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

Terrence Bressi, Plaintiff, vs. Mark Napier, in his individual and official capacities, et al., Defendants.	Case No. 4:18-cv-00186-DCB **PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANTS' PARTIAL MOTION TO DISMISS** **(Oral Argument Requested Per L. R. Civ. P. 7.2)**

Plaintiff submits this opposition to the motion to dismiss filed by Defendants Napier, Pima County Board of Supervisors, Nanos, Roher, and Kunze (referred to in the Second Amended Complaint, Doc. 44, as "County Defendants" and referred to collectively here as "Defendants"). Plaintiff requests that this Court deny the motion in its entirety.

I. BACKGROUND

This action challenges a years-long joint operation between Pima County Sheriff deputies and the United States Border Patrol ("USBP") at the federal

checkpoint located on State Route 86, west of Tucson. (hereafter "Checkpoint"). (Doc. 44, ¶¶ 86, 95). Border Patrol checkpoints, such as this one, are sometimes constitutional, but only where the intrusion on motorists is minimal, the discretion of line-officers is limited, and the operational focus is immigration enforcement. *United States v. Martinez-Fuerte*, 428 U.S. 543, 546 (1976). Joint operations with Sheriff's deputies fundamentally alter the constitutional character of the Checkpoint. During those hours when joint operations are underway, no longer is immigration the primary objective and no longer is discretion limited.

During joint operations, which are made possible through a federal grant program called "Operation Stonegarden," Sheriff's deputies are stationed alongside USBP agents for hours at a time or deployed in close proximity to the Checkpoint. Motorists who are swiftly cleared by USBP agents are sometimes instructed to remain at the Checkpoint for additional time to await questioning by a deputy. (Doc. 44, ¶¶ 87-89). Neither Operation Stonegarden nor any law confers upon Defendants the authority to enforce federal immigration laws, thus deputies, by definition, are limited to enforcing state laws. And despite extensive involvement with federal checkpoints over the years, county officials made no efforts to train their deputies about federal checkpoints. (Doc. 44, ¶¶ 118-128)

Plaintiff routinely travels State Route 86 for work-related reasons. Each time, he must pass through the Checkpoint. (Doc. 44, ¶ 43) Between 2005 and early 2018, Plaintiff was temporarily stopped and seized by USBP agents 419 times. (Doc. 44, ¶

70). Despite claiming that the checkpoint is primarily an immigration enforcement tool, USBP operates the checkpoint in a way that suggests an overriding purpose to detect general crimes, something not permitted by the Fourth Amendment. For example, USBP stated in a recent highway permit application that the Checkpoint is for deterrence of drug smuggling. (Doc. 44, ¶ 66) Similarly, the Checkpoint features a 24/7 license plate reader that pipes data to the federal Drug Enforcement Agency, presumably to investigate exclusively drug-related crimes. (Doc. 44, ¶ 67)

Plaintiff has experienced many extended seizures by USBP agents over the years and has never been suspected of violating federal immigration laws. (Doc. 44, ¶¶ 72-76). Over time, USBP agents began detaining Plaintiff solely to provide Sheriff's deputies an opportunity to conduct general law enforcement investigations. Several such incidents took place between 2013 and 2017. (Doc. 44, ¶ 148) In one instance, deputies detained Plaintiff for an extended period and released him without charges or a traffic citation. In the remaining instances, Sheriff's deputies cited Plaintiff with state law violations. (Doc. 44, ¶¶ 111-12, 148). The most recent of these incidents took place on April 10, 2017. (Doc. 44, ¶¶ 149-150)

The USBP continues to operate the Checkpoint and Defendants currently receive Operation Stonegarden funding. Plaintiff continues to drive the same route on a regular basis and will continue to do so for the foreseeable future. Due in large part to the receipt of Operation Stonegarden money, it is likely that Defendants will continue to have direct involvement at the federal Checkpoint.

II. THIS COURT HAS SUBJECT-MATTER JURISDICTION OVER ALL INJUNCTIVE AND DECLARATORY CLAIMS, PURSUANT TO *CITY OF LOS ANGELES v. LYONS*.

