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2 **IN THE UNITED STATES DISTRICT COURT**  
3 **FOR THE DISTRICT OF ARIZONA**

4 Ana Adlerstein; Jeff Valenzuela, and  
5 Alex Mensing;

6 *Plaintiffs,*

7 v.

8 United States Customs and Border  
9 Protection; Mark Morgan; United  
10 States Immigration and Customs  
11 Enforcement; Tony H. Pham; Federal  
Bureau of Investigation; and  
Christopher Wray;

12 *Defendants*

CASE NO: 19-cv-00500-CKJ

**ANSWER TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT**

13 Defendants U.S. Customs and Border Protection (“CBP”), U.S. Immigration and  
14 Customs Enforcement (“ICE”) and Federal Bureau of Investigation (“FBI”) (collectively,  
15 “Defendants”), through their undersigned attorneys, hereby answers each numbered  
16 paragraph of Plaintiffs’ First Amended Complaint. Unless specifically admitted,  
17 Defendants deny each of the First Amended Complaint’s allegations.

18 **INTRODUCTION**<sup>1</sup>

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20  
21 1. The allegations in this paragraph, concerning a purported arrest on an  
22 unspecified date, are unduly vague, such that no answer is required. To the extent an  
23 answer is required, denied.  
24

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26  
27 <sup>1</sup> To the extent that the headings and non-numbered statements in the First Amended Complaint contain any averments, Defendants deny each and every such averment.

1           2.     This paragraph constitutes conclusions of law, argument, and Plaintiffs’  
2 characterization of this lawsuit, to which no answer is required.

3           3.     Defendants lack knowledge or information sufficient to form a belief about  
4 the truth of the allegation that Plaintiffs are “humanitarian activists.” The remainder of  
5 the first sentence of this paragraph constitutes argument and conclusions of law, to which  
6 no answer is required. Defendants admit the allegation in the second sentence that the  
7 named Defendants are government agencies and officials of those agencies. The  
8 remainder of the second sentence of this paragraph constitutes argument and conclusions  
9 of law, to which no answer is required.  
10  
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12           4.     The allegations in this paragraph are unduly vague insofar as they describe an  
13 alleged border crossing by Plaintiff Jeff Valenzuela on an unspecified date and time. In  
14 the alternative, Defendants lack knowledge or information sufficient to form a belief  
15 about the truth of the allegation that Plaintiff Jeff Valenzuela is a “photographer and  
16 humanitarian volunteer,” or the details of an alleged attempted to return to the United  
17 States at an unspecified date and time.  
18  
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20           5.     The first and second sentences of this paragraph are denied, except that the  
21 allegation in the second sentence concerning “detention, searches, and repeated  
22 interrogation” at unspecified dates is unduly vague, such that no answer is required. The  
23 third and fourth sentences are unduly vague, such that no answer is required. To the  
24 extent an answer is required, denied.  
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**PARTIES**

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10. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

11. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph. In addition, the fourth sentence of this paragraph, alleging that Plaintiff Adlerstein “accompanied” “asylum seekers” at unspecified dates and times to U.S. Port of Entry is unduly vague, such that no answer is required. To the extent an answer is required, denied.

12. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

13. Defendants admit that Plaintiff Adlerstein is a United States citizen. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph.

14. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

15. Defendants admit that Plaintiff Valenzuela is a United States citizen. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph.

16. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

1 17. Defendants admit that Plaintiff Mensing is a United States citizen.

2 Defendants lack knowledge or information sufficient to form a belief about the truth of  
3 the remaining allegations in this paragraph.

4  
5 18. Defendants admit that U.S. Customs and Border Protection (CBP) is a  
6 component within the Department of Homeland Security (DHS), and that CBP's  
7 responsibilities include securing the United States borders in the land, air, and sea  
8 environments and both at and between ports of entry. The second sentence of this  
9 paragraph constitutes a legal conclusion to which no response is required.  
10

11 19. Defendants deny the allegations contained in the first sentence of this  
12 paragraph. However, Defendants admit that Mark Morgan is the Senior Official  
13 Performing the Duties of the Commissioner. Defendants admit the remaining allegations  
14 in this paragraph.  
15

16 20. Admitted.

