

ALESSANDRA SOLER
EXECUTIVE DIRECTOR

ZENAIDO QUINTANA
PRESIDENT



April 4, 2014

Via email and certified mail

TUCSON POLICE DEPARTMENT

CHIEF OF POLICE ROBERTO VILLASEÑOR

SGT. BARON EDWARD CARSON

OFFICER FABIAN C. VALDEZ

OFFICER DAVID FRITSCH

TPD DEPUTIES, AGENTS, OFFICERS,
AND EMPLOYEES STILL UNKNOWN

270 South Stone Ave.

Tucson, AZ 85701

RE: *Notice of Claim Pursuant to A.R.S. § 121-821.01*

To Whom It May Concern:

This letter constitutes a Notice of Claim pursuant to Arizona Revised Statute § 12-821.01 against the Tucson Police Department (“TPD”), Chief of Police Roberto Villaseñor, Sergeant Baron Edward Carson, Officers Fabian Valdez and David Fritsch, and TPD employees and agents still unknown. This Notice of Claim is served on behalf of Mr. Agustin Reyes and Mr. Arturo Robles (“Claimants”), whom this office represents. This letter also satisfies the requirements of A.R.S. § 11-622(A), to the extent that section applies. The conduct of other TPD employees, officers, agents or others acting with the authority and/or at the direction of the TPD (“Responsible parties”) may also have contributed to the injuries suffered by Claimants as discussed here within, and when their identities become known, this claim may be supplemented to include them.

This Notice of Claim is given without the benefit of formal discovery and is subject to amendment or supplementation. Claimants reserve the right to amend this Notice of Claim. If for any reason you believe this Notice of Claim is not in compliance with A.R.S. § 12-821.01, or if additional facts/information is needed please contact the attorney listed.

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The Claimants seek an award of damages reasonably calculated to compensate for the injuries they suffered in connection with their unlawful and unnecessarily protracted detention on or about October 8, 2013.

Furthermore, the terms and content of this Notice of Claim are subject to Rule 408 of the Arizona Rules of Evidence and Rule 408 of the Federal Rules of Evidence.

I. FACTUAL BASIS FOR CLAIM

This claim arises out of an unlawful detention initiated by TPD purportedly for a broken license plate light bulb.

The stop occurred on October 8, 2013. Mr. Reyes was driving a van. With him was Mr. Robles, as both of them were headed to a job installing floors that they were scheduled to do that evening. They were pulled over by the TPD squad car that had been following them.

The Officer, who was later identified as Officer Fabian Valdez, approached the van. Officer Valdez did not inform Mr. Reyes for the reason of the stop, but instead asked for the vehicle records, which Mr. Reyes promptly gave him. The Officer then asked both Mr. Reyes and Mr. Robles “where they were from,” to which they remained silent. Next, Officer Valdez asked Mr. Reyes for a driver’s license, which Mr. Reyes explained that he did not have. The Officer then asked Mr. Robles for identification, which Mr. Robles explained that he did not have. Although neither was in possession of identification cards, both men promptly provided their full names when asked. Officer Valdez accused both men of being from Mexico.

At some point, another TPD officer (subsequently identified as Officer David Fritsch) appeared at the scene. Officer Fritsch ordered Mr. Reyes and Mr. Robles to exit the van and sit on the curb of the sidewalk. Officer Fritsch stood in front of them and said, “Sit there and stay there.” At no point during the stop did Mr. Reyes and Mr. Robles feel free to leave. About 30 minutes later, officers from the U.S. Customs and Border Patrol (“Border Patrol”) arrived and took both men into custody.

Mr. Reyes ultimately received a citation for a broken license plate light and for driving without a license, which he paid in full. Upon information and belief, such violations would have normally resulted in a cite-in-lieu of detention pursuant to Ariz. Rev Stat. § 13-3903.

Mr. Robles has never been charged with any crime or violation stemming from this incident.

The detention of Mr. Reyes was prolonged by TPD beyond the time reasonably necessary to complete the original purpose of the stop (purportedly for

driving with a broken license plate light) without any additional reasonable suspicion or probable cause to believe he was engaging in any unlawful activity that would justify his continued detention. Mr. Robles, as the passenger, was initially detained and subsequently held without any reasonable suspicion or probable cause to believe he had or was engaging in any unlawful activity. Both Mr. Reyes and Mr. Robles were detained without a valid criminal law basis and based solely on suspicion of unlawful presence.

II. LEGAL BASIS FOR CLAIMS

VIOLATION OF CONSTITUTIONAL RIGHTS TO FREEDOM FROM UNREASONABLE SEIZURES

The Responsible Parties, while acting in their official capacity and individual capacities and under the color of law, violated the Claimants' rights to freedom from unreasonable seizures under Article 2, Section 8 (Right to Privacy) and 13 (Equal Privileges and Immunities) of the Arizona Constitutions. By authorizing, acquiescing in, employing, ratifying the actions of and/or failing to adequately train or supervise those directly involved in, and/or participating in or being deliberately indifferent to the stop, warrantless arrest, detention and interrogation of Claimants, the entities and individuals to whom this Notice of Claim is addressed violated Claimants' right to freedom from unreasonable seizure. The Claimants were also subjected to unreasonable seizure based on his actual or perceived race and ethnicity.

VIOLATION OF EQUAL PROTECTION OF THE LAW UNDER FOURTEENTH AMENDMENT

By the actions described above, the entities and individuals to whom this Notice of Claim is addressed violated Claimants' right to freedom from unreasonable seizure as protected by the Fourth Amendment of the United States Constitution and his right to equal protection of the law as protected by the Fourteenth Amendment to the United States Constitution.

FALSE ARREST/FALSE IMPRISONMENT

By authorizing, acquiescing in, employing, ratifying the actions of and/or failing to adequately train or supervise those directly involved in, and/or participating in or being deliberately indifferent to the restraint of Claimants' liberty without lawful justification and without Claimants' consent, the entities and individuals listed to whom this Notice of Claim is addressed subjected the Claimants to false arrest/imprisonment.

III. AMOUNT OF CLAIM

The Responsible Parties conducted themselves in a manner in both their official and individual capacities that violated clearly established rights. Claimants asserts that the Responsible Parties' actions have caused substantial harm that entitles him to monetary damages for the claims listed above, and payment of these claims is justly due.

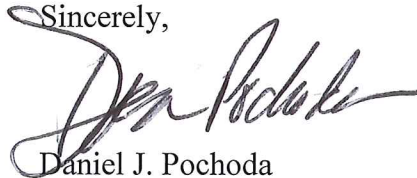
Claimants would also be entitled to recover punitive damages against the Responsible Parties and any other individual(s) acting in their individual capacities, for their intentional acts because their conduct was malicious or in reckless disregard of the Claimants' clearly established rights.

Claimants will settle for \$250,000 each, in addition to reasonable costs and attorneys' fees. Notwithstanding, Claimants are willing to engage in settlement negotiations and will consider reasonable offers to settle their claims without further litigation.

Pursuant to A.R.S. § 12-821.01, the entities and individuals named in this letter have sixty (60) days to respond before further legal action can be instituted under Arizona state law.

AMERICAN CIVIL
LIBERTIES UNION FOUNDATION
OF ARIZONA

Sincerely,



Daniel J. Pochoda
Legal Director
ACLU of Arizona

cc: Lisa A. Judge
Office of the Tucson City Attorney
270 South Stone
Tucson, AZ 85701-1933