Defendants seek to dismiss the injunctive and declaratory claims found in Counts I and II, asserting that Plaintiff is not "immediately in danger of sustaining some direct injury," (c*iting City of Los Angeles v. Lyons*, 461 U.S. 95, 101-02 (1983)). (Doc. 46, p. 4) Defendants appear to challenge only injury-in-fact, the prong of standing that is most typically disputed in injunction cases. *Chapman v. Pier 1 Imports*, 631 F.3d 939, 946 (9th Cir. 2011) (noting that "the causation and redressability elements of standing are not at issue" and thus injury-in-fact is the only inquiry). In this case, Plaintiff pled past harms that demonstrate "a real and immediate threat of repeated injury," *O'Shea v. Littleton*, 414 U.S. 488, 496 (1974), as well as facts demonstrating he is "realistically threatened by a repetition" of the violation. *Armstrong v. Davis*, 275 F.3d 849, 860–61 (9th Cir. 2001).

When standing is challenged at this early stage of litigation, courts "accept as true all material allegations [and] construe the complaint in favor of the complaining party." *Pennell v. City of San Jose*, 485 U.S. 1, 7 (1988) (internal citations omitted). Additionally, challenges to standing are analyzed under Fed. R. Civ. P. 12(b)(1) and thus the heightened pleading standard is not applicable. *Maya v. Centex Corp.*, 658 F.3d 1060, 1068 (9th Cir. 2011) ("[B]ecause the district court treated the motion as a 12(b)(6) motion, it inappropriately applied the standards of *Ashcroft v. Iqbal* and *Bell Atlantic Corp. v. Twombly*").

Despite Defendants' assertion that Plaintiff failed to show that he "is immediately in danger of sustaining some direct injury," (Doc. 46, p. 4), Plaintiff pled precisely this.[1] Plaintiff alleges not merely that he is at risk of future unconstitutional arrest, as was the case in *Lyons*. Plaintiff asserts that he is at risk of being victimized *every time* he drives through the Checkpoint, even when the encounter is relatively brief. As to the Sheriff's deputies, Plaintiff is subject to a constitutional deprivation every time he passes through the Checkpoint during those times when a deputy is stationed there or during those times when a deputy is deployed under Operation Stonegarden in close proximity to the Checkpoint. This is because "checkpoints operated with the primary purpose of detecting illegal narcotics and/or ordinary criminal wrongdoing" create an automatic Fourth Amendment violation upon "the temporary seizure of motorists absent individualized suspicion." (Doc. 44, ¶ 197). Thus, Plaintiff experiences a Fourth Amendment violation several dozen times per year, with several of those violations directly attributable to the actions of Sheriff's deputies. (Doc. 44, ¶ 70).

[1] With regard to Count I (First Amendment): Doc. 44, ¶ 193 (noting that Plaintiff "reasonably fears that all Defendants are likely to continue to chill Plaintiff's First Amendment rights"; Doc. 44, ¶ 194 ("Defendants are almost certain to continue to deprive Plaintiff of his First Amendment rights."). With regard to Count II (Fourth Amendment): Doc. 44, ¶ 205 ("on many occasions since [April 10, 2017], Plaintiff was unlawfully seized by Defendants"); Doc. 44, ¶ 206 ("the unlawful conditions . . . as they existed on April 10, 2017, continue to exist at the SR-86 checkpoint today").

Between Plaintiff's various worksites, there are no alternate routes. Short of changing his employment, Plaintiff has no choice but to pass through the Checkpoint, thus making his repeat victimization a "virtual necessity," *Wooley v. Maynard*, 430 U.S. 705, 715 (1977) (discussing the likelihood of future constitutional injuries where one's harm is inherently connected with driving from home to work). Thus, Plaintiff anticipates the continued and indefinite need to traverse the same path on a regular basis. (Doc 44, ¶ 84); s*ee also, Fortyune v. Am. Multi-Cinema, Inc*., 364 F.3d 1075, 1082 (9th Cir. 2004) (noting the risk of future harm "cannot be said to be so remote" when plaintiff often returns to the spot where the original harm took place).