17  
18 21. Defendants deny that Matthew Albence is the Acting Director of ICE and  
19 aver that Tony H. Pham is the Senior Official Performing the Duties of the Director of  
20 ICE. Defendants admit that the Director of ICE oversees the operation of ICE and its  
21 components, including HSI, and deny any characterization inconsistent with the duties of  
22 the Director of ICE.  
23

24 22. The first and second sentences of this paragraph are admitted. The third  
25 sentence is denied. The fourth sentence of this paragraph constitutes a legal conclusion to  
26 which no response is required.  
27

1 23. Admitted.

2 **STATEMENT OF FACTS**

3  
4 24. Defendants lack knowledge or information sufficient to form a belief about  
5 the truth of the allegations in this paragraph.

6  
7 25. Defendants admit that Plaintiffs are United States citizens. The remaining  
8 allegations in this paragraph constitute conclusions of law and are unduly vague, such that  
9 no answer is required.

10  
11 26. The first sentence of this paragraph is unduly vague, and with respect to  
12 allegations of “intrusive seizures,” constitutes a legal conclusion, to which no answer is  
13 required. The remainder of this paragraph characterizes a document purportedly  
14 concerning intelligence collection. The Court is respectfully referred to the document  
15 referenced by Plaintiffs for a true and accurate statement of its contents.

16  
17 27. The first sentence of this paragraph characterizes a document purportedly  
18 concerning intelligence collection. The Court is respectfully referred to the document  
19 referenced by Plaintiffs for a true and accurate statement of its contents. The second  
20 sentence of this paragraph is denied.

21  
22 28. CBP admits that it had an operation dubbed “Operation Secure Line.” The  
23 remaining allegations in this paragraph are denied.

24  
25 29. The first five sentences of this paragraph characterize a purported email by  
26 an ICE official. The Court is respectfully referred to the document referenced by  
27

1 Plaintiffs for a true and accurate statement of its contents. The sixth sentence of this  
2 paragraph is unduly vague such that no answer is required. To the extent an answer is  
3 deemed required, denied.

4  
5 30. As to the first sentence of this paragraph, Defendants deny the creation of a  
6 “secret database” of 59 individuals including Plaintiffs. Defendants aver that CBP created  
7 a Power Point document which referenced certain individuals, including Plaintiffs. As to  
8 the second sentence of this paragraph, Defendants admit that certain individuals in the  
9 Power Point document are United States citizens. The third and fourth sentences of this  
10 paragraph are denied.

11  
12 31. This paragraph characterizes a purported letter sent by CBP. The Court is  
13 respectfully referred to the referenced letter for a true and accurate statement of its  
14 contents.

15  
16 32. This paragraph, alleging certain actions by Defendant agencies in the course  
17 of unspecified “surveillance” and “intrusive seizures” is unduly vague, such that no  
18 answer is required. To the extent an answer is deemed required, denied

19  
20 33. Defendants lack knowledge or information sufficient to form a belief about  
21 the truth of the allegations in the first sentence of this paragraph. The second sentence of  
22 this paragraph constitutes a legal conclusion such that no answer is required. To the  
23 extent an answer is deemed necessary, denied except Defendants admit that Plaintiff  
24 Adlerstein was arrested at the Lukeville, Arizona, Port of Entry on May 5, 2019, for a  
25 suspected attempted violation of 8 U.S.C. § 1324.  
26  
27

1           34. Defendants lack knowledge or information sufficient to form a belief about  
2 the truth of the allegations in the first and second sentences of this paragraph. The  
3 Defendants deny the allegations contained in third sentence of this paragraph.

