

1
2 **JESUS SAGRERO**, on behalf of herself
3 and all other persons similarly situated, et
al.,

4 **RAUL SALAZAR**, on behalf of herself
5 and all other persons similarly situated, et
6 al.,

7 **GREGORY STEPHEN**, on behalf of
8 herself and all other persons similarly
situated, et al.,

9 **FRANK VILAS**, on behalf of herself and
10 all other persons similarly situated, et al.,

11
12 Plaintiffs,

13 v.

14 **ARIZONA DEPARTMENT OF**
15 **PUBLIC SAFETY (DPS),**

16 **GOVERNOR JANE HULL**, individually
17 and in her official capacity as Chief Officer
of the Arizona Department of Public
18 Safety (DPS),

19 **DENNIS GARRETT**, individually and in
20 his official capacity as Director of the
Arizona Department of Public Safety
21 (DPS),

22 **LT. COLONEL WILLIAM REUTTER**,
23 individually and in his official capacity as
Assistant Director, Highway Patrol
24 Division of the Arizona Department of
Public Safety (DPS),

25 **JOHN ADAMS**, individually and in his

1 official capacity as an Arizona Department
2 of Public Safety (DPS) Patrolman,

3 **JEFF BROWNLEE**, individually and in
4 his official capacity as an Arizona
5 Department of Public Safety (DPS)
6 Patrolman,

7 **CASEY KASUN**, individually and in his
8 official capacity as an Arizona Department
9 of Public Safety (DPS) Patrolman,

10 **HOWARD McDONALD**, individually
11 and in his official capacity as an Arizona
12 Department of Public Safety (DPS)
13 Patrolman,

14 **STEVEN SHROUFE**, individually and in
15 his official capacity as an Arizona
16 Department of Public Safety (DPS)
17 Patrolman,

18 **JOHN and JANE DOES, 1-50**,
19 individually and in their official capacity
20 as an Arizona Department of Public Safety
21 (DPS) Patrolmen,

22 Defendants.

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1 **COMPLAINT AND JURY DEMAND**

2 **I. Nature of the Case**

3 Plaintiffs, Black and Hispanic motorists who were traveling on the
4 interstate highways in Coconino County, bring this lawsuit seeking declaratory,
5 injunctive and monetary relief to redress the injuries they suffered as a result of the
6 Defendants' racially-based stop, detention, seizure and search of them. In the
7 manner described herein, Defendants under color of state law, stopped, detained,
8 seized and searched the cars in which Plaintiffs were traveling, on the basis of their
9 race. Defendants' actions were intentional and violated the Fourth and Fourteenth
10 Amendments to the United States Constitution, the right to travel, as protected by
11 the Commerce Clause and the Privileges and Immunities Clause of Article IV and
12 the Fourteenth Amendment, Title VI of the Civil Rights Act of 1964 and its
13 implementing regulations, and 42 U.S.C. § 1983. In addition to seeking
14 compensatory and punitive damages, Plaintiffs seek declaratory and injunctive
15 relief requiring Defendants to desist from and remedy these illegal race-based
16 practices.
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21 **II. Jurisdiction and Venue**

22 This court has subject matter jurisdiction over this action pursuant to
23 28 U.S.C. §§ 1331, 1343, and 2201.
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1 Venue is proper in the District of Arizona, as Defendant Arizona
2 Department of Public Safety is headquartered there and the conduct which gives
3 rise to this action occurred within that District. 28 U.S.C. § 1391 (b). Each claim
4 herein arises out of an incident that occurred on an interstate in the State of
5 Arizona and involves officers employed by Arizona Department of Public Safety
6 (DPS).
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9 **III. Parties**

10 **A. *Plaintiffs***

11 Plaintiff, VERONICA ARNOLD, is a citizen of the United States, a
12 Black female and resident of Missouri. Plaintiff was stopped, detained and
13 searched by Defendants while traveling on the interstate highways in Coconino
14 County, Arizona.
15

16 Plaintiff, ANTHONY DORSETT, is a citizen of the United States, a
17 Black male and resident of Pennsylvania. Plaintiff was stopped, detained and
18 searched by Defendants while traveling on the interstate highways in Coconino
19 County, Arizona.
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21 Plaintiff, VINCE EDWARDS, is a citizen of the United States, a
22 Black male and resident of California. Plaintiff was stopped, detained and
23 searched by Defendants while traveling on the interstate highways in Coconino
24 County, Arizona.
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1 Plaintiff, JIM LEE, is a legal resident of the United States, a Black
2 male and resident of Pennsylvania. Plaintiff was stopped, detained and searched
3 by Defendants while traveling on the interstate highways in Coconino County,
4 Arizona.

