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25 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
IN AND FOR THE COUNTY OF COCONINO

JOSE MONTELONGO-MORALES;)
JESUS QUIROZ-VILLALOBOS, as)
individuals, and on behalf of all other)
similarly situated.)

Plaintiffs,)

v.)

JAMES DRISCOLL, Coconino County)
Sheriff; MATT FIGUEROA, Jail)
Commander of the Coconino County Jail,)

all in their official capacities,)

Defendants.)

Case No. S0300-CV201900012

CLASS ACTION COMPLAINT

**PROPOSED FIRST AMENDED
COMPLAINT FOR DECLARATORY
RELIEF, INJUNCTIVE RELIEF, AND
SPECIAL ACTION**

1
2 **PETITION FOR SPECIAL ACTION & COMPLAINT FOR**
3 **DECLARATORY AND INJUNCTIVE RELIEF**

4 **PRELIMINARY STATEMENT**

5 1. This suit challenges Coconino County Sheriff Jim Driscoll’s policy
6 and practice of unlawfully exceeding his authority under Arizona law by routinely
7 depriving persons of their liberty for suspected civil violations of federal
8 immigration law.

9 2. This policy and practice of preventing individuals from being
10 released from the Coconino County Detention Facility, solely because of a request
11 by immigration officials and without a judicial warrant or probable cause of a
12 crime, is contrary to Arizona law.

13 3. Arizona sheriffs’ powers are strictly limited to those expressly
14 granted by the Arizona statutes. Requests made by immigration officials do not
15 confer state or local law enforcement officers with any authority to arrest, detain,
16 or prolong the detention of individuals for civil immigration violations. The
17 Coconino County’s policy and practice of placing a U.S. Immigrations Customs
18 Enforcement detainer (sometimes referred to as “ICE hold” or “immigration
19 detainer”) based on immigration requests made by the U.S. Immigration and
20 Customs Enforcement agency (“ICE”) will result in [Plaintiff] Plaintiffs and
21 putative class members invariably remaining in jail longer than state law allows.
22 This is true, even where the ICE request to the Sheriff is accompanied by or
23 otherwise styled as a “administrative warrant”, “ICE warrant”, or “warrant of
24 removal/deportation”.

25 4. Sheriff Driscoll holds people for up to 48 hours after state law
requires their release. [Plaintiff] Plaintiffs and putative class members are likely –
if not almost certain – to fall victim to this prolonged and unlawful detention at the

1 Coconino County Detention Facility upon completing all of their conditions of
2 release under state law.

3 5. On behalf of [himself] themselves and a class of similarly situated
4 persons, [Plaintiff seeks] Plaintiffs seek preliminary and permanent injunctive
5 relief, as well as a declaratory judgment and special action relief determining that
6 the policy and practice challenged here exceeds Sheriff Driscoll's authority under
7 Arizona law, and is unlawful.

8 **JURISDICTION AND VENUE**

9 6. This Complaint raises a special action pursuant to the Arizona Rules
10 of Procedure for Special Actions, the [forebear] forebearer to which (Writ of
11 Mandamus) was authorized to be heard by this Court, pursuant to Article VI, § 18
12 of the Arizona Constitution and A.R.S. § 12-2021.

13 7. Special Action is appropriate because there is no equally plain,
14 speedy, and adequate remedy available to [Plaintiff] Plaintiffs.

15 8. Special Action is appropriate because [Plaintiff seeks] Plaintiffs seek
16 an order from this Court that Defendants perform a duty that:

- 17 a. is ministerial in nature; and
- 18 b. which the law specially imposes as a duty on Defendants; and
- 19 c. Defendants have thus far refused to perform; and
- 20 d. about which Defendants have no discretion.

21 9. This complaint seeks injunctive relief, which is authorized by A.R.S.
22 § 12-1801.

23 10. This complaint seeks declaratory relief, which is authorized by
24 A.R.S. § 12-1831.

