

1 MICHAEL BAILEY  
United States Attorney  
2 District of Arizona  
DENNIS C. BASTRON  
3 Assistant U.S. Attorney  
Arizona State Bar No. 027294  
4 United States Courthouse  
405 W. Congress Street, Suite 4800  
5 Tucson, Arizona 85701  
Telephone: 520-620-7300  
6 Dennis.Bastron@usdoj.gov  
*Attorney for Defendants McAleenan,*  
7 *Sanders, Provost, Karisch, U.S. Dept. of*  
8 *Homeland Security, U.S. Customs and*  
*Border Protection, and the United States*

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

12  
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'  
MANDATORY INITIAL  
DISCOVERY REPSONSES**

18  
19 The Federal Defendants, following the Court's April 10, 2019 Order (Doc. 4),  
20 provides the following mandatory initial discovery responses:  
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1 **MANDATORY INITIAL DISCOVERY RESPONSES**

2 **I. PEOPLE LIKELY TO HAVE DISCOVERABLE INFORMATION**

3 The following people, identified by name and, if known, address and telephone  
4 number, are likely to have discoverable information relevant to any party's claims or  
5 defenses, and they possess the information described below.

6 **A. Terrence Bressi**  
7 **c/o Ralph E. Ellinwood**  
8 **PO Box 40158**  
9 **Tucson, AZ 85717**  
10 **520-413-2323**

11 Terrence Bressi is the plaintiff in this case. He has knowledge of his encounter with  
12 Border Patrol on April 10, 2017, and his other interactions at the checkpoint on State Route  
13 86. He may be called to testify about the encounter, his other routine interactions with  
14 Border Patrol at the checkpoint, and any other relevant information he may have.

15 **B. Border Patrol Agents**  
16 **c/o U.S. Attorney's Office**  
17 **405 W Congress St, Suite 4800**  
18 **Tucson, AZ 85701**  
19 **520-620-7300**

20 The following Border Patrol Agents were present during the April 10, 2017  
21 checkpoint encounter with Mr. Bressi. Each agent wrote a report about the incident. They  
22 have knowledge of the encounter with Mr. Bressi and the day-to-day operations at the  
23 checkpoint on State Route 86. They may be called to testify about the encounter and the  
24 checkpoint operations, and to lay foundation for their reports.

- 25 • **Taylor Frye**
- 26 • **Edmundo Lopez Sr.**
- 27 • **Eduardo Fuentes Jr.**
- 28 • **Arturo Zapata Jr.**

29 **C. Agent Kerry Riden**  
30 **c/o U.S. Attorney's Office**  
31 **405 W Congress St, Suite 4800**  
32 **Tucson, AZ 85701**  
33 **520-620-7300**

1 Agent Kerry Riden is a supervisor who is familiar with Border Patrol's policies and  
2 practices at the checkpoint on State Route 86. Agent Riden may be called to testify about  
3 the policies and practices at the checkpoint and to lay foundation for Border Patrol records.

4 **D. Agent Michele D. Morales**  
5 **c/o U.S. Attorney's Office**  
6 **405 W Congress St, Suite 4800**  
7 **Tucson, AZ 85701**  
8 **520-620-7300**

9 Agent Michele Morales is a supervisor who is familiar with Border Patrol's operations  
10 in southern Arizona. She will testify about the purpose of checkpoints and how the  
11 checkpoint on State Route 86 serves Border Patrol's purpose of protecting the border.

12 **E. Agent Andrew Culp**  
13 **c/o U.S. Attorney's Office**  
14 **405 W Congress St, Suite 4800**  
15 **Tucson, AZ 85701**  
16 **520-620-7300**

17 Agent Culp serves as the chair of the Integrated Planning Team for Operation  
18 Stonegarden in southern Arizona. He will testify about how Border Patrol coordinates  
19 with the state and local law-enforcement who participate in Operation Stonegarden  
20 throughout Pima County.

21 **F. Agent Eduardo Fuentes Jr.**  
22 **c/o U.S. Attorney's Office**  
23 **405 W Congress St, Suite 4800**  
24 **Tucson, AZ 85701**  
25 **520-620-7300**

26 Agent Fuentes, in addition to being present at the scene during the April 10, 2017  
27 encounter with Mr. Bressi, *see* § I(B) above, is a Station Coordinator for Operation  
28 Stonegarden. He has knowledge of how Border Patrol coordinates with state and local  
law-enforcement agencies closer to the Ajo Border Patrol Station.

29 **G. Pima County Sheriff's Deputies**  
30 **c/o Pima County Attorney's Office**  
31 **32 N Stone Ave, Suite 2100**  
32 **Tucson, AZ 85701**  
33 **520-724-5700**

34 The following Pima County Sheriff's Deputies were present during the April 10, 2017  
35 encounter with Mr. Bressi. They each have knowledge of the encounter.

