 written guidelines and policies in place regarding various aspect of law-  
11 enforcement duties; further affirmatively allege that the standard law-  
12 enforcement training, protocols, and policies applied to the execution of  
13 law enforcement duties.

14 120. At all times relevant herein, PCSD did not offer Operation  
15 Stonegarden training to its deputies.

16 W/O sufficient information to form belief as to truth/falsity of  
17 allegation and therefore deny same; affirmatively allege department has  
18 written guidelines and policies in place regarding various aspect of law-  
19 enforcement duties; further affirmatively allege that the standard law-

1 enforcement training, protocols, and policies applied to the execution of  
2 law enforcement duties.

3 121. Upon information and belief, PCSD used none of the federal  
4 Operation Stonegarden grant funding it received in 2016 and 2017 to develop  
5 or disseminate specialized training to those of its sworn deputies participating  
6 in Operation Stonegarden deployments.

7 W/O sufficient information to form a belief as to truth/falsity of this  
8 allegation and therefore deny same.

9 122. With the exception of issues related to deployments at  
10 international ports of entry, at all times relevant herein, the U.S. Border Patrol  
11 did not share with PCSD any training materials related to the proper execution  
12 of Operation Stonegarden deployments.

13 W/O sufficient information to form a belief as to truth/falsity of this  
14 allegation and therefore deny same.

15 123. At all times relevant herein, the U.S. Border Patrol did not share  
16 with PCSD any training materials related to proper law enforcement functions  
17 at Border Patrol checkpoints.

18 W/O sufficient information to form a belief as to truth/falsity of this  
19 allegation and therefore deny same.

1           124. Upon information and belief, at all times relevant herein, PCSD  
2 did not disseminate to any of its deputies any training materials related to the  
3 U.S. Supreme Court's decision in *Martinez-Fuerte v. United States*, 428 U.S.  
4 543 (1976).

5           W/O sufficient information to form a belief as to truth/falsity of this  
6 allegation and therefore deny same.

7           125. Upon information and belief, at all times relevant herein, PCSD  
8 did not disseminate to any of its deputies any training materials related to the  
9 U.S. Supreme Court's decision in *City of Indianapolis v. Edmond*, 531 U.S.  
10 32 (2000).

11           W/O sufficient information to form a belief as to truth/falsity of this  
12 allegation and therefore deny same.

13           126. At all times relevant herein, PCSD deputies routinely  
14 participated in Operation Stonegarden deployments at the SR-86 checkpoint  
15 without having received training specific to Border Patrol checkpoints.

16           W/O sufficient information to form a belief as to truth/falsity of this  
17 allegation and therefore deny same.

18           127. At all times relevant herein, Defendant Roher did not receive  
19 training specific to Border Patrol checkpoints.

1           Roher admits; affirmatively allege that Roher was trained for the law-  
2           enforcement duties he was exercising while working under the  
3           Stonegarden grant.

4           128. At all times relevant herein, with the exception of deployments  
5           taking place at international ports of entry, PCSD permitted its deputies to  
6           conduct Operation Stonegarden deployments without undergoing special or  
7           additional training.

8           W/O sufficient information to form a belief as to truth/falsity of  
9           allegation and therefore deny; affirmatively allege that deputies  
10           assigned to Stonegarden were not engaged in Border Patrol duties, but  
11           were engaged in law-enforcement duties for which they did have  
12           training.

13           129. Defendant Nanos took no steps during his tenure to develop or  
14           promulgate internal rules, regulations, guidelines, guidance, protocols or  
15           directives related to Operation Stonegarden.

16           W/O sufficient information to form a belief as to truth/falsity of  
17           allegation and therefore deny; affirmatively allege Nanos did have  
18           policies/procedures regarding deputies law-enforcement duties.

19           130. Defendant Nanos took no steps during his tenure to develop or  
20           promulgate internal rules, regulations, guidelines, guidance, protocols or

1 directives related to PCSD duties while stationed at Border Patrol  
2 checkpoints.

3 W/O sufficient information to form a belief as to truth/falsity of  
4 allegation and therefore deny; affirmatively allege Nanos did have  
5 policies/procedures regarding deputies law-enforcement duties.

6 131. Prior to 2018, Defendant Napier took no steps to develop or  
7 disseminate training materials related to Operation Stonegarden.

8 W/O sufficient information to form a belief as to truth/falsity of  
9 allegation and therefore deny

10 132. Prior to 2018, Defendant Napier took no steps to develop or  
11 disseminate training materials related to PCSD duties while stationed at  
12 Border Patrol checkpoints.

13 W/O sufficient information to form a belief as to truth/falsity of  
14 allegation and therefore deny

15 133. Prior to 2018, Defendant Napier took no steps to develop internal  
16 policies, rules, regulations, protocols, guidelines, guidance, protocols or  
17 directives related to Operation Stonegarden.

18 W/O sufficient information to form a belief as to truth/falsity of  
19 allegation and therefore deny

1 134. Prior to 2018, Defendant Napier took no steps to develop internal  
2 policies, rules, regulations, protocols, guidelines, protocols or directives  
3 related to PCSD duties while stationed at Border Patrol checkpoints.