6 Plaintiff, JESUS SAGRERO, is a citizen of the United States, a
7 Hispanic male and resident of California. Plaintiff was stopped, detained and
8 searched by Defendants while traveling on the interstate highways in Coconino
9 County, Arizona.

11 Plaintiff, RAUL SALAZAR, is a citizen of the United States, a
12 Hispanic male and resident of California. Plaintiff was stopped, detained and
13 searched by Defendants while traveling on the interstate highways in Coconino
14 County, Arizona.

16 Plaintiff, GREG STEPHEN, is a citizen of the United States, a Black
17 male and resident of Virginia. Plaintiff was stopped, detained and searched by
18 Defendants while traveling on the interstate highways in Coconino County,
19 Arizona.

21 Plaintiff, FRANK VILAS, is a citizen of the United States, a Hispanic
22 male and resident of Florida. Plaintiff was stopped, detained and searched by
23 Defendants while traveling on the interstate highways in Coconino County,
24 Arizona.

1 **B. *Defendants***

2 Defendant, ARIZONA DEPARTMENT OF PUBLIC SAFETY
3
4 (DPS), headquartered in Phoenix, is in charge of patrolling state highways through
5 its Highway Patrol Bureau. Upon information and belief the Department of Public
6 Safety receives federal funds for drug interdiction through the Department of
7 Justice's Drug Control and System Improvement Grant Program, pursuant to 42
8 U.S.C. § 3751. Upon information and belief, DPS further receives funds through
9 other federal programs. As a recipient of federal funds DPS is required to conduct
10 its activities in a racially non-discriminatory manner, pursuant to Title VI of the
11 Civil Rights Act of 1964 and its implementing regulations, including 28 C.F.R. B
12 42.1.1 *et seq.*
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15 Pursuant to ARS § 41-1701 *et seq.*, Defendant, GOVERNOR JANE
16 HULL, serves as Chief Officer of the Arizona Department of Public Safety and the
17 Director of the Arizona Department of Public Safety is responsible to her for,
18 among other things, executing her lawful orders, with regard to the functioning of
19 the DPS. Accordingly, Defendant, GOVERNOR JANE HULL, has final authority
20 and responsibility for the operation of the DPS. Defendant GOVERNOR JANE
21 HULL is sued in her official capacity.
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24 Pursuant to ARS § 41-1701 *et seq.*, Defendant, DENNIS GARRETT,
25 serves as the Director of the Department of Public Safety, responsible for, among

