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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ALTON JONES,	
	Plaintiff,
v.	
U.S. BORDER PATROL AGENT HERNANDEZ, FNU; DOE U.S. BORDER PATROL AGENTS #1 through #4, each sued in their individual capacities; and the UNITED STATES OF AMERICA,	
	Defendants.

Case No.: 3:16-cv-01986-W-WVG
**FIRST AMENDED COMPLAINT
FOR DAMAGES FOR:**
**1. Unconstitutional Detention & Arrest
(4th Amend.)**
2. Excessive Use of Force (4th Amend.)
**3. Unconstitutional Search
(4th Amend.)**
4. Retaliation (1st Amend.)
5. False Imprisonment (FTCA)
6. Battery by a Peace Officer (FTCA)
7. Assault (FTCA)
8. Negligence (FTCA)
**9. Intentional Infliction of Emotional
Distress (FTCA)**
**10. Violation of CA Civil Code § 52.1
(FTCA)**
DEMAND FOR JURY TRIAL

Plaintiff Alton Jones (“Mr. Jones” or “Plaintiff”) brings this action against U.S. Border Patrol Agent Hernandez and Doe U.S. Border Patrol Agents #1 through #4 (collectively, “Individual Defendants”), in their individual capacities, and the United States of America, and alleges as follows:

INTRODUCTION

1
2 1. Alton Jones is a 57-year-old U.S. citizen. He served as a Navy SEAL from
3 1977 until his honorable discharge in 1990. He lives with his wife Ana Isabel Jones and
4 their young son in San Diego, California. Their home faces the rear side of the Imperial
5 Beach Border Patrol station.

6 2. On August 9, 2014, Mr. and Mrs. Jones took their young son to the Border
7 Field State Park / Tijuana Estuary, approximately five miles from their home.

8 3. Mr. Jones attempted to jog through the State Park, but was assaulted and
9 detained overnight by Defendants without explanation or justification.

10 4. The Individual Defendants' conduct violated Mr. Jones's Fourth
11 Amendment rights to be free from unreasonable search and seizure and excessive force
12 and his First Amendment right of free expression. The negligent or wrongful acts or
13 omissions of the employees of Defendant United States of America constituted tortious
14 interference with Mr. Jones's rights and caused Mr. Jones additional personal injuries.
15 Mr. Jones brings this lawsuit to vindicate his rights and remedy these violations.

16 5. Accordingly, through this action, Mr. Jones seeks money damages from the
17 Individual Defendants pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau*
18 *of Narcotics*, 403 U.S. 388 (1971), for violation of his rights under the First and Fourth
19 Amendments to the U.S. Constitution, and money damages from the United States for
20 violations of the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346, 2671 *et seq.*

JURISDICTION AND VENUE

21
22 6. This court has subject matter jurisdiction over Mr. Jones's constitutional and
23 FTCA claims under 28 U.S.C. §§ 1331 and 1346(b).

24 7. This court has personal jurisdiction over all Defendants.

25 8. This court has the power to award money damages for constitutional
26 violations pursuant to *Bivens, supra*, and for torts pursuant to the FTCA, and to grant any
27 other appropriate declaratory relief pursuant to 28 U.S.C. § 2201.
28

FACTUAL ALLEGATIONS

Arrival at Border Field State Park / Tijuana Estuary

17. On the afternoon of August 9, 2014, Mr. and Mrs. Jones and their then-six-year-old son visited the Border Field State Park / Tijuana Estuary, off Monument Road in San Diego.

18. Upon arrival, the Joneses paid \$5 to gain entry to the State Park and received a map of the area. Mr. Jones then drove the family into the park and toward the beach, coming to a stop past the beach turnabout.

19. While the Joneses were still in the car with the motor running, a Border Patrol agent in a patrol vehicle (upon information and belief, Defendant Hernandez) pulled up alongside their car and told them they could not park where they had stopped.

20. Mr. Jones asked Agent Hernandez for instructions on where to park instead; the agent told them to park further up on the asphalt, and Mr. Jones obliged.

21. The Joneses got out of their vehicle and carried a beach umbrella, towels, and their son's toys to a spot nearby on the sand.

22. Mr. Jones then left his wife and son on the beach to go for a short run. He was wearing a t-shirt and shorts, with his iPhone strapped to his arm and his white earphones in; he was carrying nothing else on his person. He carried no weapons, nor did he reasonably appear to be carrying any weapon. Mr. Jones was also wearing a GPS watch, which he set before starting off.

Mr. Jones's Attempted Run

23. Mr. Jones headed onto a sand path that appeared to go up and around the wildlife reserve. This sand path leads up to a paved road that runs parallel to an area immediately adjacent to Friendship Park and the U.S.-Mexico border fence. Neither the sand path nor the paved road had any barriers, signs, or other visible indicators that the area was restricted to pedestrians.

24. After approximately half a mile, Mr. Jones noticed a Border Patrol vehicle up ahead moving quickly downhill toward him. He phoned his wife and told her,

1 referring to Defendant Hernandez, “I think that Border Patrol agent is flying down the
2 hill toward me for some reason.”

3 25. While on the phone with his wife, Mr. Jones was approached from the rear
4 by another Border Patrol agent (Doe Defendant #1), who pulled up alongside him in
5 another vehicle. Mr. Jones removed his iPhone earphones and told this agent that he
6 intended only to run up the hill and back down to the beach.

7 26. Simultaneously, the agent approaching from the front reached Mr. Jones;
8 Mr. Jones saw that this was, in fact, the same agent who had approached the family near
9 the beach and instructed them to move their car (upon information and belief, Defendant
10 Hernandez).

11 27. Defendant Hernandez got out of his patrol vehicle, shouting to Mr. Jones to
12 “turn the fuck around.” Offended, Mr. Jones replied, “What’s your fucking problem?”

13 28. Mr. Jones immediately turned around and began jogging back down the road
14 toward the beach.