4 W/O sufficient information to form a belief as to truth/falsity of  
5 allegation and therefore deny

6 135. PCSD maintains a document issued to some of its employees  
7 called the “Pima County Sheriff’s Department Rules and Regulations  
8 Manual.” The current document is available at:

9 <https://www.pimasheriff.org/about-us/rules-and-regulations/>.

10 Admit that PCSD maintains Rules and Regulations Manual on the  
11 PCSD website; W/O sufficient information to form a belief as to phrase  
12 “issues to some of its employees” because said phrase is vague; county  
13 defendants deny that aspect of para 135.

14 136. The document described in Paragraph 135 is designed to guide  
15 members of the Pima County Sheriff’s Department in carrying out the duties,  
16 responsibilities, and obligations set forth by law, or assumed by them, in order  
17 to fulfill the mission of the Department.

18 Admit.

1           137. Upon information and belief, PCSD, under the direction of the  
2 Sheriff, undertakes an annual review of the document described in Paragraph  
3 135 to ensure that the document reflects the latest developments in the law.

4           **Admit.**

5           138. As of December 31, 2018, the current version of the document  
6 described in Paragraph 135 consists of approximately 400 pages.

7           **W/O sufficient information to form a belief as to truth/falsity of**  
8 **allegation and therefore deny**

9           139. On April 10, 2017, the then-operative version of the document  
10 described in Paragraph 135 provided instructions and guidance related to the  
11 proper operation of a sobriety checkpoint.

12           **W/O sufficient information to form a belief as to truth/falsity of**  
13 **allegation and therefore deny**

14           140. Pursuant to the document described in Paragraph 135, PCSD  
15 deputies who participate in sobriety checkpoints are required to attend an  
16 “operation specific briefing” prior to their participation in said checkpoint.

17           **W/O sufficient information to form a belief as to truth/falsity of**  
18 **allegation and therefore deny**



1 141. PCSD requires no “operation specific briefing” of PCSD  
2 deputies planning to participate in Operation Stonegarden deployments at  
3 Border Patrol checkpoints.

4 **Admit time of subject incident.**

5 142. On April 10, 2017, the then-operative version of the document  
6 described in Paragraph 135 nowhere mentioned Border Patrol checkpoints.

7 **Admit.**

8 143. On April 10, 2017, the then-operative version of the document  
9 described in Paragraph 135 nowhere mentioned Operation Stonegarden.

10 **Admit.**

11 144. Upon information and belief, between 2008 and 2017, neither  
12 Defendant Nanos nor Defendant Napier undertook or directed their  
13 subordinates to undertake any review of the document described in Paragraph  
14 135 for the purpose of ensuring that PCSD operations at Border Patrol  
15 checkpoints were consistent with current law.

16 **W/O sufficient information to form a belief as to truth/falsity of**  
17 **allegation and therefore deny.**

18 145. Upon information and belief, at all times relevant herein,  
19 Defendants Nanos and Napier were on notice that their deputies were  
20 regularly undertaking general law enforcement efforts while positioned

1 directly at Border Patrol checkpoints located in unincorporated portions of  
2 Pima County.

3 W/O sufficient information to form a belief as to truth/falsity of  
4 allegation and therefore deny.

5 146. Upon information and belief, during all times relevant herein,  
6 Defendants Nanos, and Napier were personally aware that certain motorists  
7 had been cited by PCSD deputies for state law traffic violations while PCSD  
8 deputies were positioned at the SR-86 checkpoint.

9 W/O sufficient information to form a belief as to truth/falsity of  
10 allegation and therefore deny.

11 147. Upon information and belief, prior to Plaintiff's arrest on April  
12 10, 2017, subordinates of Defendant Napier, including at least one of the  
13 Chiefs of PCSD, were personally familiar with Plaintiff and were personally  
14 familiar with his interactions with PCSD deputies at the SR-86 checkpoint.

15 W/O sufficient information to form a belief as to truth/falsity of  
16 allegation and therefore deny.

17 April 10, 2017 Incident at SR-86 Checkpoint

18 148. On three occasions since 2013, Plaintiff was cited under state law  
19 at the SR-86 checkpoint by PCSD Deputies who were working in

1 collaboration with Defendant Border Patrol pursuant to the terms of Operation  
2 Stonegarden.

3 Admit only that there were 3 citations with respect to the allegations of  
4 para 139 (2013, 2014, and 2017); deny that it was in collaboration  
5 w/U.S. Border Patrol.

6 149. The most recent of those occasions was on April 10, 2017, the  
7 subject of this lawsuit.

8 Admit.

9 150. On April 10, 2017, Plaintiff was traveling eastbound on SR-86  
10 and came upon the SR-86 interior checkpoint.

11 Admit.

12 151. Plaintiff slowed down and brought his vehicle to a complete stop,  
13 as indicated by the traffic signs maintained by Defendant Border Patrol.

14 Admit.

15 152. Plaintiff lowered his window slightly to enable himself to hear  
16 the instructions from the Border Patrol agent on duty at the checkpoint.

17 W/O sufficient information to form a belief as to truth/falsity of  
18 allegation and therefore deny

19 153. Agent Frye, an employee of Defendant Border Patrol, asked  
20 Plaintiff to declare whether or not Plaintiff is a U.S. citizen.