1 other things, the control, supervision, operation and administration of the DPS, and
2 for observing, administering and enforcing the provisions of Title 28 of the
3 Arizona Revised Statutes which governs transportation within the State of Arizona
4 and all other laws regulating the operation of vehicles or the use of the Arizona
5 highways. Defendant, DENNIS GARRETT is further responsible for the
6 appointment of deputies, subordinates, officers, investigations, and other
7 employees as may be necessary to implement the provisions of the Arizona
8 transportation laws. Defendant DENNIS GARRETT is sued in his official
9 capacity..
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12 Pursuant to ARS § 41-1701 *et seq.*, Defendant, LT. COLONEL
13 WILLIAM REUTTER, serves as Assistant Director of the Highway Patrol Bureau,
14 which has primary law enforcement authority respecting traffic-related offenses
15 upon the National System of Interstate and Defense Highways. Defendant, LT.
16 COLONEL WILLIAM REUTTER, is responsible for, among other things,
17 control, supervision, operation and administration of the Arizona Highway Patrol
18 Bureau. Defendant, LT. COLONEL WILLIAM REUTTER, is sued in his official
19 capacity.
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22 Upon information and belief, Defendants, Officer JOHN ADAMS,
23 Officer JEFF BROWNLEE, Officer CASEY KASUN, Officer HOWARD
24 McDONALD and Officer STEVEN SHROUFE and Defendants JOHN and JANE
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1 DOES, Numbers One through Fifty (collectively, the "Officer Defendants"), are, or
2 were at times pertinent to this action, Arizona Highway Patrol Officers. The
3 actions of the Officer Defendants of which the Plaintiffs complain all were taken
4 under color of state law. The Officer Defendants have conducted traffic control
5 and drug interdiction activities along Arizona roads and highways, including
6 Interstates 40 and 17, at times pertinent to this action. By unjustly and illegally
7 using race, ethnicity, and/or national origin as a basis for carrying out these
8 activities, each of the Officer Defendants has furthered DPS' overall pattern and
9 practice of racially discriminatory law enforcement, and thereby injured the
10 Plaintiffs, as set forth below. In addition, certain of the Officer Defendants have
11 acted pursuant to the unconstitutional DPS policy and practice allowing Officers to
12 detain and search motorists and vehicles by dogs, based only on a Officer's
13 subjective desire to search. Each of the Officer Defendants has acted under the
14 supervision of one or more of the supervisory Defendants. Each Officer Defendant
15 is named as a Defendant in his or her individual capacity. In addition, each current
16 officer is named as a Defendant in his or her official capacity are sued here in both
17 his individual and official capacities, is a white male or female and resident of
18 Arizona who, at all times pertinent to this action, has been employed by the
19 Arizona Department of Public Safety, in the Highway Patrol Bureau, as an Arizona
20 Highway State Patrol Officer. All actions taken by Defendant Officers while
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1 working as an Arizona State Highway Patrol Officers were taken under color of
2 state law.

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4 **IV. Class Action Allegations**

5 This is a class action lawsuit seeking declaratory, injunctive, and
6 monetary relief against the Arizona Department of Public Safety and its officers
7 and officials, for engaging in a continuing pattern and practice of race-based stops,
8 detentions, and searches of minority motorists traveling on the interstates through
9 Coconino County, Arizona. Plaintiffs are minority motorists who -- due to
10 Defendants' custom and practice of discrimination -- unlawfully and unreasonably
11 have been stopped, detained and/or searched, ostensibly for drugs or weapons.
12 Claims are brought pursuant to the Fourth and Fourteenth Amendments to the
13 Constitution of the United States, 42 U.S.C. & §§ 1983 and Title VI of the Civil
14 Rights Act of 1964, 42 C. F.R. & §§ 42.101 *et seq.*

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16
17 For the purposes of all relief sought in this case, Plaintiffs bring this
18 action pursuant to Rule 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil
19 Procedure, on behalf of themselves and all other persons similarly situated. Each of
20 these individual class representatives is a minority motorist who has been stopped,
21 detained, and/or searched by one or more DPS Officers while traveling through
22 Arizona on the interstate highway system. Thus, each is a member of the proposed
23 class.
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1 In addition to serving as class representatives, named Plaintiffs, seek
2 to serve as representatives of the sub-class of the Plaintiff class that was, or will be,
3 subjected to a search by a drug-detecting dog, in challenging the constitutionality
4 of Defendants' policy of allowing dog searches without probable cause or
5 articulable suspicion. Named Plaintiffs Arnold, Dorsett, Edwards, Lee, Sagrero,
6 Salazar, Stephen, and Vilas all were searched by a DPS dog, pursuant to DPS'
7 policy of allowing dog searches at an Officer's individual and standardless
8 discretion.
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11 The class which Plaintiffs seek to represent consists of all innocent
12 minority motorists who have been since January 1, 1997, or who will be in the
13 future, illegally stopped, detained, and/or searched by Arizona Highway Officers
14 on the interstate highway system, without just cause and based upon their race
15 and/or national origin. The Plaintiff sub-class referenced in the previous paragraph
16 consists of all Plaintiff class members who also were searched by a drug-detecting
17 dog.
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20 The number of minority motorists who in the past have been or in the
21 future will be discriminated against by DPS' arbitrary and race-based policy,
22 custom, and practice is too numerous for practicable joinder.
23

24 There are questions of law and fact common to all members of the
25 class and all class members are and/or will be directly affected by the challenged