- 1           • **Deputy Roher**
- 2           • **Deputy Kunze**

3           **Other Individuals**

4           Additionally, the United States may call as witnesses

- 5           • any individual disclosed by the Plaintiff;
- 6           • any individual who signs an affidavit or declaration;
- 7           • any individual who responds to written discovery; and
- 8           • any individual whose deposition is taken.

9           **II. PEOPLE WHO HAVE GIVEN WRITTEN OR RECORDED STATEMENTS**

10          The following people, identified by name and, if known, address and telephone  
11          number, have given written or recorded statements relevant to any party's claims or  
12          defenses.

13           **A. Border Patrol Agents**  
14           **(see § I(B) above)**

15          Each of the four Border Patrol Agents who were present during the April 10, 2017  
16          encounter with Mr. Bressi wrote reports. Those reports are included in Reports re  
17          Noncompliant Motorist Encounter, which are bates-stamped 38-57.

18           **III. DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND**  
19           **TANGIBLE EVIDENCE**

20          The following documents, electronically stored information, and tangible evidence,  
21          may be relevant to any party's claims or defenses.

22           **Documents [Bates nos.]**

- 23           1. **Federal Tort Claim File [USA 0001-0037]**
- 24           2. **Reports re Noncompliant Motorist Encounter (redacted) [USA 0038-**  
25           **0057]**
- 26           3. **ADOT Permit No. 1221862 [USA 0058-0070]**
- 27           4. **FEMA Preparedness Grants Manual [USA 0071-0246]**
- 28           5. **CBP Significant Incident Report (redacted) [USA 0247-0248]**

1           **6. Sector Profile FY18 [USA 0249-0252]**

2           *The following documents contain material that is law-enforcement sensitive*  
3           *and cannot be produced without a protective order. See Fed. R. Civ. P.*  
4           *26(b)(5).*

- 4           **7. Border Patrol Handbook Chapter 13, Checkpoints \*\*privileged\*\***  
5           **8. Field Training Program Instructor Guide, Checkpoints \*\*privileged\*\***  
6           **9. Guidance re Noncompliant Motorists \*\*privileged\*\***  
7           **10. Operations Order Report OPSG OO Arizona Pima FY18**  
8           **\*\*privileged\*\***

9           **Electronically Stored Information**

- 10           **1. Video Files of Checkpoint Encounter**

11           **Other Exhibits**

12           Additionally, the United States may use as exhibits

- 13                   • any document disclosed by the Plaintiff;  
14                   • any document produced in response to written discovery;  
15                   • any document produced in response to a subpoena; and  
16                   • any document used as an exhibit to a deposition.

17           **IV. RELEVANT FACTS AND LEGAL THEORIES**

18           The following facts are relevant to the United States’ defenses, which are based on  
19           the following legal theories.

20           **The Federal Defendants, in their answer, preserved the affirmative defenses of**  
21           **statute of limitations, failure to exhaust administrative remedies, the**  
22           **discretionary function exception, and the independent contractor exception. The**  
23           **Federal Defendants will supplement their mandatory initial discovery responses**  
24           **if they discover a factual basis to support any of those defenses.**

23           **V. COMPUTATION OF DAMAGES**

24           The following is a computation of each category of damages claimed by the United  
25           States with a description of the documents or other evidentiary material on which it is  
26           based, including materials bearing on the nature and extent of the injuries suffered.

27           **None.**

28

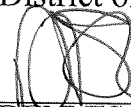
1 **VI. INSURANCE AGREEMENTS**

2 The following insurance or other agreements may satisfy all or part of a possible  
3 judgment in the action to indemnify or reimburse a party for payments made by the party  
4 to satisfy the judgment.

5 **None.**

6  
7 November 1, 2019.

8 MICHAEL BAILEY  
9 United States Attorney  
10 District of Arizona

11 By   
12 DENNIS C. BASTRON  
13 Assistant U.S. Attorney  
14 *Attorney for the Federal Defendants*

15  
16 **CERTIFICATE OF SERVICE**

17 I hereby certify that on November 1, 2019, I mailed the foregoing to the following  
18 parties:

19 Ralph E. Ellinwood  
20 Attorney at Law  
21 P.O. Box 40158  
22 Tucson, AZ 85717  
23 *Attorney for Plaintiff*

24 Nancy J. Davis  
25 Deputy County Attorney  
26 32 N Stone Ave, Suite 2100  
27 Tucson, AZ 85701  
28 *Attorney for the Pima County Defendants*

29 By   
30 \_\_\_\_\_