1 Admit only that at one point Agent Frye asked whether Bressi was a  
2 citizen; affirmatively allege that based on the video of the incident as  
3 recorded by Bressi, Agent Frye initially asked Bressi to pull over to  
4 secondary before asking him about his citizenship.

5 154. In exercising his First Amendment right not to speak, Plaintiff  
6 declined to declare his citizenship status.

7 W/O sufficient information to form a belief as to truth/falsity of  
8 allegation and therefore deny.

9 155. Plaintiff's choice not to speak was a deliberate choice not to  
10 express an ideological viewpoint with which Plaintiff disagrees. In particular,  
11 Plaintiff's decision not to speak to Agent Frye was a decision to not  
12 acknowledge or bear witness to a government activity with which Plaintiff  
13 disagrees – the maintenance and operation of unlawful interior checkpoints.  
14 In short, Plaintiff's silence was a pointed expression of anguish about the  
15 current domestic affairs of his government.

16 W/O sufficient information to form a belief as to truth/falsity of  
17 allegation and therefore deny.

18 156. As a direct result of Plaintiff's choice not to declare his  
19 citizenship status, Agent Frye indicated to Plaintiff that Plaintiff was not free  
20 to leave and was not free to proceed down the highway.

1 W/O sufficient information to form a belief as to truth/falsity of  
2 allegation and therefore deny.

3 157. Accordingly, Plaintiff remained seated in the driver's seat of his  
4 vehicle and remained at a complete stop within the confines of the SR-86  
5 Border Patrol checkpoint.

6 W/O sufficient information to form a belief as to truth/falsity of  
7 allegation and therefore deny.

8 158. After approximately 80 seconds of Plaintiff being detained by  
9 Agent Frye at the checkpoint, Agent Frye asked another agent on the South  
10 side of the checkpoint where the supervisor went.

11 W/O sufficient information to form a belief as to truth/falsity of  
12 allegation and therefore deny.

13 159. A few seconds later, Defendant Roher began approaching the  
14 scene by foot from where he had been stationed on the South side of the  
15 checkpoint's primary stop location.

16 Admit only that at some point Roher approached Bressi's vehicle while  
17 it was stopped.

18 160. At the time, Defendant Roher was working an eight-hour  
19 Operation Stonegarden shift.

20 Admit.

1           161. At this moment, Defendant Roher assumed control of the law  
2 enforcement interaction with Plaintiff.

3           Deny.

4           162. Upon taking over the law enforcement interaction with Plaintiff,  
5 Defendant Roher learned from Agent Frye that he had refused to allow  
6 Plaintiff to proceed down the highway because Plaintiff had not yet declared  
7 his citizenship status.

8           Deny because Frye also indicated that Bressi refused to pull his vehicle  
9 over into secondary.

10          163. Defendant Roher then explained to Plaintiff that Plaintiff needed  
11 to answer Agent Frye's immigration questions.

12          Deny.

13          164. When Defendant Roher continued detaining Plaintiff in the lane  
14 of traffic, Plaintiff asked Defendant Roher what law he thought Plaintiff was  
15 violating.

16          Admit based on the video provided by Bressi.

17          165. In response, Defendant Roher indicated Plaintiff could leave the  
18 checkpoint.

19          Deny. Bressi's video shows Roher asked Bressi to move his vehicle to  
20 secondary inspection lane. After Roher indicated that Bressi was

1 blocking traffic and after Bressi again asked what law he was violating,  
2 Roher told Bressi to leave in an effort to get traffic moving through the  
3 checkpoint.

4 166. The total elapsed time that Defendant Roher detained Plaintiff at  
5 the same spot where Plaintiff had initially come to a complete stop while  
6 being detained by Agent Frye was approximately 64 seconds.

7 W/O sufficient information to form a belief as to truth/falsity of  
8 allegation and therefore deny

9 167. Plaintiff immediately complied with Defendant Roher's  
10 instruction to leave the checkpoint and began to drive down the highway.

11 Admit.

12 168. While beginning to accelerate away from the Border Patrol  
13 checkpoint, Plaintiff glanced in his mirror and immediately noticed that  
14 Defendant Roher was running toward his PCSD patrol vehicle.

15 Admit that Roher jogged to his vehicle; W/O information to form belief  
16 as to truth/falsity of the remainder of the allegation and therefore deny  
17 same.

18 169. Plaintiff interpreted this movement by Defendant Roher as a  
19 clear indication that Defendant Roher intended to effectuate a traffic stop on  
20 Plaintiff.

1 W/O information to form a belief as to truth/falsity of allegation and  
2 therefore deny

3 170. Plaintiff then pulled his vehicle to the right shoulder of SR-86,  
4 several dozen yards east of the Border Patrol checkpoint.

5 Admit only Plaintiff stopped his vehicle at some point outside of the  
6 primary inspection lane checkpoint.

7 171. Defendant Roher got into his PCSD patrol vehicle and drove  
8 several dozen yards to where Plaintiff was now parked on the right-hand  
9 shoulder of SR-86.

10 Admit only that Roher drove to where Bressi had stopped his vehicle.

11 172. Plaintiff remained seated in the driver seat of his vehicle, and  
12 Defendant Roher exited his PCSD patrol vehicle and approached Plaintiff's  
13 driver-side window.