4           35. Defendants lack knowledge or information sufficient to form a belief about  
5 the truth of the allegations in this paragraph.

6           36. Defendants admit that on March 6, 2019, a group of either fifteen or sixteen  
7 individuals attempted to rush through the outbound inspection lanes of the Lukeville,  
8 Port of Entry, in order to enter the United States illegally, without inspection. Defendants  
9 lack knowledge or information sufficient to form a belief about the truth of the remaining  
10 allegations in the first sentence of this paragraph. Defendants are unable to speak to what  
11 Plaintiff Adlerstein witnessed, and therefore lack knowledge or information sufficient to  
12 form a belief about the truth of the allegations contained in the second sentence of this  
13 paragraph. Defendants deny that CBP officials physically accosted anyone at the Port of  
14 Entry on March 6, 2019, and deny that CBP personnel “ripped children from their  
15 parents’ arms.”

16           37. Defendants admit that Adlerstein was referred to secondary inspection on  
17 March 6, 2019. Defendants lack knowledge or information sufficient to form a belief  
18 about the truth of the remaining allegations in this paragraph.

19           38. Defendants lack knowledge or information sufficient to form a belief about  
20 the truth of the allegations in this paragraph.



1           39. Defendants lack knowledge or information sufficient to form a belief about  
2 the truth of the allegations in this paragraph.

3           40. Defendants admit that at approximately 5:25 p.m., on May 5, 2019, Customs  
4 and Border Protection Officer (CBPO) James Ndungu encountered Plaintiff Adlerstein  
5 and a woman subsequently identified as a Honduran citizen, and that CBPO Ndungu  
6 asked other officers for assistance in dealing with the two individuals at the entry gate area  
7 of the Lukeville, Port of Entry. Defendants lack knowledge or information sufficient to  
8 form a belief about the truth of the remaining allegations contained in the first sentence of  
9 this paragraph. Defendants admit that CBPO Marvin Williams responded to this request  
10 for assistance. Defendants deny the remaining allegations contained in the second  
11 sentence of this paragraph. Defendants lack knowledge or information sufficient to form  
12 a belief about the truth of the allegations contained in the third sentence of this  
13 paragraph. Defendants deny the allegations contained in the fourth sentence of this  
14 paragraph.

15           41. Defendants admit that, when CBPO Williams responded to CBPO  
16 Ndungu's request for assistance, Plaintiff Adlerstein and a Honduran citizen, were  
17 standing to the north of the International Boundary/border line between Mexico and the  
18 United States, and were therefore located within the territory of the United States.  
19 Defendants further admit that Plaintiff Ana Adlerstein admitted that she knew the  
20 Honduran citizen to be an undocumented alien, and that Plaintiff Adlerstein was arrested  
21 at the Lukeville, Arizona, Port of Entry on May 5, 2019, for a suspected attempted  
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1 violation of 8 U.S.C. § 1324. Defendants lack knowledge or information sufficient to  
2 form a belief about the truth of the allegation that Plaintiff Adlerstein did not intend to  
3 cross with the Honduran citizen into the United States

4  
5 42. Defendants admit the allegation in the first sentence of this paragraph that  
6 CBPO Williams escorted the Honduran citizen and Adlerstein to an office area within the  
7 Port of Entry. Defendants deny the remaining allegations in the first sentence.

8 Defendants deny the allegations contained in the second sentence of the paragraph.

9  
10 Defendants aver that while near the entry gate area, CBPO Williams advised Plaintiff Ana  
11 Adlerstein that it was illegal to attempt to bring a person without proper documentation  
12 and authorization into the United States, and that he was placing her under arrest for a  
13 suspected violation of 8 U.S.C. § 1324.