Defendants characterize this lawsuit as involving one incident on April 10, 2017, yet Plaintiff has alleged a long train of similar abuses by both the federal agents and Sheriff's deputies. While "[p]ast exposure to illegal conduct does not in itself show a present case or controversy," past wrongs "are evidence bearing on whether there is a real and immediate threat of repeated injury." *O'Shea v. Littleton*, 414 U.S. 488, 496 (1974); *see also, Nicacio v. I.N.S.*, 797 F.2d 700, 702 (9th Cir.1985) ("[The] possibility of recurring injury ceases to be speculative when actual repeated incidents are documented."); *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 558 (9th Cir. 1990) (finding *Lyons* standing where there is "a persistent pattern of misconduct"). Here, there are "numerous instances of police misconduct [occurring] in a small . . . area." *Thomas v. Cty. of Los Angeles*, 978 F.2d 504, 508 (9th Cir. 1992), *as amended* (Feb. 12, 1993).

Indeed, Plaintiff has been subject to state-law citations at the Checkpoint on various occasions prior to April 10, 2017. (Doc 44, ¶ 148). Additionally, Plaintiff suffered similar harms years prior along the same highway but at the hands of a different local police agency. *Bressi v. Ford*, 575 F.3d 891, 894 (9th Cir. 2009). While Sheriff's deputies are not present every time that Plaintiff passes through the Checkpoint, they are present frequently enough to meet the requirements of *Lyons*. And Sheriff's deputies, "independent of their Federal Defendant partners, possess an independent legal obligation to conduct their state-law law enforcement duties in such a manner that does not run afoul" of the Fourth Amendment. (Doc 44, ¶ 204).

Dismissal under 12(b)(1) would be inappropriate here because "general factual allegations of injury resulting from the defendant's conduct may suffice" when the motion to dismiss attacks standing. *Maya*, 658 F.3d at 1068. Plaintiff has pled more than adequate details to establish that it is "likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992).

Perhaps recognizing that Plaintiff adequately pled standing, Defendants attempt to jump to the merits of the case. (Doc 46, p. 4) (asserting that Plaintiff "has [not] alleged a sufficient constitutional violation.") Not so. *Warth v. Seldin*, 422 U.S. 490, 500 (1975) (observing that "standing in no way depends on the merits of the plaintiff's contention that particular conduct is illegal"); *Maya*, 658 F.3d at 1068 ("[T]he threshold question of whether plaintiff has standing (and the court has

jurisdiction) is distinct from the merits of his claim."). At a later stage of litigation, Defendants and this Court will have the opportunity to assess whether "Bressi has . . . alleged a sufficient constitutional violation." (Doc 46, p. 4). At this stage, however, the Court is asked to determine only whether Plaintiff "has alleged such a personal stake in the outcome of the controversy as to warrant his invocation of federal court jurisdiction." *Warth*, 422 U.S. at 498–99.

Even if a consideration of merits were appropriate, Defendants have not briefed the First and Fourth Amendment issues raised by Counts I and II. Defendants merely regurgitate cases that authorize law enforcement agencies to maintain highway checkpoints, (citing four Supreme Court cases). (Doc. 46, p. 4) Plaintiff does not dispute that checkpoints can sometimes be operated in a constitutional manner. (Doc 44, ¶¶ 198-200). Rather, Plaintiff alleges that the Checkpoint was operated in an unconstitutional manner on April 10, 2017, on several previous occasions, on several subsequent occasions, and will continue to so operate into the future. (Doc 44, ¶¶ 107-110, 202, 205-6).

Further, Defendants' cases do not discuss whether a federal agent or a local officer may compel law-abiding citizens to answer questions, or whether local officers conducting general law enforcement operations at federal checkpoints may compel motorists to answer federal agents' questions. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S. 543, 567 (1976) (authorizing, under a Fourth Amendment analysis, only "the type of stops described in this opinion"); *Mich. Dept. of State*

Police v. Sitz, 496 U.S. 444 (1990) (limiting the Court's holding "only [to] the initial stop of each motorist passing through a checkpoint" and not the "treatment of any person after an actual [checkpoint] detention" has occurred); *City of Indianapolis v. Edmond*, 531 U.S. 32, 47–48 (2000) (emphasizing the limited scope of the Court's holding). The phrases "speak," "speech," and "First Amendment" appear nowhere in the Fourth Amendment checkpoint cases cited by Defendants.