25 11. The provisions of A.R.S. § 12-821.01 do not apply to this action
because [Plaintiff raises] Plaintiffs raise no claim for monetary damages against

1 any Defendants and all prayers for relief are of an exclusively injunctive,
2 declaratory, or extraordinary nature.

3 12. Venue is proper in this Court because [the Plaintiff is] Plaintiff Jesus
4 Quiroz-Villalobos is currently detained within Coconino County, Plaintiff Jesus
5 Quiroz-Villalobos is in the custody of the Coconino County Sheriff, the public
6 body and public officials who determined the matter to be reviewed in this action
7 are officials of Coconino County, and a substantial part of the events or omissions
8 giving rise to this claim occurred in Coconino County.

9 **PARTIES**

10 **Plaintiff Jose Montelongo-Morales**

11 13. Plaintiff Jose Montelongo-Morales resides in the Flagstaff, Arizona
12 area [with his family, including his three small children].

13 14. At the time of the filing of the original complaint and at the time of
14 the filing of Plaintiff's motion for class certification, Plaintiff Jose Montelongo-
15 Morales [is] was held as a detainee in the Coconino County Detention Facility, a
16 county jail located at 951 E. Sawmill Road in Flagstaff, Arizona.

17 15. Plaintiff Jose Montelongo- Morales [has been] was continuously
18 held by the Coconino County Sheriff's Office [since] from December 28, 2018
19 until February 14, 2019.

20 **Plaintiff Jesus Quiroz-Villalobos**

21 16. Plaintiff Jesus Quiroz-Villalobos resides in Flagstaff, Arizona.

22 17. Plaintiff Jesus Quiroz-Villalobos is currently held as a detainee in
23 the Coconino County Detention Facility, a county jail located at 951 E. Sawmill
24 Road in Flagstaff, Arizona.

25 **Defendant Jim Driscoll**

1 18. Defendant Jim Driscoll is the Coconino County Sheriff and has
2 served as the Coconino County Sheriff during all times relevant to this action. Mr.
3 Driscoll is sued in his official capacity.

4 19. Mr. Driscoll's duties include taking charge of and keeping the
5 county jail, as well as the prisoners in the county jail, pursuant to A.R.S. §§ 11-
6 441(A)(5), 31-301, and 48-4002(F).

7 **Defendant Matt Figueroa**

8 20. Defendant Matt Figueroa is an employee of Coconino County
9 Sheriff's Office and serves as the Jail Commander of the Coconino County
10 Detention Facility.

11 21. Defendant Matt Figueroa may formulate jail policy, subject to
12 Defendant Driscoll's review and approval.

13 22. Defendant Matt Figueroa is responsible for overseeing the day-to-
14 day operations of the Coconino County Detention Facility.

15 23. Defendant Matt Figueroa has supervisory responsibility over all
16 civilian Coconino County Sheriff's Office employees working at the Coconino
17 County Detention Facility, including those civilian employees responsible for
18 accepting and/or processing bail and fines.

19 **STATEMENT OF FACTS**

20 **The Coconino County Sheriff's Office Local Policy**

21 24. Upon information and belief, the Coconino County Sheriff's Office
22 has had in place since at least January 2008 a written jail policy that sets out the
23 appropriate steps for jail staff to take when encountering an inmate who is
24 suspected of being in the United States without lawful immigration status.

25 25. On July 28, 2017, Defendant Matt Figueroa drafted the current
version of the jail policy that forms the basis of the state law violations

1 complained of in this action. (See Exhibit 1, Sheriff’s Policy Re: “Suspected
2 Illegal Immigrant Inmates.”)