14  
15 43. Defendants deny the allegation in the first sentence of this paragraph that  
16 anyone at the Lukeville, Arizona, Port of Entry made any “threats” towards Plaintiff Ana  
17 Adlerstein, or anyone else. Defendants lack knowledge or information sufficient to form  
18 a belief about the truth of the allegation in the first sentence of this paragraph that Ms.  
19 Adlerstein was “concerned for her safety,” or the allegation in the second sentence of this  
20 paragraph, that she was “confused.” Defendants admit that at some point, Ms. Adlerstein  
21 asked if she was under arrest, and CBPO Williams told her that she was. Defendants  
22 deny that she asked if she was under arrest a second time. Defendants aver that CBPO  
23 Williams advised Plaintiff Ana Adlerstein that it was illegal to attempt to bring a person  
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1 without proper documentation and authorization into the United States, and that he was  
2 placing her under arrest for a suspected violation of 8 U.S.C. § 1324.

3 44. Defendants lack knowledge or information sufficient to form a belief about  
4 the truth of the allegation in the first sentence of this paragraph that Ms. Adlerstein was  
5 “terrified” or “fearing she would be interrogated.” Defendants deny that Ms. Adlerstein  
6 informed Officer Williams that she wished to speak to her lawyer at this point in time.  
7 Defendants admit the second sentence of this paragraph. The last sentence of this  
8 paragraph characterizes the letter seen at Exhibit A to the First Amended Complaint, and  
9 the Court is respectfully referred to that document for a true and accurate statement of its  
10 contents.  
11  
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13  
14 45. The first sentence of this paragraph is admitted. Defendants deny the  
15 allegations contained in the second sentence of this paragraph.

16 46. The allegations contained in the first sentence of this paragraph are unduly  
17 vague, such that no answer is required. However, Defendants admit that Ms. Adlerstein  
18 was escorted to a holding cell. The second sentence is admitted, except that Defendants  
19 deny that the cell had an open roof. As to the third sentence, Defendants admit that a  
20 female CBP Officer conducted a patdown search of Ms. Adlerstein, per normal CBP  
21 protocols when dealing with a person arrested at a Port of Entry. Defendants deny that  
22 the female CBP officer conducted the search aggressively. Defendants lack knowledge or  
23 information sufficient to form a belief about the truth of the remaining allegations in the  
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1 third sentence of this paragraph. Defendants admit the allegations in the fourth and fifth  
2 sentences of this paragraph.

3 47. Defendants admit the allegation in the first sentence of this paragraph that  
4 CBP personnel fingerprinted Ms. Adlerstein and requested biographical information from  
5 her while processing her arrest, per normal CBP booking protocols. Defendants lack  
6 knowledge or information sufficient to form a belief about the truth of the allegations in  
7 the second sentence of this paragraph. Defendants aver that Ms. Adlerstein indicated at  
8 some point that she was not going to answer any more questions and wanted to speak to  
9 her attorney. Defendants lack knowledge or information sufficient to form a belief about  
10 the truth of the allegations contained in the third and fourth sentences of this paragraph.  
11 Defendants admit the allegation in the fifth sentence that Ms. Adlerstein provided her  
12 home address at some point during her time at the Port of Entry. Defendants lack  
13 knowledge or information sufficient to form a belief about the truth of the remaining  
14 allegations in the fifth sentence of this paragraph, regarding what Ms. Adlerstein believed,  
15 or why she decided to provide her address.

16 48. Defendants lack knowledge or information sufficient to form a belief about  
17 the truth of the allegations in the first sentence of this paragraph. Defendants admit the  
18 allegations in the second sentence of this paragraph.

19 49. Defendants admit that Ms. Adlerstein was advised of the basis for her arrest  
20 for a suspected violation of 8 U.S.C. § 1324. Defendants deny that Ms. Adlerstein was  
21

1 “accused” of smuggling illegal aliens “throughout” her detention, “at numerous times,”  
2 and by “various officers.”