III. IN APRIL 2017, IT WAS CLEARLY ESTABLISHED THAT PLAINTIFF'S CHOICE NOT TO SPEAK IN THIS CONTEXT WAS FIRST AMENDMENT PROTECTED AND GOVERNMENT COMPULSION OF SUCH SPEECH WAS SUBJECT TO STRICT SCRUTINY REVIEW.

Defendants seek to dismiss Plaintiff's compensatory damages claim in Count I because the "alleged conduct [did not] violate clearly-established law." (Doc 46, p. 8) As described above, the USBP's authority to seize motorists at checkpoints "for brief questioning," does not impair a motorist's First Amendment rights. *Martinez-Fuerte*, 428 U.S. at 567. This includes the right to make "a pointed expression of anguish . . . about the then-current domestic and foreign affairs of his government," *Spence v. State of Wash.*, 418 U.S. 405, 410 (1974). Nonverbal actions are sometimes "a form of utterance" entitled to First Amendment protection, *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 632 (1943), and citizens cannot be "force[d] . . . to confess by word or act their faith" in matters of politics or nationalism. *Id.* at 642. Plaintiff's arrest on April 10, 2017, was in direct response to his "decision not to acknowledge or bear witness to a government activity with which Plaintiff disagrees."

(Doc 44, ¶¶ 155, 188) Thus, Defendants' actions amounted to a requirement that Plaintiff state an "ideological point of view [that] he finds unacceptable." *Wooley*, 430 U.S. at 715.

Context matters, *Texas v. Johnson*, 491 U.S. 397, 405 (1989), and the topic of immigration enforcement is among the most ideologically-driven issues in our public discourse today. Here, Plaintiff's silence conveys a specific message in a specific context. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 510 (1969) (holding that the wearing of black armbands in the context of "opposition to this Nation's part in the conflagration in Vietnam" was expressive activity). In the context of refusing to answer the citizenship question at a checkpoint, "the likelihood [is] great that the message w[ill] be understood by those who view it" – *i.e.*, the law enforcement officers stationed at the Checkpoint. *Anderson v. City of Hermosa Beach*, 621 F.3d 1051, 1058 (9th Cir. 2010) (quoting *Spence*, 418 U.S. at 409). Even without the benefit of discovery, it is evident that Plaintiff's intended audience has understood the political message. (Doc 44, ¶ 181) ("Defendant Roher revealed to Plaintiff that he was familiar with Plaintiff's ideological views regarding Border Patrol checkpoints"; (Doc 44, ¶ 184) ("Defendant Roher admitted to discussing Plaintiff with Border Patrol employees").

Even seemingly benign compelled statements are deemed to be ideological in nature and therefore touching on the core of First Amendment protections. *Frudden v. Pilling*, 742 F.3d 1199, 1207 (9th Cir. 2014) (public school uniform bearing the

motto "Tomorrow's Leaders"); *Cressman v. Thompson*, 719 F.3d 1139 (10th Cir. 2013) (a "standard Oklahoma license plate of a Native American shooting an arrow toward the sky."); *Evergreen Ass'n, Inc. v. City of New York*, 740 F.3d 233 (2nd Cir. 2014) (whether or not a clinic "provide[s] referrals for abortion.").

Assuming, *arguendo*, that Plaintiff's refusal to answer a question is not the expression of an ideological viewpoint but rather the utterance of a fact, Plaintiff's First Amendment right is nevertheless clearly established. Indeed, the First Amendment has long applied "not only to expressions of value, opinion, or endorsement, but equally to statements of fact the speaker would rather avoid." *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Boston*, 515 U.S. 557, 573 (1995). Prior to 2017, courts within the Ninth Circuit have similarly applied strict scrutiny to strike down government policies that compel purely factual statements. *See, e.g., S. California Inst. of Law v. Biggers*, 2013 WL 11316948, at *4 (C.D. Cal. Aug. 19, 2013), *aff'd*, 613 F. App'x 665 (9th Cir. 2015) ("Compelled statements of fact, like those of opinion, are subject to First Amendment scrutiny"); *Doe v. City of Simi Valley*, 2012 WL 12507598, at *7 (C.D. Cal. Oct. 29, 2012) (noting that strict scrutiny applies "even in cases where the compelled disclosure is limited to factually accurate or non-ideological statements.").