15 29. Within a couple of hundred yards, however, Mr. Jones saw additional
16 Border Patrol agents on quad bikes and a third patrol vehicle heading toward him.

17 30. Mrs. Jones, who was still on the line with Mr. Jones, told her husband to
18 return to her and their son on the beach. Mr. Jones told her he was trying to do so, but
19 that he was being surrounded.

20 Assault and Arrest by Defendants

21 31. Fearing that if he ran down from the paved road onto the trail, the agents on
22 the quad bikes would collide with him or use their weapons, Mr. Jones decided to stay on
23 the paved road as he tried to return to his family on the beach. Mr. Jones committed no
24 crime, and he took no actions giving the Defendants any reasonable suspicion or probable
25 cause to believe that he had committed or was about to commit any crime. Mr. Jones
26 presented no threat to the Defendants’ safety and took no actions that would have led
27 reasonable officers to fear for their safety.
28

1 32. As Mr. Jones continued on the road, however, the agents tackled him
2 without any warning or justification for doing so. Upon information and belief, at least
3 four Border Patrol agents were involved in this initial altercation: Defendant Hernandez,
4 Doe Defendant #1, and the two additional Border Patrol agents who had each arrived on a
5 quad bike (Doe Defendant #2 and Doe Defendant #3).

6 33. Mr. Jones was pummeled to the ground. One or more of the agents hit Mr.
7 Jones on his back and around his neck. Mr. Jones tried to put his hands behind his back
8 and felt someone's knee on his spine. His arms were twisted up hard behind him, causing
9 him severe pain.

10 34. Mr. Jones repeatedly asked the agents to stop. At no point did he resist the
11 agents or react with force of his own.

12 35. Despite this, one or more agents made the false accusation that Mr. Jones
13 had "just assaulted a federal agent." Mr. Jones denied this charge, and again tried to
14 explain that he was simply out for a jog while his wife and child awaited his return down
15 by the water.

16 36. The force used by Defendants on Mr. Jones was excessive and unreasonable
17 because (a) Defendants had no reasonable suspicion or probable cause that Mr. Jones had
18 committed any crime, much less any serious or violent crime; (b) Mr. Jones was neither
19 armed nor reasonably believed to be armed; (c) Mr. Jones did not threaten or reasonably
20 appear to threaten the Defendants' safety; and (d) Mr. Jones did not assault any
21 Defendant or resist arrest.

22 37. These events transpired between approximately 3:10 p.m. and 3:30 p.m.

23 38. A blond-haired Border Patrol agent (Doe Defendant #4) handcuffed Mr.
24 Jones tightly, took him over to a patrol vehicle, and placed him in the back seat.

25 39. Mr. Jones recalls that the heater was on in the car, and it was uncomfortably
26 hot.

1 40. Mr. Jones asked to speak with a supervisor. Within a few minutes, a
2 supervisory officer (upon information and belief, Agent McFarland) came over to the car
3 and opened the door to the backseat to speak to Mr. Jones.

4 41. Mr. Jones explained that he and his family were visiting the beach and that
5 he had been out for a short run before being surrounded, tackled, and detained by the
6 Border Patrol agents.

7 42. Mr. Jones asked Agent McFarland why he was being detained; the
8 supervisor replied that he would get back to Mr. Jones “in a second” and that he first
9 needed to get information from the agents on the scene.

10 43. Moments later, Agent McFarland told Mr. Jones he was under arrest for
11 assaulting a federal officer and read him his rights.

12 44. Mr. Jones protested that he had done nothing wrong and that the agents had,
13 in fact, hurt *him*.

14 45. Mr. Jones was left in the backseat of the patrol vehicle, with the heater on,
15 for another fifteen or twenty minutes.

16 46. Doe Defendant #4 then returned to the patrol vehicle to take Mr. Jones to the
17 nearby Imperial Beach Border Patrol station, located at 1802 Saturn Boulevard, San
18 Diego, CA 92154.

19 47. When Mr. Jones again tried to explain that his wife and child were waiting
20 for him back on the beach and that he was injured, Doe Defendant #4 replied “Fuck you,
21 I don’t feel sorry for you, the other guy has a fucking broken ankle because of you.” The
22 accusation that Mr. Jones was responsible for any agent’s broken ankle was false.

23 48. Doe Defendant #4 then turned off the paved road onto the sand trails, turned
24 on very loud rap music, and accelerated sharply. Mr. Jones saw dust kick up and fly
25 around the car before the agent turned around and went back up a hill toward an open
26 area.

27 49. Doe Defendant #4’s driving during this “rough ride” caused Mr. Jones to be
28 jostled severely in the backseat of the patrol vehicle.

1 50. Mr. Jones also saw Doe Defendant #4 putting on leather gloves while
2 driving and worried that he was being taken somewhere to be beaten up. Mr. Jones felt
3 helpless and extremely frightened.

4 Arrival at Imperial Beach Border Patrol Station

5 51. After this inexplicable and unnecessary driving detour, Doe Defendant #4
6 and Mr. Jones arrived at the Imperial Beach Border Patrol station. The time was
7 approximately 4 p.m.

8 52. Doe Defendant #4 removed Mr. Jones from the car, took him into the
9 station, and searched him incident to arrest, in excess of a limited frisk for weapons, in
10 the absence of any reason to believe Mr. Jones was armed and dangerous.

11 53. Mr. Jones asked for an attorney; he was told “just relax, we’ll get to that in a
12 minute.”

13 54. Mr. Jones again tried to explain his concerns about his wife and child being
14 stranded at the State Park: his wife could not operate the family’s manual transmission
15 vehicle, and his six-year-old son would not understand why his father had not come back
16 after a run. Mr. Jones explained that he was a local business owner with no criminal
17 record and said he did not understand why he was being detained. Finally, Mr. Jones
18 complained of back, hip, and shoulder pain, and asked to be taken to a hospital to receive
19 medical care.