3 50. Defendants admit that Ms. Adlerstein was barefooted while detained in the  
4 cell. Defendants lack knowledge or information sufficient to form a belief about the truth  
5 of the remaining allegations contained in this paragraph.  
6

7 51. Defendants admit that Plaintiff Ana Adlerstein was released from custody at  
8 the Lukeville, Arizona Port of Entry at approximately 9:00 PM on May 5, 2019.  
9

10 Defendants admit that Ms. Adlerstein tapped on her cell door several times. Defendants  
11 deny that she was yelling. Defendants deny that an Officer asked her, “What do you  
12 want?” Defendants admit that at some point Ms. Adlerstein asked, “why are you  
13 detaining me?” Defendants deny that last sentence of the paragraph. Defendants aver  
14 that an Officer advised her again she was being detained because she had been arrested  
15 for a suspected violation of 8 U.S.C. § 1324.  
16

17 52. Defendants admit the first sentence of this paragraph. Defendants deny the  
18 second sentence of the paragraph.  
19

20 53. Defendants admit that Ms. Adlerstein asked to speak with her lawyer.  
21 Defendants deny the second sentence of the paragraph.  
22

23 54. Defendants lack knowledge or information sufficient to form a belief about  
24 the truth of the allegations contained in the first sentence of this paragraph as to Ms.  
25 Adlerstein’s state of mind. Defendants admit the allegation in the first sentence that  
26 Adlerstein claimed her rights were being violated, but Defendants lack knowledge or  
27

1 information sufficient to form a belief about the truth of the allegation that Ms. Adlerstein  
2 claimed she was being detained for too long. Defendants deny the remaining allegations  
3 contained in the paragraph.

4  
5 55. Defendants admit the allegation in the first sentence of this paragraph that  
6 Ms. Adlerstein asked for an ambulance towards the end of her detention at the Port of  
7 Entry. Defendants lack knowledge or information sufficient to form a belief about the  
8 truth of the allegations contained in the remainder of the first sentence of this paragraph.

9  
10 Defendants admit that Plaintiff Adlerstein was informed that she would be released, and  
11 that ICE investigators were going to contact her to conduct a deferred interview.

12 Defendants admit that Ms. Adlerstein declined medical assistance, was released from  
13 custody, and departed the Port of Entry. Defendants lack knowledge or information  
14 sufficient to form a belief about the truth of the remaining allegations contained in second  
15 through seventh sentence of this paragraph.

16  
17  
18 56. Defendants deny the first sentence but aver that HSI Special Agent James  
19 Staton tried to contact Ms. Adlerstein by telephone approximately ten days later.

20 Defendants admit that Ms. Adlerstein's counsel asked Special Agent Staton to send him  
21 the questions he was interested in having Ms. Alderstein answer and Defendants admit  
22 that Special Agent Stanton did not send any questions to Ms. Adlerstein's counsel.

23  
24 57. Defendants lack knowledge or information sufficient to form a belief about  
25 the truth of the allegations contained in the first two sentences of this paragraph. The  
26 third and fourth sentences are admitted. Defendants lack knowledge or information  
27

1 sufficient to form a belief about the truth of the allegation contained in the final sentence  
2 of the paragraph.

3 58. Defendants lack knowledge or information sufficient to form a belief about  
4 the truth of the allegations contained in the first two sentences of this paragraph.

5 Defendants admit the allegation in the third sentence that Plaintiff Adlerstein was arrested  
6 for a suspected violation of 8 U.S.C. § 1324. The remainder of the third sentence  
7 constitutes a legal conclusion and argument, to which no answer is required.  
8

9  
10 59. Defendants lack knowledge or information sufficient to form a belief about  
11 the truth of the allegations contained in this paragraph

12 60. Defendants lack knowledge or information sufficient to form a belief about  
13 the truth of the allegations contained in this paragraph.

14 61. Defendants lack knowledge or information sufficient to form a belief about  
15 the truth of the allegations contained in this paragraph.  
16

17 62. Defendants lack knowledge or information sufficient to form a belief about  
18 the truth of the allegations contained in this paragraph.