3 26. The current jail policy instructs Coconino County Detention Facility
4 staff not to physically release detainees who are the subject of “ICE Detainers” for
5 up to an additional 48 hours after the ICE detainee has satisfied all local conditions
6 of release. This policy of delayed release allows ICE sufficient time to take
7 custody of the detainee. Pursuant to this jail policy, a detainee subject to an ICE
8 detainer is released prior to 48 hours only if ICE arrives within the 48 hours to
9 take custody of the detainee or if ICE notifies jail staff that it has dropped the ICE
10 detainer. (See Exhibit 2, Declaration of Samantha Seaman, Assistant Field
11 Director, I.C.E. Phoenix Office).

12 27. The jail policy described above instructs Coconino County Sheriff’s
13 Office personnel to prolong the detention of a subset of detainees beyond the time
14 that they would otherwise be held by Coconino County Sheriff’s Office.

15 28. The jail policy described above requires Coconino County Sheriff’s
16 Office personnel to prolong the detention of a subset of detainees on the exclusive
17 basis of the existence of an “ICE detainer” and an accompanying “ICE
18 administrative warrant”.

19 **[Plaintiff’s] Plaintiff Jose Montelongo-Morales’s Initial Arrest**

20 29. Plaintiff Jose Montelongo-Morales was arrested by Flagstaff Police
21 on December 28, 2018.

22 30. On December 28, 2018 Plaintiff Jose Montelongo-Morales was
23 booked into the Coconino County Detention Facility on a failure to appear warrant
24 previously issued by the Flagstaff Municipal Court.

25 31. On January 2, 2019, Plaintiff Jose Montelongo-Morales was
arraigned before the Flagstaff Municipal Court and a show cause hearing was set
in his case for January 16, 2019.

1 32. Plaintiff Jose Montelongo-Morales [is currently being] was held in
2 the Coconino County Detention Facility by order of the Flagstaff Municipal Court
3 and pursuant to Arizona statutes.

4 33. At no time did Coconino County officials bring federal criminal
5 charges against Plaintiff Jose Montelongo-Morales.

6 34. Upon information and belief, at no time have federal authorities
7 communicated to Defendants or to Coconino County Sheriff's Office personnel
8 that there is probable cause to believe that Plaintiff Jose Montelongo-Morales
9 violated any criminal statutes.

10 35. [Upon information and belief,] Plaintiff Jose Montelongo-Morales
11 [does] did not at the time of his detainment have any outstanding criminal
12 warrants for his arrest from other jurisdictions.

13 36. Plaintiff Jose Montelongo-Morales [does] did not stand charged in
14 any other state with a felony crime.

15 37. At all times relevant to this Complaint, Plaintiff Jose Montelongo-
16 Morales [is currently] was being held in the Coconino County Detention Facility
17 as a detainee of Coconino County Sheriff's Office and [is] was fully under the
18 custody of Coconino County Sheriff's Office.

19 38. At all times relevant to this Complaint, Plaintiff Jose Montelongo-
20 Morales [is not currently] was not being held in the Coconino County Detention
21 Facility pursuant to an intergovernmental agreement with a federal agency.

22 39. At all times relevant to this Complaint, Plaintiff Jose Montelongo-
23 Morales [is] was never [not currently] a federal inmate.

24 **ICE Involvement in Plaintiff Jose Montelongo-Morales's Case**

25 40. On or about December 28, 2018, ICE officials located in Phoenix,
Arizona became aware that Plaintiff Jose Montelongo-Morales was in the custody
of the Coconino County Sheriff's Office.

1 41. On December 28th, 2018 ICE officials located in Phoenix, Arizona
2 sent two documents to the Coconino County Detention Facility related to Plaintiff:
3 Jose Montelongo-Morales one document entitled “Department of Homeland
4 Security Immigration Detainer – Notice of Action” and imprinted with the form
5 number “I-247A”; and a second document entitled “U.S. Department of Homeland
6 Security Warrant of Removal/Deportation” and imprinted with the form number
7 “I-205”. (See Exhibits 3, 4)

8 42. Aside from the two documents referenced in Paragraph [40] 41,
9 above, Coconino County Sheriff’s Office received no other documents from ICE
10 related to Plaintiff Jose Montelongo-Morales.