1 actions of the Defendants. Each putative class member has been or will be
2 subjected to arbitrary, racially discriminatory stops, detention, and/or searches
3 conducted by DPS on the interstate highway system in Arizona. These common
4 questions predominate over any minor potential variances in the circumstances of
5 the individual stops, detentions and/or searches.
6

7 The claims of the representative Plaintiffs are typical of the claims of
8 the class as a whole. Each named Plaintiff has in the past and will in the future
9 travel through Arizona on the interstate highway system. Each named Plaintiff has
10 experienced in the past and may likely again experience in the future Defendants'
11 pattern and practice of race-based detentions, seizures, and/or searches of minority
12 motorists. The experiences of the Plaintiffs at the hands of DPS Officers and their
13 risk of future harm from Defendants' policy and practice of discrimination render
14 their claims typical of those faced by the class of minority motorists they seek to
15 represent.
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18 Plaintiffs will be adequate representatives of the class in that all of the
19 relevant questions of fact and law applicable to the class also apply to each of
20 them. Plaintiffs will responsibly and vigorously pursue the claims of the class.
21 They are adequately represented by counsel who has litigated several class action
22 civil rights cases in this Court (including the cases of *Manybeads, et al. v. United*
23 *States of America, et al.*, CV 88-410 PCT-EHC; *Attakai v. United States of*
24 *States of America, et al.*, CV 88-410 PCT-EHC; *Attakai v. United States of*
25 *States of America, et al.*, CV 88-410 PCT-EHC; *Attakai v. United States of*

1 *America, et al.*, CV 88-0964 PCT-EHC; and *Davis, et al. v. Richards, et al.*, CV
2 76-278 PCT-MS) and who are familiar with the applicable law.

3
4 As with the claims of the class, the claims of the sub-class are
5 appropriate for adjudication on a class-wide basis. First, the sub-class is too
6 numerous for practicable joinder. Second, there are questions of law and fact
7 common to all sub-class members, and these common questions predominate over
8 any individual issues. Each sub-class member has been or will be subjected to a
9 search by a drug detecting dog, pursuant to Defendants' policy authorizing dog
10 searches without probable cause or articulable suspicion. Third, the claims of
11 individual sub-class representatives Arnold, Dosett, Edwards, Lee, Sagrero,
12 Salazar, Stephen, and Vilas are typical of those of the sub-class, in that each has
13 been stopped, detained, and/or searched by Defendants' without reasonable cause,
14 in violation of the Fourth Amendment's guarantee against unreasonable searches
15 and seizures. Finally, Plaintiffs Arnold, Dorsett, Edwards, Lee, Sagrero, Salazar,
16 Stephen, and Vilas and their counsel will adequately and vigorously represent the
17 interests of the sub-class.
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21 Individual members of the putative class and sub-class have not
22 indicated any desire to pursue their claims independently of the class, and to
23 Plaintiffs' knowledge, there currently exists no pending civil litigation of claims by
24 individual class or sub-class members.
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1 The prosecution of separate actions by individual members of the
2 class or sub-class would create a risk of adjudications which would be inconsistent
3 or varying with respect to the individual class members, establishing incompatible
4 standards of conduct for the Defendants, or which would as a practical matter be
5 dispositive of the interests of other members of the class or sub-class who are not
6 parties to the adjudication.
7

8 Separate actions also would create a risk of adjudications disposing of
9 interests of unnamed parties or impairing their ability to protect their interests.
10 Unnamed minority motorists who have previously been stopped, detained, and
11 searched, and whose identities are known only to the Defendants, as well as those
12 who will in the future be stopped, detained, and searched under Defendants'
13 arbitrary and discriminatory policy, should be protected against illegal
14 discrimination perpetrated by the Arizona Department of Public Safety.
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17 This action is properly maintained as a class action inasmuch as the
18 questions of law and fact common to the members of the class predominate over
19 any questions affecting only individual members, and a class action is superior to
20 other available methods for the fair and efficient adjudication of the controversy.
21 The Defendants have engaged in an unlawful pattern and practice of discrimination
22 in highway stops and searches that is generally injurious to the class. Moreover,
23 Defendants threaten to continue this illegal pattern and practice in the future,
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1 toward both the named Plaintiffs and the class of unnamed and as yet unidentified
2 minority motorists.