14 Admit.

15 173. Defendant Roher requested Plaintiff to exit his vehicle.

16 Admit.

17 174. When Plaintiff requested to know whether he was being  
18 detained, Defendant Roher ordered Plaintiff out of his vehicle without  
19 answering the question.

20 Admit.



1 175. Plaintiff exited his vehicle.

2 **Admit.**

3 176. Defendant Roher requested Plaintiff to provide his photo  
4 identification.

5 **Admit.**

6 177. Plaintiff handed his photo identification to Defendant Roher,  
7 asked him who his supervisor was, and asked him to call his supervisor to the  
8 scene.

9 **Admit.**

10 178. After failing to answer some of Defendant Roher's questions,  
11 Defendant Roher arrested and handcuffed Plaintiff.

12 **Deny. Roher placed Bressi in handcuffs because Roher felt he had**  
13 **probable cause to do so. Roher denies he handcuffed Bressi because**  
14 **Bressi did not answer Roher's questions.**

15 179. In violation of A.R.S. § 13-3888, Defendant Roher failed to  
16 inform Plaintiff of his authority and the cause for the arrest.

17 **Deny.**

18 180. After effectuating the arrest, Defendant Roher revealed to  
19 Plaintiff that he had been familiar with Plaintiff prior to that day and knew

1 that Plaintiff passed through the SR-86 checkpoint on a somewhat regular  
2 basis.

3 Admit only that after Bressi had handed Roher his driver's license,  
4 Roher recognized Bressi's name and had heard of Bressi and on that  
5 basis indicated he knew who Bressi was; deny remaining allegations.

6 181. Defendant Roher revealed to Plaintiff that he was familiar with  
7 Plaintiff's ideological views regarding Border Patrol checkpoints.

8 Admit only that after Bressi had handed Roher his driver's license,  
9 Roher recognized Bressi's name and had heard of Bressi and on that  
10 basis indicated he knew who Bressi was; deny remaining allegations.

11 182. Defendant Roher revealed to Plaintiff that he was aware that  
12 Plaintiff was delayed in the lane of traffic at the Border Patrol checkpoint  
13 because a federal agent was detaining him there.

14 Admit only that Roher was aware Bressi was proceeding through the  
15 checkpoint; deny remaining allegations.

16 183. While Plaintiff was still in handcuffs, Defendant Kunze arrived  
17 to the scene. Defendant Kunze ratified Defendant Roher's decision to arrest  
18 Plaintiff.

1 Admit only that Plaintiff was in handcuffs when Kunze arrived; deny  
2 remaining allegations; affirmatively allege that ratification is a legal  
3 conclusion.

4 184. Months following the April 10, 2017 arrest, Defendant Roher  
5 admitted to discussing Plaintiff with Border Patrol employees prior to April  
6 10, 2017.

7 Admit; affirmatively allege that prior to April 10, 2017, Roher could  
8 not have identified Bressi on sight.

9 185. On or about September 27, 2017, through a process server,  
10 Plaintiff served Notices of Claim pursuant to A.R.S. § 12-821.01, to  
11 Defendant Pima County Board of Supervisors; Defendant Pima County  
12 Sheriff's Department; Defendant Pima County Sheriff Mark Napier;  
13 Defendant Pima County Deputy Ryan Roher; and Defendant Pima County  
14 Deputy Brian Kunze.

15 Deny the PCSD is a defendant; Admit that claims were served on  
16 PCBOS, Napier, Roher, and Kunze.

1 **CLAIMS FOR RELIEF**

2 **COUNT I**

3 **Violations of First and Fourteenth Amendment Rights (Free Speech)**  
4 **Against all County and Federal Defendants**

5  
6 186. Plaintiff hereby realleges and incorporates by reference the  
7 allegations contained in paragraphs 1-185 as though fully set forth herein.

8 **Defendants re-allege and incorporate by reference Answer to**  
9 **allegations 1-185 set forth herein.**

10 187. The actions of County and Federal Defendants, as set forth  
11 above, violated Plaintiff's right to freedom of speech guaranteed by the First  
12 Amendment to the Constitution and applicable to the county Defendants  
13 through the Fourteenth Amendment to the Constitution. Defendants, through  
14 the acts described above, acted to eliminate and chill Plaintiff's exercise of his  
15 right to speak and, by extension, his right not to speak.

16 **W/O information to form a belief as to truth/falsity of first part of para**  
17 **187 and therefore deny same; affirmatively allege Bressi does not have**  
18 **a constitutional right to not answer a citizenship question at a Border**  
19 **Patrol immigration checkpoint.**

20 188. Plaintiff's choice not to speak on April 10, 2017, was a deliberate  
21 choice not to express an ideological viewpoint with which Plaintiff disagrees.

1 In particular, Plaintiff's decision not to speak at the SR-86 checkpoint was a  
2 decision to not acknowledge or bear witness to a government activity with  
3 which Plaintiff disagrees – the maintenance and operation of unlawful interior  
4 checkpoints. Plaintiff's silence was a pointed expression of anguish about the  
5 current domestic affairs of his government.