11 43. The Form I-247A provided to the Coconino County Detention
12 Facility on December 28th, 2018 nowhere indicates that ICE has formed probable
13 cause to believe that Plaintiff Jose Montelongo-Morales violated any criminal
14 laws.

15 44. Nowhere on the Form I-247A provided to the Coconino County
16 Detention Facility on December 28th, 2018 appears the words “misdemeanor” or
17 “felony”.

18 45. The Form I-247A provided to the Coconino County Detention
19 Facility on December 28th, 2018 is signed by an ICE “immigration officer”.

20 46. The above-referenced immigration officer who signed the Form I-
21 247A at issue in this action is an employee of ICE.

22 47. ICE is a law enforcement agency.

23 48. The immigration officer who signed the Form I-247A at issue in this
24 action is a law enforcement officer.

25 49. The immigration officer who signed the Form I-247A at issue in this
action is not a judge.

1 50. The immigration officer who signed the Form I-247A at issue in this
2 action is not a “magistrate”, as that term is used in A.R.S. § 13-3898, A.R.S. § 13-
3 3907, A.R.S. § 1-215, and the Arizona Rules of Criminal Procedure.

4 51. The immigration officer who signed the Form I-247A at issue in this
5 action is personally involved in the investigation of violations of federal
6 immigration laws and is neither detached nor neutral.

7 52. The Form I-205 provided to the Coconino County Detention Facility
8 on December 28th, 2018 is titled a “Warrant of Removal/Deportation” and was
9 signed by an “immigration officer” employed by ICE.

10 53. The Form I-205 at issue in this action does not articulate any
11 reasonable suspicion or probable cause to believe that Plaintiff Jose Montelongo-
12 Morales violated any criminal laws.

13 54. Neither the word “misdemeanor” nor the word “felony” appears
14 anywhere on the Form I-205 at issue in this action.

15 55. The immigration officer who signed the Form I-205 at issue in this
16 action is a law enforcement officer.

17 56. The immigration officer who signed the Form I-205 at issue in this
18 action is an employee of ICE.

19 57. The immigration officer who signed the Form I-205 at issue in this
20 action is not a judge.

21 58. The immigration officer who signed the Form I-205 at issue in this
22 action is not a “magistrate”, as that term is used in A.R.S. § 13-3898, A.R.S. § 1-
23 215, and the Arizona Rules of Criminal Procedure.

24 59. The Form I-205 at issue in this action was not signed by a judge or
25 by a magistrate.

 60. The Form I-205 at issue in this action was not reviewed by a judge
or by a magistrate.

1 61. The Form I-205 at issue in this action was issued by an immigration
2 officer who is involved in the investigation of [Plaintiff's] Plaintiff Jose
3 Montelongo-Morales's alleged violation of federal immigration laws, who is
4 neither detached [or] nor neutral.

5 62. The Form I-205 at issue in this action was not supported by the oath
6 or affirmation of any government official as required by law.

7 63. Any [future prolonged] detention of Plaintiff Jose Montelongo-
8 Morales based solely upon the Forms I-247A and I-205 [is] would be a
9 warrantless arrest for purposes of A.R.S. § 13-3883.

10 **Coconino County Sheriff's Office Detention of Plaintiff Jose**
11 **Montelongo-Morales**

12 64. On January 2, 2019, the Flagstaff Municipal Court set conditions of
13 release.

14 65. Those conditions, in their totality were: that Plaintiff Jose
15 Montelongo-Morales pay a \$200.00 cash bond.

16 66. By the terms of the Commitment/ Release Order issued in
17 [Plaintiff's] Plaintiff Jose Montelongo-Morales's case on January 2, 2019, the
18 above-mentioned conditions of release were the only conditions of release set by
19 the Flagstaff Municipal Court.