20 55. Rather than respond to Mr. Jones, one or more of the agents at the station
21 placed Mr. Jones into a detention cell.

22 Overnight Detention Without Charge or Access to An Attorney

23 56. Mr. Jones was detained overnight at the Imperial Beach Border Patrol
24 station, from approximately 4 p.m. on August 9, 2014 until approximately 8 a.m. on
25 August 10, 2014.

26 57. Throughout this detention, Mr. Jones repeatedly requested an attorney but
27 was never provided one. Instead, the Border Patrol agents on duty either ignored him or
28 told him that they had been unable to contact an attorney.

1 58. Likewise, Mr. Jones repeatedly informed the Border Patrol that he had been
2 injured, complaining of, inter alia, back, hip, and shoulder pain; nevertheless, Mr. Jones
3 was never provided with any medical treatment during his detention.

4 59. When Mr. Jones banged on his cell door at various intervals during his
5 detention to ask for a lawyer or to be released, one or more agents on duty threatened him
6 with “the chair”—a form of punishment whereby a detainee is strapped to a chair with a
7 hood or spit bag placed over his head.

8 60. Throughout his detention, Mr. Jones tried to get some sort of explanation for
9 his treatment from the Border Patrol. He was provided with conflicting explanations for
10 his detention, including that he was under arrest for assaulting a federal officer; that he
11 would not be charged with assaulting a federal officer but instead with “resisting arrest”;
12 that he would be transferred to county jail and charged with “felony resisting arrest”
13 (resisting with force); that he would not be transferred to county jail; that no federal
14 charges would be brought against him; and that it was uncertain whether state charges
15 would be brought against him. The lack of clarity or explanation for his arrest and
16 detention caused Mr. Jones extreme anguish.

17 61. This extreme anguish was compounded by the acute anxiety Mr. Jones felt at
18 being separated from his wife and young child, and upon overhearing Border Patrol
19 agents at Imperial Beach station laughing at him while he sat in his cell (for example,
20 saying in mocking tones, “He says he’s an American.”).

21 62. Mr. Jones was ultimately released around 8 a.m. on August 10, 2014. He
22 was given no paperwork or any other record of his detention before he was released.

23 63. All told, Mr. Jones was detained for a total of approximately seventeen
24 hours. He was never charged with any crime.

25 Federal Tort Claim Act Administrative Complaint

26 64. On August 8, 2016, Mr. Jones mailed an administrative claim under the
27 FTCA, comprised of a completed Standard Form 95 and supporting materials, to the
28 appropriate federal agencies, including the Department of Homeland Security’s Office of

General Counsel. *See* Ex. A (Tort Claim). Mr. Jones claimed \$3 million in damages. DHS Office of General Counsel received the claim via email on August 8, 2016 and via Federal Express on August 9, 2016. Because the earliest tortious action described in Mr. Jones's administrative claim occurred on August 9, 2014, his claim was timely filed. *See* 28 U.S.C. § 2401(b) (two year statute of limitations for filing of administrative tort claims).

65. In a letter dated October 20, 2016, U.S. Customs and Border Protection denied Mr. Jones's administrative tort claim. *See* Ex. B (Denial Letter). This federal lawsuit under the FTCA is timely. *See* 28 U.S.C. § 2401(b) (six month statute of limitations for filing of action after denial of administrative tort claim).

CLAIMS FOR RELIEF

Plaintiff incorporates by reference the allegations of paragraphs 1 through 65, above, as though fully set forth herein.

FIRST CLAIM FOR RELIEF

Unconstitutional Detention and Arrest—Fourth Amendment to the U.S.

Constitution (*Bivens*)

Against All Individual Defendants, For Damages

66. Defendants detained and arrested Plaintiff without reasonable suspicion or probable cause, or failed to prevent his detention and arrest without reasonable suspicion or probable cause despite reasonable opportunity to do so.

67. The detention, arrest, search, unnecessary and extended restraint, interrogations, and overnight incarceration of the Plaintiff by the Defendants, as described in paragraphs 1 through 65, constituted an unreasonable seizure in violation of clearly established rights under the Fourth Amendment to the U.S. Constitution.

1 **SECOND CLAIM FOR RELIEF**

2 **Excessive Use of Force—Fourth Amendment to the U.S. Constitution (*Bivens*)**
3 **Against All Individual Defendants, For Damages**

4 68. In detaining and arresting Plaintiff, Defendants used excessive and
5 unreasonable force, or failed to prevent the use of excessive and unreasonable force on
6 Plaintiff despite reasonable opportunity to do so, in violation of clearly established rights
7 under the Fourth Amendment to the U.S. Constitution.

8
9 **THIRD CLAIM FOR RELIEF**

10 **Unconstitutional Search—Fourth Amendment to the U.S. Constitution (*Bivens*)**
11 **Against All Individual Defendants, For Damages**

12 69. The search of Plaintiff's person violated clearly established rights under the
13 Fourth Amendment to the U.S. Constitution because it was conducted without a warrant
14 in the absence of any valid exception to the warrant requirement. It was unjustified as a
15 search incident to arrest because Defendants lacked probable cause to make an arrest. It
16 was unjustified as a frisk for weapons because it exceeded the scope of a valid frisk and
17 Defendants lacked reasonable suspicion that Mr. Jones was armed and dangerous. Any
18 Defendant who did not conduct the search unconstitutionally failed to prevent the search
19 despite reasonable opportunity to do so.

20
21 **FOURTH CLAIM FOR RELIEF**

22 **Retaliation in Violation of the First Amendment to the U.S. Constitution (*Bivens*)**
23 **Against All Individual Defendants, For Damages**

24 70. During his encounter with Defendant Hernandez, Mr. Jones engaged in
25 constitutionally protected speech. Specifically, when Defendant Hernandez shouted to
26 Mr. Jones to "turn the fuck around," Mr. Jones replied "What's your fucking problem?"
27
28

1 71. Mr. Jones's constitutionally protected speech was a substantial motivating
2 factor for the Defendants' subsequent assault, arrest, and overnight detention of Mr.
3 Jones. Defendants thus retaliated against Mr. Jones because of his speech.