6 W/O information to form a belief as to truth/falsity of allegation and  
7 therefore deny same.

8 189. Since April 10, 2017, Plaintiff has continued to exercise his First  
9 and Fourteenth Amendment rights at the SR-86 checkpoint.

10 W/O information to form a belief as to truth/falsity of allegation and  
11 therefore deny same.

12 190. The First and Fourteenth Amendment right not to speak in this  
13 particular context was clearly established as of April 10, 2017.

14 Deny.

15 191. As a proximate result of the wrongful and malicious acts of  
16 Defendants, Plaintiff has suffered compensable and irreparable injuries  
17 including having his right to engage in the constitutionally protected activity  
18 of ideological speech truncated, extinguished, and/or deprived him.

19 Deny.

1           192. At all times relevant herein, the County Defendants were acting  
2 under the color of state law in their causing the deprivation of Plaintiff's First  
3 and Fourteenth Amendment rights.

4           Deny.

5           193. Plaintiff has suffered, and continues to suffer, harm as a direct  
6 result of the First Amendment retaliatory arrest effectuated by the Individual  
7 County Defendants on April 10, 2017. Plaintiff reasonably fears that all  
8 Defendants are likely to continue to chill Plaintiff's First Amendment rights at  
9 the SR-86 checkpoint. In fact, the Federal Defendants have truncated and  
10 attempted to chill Plaintiff's First Amendment rights since April 10, 2017, at  
11 the SR-86 checkpoint.

12           Deny.

13           194. Absent intervention by this Court, Defendants are almost certain  
14 to continue to deprive Plaintiff of his First Amendment rights at the SR-86  
15 checkpoint.

16           Deny.

17           195. Plaintiff seeks compensatory damages pursuant to 42 U.S.C. §  
18 1983 under this Claim, as against the County Defendants. Additionally,  
19 Plaintiff seeks declaratory and injunctive relief under this Claim, as against  
20 the County and Federal Defendants.

1 Admit only that Bressi has asked for compensatory damages and  
2 declaratory/injunctive relief against defendants; Deny that Bressi is  
3 entitled to such relief.

4 **COUNT II**  
5 **Violation of Fourth and Fourteenth Amendment Rights Within the**  
6 **Checkpoint Primary Inspection Lane (*City of Indianapolis v. Edmond*)**  
7 **Against all County and Federal Defendants**  
8

9 196. Plaintiff hereby realleges and incorporates by reference the  
10 allegations contained in paragraphs 1-195 as though fully set forth herein.

11 Re-allege/reassert and incorporation Answers to allegations 1-195  
12 herein.

13 197. The United States Supreme Court has clarified the lawful scope  
14 and purpose of interior checkpoints in *United States v. Martinez-Fuerte*, 428  
15 U.S. 543 (1976) and *City of Indianapolis v. Edmond*, 531 U.S. 32, 121 S. Ct.  
16 447 (2000). Checkpoints operated with the primary purpose of detecting  
17 illegal narcotics and/or ordinary criminal wrongdoing, and which result in the  
18 temporary seizure of motorists absent individualized suspicion, are violative  
19 of the Fourth Amendment.

20 Deny on basis that these allegations consist purely

21 198. Consistent with the Fourth Amendment, the Federal Defendants  
22 have the legal authority to maintain the SR-86 checkpoint for the primary

1 purpose of detecting and apprehending individuals unlawfully present in the  
2 United States.

3 **Admit.**

4 199. The Federal Defendants have the legal authority to briefly seize  
5 motorists passing through the SR-86 checkpoint to allow federal agents to ask  
6 one or two questions intended to confirm that the vehicle contains no  
7 unlawfully present aliens. Such legal authority exists; however, only if the  
8 checkpoint conforms with the Fourth Amendment requirements articulated in  
9 *Martinez-Fuerte* and *City of Indianapolis v. Edmond*. The SR-86 checkpoint  
10 does not conform to those requirements.

11 **Deny on the basis that these allegations consist purely of legal**  
12 **conclusions.**

13 200. The Federal Defendants' lawful authority to briefly seize  
14 motorists at the SR-86 checkpoint without individualized suspicion is  
15 contingent upon the Federal Defendants' maintaining such checkpoint for the  
16 primary purpose of enforcing the nation's immigration laws.

17 **Deny on the basis that these allegations consist purely of legal**  
18 **conclusions.**

19 201. The Federal Defendants' primary purpose for operating the SR-  
20 86 checkpoint is not to detect and apprehend aliens who are unlawfully



1 present in the United States, or to otherwise enforce the nation's immigration  
2 laws.

3 W/O information to form a belief as to truth/falsity of allegation and  
4 therefore deny same.

5 202. On April 10, 2017, the Federal Defendants operated the SR-86  
6 checkpoint in such a manner that the checkpoint's primary purpose was to  
7 detect general criminal wrongdoing.

8 W/O information to form a belief as to truth/falsity of allegation and  
9 therefore deny same.

10 203. On April 10, 2017, the County Defendants collaborated with the  
11 Federal Defendants in such a way that the primary purpose of the SR-86  
12 checkpoint was not the enforcement of federal immigration laws but rather the  
13 detection of general criminal wrongdoing.

14 Deny.

15 204. The County Defendants, independent of their Federal Defendant  
16 partners, possess an independent legal obligation to conduct their state-law  
17 law enforcement duties in such a manner that does not run afoul of the  
18 principles of *City of Indianapolis v. Edmond*.