20 67. The Determination of Release Conditions described in Paragraphs
21 [63] 65 and [64] 66, above, [is still in force at this time and has] have not been
22 rescinded, modified, superseded or otherwise amended since its initial issuance on
23 January 2, 2019.

24 68. The Flagstaff Municipal Court derives its authority to set conditions
25 of release from A.R.S. § 13-3967 and from Article II, Section 22 of the Arizona
Constitution, because Plaintiff Jose Montelongo-Morales was detained pursuant to
a Failure to Appear Warrant issued by the Flagstaff Municipal Court. No other

1 authority authorized Defendants to jail Plaintiff Jose Montelongo-Morales. [As it
2 currently stands, without intervention by this Court, Plaintiff will almost certainly
3 be detained for up to an additional 48 hours, without lawful authority, upon
4 completion of all conditions of release described in Paragraphs 63-64, above.]

5 **Plaintiff Jesus Quiroz-Villalobos's Initial Arrest**

6 69. Plaintiff Jesus Quiroz-Villalobos was arrested by Flagstaff Police on
7 March 14, 2019.

8 70. On March 14, 2019 Plaintiff Jesus Quiroz-Villalobos was booked
9 into the Coconino County Detention Facility for misdemeanor criminal damage
10 and misdemeanor possession of marijuana.

11 71. On March 14, 2019, Plaintiff Jesus Quiroz-Villalobos was arraigned
12 before the Flagstaff Municipal Court and was held on a \$50.00 cash bond.

13 72. Plaintiff Jesus Quiroz-Villalobos is currently being held in the
14 Coconino County Detention Facility by order of the Flagstaff Municipal Court and
15 pursuant to Arizona statutes.

16 73. At no time did Coconino County officials bring federal criminal
17 charges against Plaintiff Jesus Quiroz-Villalobos.

18 74. Upon information and belief, at no time have federal authorities
19 communicated to Defendants or to Coconino County Sheriff's Office personnel
20 that there is probable cause to believe that Plaintiff Jesus Quiroz-Villalobos
21 violated any criminal statutes.

22 75. Upon information and belief, Plaintiff Jesus Quiroz-Villalobos does
23 not have any outstanding criminal warrants for his arrest from other jurisdictions.

24 76. Plaintiff Jesus Quiroz-Villalobos does not stand charged in any other
25 state with a felony crime.

1 77. Plaintiff Jesus Quiroz-Villalobos is currently being held in the
2 Coconino County Detention Facility as a detainee of Coconino County Sheriff’s
3 Office and is fully under the custody of Coconino County Sheriff’s Office.

4 78. Plaintiff Jesus Quiroz-Villalobos is not currently being held in the
5 Coconino County Detention Facility pursuant to an intergovernmental agreement
6 with a federal agency.

7 79. Plaintiff Jesus Quiroz-Villalobos is not currently a federal inmate.

8 **ICE Involvement in Plaintiff Jesus Quiroz-Villalobos’s Case**

9 80. On or about March 14, 2019, ICE officials located in Phoenix,
10 Arizona, became aware that Plaintiff Jesus Quiroz-Villalobos was in the custody
11 of the Coconino County Sheriff’s Office.

12 81. On March 14, 2019, ICE officials located in Phoenix, Arizona, sent a
13 document to the Coconino County Detention Facility related to Plaintiff Jesus
14 Quiroz-Villalobos entitled “Department of Homeland Security Immigration
15 Detainer – Notice of Action” and imprinted with the form number “I-247A”.

16 82. Aside from the document referenced in Paragraph 81, above, the
17 Coconino County Sheriff’s Office received no other documents from ICE related
18 to Plaintiff Jesus Quiroz-Villalobos.

19 83. The Form I-247A provided to the Coconino County Detention
20 Facility on March 14, 2019, nowhere indicates that ICE has formed probable cause
21 to believe that Plaintiff Jesus Quiroz-Villalobos violated any criminal laws.