4 72. Defendants' actions would chill a person of ordinary firmness from
5 engaging in such constitutionally protected speech, in violation of the First Amendment.

6
7 **FIFTH CLAIM FOR RELIEF**

8 **False Imprisonment (FTCA)**

9 **Against the United States of America, For Damages**

10 73. Through the actions described herein on August 9–10, 2014, Defendants
11 intentionally confined Mr. Jones overnight without lawful justification.

12 74. Mr. Jones did not consent to such confinement.

13 75. As a proximate result of the acts alleged herein, Mr. Jones is entitled to
14 damages in an amount to be proven at trial.

15
16 **SIXTH CLAIM FOR RELIEF**

17 **Battery by a Peace Officer (FTCA)**

18 **Against the United States of America, For Damages**

19 76. Through the actions described herein on August 9–10, 2014, Defendants
20 intentionally touched Mr. Jones and used unreasonable force to arrest Mr. Jones, prevent
21 his escape, and overcome his resistance.

22 77. Mr. Jones did not consent to this use of force.

23 78. Defendants' use of unreasonable force was a substantial factor in causing
24 harm to Mr. Jones.

25 79. As a proximate result of the acts alleged herein, Mr. Jones suffered harm,
26 entitling him to damages in an amount to be proven at trial.

SEVENTH CLAIM FOR RELIEF

Assault (FTCA)

Against the United States of America, For Damages

80. Through the actions described herein on August 9–10, 2014, Defendants threatened to touch Mr. Jones in a harmful or offensive manner.

81. It reasonably appeared to Mr. Jones that Defendants were about to carry out this threat.

82. Mr. Jones did not consent to Defendants' conduct.

83. Defendants' conduct was a substantial factor in causing harm to Mr. Jones.

84. As a proximate result of the acts alleged herein, Mr. Jones suffered harm, entitling him to damages in an amount to be proven at trial.

EIGHTH CLAIM FOR RELIEF

Negligence (FTCA)

Against the United States of America, For Damages

85. Defendants had a legal duty to act reasonably in using force.

86. To comply with this duty, Defendants were required to act reasonably not only in the moment that force was used, but also in the actions they took before using force.

87. Through the actions described herein on August 9–10, 2014, Defendants breached their legal duty to protect Mr. Jones from their unreasonable use of force.

88. Defendants' conduct was the proximate or legal cause of Mr. Jones's injuries and caused harm to Mr. Jones.

89. As a proximate result of the acts alleged herein, Mr. Jones suffered harm, entitling him to damages in an amount to be proven at trial.

NINTH CLAIM FOR RELIEF

Intentional Infliction of Emotional Distress (FTCA)

Against the United States of America, For Damages

90. Through the actions described herein on August 9–10, 2014, Defendants engaged in, instigated, and directed a course of extreme and outrageous conduct with the intention of causing, or reckless disregard of the probability of causing, Mr. Jones emotional distress.

91. As a proximate result of the acts alleged herein, Mr. Jones suffered severe or extreme emotional distress, entitling him to damages in an amount to be proven at trial.

TENTH CLAIM FOR RELIEF

Violation of California Civil Code § 52.1 (FTCA)

Against the United States of America, For Damages

92. Defendants interfered by threats, intimidation, or coercion, or attempted to interfere by threats, intimidation, or coercion, with Mr. Jones's exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of California.

93. As a proximate result of the acts alleged herein, Mr. Jones suffered damages in an amount to be proven at trial, including but not limited to damages as provided in California Civil Code § 52(a), up to a maximum of three times the amount of actual damages, but in no event less than four thousand dollars (\$4,000).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment as follows:

1. Awarding general and compensatory damages against Defendants, in an amount to be proven at trial;

2. Awarding punitive damages against Defendants, in an amount to be proven at trial;

3. Declaring Defendants' conduct to be unlawful;
4. Awarding Plaintiff the costs and fees incurred in this litigation;
5. Prejudgment interest; and
6. Granting such other relief as the court deems appropriate and just.

JURY DEMAND

Plaintiff hereby demands a trial by jury for all issues so triable.

Respectfully submitted,

Dated: February 3, 2017

ACLU FOUNDATION OF SAN DIEGO
& IMPERIAL COUNTIES

By /s Mitra Ebadolahi
Mitra Ebadolahi (SBN 275157)
Attorney for Plaintiff

Jones v US Border Patrol Agent Hernandez, et al
Case No. 3:16-cv-01986-W-WVG

EXHIBITS TO FIRST AMENDED COMPLAINT

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EXHIBIT A

TO FAC

**Jones v US Border Patrol Agent
Hernandez, Case No.: 16-cv-1986 W
(WVG)**

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Office of the General Counsel U.S. Department of Homeland Security Washington, D.C. 20528 (continued on Supplement)			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. Claimant: Alton Jones, 1646 Leon Avenue, San Diego, CA 92154 Counsel: Mitra Ebadolahi, ACLU of San Diego, 2760 Fifth Avenue, Suite 300, San Diego, CA 92103		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN		4. DATE OF BIRTH 08/18/1958	5. MARITAL STATUS Married	6. DATE AND DAY OF ACCIDENT 08/09/2014 Saturday	
7. TIME (A.M. OR P.M.) P.M.					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). See attached Supplement.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). N/A					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). N/A					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. See attached Supplement.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
Ana Isabel Jones		1646 Leon Avenue, San Diego, CA 92154			
Michael P. Wintz		1656 Zoro Way, San Diego, CA 92154			
James Joseph Wesley, M.D.		Kaiser Permanente Otay Mesa Med. Ctr., 4650 Palm Ave. San Diego CA 92154			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE 0.00		12b. PERSONAL INJURY 3,000,000		12c. WRONGFUL DEATH 0.00	
12d. TOTAL (Failure to specify may cause forfeiture of your rights). 3,000,000					
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 			13b. PHONE NUMBER OF PERSON SIGNING FORM 619.398.4187		14. DATE OF SIGNATURE 08/08/2016
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