19 Deny on the basis that these allegations consist purely of legal  
20 conclusions.

1           205. On April 10, 2017, and on many occasions since that date,  
2 Plaintiff was unlawfully seized by Defendants at the primary inspection lane  
3 of the SR-86 checkpoint. These unlawful seizures in the primary inspection  
4 lane resulted from Defendants' operation of the checkpoint for a primary  
5 purpose not countenanced by the Fourth Amendment.

6           Deny.

7           206. The unlawful conditions of the SR-86 checkpoint, as they existed  
8 on April 10, 2017, continue to exist at the SR-86 checkpoint today. To the  
9 extent that certain conditions existing on April 10, 2017, at the SR-86  
10 checkpoint are no longer present, both County and Federal Defendants are  
11 capable of resuming such conditions at a moment's notice and without the  
12 rigors of legislative or administrative rulemaking processes. Absent  
13 intervention by this Court, it is likely that Plaintiff will continue to be  
14 unlawfully seized by County and Federal Defendants within the primary  
15 inspection lane of the SR-86 checkpoint, in violation of the principles of  
16 *Martinez-Fuerte* and *City of Indianapolis v. Edmond*.

17           Deny.

18           207. Plaintiff seeks declaratory and injunctive relief as to this Claim,  
19 as against all Defendants, pursuant to the Fourth Amendment principles  
20 established in *City of Indianapolis v. Edmond*.

1 Admit only that Bressi is seeking declaratory/injunction relief in this  
2 Court; Deny he is entitled to such relief.

3 **COUNT III**  
4 **Violation of Fourth and Fourteenth Amendment Rights for Arrest**  
5 **Absent Probable Cause**  
6 **Against Defendants Roher and Kunze**  
7

8 208. Plaintiff hereby realleges and incorporates by reference the  
9 allegations contained in paragraphs 1-207 as though fully set forth herein.

10 Re-allege/incorporate by reference Answer to allegations 1-207 herein.

11 209. On April 10, 2017, Defendant Roher, aware that agents with the  
12 U.S. Border Patrol had found no particularized suspicion to continue the  
13 detention of or to arrest Plaintiff, effectuated an arrest of Plaintiff purportedly  
14 under the state law authority granted to him as an Arizona peace officer.

15 Deny.

16 210. Leading up to, during, and after the arrest, Defendant Roher was  
17 unable to articulate any reasonable suspicion or probable cause to believe that  
18 Plaintiff had committed or was committing a state misdemeanor, felony, or  
19 petty offense.

20 Deny.

21 211. Defendant Roher arrested Plaintiff for allegedly violating A.R.S.  
22 § 13-2906 (Obstructing a highway or other public thoroughfare), despite the

1 fact that Defendant Roher had no probable cause to believe that Plaintiff  
2 committed or was committing such crime.

3 Admit that Roher arrested Bressi for a suspected violation of A.R.S. §  
4 13-3906; Deny remaining allegations.

5 212. Defendant Kunze ratified Defendant Roher's actions and further  
6 prolonged the length of Plaintiff's arrest, despite the fact that neither  
7 Defendant Kunze nor Defendant Roher had probable cause to believe that  
8 Plaintiff committed any crime.

9 Deny.

10 213. At all relevant times, Defendants Roher and Kunze were acting  
11 under color of state law.

12 Admit.

13 214. Plaintiff's right to be free from arrest absent probable cause to  
14 believe that he committed or was committing a crime was clearly established  
15 as of April 10, 2017.

16 Admit only that this is a general statement of law; Deny Roher and/or  
17 Kunze violated clearly-established law.

18 215. Under this Count, Plaintiff seeks damages pursuant to 42 U.S.C.  
19 § 1983 against Defendants Roher and Kunze, for effectuating and

1 subsequently ratifying Plaintiff's arrest, without probable cause to believe that  
2 Plaintiff committed or was committing a crime.

3 Admit only that Bressi is seeking damages; Deny that Bressi's arrest  
4 lacked probable cause; Deny that Kunze ratified an unlawful arrest;  
5 affirmatively allege Roher and Kunze did not violated [sic] Bressi's  
6 constitutional rights.

7 **COUNT IV**  
8 **Violation of Constitutional Rights Pursuant to *Monell v. New York City***  
9 ***Department of Social Services***  
10 **Against Defendant Napier, in his Official Capacity**

11 216. Plaintiff hereby realleges and incorporates by reference the  
12 allegations contained in paragraphs 1-215 as though fully set forth herein.

13 Re-allege/incorporate Answers to allegations 1-215 herein.

14 217. As Sheriff, Defendant Napier is a final policymaker over the  
15 County's law enforcement matters.

16 Deny for the reason that this sets forth a purely legal conclusion w/o  
17 any reference to any specific facts.

18 218. Defendant Napier created a custom and practice of routinely  
19 permitting PCSD deputies, including Defendant Roher, to serve entire work  
20 shifts while stationed at the SR-86 checkpoint.

21 Deny.



1           222. Plaintiff hereby realleges and incorporates by reference the  
2 allegations contained in paragraphs 1-221 as though fully set forth herein.