Defendants have not cited, and Plaintiff is unaware of, any cases that alter this First Amendment analysis in the checkpoint context. Law enforcement officers are constitutionally permitted to ask questions, but a member of the public "is not obliged

to respond." *Berkemer v. McCarty*, 468 U.S. 420, 439 (1984). This includes an officer's questions "confirming or dispelling the officer's suspicions." *Id*. Here, it is undisputed that Plaintiff's refusal to answer did not give rise to reasonable suspicion of wrongdoing. *Florida v. Bostick*, 501 U.S. 429, 437 (1991) ("[A] refusal to cooperate, without more, does not furnish the minimal level of objective justification needed for a detention or seizure.") If, for instance, the stopping federal agent suspected otherwise, he would have never allowed a local law enforcement officer to commandeer his immigration inspection of Plaintiff. (Doc 44, ¶¶158-163).

Thus, Plaintiff has made a threshold showing that his First Amendment right to remain silent while being seized and interrogated at a checkpoint was clearly established in April 2017.

IV. DEFENDANT NAPIER IS PROPERLY NAMED AS A DEFENDANT AND SHOULD NOT BE DISMISSED.

Defendants argue that Defendant Napier's inclusion in this action is "redundant" because the Pima County Board of Supervisors are also named defendants. There is no redundancy, and Defendants' assertion may stem from a simple misunderstanding. In their motion to dismiss, Defendants incorrectly identify Counts V and VI as *Monell* claims. (Doc 46, p. 3) Counts V and VI are not *Monell* claims and are alleged against Defendant Napier and other county officials in their individual capacities. Although it is common to assert failure to train/supervise claims against officers in their official capacity, *Connick v. Thompson*, 563 U.S. 51, 54 (2011), Plaintiff chose to sue them in their individual capacities.

Count IV, by contrast, is a *Monell* claim. Count IV names only one Defendant: Sheriff Napier in his official capacity. Indeed, it would have been redundant if both Sheriff Napier and the Board had been named in Count IV. *Kentucky v. Graham*, 473 U.S. 159, 165 (1985) ("Official-capacity suits . . . generally represent only another way of pleading an action against an entity.") Because Sheriff Napier is the only Defendant in Count IV, there is no redundancy. In Counts V and VI, both Sheriff Napier and the Board are named because each bore an independent legal responsibility to train and supervise deputies. *See, e.g.,* Doc 44, ¶ 27 (Board of Supervisors are "vested with the authority to supervise the official conduct of . . . the Sheriff"). The case cited by Defendants reaffirms that both defendants may co-exist in this case. *Ctr. for Bio-Ethical Reform v. Los Angeles Cnty. Sheriff Dept.*, 533 F.3d 780, 799 (9th Cir. 2008) (an officer may be redundant when the entity is named and "the officer is named only in an official capacity.")

V. PLAINTIFF ADEQUATELY PLED THE NECESSARY ELEMENTS IN COUNT V (FAILURE TO TRAIN) AND COUNT VI (FAILURE TO SUPERVISE).

Plaintiff asserts failure to supervise/train claims against two current Sheriff supervisory employees, one former Sheriff supervisory employee, and the County Board of Supervisors. Defendants seek dismissal of these counts because, they assert, Plaintiff did not plead the "personal participation" necessary to establish a "causal connection" between the supervisors' conduct and the constitutional harm. (Doc 46, p. 9) (*citing Connick v. Thompson*, 563 U.S. 51 (2011)). Additionally, Defendants

assert that Plaintiff made "only conclusory allegations about a pattern of similar constitutional violations." (Doc 46, p. 10).

Again, Plaintiff does not raise Counts V and VI as *Monell* (*i.e.*, official capacity) claims. As Defendants correctly note, *Monell* claims typically require a showing that the government officials acted with deliberate indifference. (Doc 46, p. 9). The parties appear to agree that a showing of deliberate indifference is not required when officials are being sued for their personal failings that proximately caused the constitutional deprivation. (Doc. 46, p. 9) (noting that official capacity *Monell* claims "generally require proof of deliberate indifference . . . however, Bressi has alleged [Counts V and VI] . . . as individual capacity claims.") Because of this apparent point of agreement with regard to Counts V and VI, Plaintiff does not brief deliberate indifference here.