3
4 **Factual Allegations**

5 **A. *Pattern and Practice of Racial Profiling***

6 Plaintiffs have all been stopped, detained and searched by Arizona
7 Department of Public Safety (DPS) Officers as a result of the officer's selective
8 enforcement of traffic laws used as a pretextual basis to stop Black and/or Hispanic
9 motorists as part of DPS' drug interdiction effort. DPS' pattern and practice of
10 race- based vehicle stops has resulted in a significantly disproportionate number of
11 minority motorists being stopped, detained and subjected to search. The factual
12 circumstances of Plaintiffs' individual stops, detentions and searches by DPS
13 officers are virtually identical because they result from of a nationwide drug
14 interdiction training program initiated by the Drug Enforcement Administration
15 (DEA) several years ago which instructs officers to stop Black, Hispanic and other
16 minority motorists in hopes of ultimately locating illegal drugs or other
17 contraband. The DEA training program known as "Operation Pipeline" has been
18 taught to DPS officers over the last decade and these drug interdiction training
19 techniques and programs continue to be taught by both federal and state law
20 enforcement agencies.
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1 The factual similarities in Plaintiffs' cases which result from the
2 Operation Pipeline and related drug interdiction training programs like "Operation
3 Desert Snow" which the Defendant Officers have also attended, includes the
4 following. [1] All of the Plaintiffs were stopped while traveling eastbound on
5 interstate highways through Coconino County, Arizona. [2] The stops were all
6 made by officers of the Arizona Department of Public Safety (DPS). [3] All
7 Plaintiffs are either Black or Hispanic. [4] The DPS officers who stopped, detained
8 and search Plaintiffs had all received Operation Pipeline or related drug
9 interdiction training. [5] The Defendant Officers had all been trained to use minor
10 traffic law violations as a justification or pretext to stop a high volume of minority
11 motorists traveling on the interstate in hopes of discovering illegal drugs, guns or
12 money. [6] Following the initial traffic stop for the alleged minor traffic violation,
13 all Plaintiffs were subjected to intense interrogation regarding their travel itinerary,
14 background, purpose for traveling and other issues unrelated to the alleged traffic
15 violation. [7] All Plaintiffs were issued a warning rather than a ticket to avoid
16 creating a "paper trail" of public records of the stop, detention and search. [8] The
17 officers use of the warning rather than a ticket also indicates that the alleged basis
18 for the stop was not considered to be a significant violation by the officer. [9] All
19 of the Plaintiffs were advised that the traffic stop was completed and that they were
20 free to leave. [10] In each case, when Plaintiffs attempted to leave they were
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1 stopped a second time by the Defendant Officers without reasonable suspicion of
2 criminal activity and interrogated regarding the possible presence of drugs, guns or
3 money in their vehicles. [11] All Plaintiffs were then asked for consent to search
4 their vehicles despite the absence of any credible evidence of criminal activity.
5

6 [12] If Plaintiffs consented to the unlawful search the Officers then conducted an
7 extensive search of Plaintiffs' vehicles and personal property. [13] If Plaintiffs
8 asserted their constitutional rights and declined to consent to the unlawful search,
9 Plaintiffs were then detained against their will until a DPS drug detection canine
10 could be brought to the stop location and conduct a canine sniff/search of
11 Plaintiffs' vehicles and personal property.
12
13

14 ***B. Related State Court Criminal Cases***

15 Those Plaintiffs that were arrested following the search of their
16 vehicle have raised a claim of racial profiling and selected enforcement of the law
17 as a defense to the criminal charges filed against them. Several of these criminal
18 cases have been consolidated in the Coconino County Superior Court for
19 consideration of the racial profiling claims. Much of the evidence presented in
20 these State Court criminal cases is relevant to Plaintiffs' claims in this action.
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23 In order to establish the racial profiling claims, those Plaintiffs facing
24 criminal charges have retained the services of Dr. John Lamberth, a Professor at
25 Temple University. Dr. Lamberth is widely recognized as a leading expert on the

1 use of statistical evidence to determine whether or not a pattern and practice of
2 stopping a disproportionate number of minority motorists, in fact, exists. Dr.
3 Lamberth has served as an expert witness in many of the nation's leading racial
4 profiling cases, including *New Jersey v. Soto et al.*, and *Wilkins v. Maryland State*
5 *Police*.