22 84. Nowhere on the Form I-247A provided to the Coconino County
23 Detention Facility on March 14, 2019 appears the words “misdemeanor” or
24 “felony”.

25 85. The Form I-247A provided to the Coconino County Detention
Facility on March 14, 2019, is signed by an ICE “immigration officer”.

1 86. The above-referenced immigration officer who signed the Form I-
2 247A for Plaintiff Jesus Quiroz-Villalobos is an employee of ICE.

3 87. ICE is a law enforcement agency.

4 88. The immigration officer who signed the Form I-247A for Plaintiff
5 Jesus Quiroz-Villalobos is a law enforcement officer.

6 89. The immigration officer who signed the Form I-247A for Plaintiff
7 Jesus Quiroz-Villalobos is not a judge.

8 90. The immigration officer who signed the Form I-247A for Plaintiff
9 Jesus Quiroz-Villalobos is not a “magistrate”, as that term is used in A.R.S. § 13-
10 3898, A.R.S. § 13-3907, A.R.S. § 1-215, and the Arizona Rules of Criminal
11 Procedure.

12 91. The immigration officer who signed the Form I-247A for Plaintiff
13 Jesus Quiroz-Villalobos is personally involved in the investigation of violations of
14 federal immigration laws and is neither detached nor neutral.

15 92. Any future prolonged detention of Plaintiff Jesus Quiroz-Villalobos
16 based solely upon the Form I-247A would be a warrantless arrest for purposes of
17 A.R.S. § 13-3883.

18 **Coconino County Sheriff’s Office Detention of Plaintiff Jesus Quiroz-**
19 **Villalobos**

20 93. On March 18, 2019, the Flagstaff Municipal Court set conditions of
21 release.

22 94. Those conditions, in their totality were that Plaintiff Jesus Quiroz-
23 Villalobos pay a \$50.00 cash bond.

24 95. By the terms of the Commitment/Release Order issued in Plaintiff
25 Jesus Quiroz-Villalobos’s case on March 18, 2019, the above-mentioned
conditions of release were the only conditions of release set by the Flagstaff
Municipal Court.

1 96. The Determination of Release Conditions described in Paragraphs
2 93-95, above, is still in force at this time and has not been rescinded, modified,
3 superseded, or otherwise amended since its initial issuance on March 18, 2019.

4 97. The Flagstaff Municipal Court derives its authority to set conditions
5 of release from A.R.S. § 13-3967 and from Article II, Section 22 of the Arizona
6 Constitution because Plaintiff Jesus Quiroz-Villalobos was detained pursuant to a
7 \$50.00 cash bond set by the Flagstaff Municipal Court. As it currently stands,
8 without intervention by this Court, Plaintiff Jesus Quiroz-Villalobos will almost
9 certainly be detained for up to an additional 48 hours, without lawful authority,
10 upon completion of all conditions of release described above.

11 **CLASS ACTION ALLEGATIONS**

12 98. Pursuant to Arizona Rule of Civil Procedure 23, [Plaintiff brings]
13 Plaintiffs bring this class action and [seeks] seek certification of the claims and
14 certain issues in this action on behalf of a Class defined as:

15 **All current and future detainees and inmates of Coconino County**
16 **Detention Facility who are currently or will be the subject of an ICE**
17 **detainer request and/or ICE administrative warrant sent to Defendants**

18 99. [Plaintiff reserves] Plaintiffs reserve the right to amend the Class
19 definition if further investigation and discovery indicates that the Class definition
20 should be narrowed, expanded, or otherwise modified.

21 100. Defendants' practices and omissions are being applied uniformly to
22 all members of the Class.

23 101. Absent relief granted by this Court, [Plaintiff believes] Plaintiffs
24 believe that all future members of the Class will be treated similarly to [Plaintiff]
25 Plaintiffs and similarly to one another.

