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 7 Sanders, Provost, Karisch, U.S. Dept. of  
 Homeland Security, U.S. Customs and  
 8 Border Protection, and the United States

9  
 10 **UNITED STATES DISTRICT COURT**  
 11 **DISTRICT OF ARIZONA**

13 Terrence Bressi,  
 14 Plaintiff,  
 15 v.  
 16 Pima County Sheriff Mark Napier, et al.  
 17 Defendants.

No. CV-18-186-TUC-DCB  
**FEDERAL DEFENDANTS’  
 ANSWER**

19 The Federal Defendants—Defendants McAleenan, Sanders, Provost, Karisch, U.S.  
 20 Department of Homeland Security, U.S. Customs and Border Patrol, and the United  
 21 States—under Fed. R. Civ. P. 8(b) and 12(b)(1), answer Plaintiff Terrence Bressi’s Second  
 22 Amended Complaint (Doc. 42) as follows.<sup>1</sup>

23 1. Paragraphs 1, 3, 4, 5, and 6 are legal conclusions to which no response is required.  
 24 To the extent a response is deemed required, the Defendants deny.

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 26  
 27 <sup>1</sup> Because the Plaintiff’s claims in Counts III, IV, V, VI, and VII are aimed only at the  
 28 Pima County Defendants, the Federal Defendants have not answered the allegations in  
 those counts.

1 2. Defendants admit the allegations in paragraphs 44, 46, 47, 48, 49, 50, 52, 88, 89,  
2 90, 92, 150, 151, and 153.

3 3. Defendants deny the allegations in paragraphs 33, 53, 54, 60, 61, 62, 69, 76, 82,  
4 83, 85, 87, 97, 98, 156, 187, 190, 191, 194, 201, 202, 203, 206, 253, 255, 256, and 258.

5 4. Defendants lack knowledge or information sufficient to form a belief about the  
6 truth of the allegations in paragraphs 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20,  
7 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 41, 43, 45, 51, 63, 64, 65, 66, 67, 68, 70, 71,  
8 72, 73, 74, 81, 84, 90, 91, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111,  
9 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129,  
10 130, 131, 132, 133, 134, 125, 136, 137, 138, 139, 140, 141, 142, 143, 133, 145, 146, 147,  
11 148, 149, 152, 155, 158, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 71, 172,  
12 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 188, 189, 192, 204, 205,  
13 207, 254, and 257.

14 5. Answering paragraph 2, Defendants admit only that the Department of  
15 Homeland Security received a claim from Plaintiff and that the Department denied the  
16 claim on September 20, 2018. Defendants deny the remaining allegations.

17 6. Answering paragraph 34, Defendants admit only that the Department of  
18 Homeland Security is a Cabinet-level department with several component agencies,  
19 including U.S. Customs & Borders Protection, which safeguards America's borders.

20 7. Answering paragraph 42, Defendants admit only that the complaint identifies a  
21 federal employee acting within the scope of his employment with the federal government.  
22 Defendants deny the remaining allegations.

23 8. Answering paragraph 55, Defendants admit only that the checkpoint does not  
24 have detecting impaired drivers as its primary purpose.

25 9. Answering paragraph 56, Defendants admit only that the checkpoint does not  
26 have checking for driver's licenses as its primary purpose.

27 10. Answering paragraph 57, Defendants admit only that the checkpoint does not  
28 have enforcing hunting or poaching laws as its primary purpose.

1 11. Answering paragraph 58, Defendants admit only that the checkpoint does not  
2 have checking for automobile insurance as its primary purpose.

3 12. Answering paragraph 59, Defendants admit only that the checkpoint does not  
4 have enforcing vehicle weight limits as its primary purpose.

5 13. Answering paragraph 73, Defendants admit only that one or more agents was  
6 familiar with Plaintiff's personal vehicle. Defendants deny the allegations that Plaintiff's  
7 personal vehicle was "widely known." Defendants lack knowledge or information  
8 sufficient to form a belief about the truth of the allegations about the County Defendants.