7 To determine whether there is a colorable basis for asserting the racial
8 profiling claim, Dr. Lamberth conducted an analysis of the racial composition of
9 persons known to have been stopped by DPS officers on Interstate 40 in Coconino
10 County. In addition, Dr. Lamberth conducted a preliminary violator survey to
11 determine the racial composition of person observed to be committing a traffic
12 violation while traveling on Interstate 40 in Coconino County. Dr. Lamberth
13 concluded that Black motorists who were observed to have violated traffic laws on
14 Interstate 40 were far more likely to be stopped than were White motorists who
15 were committing similar traffic violations.

16 Based upon the preliminary statistical analysis, Dr. Lamberth found
17 that Black motorist comprised 2.9% of those motorists who were observed
18 violating a traffic law. This data compared with the racial identity of 68 motorists
19 known to have been stopped and arrested on Interstate 40 by DPS officers. Dr.
20 Lamberth found that while 2.9% of motorists observed to be violating a traffic law
21 were Black, 26.5% of the 68 known cases involved Black motorists.

1 Dr. Lamberth concluded that the percentage of Black motorists
2 stopped on Interstate 40 is significantly higher than the percentage of Black
3 motorists observed violating traffic laws. Dr. Lamberth also found that the
4 percentage of Hispanics stopped on Interstate 40 by DPS officers was statistically
5 higher than the percentage of Hispanics observed violating the law.
6

7 Dr. Lamberth testified regarding his research and analysis during an
8 evidentiary hearing that was conducted during November and December 2000 in
9 the Coconino County Superior Court cases. The State did not produce any
10 evidence countering Dr. Lamberth's presentation. The State presented no surveys
11 or statistics of its own but instead sought to impeach the validity of Dr. Lamberth's
12 methodology, analysis and conclusions through the testimony of its own expert,
13 Dr. Jeffrey Wilson, a Professor at Arizona State University. In rebuttal, Dr.
14 Frederick Solop, the Director of Northern Arizona University's Social Research
15 Laboratory, testified that he had reviewed the methodology, analysis and
16 conclusions of both Dr. Lamberth and Dr. Wilson and that he found Dr.
17 Lamberth's conclusions to be valid and compelling. Further, that he found Dr.
18 Wilson's critique to be without merit.
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23 Based on this evidence, the two Superior Court judges hearing the
24 consolidated racial profiling cases ruled, on March 2, 2001, that the motorists had
25 established a "colorable claim" of racial profiling entitling them to additional

1 disclosure of DPS records and documents regarding traffic stops on Arizona
2 interstate highways. The Superior Court judges ordered that the State produce its
3 records and data for all traffic stops occurring between June 1999 and June 2000.
4

5 In response to the Court's order, the State disclosed that DPS had
6 "inadvertently" destroyed all data for traffic stops occurring on interstate highways
7 in Coconino County from 1997 through January 2000. The Court then ordered the
8 State to disclose all remaining data of traffic stops made on the interstates in
9 Coconino County from January 2000 through January 2001. The stop data which
10 consists of written warnings and/or tickets is currently being reviewed and
11 analyzed by experts for both the defendant motorists and the State of Arizona. It is
12 anticipated that the results of this analysis will be completed by Fall 2001. An
13 evidentiary hearing on the merits of the racial profiling claims is expected to occur
14 later this fall or winter.
15
16

17 Given the strength of Defendants' continuing unconstitutional *de facto*
18 policy of raced-based traffic stops, detentions and searches and the failure of
19 Defendants to appropriately train, supervise and/or discipline officers and thereby
20 discourage such behavior, Plaintiffs and the members of the proposed class of
21 Plaintiffs realistically expect to be subjected again to race-based traffic stops at the
22 hands of the Arizona Department of Public Safety during future visits to Arizona.
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1 Defendants' denial of a continuing practice and policy of race-based
2 traffic stops creates a case and controversy warranting resolution by this Court.