INSURANCE COVERAGE	
In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.	
15. Do you carry accident insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. <input type="checkbox"/> No N/A (no property damage claimed)	
16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? <input type="checkbox"/> Yes <input type="checkbox"/> No	17. If deductible, state amount. 0.00
18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts). N/A (no property damage claimed)	
19. Do you carry public liability and property damage insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). <input type="checkbox"/> No N/A (no property damage claimed)	
INSTRUCTIONS	
<p>Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.</p> <p style="text-align: center;">Complete all items - Insert the word NONE where applicable.</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY</p> <p>Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.</p> <p>If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.</p> <p>The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.</p> <p>If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.</p> </div> <div style="width: 48%;"> <p>DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.</p> <p>The amount claimed should be substantiated by competent evidence as follows:</p> <p>(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.</p> <p>(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.</p> <p>(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.</p> <p>(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.</p> </div> </div>	
PRIVACY ACT NOTICE	
<p>This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.</p> <p>A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.</p>	<p>B. Principal Purpose: The information requested is to be used in evaluating claims.</p> <p>C. Routine Use: See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.</p> <p>D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."</p>
PAPERWORK REDUCTION ACT NOTICE	
<p>This notice is <u>solely</u> for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.</p>	

STANDARD FORM 95 REV. (2/2007) BACK

AUTHORIZATION OF ALTON JONES

I, Alton Jones, hereby declare the following:

1. I am the claimant in this case. I am currently represented by Mitra Ebadolahi, staff attorney at the ACLU of San Diego and Imperial Counties.
2. I have authorized my attorney Ms. Ebadolahi to file the enclosed administrative complaint on form SF-95, pursuant to the Federal Tort Claims Act.

I declare under penalty of perjury of the laws of the United States that the foregoing statements are true and correct. Executed on August ~~...~~^{4th}, 2016 in San Diego, California.

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Alton Jones



Notice of Entry of Appearance as Attorney or Accredited Representative

Department of Homeland Security

**DHS
Form G-28**
OMB No. 1615-0105
Expires 03/31/2018

Part 1. Information About Attorney or Accredited Representative

1. USCIS ELIS Account Number (if any)

▶

Name and Address of Attorney or Accredited Representative

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

3.a. Street Number and Name

3.b. Apt. ☐ Ste. ☐ Flr. ☐

3.c. City or Town

3.d. State

3.e. ZIP Code

3.f. Province

3.g. Postal Code

3.h. Country

4. Daytime Telephone Number

5. Fax Number

6. E-Mail Address (if any)

7. Mobile Telephone Number (if any)

Part 2. Notice of Appearance as Attorney or Accredited Representative

This appearance relates to immigration matters before
(Select **only one** box):

1.a. ☐ USCIS

1.b. List the form numbers

2.a. ☐ ICE

2.b. List the specific matter in which appearance is entered

3.a. ☒ CBP

3.b. List the specific matter in which appearance is entered

I enter my appearance as attorney or accredited representative at the request of:

4. Select **only one** box:

☐ Applicant ☒ Petitioner ☐ Requestor
☐ Respondent (ICE, CBP)

Information About Applicant, Petitioner, Requestor, or Respondent

5.a. Family Name (Last Name)

5.b. Given Name (First Name)

5.c. Middle Name

6. Name of Company or Organization (if applicable)

Part 2. Notice of Appearance as Attorney or Accredited Representative (continued)**Information About Applicant, Petitioner, Requestor, or Respondent (continued)**

7. USCIS ELIS Account Number (if any)

8. Alien Registration Number (A-Number) or Receipt Number

N/A

9. Daytime Telephone Number

10. Mobile Telephone Number (if any)

11. E-Mail Address (if any)

Mailing Address of Applicant, Petitioner, Requestor, or Respondent

NOTE: Provide the mailing address of the applicant, petitioner, requestor, or respondent. **Do not** provide the business mailing address of the attorney or accredited representative **unless** it serves as the safe mailing address on the application, petition, or request being filed with this Form G-28.

12.a. Street Number and Name

1646 LEON AVENUE

12.b. Apt. ☐ Ste. ☐ Flr. ☐

12.c. City or Town

SAN DIEGO

12.d. State

CA

12.e. ZIP Code

92154

12.f. Province

12.g. Postal Code

12.h. Country

UNITED STATES

Part 3. Eligibility Information for Attorney or Accredited RepresentativeSelect **all** applicable items.

- 1.a. ☒ I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest courts of the following states, possessions, territories, commonwealths, or the District of Columbia. (If you need additional space, use **Part 6**.)

Licensing Authority

SUPREME COURT OF CALIFORNIA

1.b. Bar Number (if applicable)

275157

1.c. Name of Law Firm

ACLU of SD & IMPERIAL COUNTIES

1.d. I (choose one) ☒ am not ☐ am

subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law. If you are subject to any orders, explain in the space below. (If you need additional space, use **Part 6**.)

- 2.a. ☐ I am an accredited representative of the following qualified nonprofit religious, charitable, social service, or similar organization established in the United States, so recognized by the Department of Justice, Board of Immigration Appeals, in accordance with 8 CFR 292.2. Provide the name of the organization and the expiration date of accreditation.


2.b. Name of Recognized Organization

2.c. Date accreditation expires

(mm/dd/yyyy) ▶

Part 3. Eligibility Information for Attorney or Accredited Representative (continued)

- 3.
- ☐
- I am associated with


the attorney or accredited representative of record who previously filed Form G-28 in this case, and my appearance as an attorney or accredited representative is at his or her request.