9 14. Answering paragraph 75, Defendants admit only that one or more agents was  
10 aware that Plaintiff is a U.S. citizen. Defendants deny the allegation that all employees  
11 were aware of that.

12 15. Answering paragraph 77, Defendants admit only that Plaintiff has driven through  
13 the SR-86 checkpoint multiple times. Defendants deny the remaining allegations.

14 16. Answering paragraph 78, Defendants admit only that K9s are sometimes used at  
15 the SR-86 checkpoint.

16 17. Answering paragraph 80, Defendants admit that K9s are trained to detect several  
17 scents, including illegal narcotics.

18 18. Answering paragraph 86, Defendants admit only that a program called Operation  
19 Stonegarden exists to, among other things, provide grant money to local government  
20 agencies and that Pima County agencies have received grant money.

21 19. Answering paragraph 94, Defendants admit only that federal agencies can request  
22 local agencies to assist at certain times and locations. Defendants deny the remaining  
23 allegations.

24 20. Answering paragraph 95, Defendants admit only that Pima County Sheriff's  
25 Deputies have worked at the SR-86 checkpoint.

26 21. Answering paragraph 96, Defendants admit only that Pima County Sheriff's  
27 Department have parked vehicles near the SR-86 checkpoint.  
28

1 22. Answering paragraph 154, Defendants admit only that Plaintiff did not answer  
2 questions at the checkpoint. Defendants deny the remaining allegations.

3 23. Answering paragraph 157, Defendants admit only that Plaintiff was seated inside  
4 his vehicle and stopped when Agent Frye initially asked him questions.

5 24. Answering paragraph 159, Defendants admit only that Deputy Roher arrived to  
6 assist while Agent Frye was initially questioning Plaintiff. Defendants lack knowledge or  
7 information sufficient to form a belief about the truth of the remaining allegations.

8 25. Answering paragraph 193, Defendants lack knowledge or information sufficient  
9 to form a belief about the truth of the allegations about Plaintiff's injuries. Defendants  
10 deny that they violated the Constitution.

11 26. Answering paragraph 195, Defendants deny that Plaintiff is entitled to  
12 declaratory and injunctive relief. Defendants lack knowledge or information sufficient to  
13 form a belief about the truth of the allegations about the County Defendants.

14 27. Answering paragraph 197, Defendants admit only that *U.S. v. Martinez-Fuerte*  
15 and *City of Indianapolis v. Edmond*, are relevant binding cases issued by the Supreme  
16 Court.

17 28. Answering paragraph 198, Defendants admit only that the Fourth Amendment  
18 permits it to operate the checkpoint at SR-86.

19 29. Answering paragraph 252, Defendants admit only that Plaintiff was stopped at  
20 the SR-86 checkpoint. Defendants deny the remaining allegations.

21 30. Defendants affirmatively allege that:

- 22 a. One or more of Plaintiff's claims is barred by the statute of limitations;  
23 b. One or more of Plaintiff's claims is barred for failure to exhaust  
24 administrative remedies;  
25 c. One or more of Plaintiff's claims is barred by 28 U.S.C. § 2680(a); and  
26 d. One or more of Plaintiff's claims is barred because it is based on the actions  
27 of contractors rather than federal employees.  
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31. Defendants request that this Court grant the following relief:

- a. Find that Plaintiff is entitled to take nothing by his complaint and dismiss the action;
- b. Award Defendant costs and expenses incurred in defending this action; and
- c. Other relief as this Court deems appropriate.

October 2, 2019.

MICHAEL BAILEY  
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District of Arizona

By s/ Dennis C. Bastron  
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Assistant U.S. Attorney  
*Attorney for the Federal Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 2, 2019, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing. Additionally, I served the attached document by U.S. mail on the following, who are not registered participants of the CM/ECF System:

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By s/ Dennis C. Bastron