3
4 **V. Claims for Relief**

5 **Count I**

6
7 **Equal Protection**
8 (Fourteenth Amendment)

9 (All Defendants except Arizona Department of Public Safety)

10 Plaintiffs repeat and reallege paragraphs 1 through 44, as set forth fully
11 herein. Defendants, acting under color of law and in concert with one another,
12 engaged in intentional race discrimination in their drug traffic patrol and
13 interdiction efforts carried out in Arizona along the state's highways. In so doing,
14 Defendants have caused the Plaintiffs to suffer deprivation of their fundamental
15 rights to liberty and to be free from unlawful searches and seizures, on account of
16 the minority race and/or national origin. These actions violated Plaintiffs' right to
17 equal protection of the laws, in violation of the Fourteenth Amendment to the
18 Constitution of the United States.
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21 The Defendants' acts were intentional and done in violation of Plaintiffs'
22 legal and constitutional rights, and have directly and proximately caused Plaintiffs
23 humiliation, mental pain, and suffering.
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1 **Count II**

2 **Unreasonable Search and Seizure**
3 (Fourth and Fourteenth Amendments)
4 (All Defendants except Arizona Department of Public Safety)

5 Plaintiffs repeat and reallege paragraphs 1 through 47, as set forth fully
6 herein.

7 Defendants, acting under color of law and in concert with one another,
8 subjected Plaintiffs to illegal detention and search without probable cause or
9 reasonable suspicion to believe that any crime had been committed in violation of
10 the Fourth Amendment guarantee against unreasonable searches and seizures.
11

12 Those actions give rise to Plaintiffs' claims pursuant to the Fourth and Fourteenth
13 Amendments to the Constitution of the United States.
14

15 The Defendants' acts were intentional and done in violation of Plaintiffs'
16 legal and constitutional rights, and have directly and proximately caused Plaintiffs
17 humiliation, mental pain, and suffering.
18

19 **Count III**

20 **Right to Travel**

21 (Commerce Clause, Article IV, and Fourteenth Amendment)
22 (All Defendants Except Arizona Department of Public Safety)
23

24 Plaintiffs repeat and reallege paragraphs 1 through 50, as set forth
25 fully herein.

1 Defendants, acting under color of law and in concert with one another,
2 have caused the Plaintiffs to be penalized and deterred in the exercise of their
3 fundamental right to interstate travel and migration on account of their race and/or
4 national origin. These actions violated Plaintiffs' right to travel, in violation of the
5 Commerce Clause and the Privileges and Immunities Clauses of Article IV and the
6 Fourteenth Amendment.
7

8 Defendants' acts were intentional and done in violation of Plaintiffs'
9 legal and constitutional rights, and have directly and proximately caused Plaintiffs
10 humiliation, mental pain, and suffering.
11

12 13 **Count IV**

14 **Race Discrimination in Federally Funded Programs**

15 (Title VI of the Civil Rights Act of 1964 and 42 C.F.R. §§ 101 *et seq.*)
16 (Defendant Arizona Department of Public Safety)
17

18 Plaintiffs repeat and reallege paragraphs 1 through 53, as set forth
19 fully here.
20

21 Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, provides that
22 “[N]o person in the United States shall, on the ground of race color, or national
23 origin, be excluded from participation in, be denied the benefits of, or be subjected
24 to discrimination under any program or activity receiving federal financial
25 assistance.”

1 Federal Regulations implementing Title VI further provide that no program
2 receiving financial assistance through the U. S. Department of Justice shall utilize
3 criteria or methods in its administration which have the effect of subjecting
4 individuals to discrimination because of their race, color, or national origin, or
5 have the effect of defeating or substantially impairing accomplishment of the
6 objectives of the programs with respect to individuals of a particular race, color, or
7 national origin. 28 C.F.R. § 42.104 (b)(2).
8
9

10 The traffic patrol and drug interdiction methods employed by the Arizona
11 Department of Public Safety discriminate against Black and Hispanic motorists
12 and other minority motorists traveling through Arizona, including Plaintiffs, as
13 described herein.
14

15 Defendant, Arizona Department of Public Safety's, violation of 42
16 U.S.C. § 2000d and its implementing regulations has caused and will continue to
17 cause the named Plaintiffs and other similarly situated minorities to suffer
18 tremendous harm and public humiliation in that they have been and will continue
19 to be subjected to the DPS' Highway Patrol Bureau's continuing practice of race-
20 based discrimination unless it is stopped.
21
22