NOTE: If you select this item, also complete **Item Numbers 1.a. - 1.b. or Item Numbers 2.a. - 2.c. in Part 3.** (whichever is appropriate).

- 4.a.
- ☐
- I am a law student or law graduate working under the direct supervision of the attorney or accredited representative of record on this form in accordance with the requirements in 8 CFR 292.1(a)(2)(iv).

- 4.b. Name of Law Student or Law Graduate



Part 4. Applicant, Petitioner, Requestor, or Respondent Consent to Representation, Contact Information, and Signature**Consent to Representation and Release of Information**

1. I have requested the representation of and consented to being represented by the attorney or accredited representative named in
- Part 1.**
- of this form. According to the Privacy Act of 1974 and DHS policy, I also consent to the disclosure to the named attorney or accredited representative of any record pertaining to me that appears in any system of records of USCIS, ICE or CBP.

When you (the applicant, petitioner, requestor, or respondent) are represented, DHS will send notices to both you and your attorney or accredited representative either through mail or electronic delivery.

DHS will also send the Form I-94, Arrival Departure Record, to you **unless** you select **Item Number 2.a. in Part 4.** All secure identity documents and Travel Documents will be sent to you (the applicant, petitioner, requestor, or respondent) at your U.S. mailing address **unless** you ask us to send your secure identity documents to your attorney of record or accredited representative.

If you do not want to receive original notices or secure identity documents directly, but would rather have such notices and documents sent to your attorney of record or accredited representative, please select **all applicable** boxes below:

- 2.a.
- ☒
- I request DHS send any notice (including Form I-94) on an application, petition, or request to the U.S. business address of my attorney of record or accredited representative as listed in this form. I understand that I may change this election at any future date through written notice to DHS.

- 2.b.
- ☐
- I request that DHS send any secure identity document, such as a Permanent Resident Card, Employment Authorization Document, or Travel Document, that I am approved to receive and authorized to possess, to the U.S. business address of my attorney of record or accredited representative as listed in this form or to a designated military or diplomatic address for pickup in a foreign country (if permitted). I consent to having my secure identity document sent to my attorney of record or accredited representative's U.S. business address and understand that I may request, at any future date and through written notice to DHS, that DHS send any secure identity document to me directly.

- 3.a. Signature of Applicant, Petitioner, Requestor, or Respondent

→ 

- 3.b. Date of Signature (mm/dd/yyyy) ▶ 08/04/2016

Part 5. Signature of Attorney or Accredited Representative

I have read and understand the regulations and conditions contained in 8 CFR 103.2 and 292 governing appearances and representation before the Department of Homeland Security. I declare under penalty of perjury under the laws of the United States that the information I have provided on this form is true and correct.

1. Signature of Attorney or Accredited Representative



2. Signature of Law Student or Law Graduate



3. Date of Signature (mm/dd/yyyy) ▶ 08/04/2016

Part 6. Additional Information

Use the space provided below to provide additional information pertaining to **Part 3., Item Numbers 1.a. - 1.d.** or to provide your U.S. business address for purposes of receiving secure identity documents for your client (if your client has consented to your receipt of such documents under **Part 4.**)

Supplement to SF95 Claim Form
JONES, Alton (Claimant)

1. Submit to Appropriate Federal Agency (continued from SF95):

Office of the General Counsel
U.S. Department of Homeland Security
Mail Stop 3650
Washington, D.C. 20528
Email: ogc@hq.dhs.gov

Office of the Chief Counsel
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20229

Border Patrol Imperial Beach Station
1802 Saturn Blvd.
San Diego, CA 92154

U.S. Attorney's Office, Southern District of California
Civil Division
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101-8893

8. Basis of Claim:

On the afternoon of August 9, 2014, Alton Jones ("Mr. Jones" or "Claimant"), his wife Ana Isabel Jones, and their six-year-old son visited the Border Field State Park / Tijuana Estuary, off Monument Road in San Diego. Upon arrival, the Joneses paid \$5 to gain entry to the park and received a map of the area. Mr. Jones then drove the family into the park and toward the beach, coming to a stop past the beach turnabout.

While the Joneses were still in the car with the motor running, a Border Patrol agent (upon information and belief, Border Patrol Agent Hernandez) stopped alongside their car and told them they could not park where they had stopped. Mr. Jones asked the agent for instructions on where to park instead; the agent told them to park further up on the asphalt, and Mr. Jones obliged. The Joneses got out of their vehicle and carried a beach umbrella, towels, and their son's toys to a spot nearby on the sand.

Mr. Jones then left his wife and son on the beach to go for a short run. He was wearing a t-shirt and shorts, with his iPhone strapped to his arm and his white earphones in; he was carrying nothing else on his person. He carried no weapons, nor did he reasonably appear to be carrying any weapon. Mr. Jones was also wearing a GPS watch, which he set before starting off.

Mr. Jones headed onto a sand path that appeared to go up and around the wildlife reserve. This sand path leads up to a paved road that runs parallel to an area immediately adjacent to Friendship Park and the U.S.-Mexico border fence. Neither the sand path nor the paved road had any barriers, signs, or other visible indicators that the area was restricted.

Supplement to SF95 Claim Form
JONES, Alton (Claimant)

After approximately half a mile, Mr. Jones noticed a Border Patrol vehicle up ahead moving quickly downhill toward him. He phoned his wife and told her, referring to Agent Hernandez, "I think that Border Patrol agent is flying down the hill toward me for some reason." While on the phone with his wife, Mr. Jones was approached from the rear by another Border Patrol agent (Doe Agent #1), who pulled up alongside him in another vehicle. Mr. Jones removed his iPhone earphones and told this agent that he intended only to run up the hill and back down to the beach. Simultaneously, the agent approaching from the front reached Mr. Jones; Mr. Jones saw that this was, in fact, the same agent who had approached the family near the beach and instructed them to move their car (upon information and belief, Border Patrol Agent Hernandez).