There is no *respondeat superior* liability under Section 1983 and so Plaintiff is, in fact, required to demonstrate that "the supervisor participated in or directed the violations, or knew of the violations and failed to act to prevent them." *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989). Plaintiff's supervisory claims focus on the second half of that formulation: knowledge of the violations and failure to prevent them. Because "a supervisor will rarely be directly and personally involved in the same way as are the individual officers," personal involvement may be shown through the supervisor's "setting in motion of acts which cause others to inflict constitutional injury." *Larez v. City of Los Angeles*, 946 F.2d 630, 645 (9th Cir. 1991); s*ee also,*

Dubner v. City & County of San Francisco, 266 F.3d 959, 968 (9th Cir. 2001) (reversing dismissal of police chief because Plaintiff adequately alleged that the chief "knowingly refused to terminate a series of acts by others" that he "reasonably should have known would cause others to inflict a constitutional injury").

Plaintiff has alleged that the Sheriff supervisors were personally aware that deputies operated at the Checkpoint, that they reasonably should have known the resulting constitutional violations, and that they knowingly refused to terminate these operations. For example, Plaintiff pled the existence of an extensive and comprehensive 'Rules and Regulations' document. (Doc 44, ¶¶ 135-38). Plaintiff pled that this document prescribed guidelines about sobriety checkpoints, (Doc 44, ¶¶ 139-40) but not about federal checkpoints. (Doc 44, ¶¶ 141-42). Plaintiff pled that the Sheriff conducted an annual review "to ensure that the document reflects the latest developments in the law," (Doc 44, ¶ 137), and that neither Nanos nor Napier reviewed the document with an eye to the federal checkpoint operations. (Doc 44, ¶¶ 144). Plaintiff pled that both Nanos and Napier were "on notice that their deputies were regularly undertaking general law enforcement efforts" at federal checkpoints and that they were "personally aware that certain motorists had been cited by deputies" at federal checkpoints. (Doc 44, ¶¶ 145-46). Plaintiff even pled that at least one high-ranking Sheriff's official personally knew of Plaintiff's interactions with deputies at the Checkpoint. (Doc 44, ¶ 147).

With regard to the pattern of unconstitutional conduct, Plaintiff alleges that the mere presence of deputies at the Checkpoint renders all checkpoint seizures unconstitutional during those hours when deputies are present and engaged in traffic and criminal enforcement. (Doc 44, ¶¶ 97-109, 197, 199-206). Thus, for many years, Defendants' personal inaction caused thousands of motorists to suffer constitutional injuries. Plaintiff pled that over the course of many years, deputies stationed themselves at the Checkpoint for entire work shifts, "routinely" conducting traffic enforcement. (Doc 44, ¶¶ 96-101). Further, Plaintiff offered two specific and concrete examples evidencing repeat constitutional violations by deputies at the Checkpoint. (Doc 44, ¶¶ 105, 107-09).

Lastly, Defendants argue that Defendant Nanos should be dismissed because he lacked "personal participation" and because he was no longer the Sheriff on April 10, 2017. Government officials are not immune from Section 1983 liability simply because they are no longer acting under color of state law when the lawsuit commences. To the contrary, individual-capacity claims are regularly brought against former government officials for actions they took when still employed. *Schweiker v. Chilicky*, 487 U.S. 412, 418 (1988) (summarizing individual-capacity *Bivens* claims brought against former government officials). And, as described above, Defendant Nanos' personal failure to train and supervise proximately caused Plaintiff's constitutional injuries.

VI. CONCLUSION

For the reasons stated above, Plaintiff respectfully requests that Defendants' motion to dismiss be denied in its entirety to enable the parties to continue toward discovery in this case. Should this Court find that any portion of Plaintiff's amended complaint is wanting, Plaintiff requests that this Court grant a limited opportunity to amend the Complaint to fix any deficiencies.

Dated this 2nd day of August 2019.

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