3           **Re-allege/incorporate Answers to 1-221 herein.**

4           223. Prior to April 10, 2017, there existed a pattern of similar  
5 constitutional violations by similarly untrained employees of PCSD  
6 performing law enforcement duties at the SR-86 checkpoint and at other  
7 checkpoints operated by the Border Patrol within the unincorporated portions  
8 of Pima County.

9           **Deny.**

10          224. Defendant Pima County Supervisors failed to enforce or  
11 otherwise encourage proper training of the Pima County Sheriff's Department  
12 deputies and, therefore, failed to adequately train their deputies to handle  
13 usual and recurring situations.

14          **Deny.**

15          225. Defendants failed to train their deputies to handle usual and  
16 recurring situations.

17          **Deny.**

18          226. Defendants were indifferent to the substantial risk of inadequate  
19 training to prevent violations of law by its deputies.

20          **Deny.**

1 227. Defendants' failure to train was the proximate cause of the  
2 deprivation of Plaintiff's constitutional rights.

3 **Deny.**

4 228. Defendants could have prevented the constitutional violation of  
5 Plaintiff with an appropriate training.

6 **Deny.**

7 229. As a result, Plaintiff has been injured and is entitled to damages.

8 **Deny.**

9 **COUNT VI**  
10 **Failure to Supervise, 42 U.S.C. § 1983**  
11 **Against Defendant Napier in his Individual Capacity, and Against**  
12 **Defendants Nanos, Kunze, and Pima County Board of Supervisors**

13  
14 230. Plaintiff hereby realleges and incorporates by reference the  
15 allegations contained in paragraphs 1-229 as though fully set forth herein.

16 **Re-allege/incorporate Answers to 1-229 herein.**

17 231. Defendants Napier, Nanos, Kunze, and Pima County Board of  
18 Supervisors were acting under the color of state law at all times relevant  
19 herein.

20 **Admit only hat [sic] Napier when undertaking law-enforcement duties**  
21 **acts under color of law; Admit Kunze was acting under color of law on**



1 April 10, 2017, during his interaction with Bressi; Deny remaining  
2 allegations.

3 232. Defendants failed to properly supervise their deputies, thereby  
4 depriving Plaintiff of his constitutional rights.

5 Deny.

6 233. Defendants knew or reasonably should have known that their  
7 subordinates were engaging in acts that deprived Plaintiff (and other  
8 motorists) of their constitutional rights.

9 Deny.

10 234. Defendants knew or reasonably should have known that the  
11 subordinates' conduct would deprive Plaintiff of his constitutional rights.

12 Deny.

13 235. Defendants failed to act to prevent their subordinates from  
14 engaging in such conduct.

15 Deny.

16 236. Defendants disregarded the known or obvious consequences that  
17 a deficiency in adequate supervision would cause the subordinates to violate  
18 Plaintiff's constitutional rights.

19 Deny.



1           243. The necessary elements of false imprisonment under Arizona law  
2 are: (1) the defendant acted with intent to confine another person within  
3 boundaries fixed by the defendant; (2) the defendant's act resulted in such  
4 confinement, either directly or indirectly; and (3) the other person was  
5 conscious of the confinement or was harmed by it. *See Hart v. Raynor*, 190  
6 Ariz. 272 (App. 1997); *Boies v. Raynor*, 89 Ariz. 257 (1961).

7           Deny for reason that this paragraph sets forth a statement of law w/o  
8 any application to fact.

9           244. Defendant Roher acted with intent and confined Plaintiff within a  
10 fixed boundary, at the side of State Route 86.

11           Deny.

12           245. Plaintiff did not consent to such confinement.

13           Deny.

14           246. Defendant Roher's conduct resulted in the confinement of  
15 Plaintiff, without probable suspicion of any crime or state traffic violation  
16 committed by Plaintiff.

17           Deny.

18           247. In confining Plaintiff without Plaintiff's consent, Defendant  
19 Roher acted outside the scope of the warrantless arrest authority conferred  
20 upon him by Title 13 and Title 41 of Arizona Revised Statutes.

1 Deny.

2 248. Plaintiff was conscious of the confinement inflicted upon him by  
3 Defendant Roher on April 10, 2017.

4 County defendants are w/o sufficient information to admit or deny  
5 because this allegation refers to Bressi's statement of mind and  
6 therefore deny same.

7 249. Defendant Kunze ratified and acquiesced to the actions that  
8 Defendant Roher took in confining Plaintiff. Defendant Kunze had the  
9 authority and ability to reverse or otherwise halt the unlawful actions of  
10 Defendant Roher.

11 Deny.

12 250. Plaintiff has been damaged and is entitled to monetary damages.

13 Deny.

14 **COUNT VIII**  
15 **False Imprisonment (FTCA), 28 U.S.C. § 1346(b),**  
16 **Against the United States of America**

17  
18 251. Plaintiff hereby realleges and incorporates by reference the  
19 allegations contained in paragraphs 1-250 as though fully set forth herein.

20 Re-allege/incorporate Answers to 1-250 herein.

21 252. Through the actions described herein on April 10, 2017,  
22 employees of Defendant United States of America, during the course of their

1 work duties at the SR-86 checkpoint, intentionally confined Plaintiff within  
2 the boundaries of the checkpoint.