Agent Hernandez got out of his patrol vehicle, shouting to Mr. Jones to "turn the fuck around." Offended, Mr. Jones replied, "What's your fucking problem?" Mr. Jones immediately turned around and began jogging back down the road toward the beach. Within a couple hundred yards, however, Mr. Jones saw additional Border Patrol agents on quad bikes and a third patrol vehicle heading toward him. Mrs. Jones, who was still on the line with Mr. Jones, told her husband to return to her and their son on the beach. Mr. Jones told her he was trying to do so, but that he was being surrounded.

Fearing that if he ran down from the paved road onto the trail, the agents on the quad bikes would collide with him or use their weapons, Mr. Jones decided to stay on the paved road as he tried to return to his family on the beach. Mr. Jones committed no crime, and he took no actions giving the agents any reasonable suspicion or probable cause to believe that he had committed or was about to commit any crime. Mr. Jones presented no threat to the agents' safety and took no actions that would have led reasonable officers to fear for their safety.

As Mr. Jones continued on the road, however, the agents tackled him without any warning or justification for doing so. According to Mr. Jones, there were at least four Border Patrol agents involved in this initial altercation: Agent Hernandez, Doe Agent #1, and the two additional Border Patrol agents who had each arrived on a quad bike (Doe Agent #2 and Doe Agent #3).

Mr. Jones was pummeled to the ground. One or more of the agents hit Mr. Jones on his back and around his neck. Mr. Jones tried to put his hands behind his back and felt someone's knee on his spine. His arms were twisted up hard behind him, causing him severe pain.

Mr. Jones repeatedly asked the agents to stop. At no point did he resist the agents or react with force of his own. Despite this, one or more agents made the false accusation that Mr. Jones had "just assaulted a federal agent." Mr. Jones denied this charge, and again tried to explain that he was simply out for a jog while his wife and child awaited his return down by the water. These events transpired between approximately 3:10 p.m. and 3:30 p.m.

A blond-haired Border Patrol agent (Doe Agent #4) handcuffed Mr. Jones tightly, took him over to a patrol vehicle, and placed him in the back seat. Mr. Jones recalls that the heater was on in the car, and it was uncomfortably hot. Mr. Jones asked to speak with a supervisor. Within a few minutes, a supervisory officer (upon information and belief, Agent McFarland) came over to the car and opened the door to the backseat to speak to Mr. Jones. Mr. Jones explained that he and his family were visiting the beach and that he had been out for a short run before being surrounded, tackled, and detained by the Border Patrol agents. Mr. Jones asked Agent McFarland why he was

Supplement to SF95 Claim Form
JONES, Alton (Claimant)

being detained; the supervisor replied that he would get back to Mr. Jones “in a second” and that he first needed to get information from the agents on the scene. Moments later, Agent McFarland told Mr. Jones he was under arrest for assaulting a federal officer and read him his rights. Mr. Jones protested that he had done nothing wrong and that the agents had, in fact, hurt *him*.

Mr. Jones was left in the backseat of the patrol vehicle, with the heater on, for another fifteen or twenty minutes. At that point, Doe Agent #4 returned to the patrol vehicle to take Mr. Jones to the nearby Imperial Beach Border Patrol station (located at 1802 Saturn Boulevard, San Diego, CA 92154). When Mr. Jones again tried to explain that his wife and child were waiting for him back on the beach and that he was injured, Doe Agent #4 replied “Fuck you, I don’t feel sorry for you, the other guy has a fucking broken ankle because of you.” The accusation that Mr. Jones was responsible for any agent’s broken ankle was false.

Doe Agent #4 then turned off the paved road onto the sand trails, turned on very loud rap music, and accelerated sharply. Mr. Jones saw dust kick up and fly around the car before the agent turned around and went back up a hill toward an open area. Doe Agent #4’s driving during this “rough ride” caused Mr. Jones to be jostled severely in the backseat of the patrol vehicle. Mr. Jones also saw Doe Agent #4 putting on leather gloves while driving and worried that he was being taken somewhere to be beaten up. Mr. Jones felt helpless and extremely frightened.

After this inexplicable and unnecessary driving detour, Doe Agent #4 and Mr. Jones arrived at the Imperial Beach Border Patrol station around approximately 4 p.m. Doe Agent #4 removed Mr. Jones from the car, took him into the station, and searched him incident to arrest, in excess of any limited frisk for weapons, in the absence of any reason to believe Mr. Jones was armed and dangerous. Mr. Jones asked for an attorney; he was told “just relax, we’ll get to that in a minute.” A number of Border Patrol agents were present at the station. Mr. Jones again tried to explain his concerns about his wife and child being stranded at the State Park: his wife could not operate the family’s manual transmission vehicle, and his six-year-old son would not understand why his father had not come back after a run. Mr. Jones explained that he was a local business owner with no criminal record and said he did not understand why he was being detained. Finally, Mr. Jones complained of back, hip, and shoulder pain, and asked to be taken to a hospital to receive medical care. The agents did not respond. Instead, they placed Mr. Jones into Cell #7.

Mr. Jones was detained overnight at the Imperial Beach Border Patrol station, from approximately 4 p.m. on August 9, 2014 until approximately 8 a.m. on August 10, 2014. Throughout this detention, he repeatedly requested an attorney but was never provided one. Likewise, Mr. Jones repeatedly informed the agents on site that he had been injured, complaining of, inter alia, back, hip, and shoulder pain; nevertheless, Mr. Jones was never provided with any medical treatment during his detention. When Mr. Jones banged on his cell door at various intervals during his detention to ask for a lawyer or to be released, one or more agents on duty threatened him with “the chair”—a form of punishment whereby a detainee was strapped to a chair with a hood or spit bag placed over his head.

While detained, Mr. Jones was interviewed by several Border Patrol personnel, including Agent McFarland; another supervisory officer named Chris (“Supervisor Chris,” last name unknown); and two investigative officials (Doe Agent #5 and Doe Agent #6).