1 102. All members of the Class are and will be similarly affected by the
2 unlawful practices of Defendants.

3 103. Based on public records available at this time, it is apparent that the
4 number of Class members is so large as to make joinder impractical, if not
5 impossible.

6 104. The claims asserted by [Plaintiff] Plaintiffs in this action are typical
7 of the claims of the members of the Class, as the claims arise from the same
8 course of conduct by Defendants, and the relief sought within the Class is common
9 to the members of each.

10 105. [Plaintiff] Plaintiffs will fairly and adequately represent and protect
11 the interests of the members of the Class.

12 **CAUSES OF ACTION**

13 **COUNT ONE:**

14 **SPECIAL ACTION PURSUANT TO A.R.S. § 12-2021 AND THE ARIZONA**
15 **RULES OF SPECIAL ACTION**

16 106. Special Action is appropriate because there is no equally plain,
17 speedy, and adequate remedy available to [Plaintiff] Plaintiffs.

18 107. Special Action is appropriate because [Plaintiff seeks] Plaintiffs seek
19 an Order from this Court requiring Defendants to perform a duty that is:

- 20 a. Ministerial in nature; and
- 21 b. The law specially imposes this duty on the Defendants' and
- 22 c. Defendants have thus far refused to perform this duty; and
- 23 d. About which Defendants have no discretion. Ariz. R. Spec. Act. P.
24 3(a).

1 108. Special Action is also appropriate because Defendants are acting
2 without legal authority. Ariz. R. Spec. Act. P. 3(b).

3 109. When Defendants' state-law authority to confine [Plaintiff] Plaintiffs
4 has ended, [Plaintiff has] Plaintiffs have a clear legal right to release from the
5 Coconino County Detention Center.

6 110. Defendants lack discretion to prolong [Plaintiff's] Plaintiffs'
7 detention beyond the time when state law requires release. As such, Defendants'
8 duty to promptly release [Plaintiff] Plaintiffs at the appropriate time is a
9 ministerial function of their positions.

10 111. Defendants have stated their intention to exceed their state
11 warrantless arrest authority granted them by the state legislature.

12 **COUNT TWO:**
13 **INJUNCTIVE RELIEF**

14 112. The allegations described above constitute violations of [Plaintiff's]
15 Plaintiffs' rights, as Defendants have stated their intention to exceed their state
16 warrantless arrest authority granted them by the state legislature.

17 113. [Plaintiff] Plaintiffs can demonstrate both a likelihood of success on
18 the merits and a probability (not merely possibility) of irreparable harm if the
19 Court does not grant relief.

20 114. [Plaintiff] Plaintiffs can show that there will be no hardship to
21 Defendants if relief is granted, and that [Plaintiff] Plaintiffs will suffer
22 immeasurably if this Court does not grant relief.

23 **COUNT THREE:**
24 **DECLARATORY RELIEF**

25 115. [Plaintiff is] Plaintiffs are entitled to a declaration that Defendants'
policy and practice of preventing individuals from being released from custody

1 solely because of a request by immigration officials, and without a judicial warrant
2 or probable cause of a crime is contrary to Arizona law.

3 **REQUEST FOR RELIEF**

4 WHEREFORE, [Plaintiff] Plaintiffs respectfully [requests] request that the
5 Court enter judgment in [his] their favor and against Defendants, and award the
6 following relief:

7
8 A. Certify this action as a class action, pursuant to Rule 23(b)(1) or
9 23(b)(2), Ariz. R. Civ. P.;

10 B. Define the certified class, pursuant to Rule 23(c)(1)(B), Ariz. R. Civ.
11 P., as
12

13 “all current and future detainees and inmates of Coconino County
14 Detention Facility who are currently or will be the subject of an ICE
15 detainer request and/or ICE administrative warrant sent to Defendants”