3 County defendants are w/o sufficient information to admit/deny  
4 because the allegation is alleged solely against federal defendants and  
5 therefore county defendants deny this paragraph.

6 253. Additionally, through the actions described herein on April 10,  
7 2017, employees of Defendant United States of America, during the course of  
8 their work duties, induced and/or encouraged Defendant Roher to confine  
9 Plaintiff in handcuffs after leaving the boundaries of the SR-86 checkpoint.

10 County defendants are w/o sufficient information to admit/deny  
11 because the allegation is alleged solely against federal defendants and  
12 therefore county defendants deny this paragraph.

13 254. Plaintiff did not consent to such confinement.

14 County defendants are w/o sufficient information to admit/deny  
15 because the allegation is alleged solely against federal defendants and  
16 pertains to Bressi's knowledge of consent; therefore county defendants  
17 deny this paragraph.

18 255. Employees of Defendant United States of America acted with  
19 intent in encouraging and/or inducing Defendant Roher to confine Plaintiff at  
20 the side of State Route 86. Additionally, employees of Defendant United

1 States of America acted with intent in confining Plaintiff within the  
2 boundaries of the SR-86 checkpoint prior to Defendant Kunze's placing  
3 Plaintiff into handcuffs.

4 County defendants are w/o sufficient information to admit/deny  
5 because the allegation is alleged solely against federal defendants and  
6 therefore county defendants deny this paragraph.

7 256. The conduct of employees of Defendant United States of  
8 America resulted in the confinement of Plaintiff, without probable suspicion  
9 of any crime, state traffic violation, or civil immigration violation under  
10 federal law.

11 County defendants are w/o sufficient information to admit/deny  
12 because the allegation is alleged solely against federal defendants and  
13 therefore county defendants deny this paragraph.

14 257. Plaintiff was conscious of the confinement inflicted upon him on  
15 April 10, 2017.

16 County defendants are w/o sufficient information to admit/deny  
17 because the allegation is alleged solely against federal defendants and  
18 therefore county defendants deny this paragraph.

19 258. As a proximate result of the acts alleged herein, Plaintiff is  
20 entitled to damages in an amount to be proven at trial.

1 County defendants are w/o sufficient information to admit/deny  
2 because the allegation is alleged solely against federal defendants and  
3 therefore county defendants deny this paragraph.

#### 4 AFFIRMATIVE DEFENSES

- 5
- 6 1. All allegations not specifically admitted are denied.
- 7
- 8 2. County Defendants affirmatively alleged the FAC fails to state a claim  
9 for which relief may be granted.
- 10 3. County Defendants assert this Court lacks subject matter jurisdiction  
11 over Bressi's claims for injunction and declarative relief.
- 12 4. County Defendants assert Qualified Immunity on behalf of all  
13 individually named defendants.
- 14 5. County Defendants assert existence of probable cause and reasonable  
15 suspicion.
- 16 6. Statute of Limitations with respect to any and all claims against Nanos  
17 that arise out of conduct that occurred prior to April 10, 2017.
- 18 7. Statute of Limitations with respect to any conduct complained of about  
19 any and all other county defendants that occurred prior to the applicable  
20 statute of limitations.
- 21 8. Possible statute of limitations with respect to the state law claim against  
22 Roher and Kunze if the state law claim is found not to relate back.

1 9. PCBOS lacks legal authority over Sheriff and his deputies regarding the  
2 execution of statutorily imposed law enforcement duties and Sheriff's  
3 promulgation of Rules and Regulations, including those relative to law  
4 enforcement duties.

5 10. BOS authority regarding grants is set forth by statute and that statute  
6 does not require BOS to accept or approve grants with conditions.

7 11. County defendants reserve the right to amend their Answer to include  
8 any additional affirmative defenses that may be revealed through disclosure  
9 and discovery.

10 WHEREFORE, PC Defendants request the following relief in their  
11 favor and against Plaintiff Bressi:

12 A. Plaintiff's SAC be dismissed, with prejudice;

13 B. Plaintiff take nothing by his SAC;

14 C. Court award defendants their costs and fees incurred in  
15 defending this action, including under Rule 11, Fed. R. Civ. P., and/or 42  
16 U.S.C. § 1988 if appropriate;

17 D. Other such further relief as the Court may deem just and proper.

18 **REQUEST FOR RELIEF**

19 WHEREFORE, Plaintiff prays that the Court grant relief as follows:



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1. Declaratory relief concerning the unconstitutionality of Defendants' actions as described herein and as outlined in Counts I and II.

2. A preliminary and permanent injunction prohibiting Defendants from engaging in any of the unconstitutional behaviors as described herein and as outlined in Counts I and II; and to put into place safeguards sufficient to ensure that these constitutional violations do not continue in the future;

3. Compensatory, general, statutory, and special damages in an amount according to proof;

4. Attorneys' fees and costs, and costs of suit, as provided by 42 U.S.C. § 1988, and any other applicable authority;

5. Such other relief as this Court deems appropriate.

Dated this 31st day of December, 2018.

Ralph E. Ellinwood, Attorney at Law, PLLC

/s/ Ralph E. Ellinwood  
Ralph E. Ellinwood  
Attorney for Plaintiff