Supplement to SF95 Claim Form
JONES, Alton (Claimant)

Throughout his detention, Mr. Jones tried to get some sort of explanation for his treatment from the Border Patrol. While at the State Park, Agent McFarland told Mr. Jones that he was under arrest for assaulting a federal officer. Later that evening, at the Imperial Beach station, Supervisor Chris told Mr. Jones that he was not being charged with assaulting a federal officer but instead for “resisting arrest.” Supervisor Chris also told Mr. Jones that “the U.S. attorney” was evaluating the matter. Later still, Doe Agent #6 told Mr. Jones that he would be transferred to county jail and charged with “felony resisting arrest” (resisting with force). Almost immediately, however, Doe Agent #5 informed Mr. Jones that the transfer to county jail had been canceled. The lack of clarity or explanation for his arrest and detention caused Mr. Jones extreme anguish.

This extreme anguish was compounded by the acute anxiety Mr. Jones felt at being separated from his wife and young child, and upon overhearing Border Patrol agents at Imperial Beach station laughing at him while he sat in his cell (for example, saying in mocking tones, “He says he’s an American.”).

Late in the evening of August 9, 2014, Doe Agent #6 removed Mr. Jones from his cell and asked for a range of personal information (including, e.g., for Mr. Jones’s social security and driver’s license numbers). When Mr. Jones asked why this information was being collected, Doe Agent #6 demurred and said that Border Patrol “can look it up” without Mr. Jones’s cooperation. This, too, caused Mr. Jones acute anxiety.

Mr. Jones was ultimately released around 8 a.m. on August 10, 2014. He was given no paperwork or any other record of his detention before he was released. He was never charged with any crime.

10. Nature and Extent of Injuries Forming Basis for the Claim:

The Border Patrol’s treatment of Mr. Jones constitutes, at a minimum, the torts of, *inter alia*, false arrest and false imprisonment, battery, assault, negligence, intentional infliction of emotional distress, and deprivation of constitutional rights through intimidation under California Civil Code § 52.1. Mr. Jones’s unlawful arrest, search, and detention, and the excessive force to which he was subjected, violated Border Patrol’s own binding policies, regulations, and statutes, as well as clearly established constitutional provisions.

As a result of the Border Patrol’s tortious conduct, including but not limited to the unlawful arrest of and excessive force against Mr. Jones, Mr. Jones has suffered physical injuries, including physical pain and suffering as well as inconvenience, loss of enjoyment of life, and other non-pecuniary losses. On August 9, 2014, Mr. Jones suffered multiple injuries to his arms and torso, including in particular to his right shoulder. Ultimately, Mr. Jones underwent shoulder surgery to treat his injured right shoulder.

Also as a result of Border Patrol’s tortious conduct, including but not limited to the unlawful arrest of and excessive force against Mr. Jones, Mr. Jones has suffered severe emotional distress, including severe mental and emotional pain and anguish, inconvenience, loss of enjoyment of life, and other non-pecuniary losses. Mr. Jones has received both individual and family psychological counseling for the extreme anguish suffered as a result of his unlawful arrest and overnight detention by the Border Patrol. Mr. Jones’s severe mental and emotional pain and anguish contributed to the loss of his business in 2015.

Supplement to SF95 Claim Form
JONES, Alton (Claimant)

Mr. Jones seeks compensation for these losses, including past and future medical expenses, psychological expenses, lost wages and employment, and damages for physical and mental pain.

11. Witnesses (continued from SF95):

NAME	ADDRESS
Eva Galvan Psych. Social Worker/MFT	Kaiser Permanente Otay Mesa Outpatient Medical Center 4650 Palm Ave., San Diego, CA 92154
Yvonne Bentle Psych. Social Worker/MFT	Kaiser Permanente Otay Mesa Outpatient Medical Center 4650 Palm Ave., San Diego, CA 92154
Emanuel H. Rosen Psychiatrist	VA San Diego Health Care System 3350 La Jolla Village Drive San Diego, CA 92161
Border Patrol Agent Hernandez [first name unknown]	Unknown, c/o U.S. Customs & Border Protection 610 W. Ash Street, Ste. 1200 San Diego, CA 92101
Border Parol Agent McFarland [first name unknown]	Unknown, c/o U.S. Customs & Border Protection 610 W. Ash Street, Ste. 1200 San Diego, CA 92101
Border Patrol Supervisor Chris [last name unknown]	Unknown, c/o U.S. Customs & Border Protection 610 W. Ash Street, Ste. 1200 San Diego, CA 92101
Doe Border Patrol Agents #1–6	Unknown, c/o U.S. Customs & Border Protection 610 W. Ash Street, Ste. 1200 San Diego, CA 92101
Other Unknown Border Patrol Agents	Unknown, c/o U.S. Customs & Border Protection 610 W. Ash Street, Ste. 1200 San Diego, CA 92101

EXHIBIT B

TO FAC

**Jones v US Border Patrol Agent
Hernandez, Case No.: 16-cv-1986 W
(WVG)**



**U.S. Customs and
Border Protection**

OCT 20 2016

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Mitra Ebadolahi
Counsel for Alton Jones
American Civil Liberties Union of San Diego
2760 Fifth Avenue, Suite 300
San Diego, CA
92103

Re: FTCA Administrative Claim of Alton Jones
CBP File Number SD-2016-02068 JC

Dear Ms. Ebadolahi:

Please be advised of the following decision regarding the administrative tort claim you filed on behalf of Alton Jones in the amount of \$3,000,000.00, relating to his arrest on August 9, 2014. After careful review of all the evidence in this case, it is my decision to deny your claim. This constitutes the agency's final denial of the claim.

Please be advised that if you are dissatisfied with this decision, you may file suit in an appropriate United States District Court no later than six months after the date of the mailing of this notification.

A handwritten signature in blue ink, appearing to read "Scott A. Luck".

Scott A. Luck
Acting Deputy Chief
U.S. Border Patrol