23 **VI. Prayer for Relief**

24 WHEREFORE, Plaintiffs request that this Court:
25

1 (a) Declare, pursuant to 28 U.S.C. § 2201 and 2202, that Defendants'
2 official policy authorizing Arizona Highway Patrol Officers, at their
3 individual discretion and without probable cause or reasonable, articulable
4 suspicion of criminal activity, to detain motorists for the purpose of
5 conducting a search with the assistance of a drug-detecting dog, is
6 unconstitutional on its face and as applied, in that it has resulted in
7 unjustified stops, detentions and searches, including those of Plaintiffs, in
8 violation of the Fourth and Fourteenth Amendments to the Constitution of
9 the United States, the constitutional right to travel on the roads and highways
10 of Arizona, and 42 U.S.C. § 1983;
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14 (b) Declare, pursuant to 28 U.S.C. §§ 2201 and 2202, that Defendants
15 have engaged in race discrimination and denied Plaintiffs the equal
16 protection of the laws, with respect to the stop, detention and search of
17 Plaintiffs, in violation of the Fourteenth Amendment to the Constitution of
18 the United States;
19

20 (c) Declare, pursuant to 28 U.S.C. §§ 2201 and 2202, that Defendants
21 detention and search of Plaintiffs without probable cause or reasonable,
22 articulable suspicion to believe that a crime had been committed or was
23 imminent, violated the Fourth Amendment's guarantee against unreasonable
24 searches and seizures, and the Fourteenth Amendment;
25

1 (d) Declare, pursuant to 28 U.S.C. §§ 2201 and 2202, that Defendant's
2 conduct violated the rights of Plaintiffs to travel interstate, in violation of the
3 Commerce Clause and the Privileges and Immunities Clauses of Article IV,
4 and the Fourteenth Amendment;
5

6 (e) Declare, pursuant to 28 U.S.C. §§ 2201 and 2202, that Defendants
7 have engaged in race discrimination with respect to the stop and search of
8 Plaintiffs described herein, in violation of Title VI of the Civil Rights Act of
9 1964 and 42 C.F.R. § 101 *et seq.*;
10

11 (f) Enjoin Defendants immediately to discontinue such race-based
12 discrimination as described herein, and to put into place safeguards,
13 including the maintenance of records for every stop conducted by the DPS,
14 containing, inter alia, the name, race, reason for the stop, and whether or not
15 a search was conducted sufficient to ensure that such discrimination does not
16 continue in the future;
17
18

19 (g) Enjoin Defendants immediately to amend their continuing
20 unconstitutional custom, policy or practice allowing DPS officers to detain
21 motorists and conduct dog searches without reasonable, articulable suspicion
22 of criminal activity;
23
24
25

1 (h) Award Plaintiffs compensatory and consequential damages
2 pursuant to Count IV, in an amount to be determined at trial, against
3 Defendants Arizona Department of Public Safety;
4

5 (i) Award Plaintiffs compensatory and consequential damages
6 pursuant to Counts I, II, and III, in an amount to be determined at trial,
7 against the individual Defendants, jointly and severally, in the individual
8 capacities only;
9

10 (j) Award Plaintiffs punitive damages pursuant to Counts I, II, and III,
11 in an amount to be determined at trial, against the individual Defendants,
12 jointly and severally, in their individual capacities only;
13

14 (k) Award Plaintiffs their costs and attorneys' fees incurred in
15 pursuing these actions, as provided in 42 U.S.C. § 1988;
16

17 (l) Grant such other and further relief as the Court may deem just and
18 proper.

19 **VII. Jury Demand**

20 Plaintiffs hereby demand a trial by jury.

21 RESPECTFULLY SUBMITTED this 15th day of March, 2006.
22

23 By _____s/Lee Phillips
24 Lee Phillips
25 Reginald T. Shuford
Dan Pochoda
Attorneys for Plaintiffs

1 Original of the foregoing filed electronically with the court and
2 mailed/delivered/faxed this 15th day of March, 2006, to:

3 U.S. Magistrate Lawrence O. Anderson

4
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