16 C. Include in such Order an award of attorneys’ fees and non-taxable
17 costs, pursuant to Rule 23(g)(1)(D) and 23(h), Ariz. R. Civ. P.;

18 D. Appoint undersigned counsel as class counsel, pursuant to Rule
19 23(g), Ariz. R. Civ. P.;

20 E. Declare that the provisions of Defendants’ jail policy permitting
21 Coconino County Sheriff’s Office employees to prolong the detention of detainees
22 and inmates at the Coconino County Detention Facility for up to 48 additional
23 hours exceeds Defendants’ state law authority;

24 F. Preliminarily and permanently enjoin Defendants, their officers,
25 agents, servants, and employees from holding or otherwise detaining [Plaintiff]

1 Plaintiffs and class members in excess of ninety (90) minutes beyond the moment
2 that Coconino County Sheriff's Office confirms that [Plaintiff has] Plaintiffs have
3 met all conditions of release set by the Flagstaff City Court.

4 G. Preliminarily and permanently enjoin Defendants, their officers,
5 agents, servants, employees, and attorneys from notifying or in any way
6 communicating with ICE regarding the predicted or anticipated release date and
7 release time of [Plaintiff] Plaintiffs, as any such communication in this instance
8 would, by implication, be done in a deliberate effort by Defendants to undermine
9 other relief granted by this Court;
10

11 H. Accept jurisdiction of a special action by finding that [Plaintiff has]
12 Plaintiffs have standing to bring a special action, that the matter is subject to
13 judicial review, and that [Plaintiff] Plaintiffs properly pled that Defendants failed
14 to perform a ministerial duty that they were required by law to perform;
15

16 I. Order Defendants to show cause why Defendants should not be
17 ordered by this Court to release Plaintiff Jesus Quiroz-Villalobos from the
18 Coconino County Detention Facility immediately upon [Plaintiffs'] Plaintiff's
19 completion of all conditions of release, as the law requires Defendants to do and
20 for which the law provides no discretion;
21

22 J. Order Defendants to show cause why Defendants should not be
23 ordered to release Plaintiff Jesus Quiroz-Villalobos from the Coconino County
24 Detention Facility in a specific manner, as is permitted of the Superior Court in
25 certain circumstances during Special Actions (*See, e.g., Tovrea v. Superior Court,*

1 101 Ariz. 295 (1966); *Southwest Forest Industries, Inc. v. Sullivan*, 100 Ariz. 336
2 (1966))

3 K. Pursuant to A.R.S. § 12-2028A, order Defendants to immediately
4 release Plaintiff Jesus Quiroz-Villalobos] from their custody upon completion of
5 all conditions of release set by the Flagstaff City Court [on January 2, 2019], and
6 that Defendants do so in the following manner:
7

8 a. That Defendants effectuate [Plaintiff's] Plaintiff Jesus Quiroz-
9 Villalobos's release no longer than [sixty (60)] ninety (90) minutes
10 from the moment that Plaintiff completes all conditions of release set
11 by [the Flagstaff City] any Arizona State Court [on January 2, 2019];
12 and

13 b. That Defendants release Plaintiff Jesus Quiroz-Villalobos from their
14 custody without communicating to ICE about the anticipated release
15 time or anticipated release date of Plaintiff;

16 L. Award Plaintiffs their costs and reasonable attorneys' fees in this
17 action pursuant to A.R.S. § 12-2030 & Ariz. R. Civ. P. 23;

18 M. Grant Plaintiffs such other relief as this Court may deem just and
19 proper.

20 RESPECTFULLY SUBMITTED this 29 March 2019.

21 s/Lee Phillips
22 Lee Phillips
23 Attorney for Plaintiff

24 s/Robert S. Malone
25 Robert S. Malone
Attorney for Plaintiff

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s/William B. Peard
William B. Peard
Attorney for Plaintiff

s/Kathleen E. Brody
Kathleen E. Brody
Attorney for Plaintiff