19 63. Defendants deny the allegations contained in the first sentence of this  
20 paragraph, and aver that Plaintiff Adlerstein was arrested for a suspected violation of 8  
21 U.S.C. § 1324. Defendants lack knowledge or information sufficient to form a belief  
22 about the truth of the remaining allegations contained in this paragraph  
23

24 64. Defendants lack knowledge or information sufficient to form a belief about  
25 the truth of the allegations in this paragraph.  
26  
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1           65.    The first sentence of this paragraph is denied. As to the second sentence,  
2 denied except that Defendants aver that CBP created a Power Point document which  
3 referenced certain individuals, including Plaintiffs. The allegations in the remaining  
4 sentences characterize the Power Point document, to which no response is required. The  
5 Court is respectfully referred to the Power Point document for a full and accurate  
6 statement of its contents.  
7

8           66.    This paragraph and the unnumbered pictures beneath it characterize the  
9 Power Point document, to which no response is required. The Court is respectfully  
10 referred to the Power Point document for a full and accurate statement of its contents.  
11

12           67.    Denied.  
13

14           68.    Defendants lack knowledge or information sufficient to form a belief about  
15 the truth of the allegations in this paragraph.  
16

17           69.    Defendants lack knowledge or information sufficient to form a belief about  
18 the truth of the allegations in this paragraph.  
19

20           70.    Defendants lack knowledge or information sufficient to form a belief about  
21 the truth of the allegations in the first sentence of this paragraph. Defendants deny the  
22 allegations contained in the remaining sentences of this paragraph.  
23

24           71.    Defendants admit that Plaintiff Valenzuela presented himself for inspection  
25 through the pedestrian lanes at the San Ysidro port of entry on December 26, 2018.  
26 Defendants admit that Valenzuela presented his passport and was referred to secondary  
27



1 inspection. Defendants lack knowledge or information sufficient to form a belief about  
2 the truth of the remaining allegations in this paragraph.

3 72. Defendants admit that Plaintiff Valenzuela was questioned in an interview  
4 room as part of his border inspection. Defendants admit that he was questioned by two  
5 plainclothes CBP officers. Defendants deny that Plaintiff Valenzuela was questioned by  
6 HSI officers. Defendants otherwise deny the allegations in this paragraph.  
7

8 73. Admitted.  
9

10 74. Defendants admit that Plaintiff Valenzuela was questioned about his  
11 employment as part of his border inspection, and that he identified certain organizations  
12 he worked with. Defendants lack knowledge or information sufficient to form a belief  
13 about the truth of the remaining allegations in this paragraph.  
14

15 75. Defendants deny the allegations contained in this paragraph.

16 76. Defendants admit that CBP officers took notes, and used them to inform  
17 the remarks listed on the inspection record regarding this border inspection. Defendants  
18 lack knowledge or information sufficient to form a belief about the truth of the time  
19 required to conduct the inspection. The remaining allegation in this paragraph, that the  
20 records were “available for other officials within the Defendant agencies to review” is  
21 unduly vague, such that no answer is required. To the extent an answer is required,  
22 denied.  
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1           77. Defendants admit that Valenzuela showed Plaintiffs photographs on his  
2 phone. Defendants lack knowledge sufficient to form a belief about the truth of the  
3 remaining allegations contained in this paragraph.

4  
5           78. Defendants admit that Plaintiff Valenzuela volunteered to show Defendants  
6 pictures on his phone. Defendants lack knowledge or information sufficient to form a  
7 belief about the truth of the remaining allegations in this paragraph.

8  
9           79. Defendants admit that CBP officials released Plaintiff Valenzuela, who  
10 entered the United States. Defendants lack knowledge or information sufficient to form a  
11 belief about the truth of the remaining allegations in this paragraph.

12           80. Defendants admit the allegations in this paragraph, specifically that Plaintiff  
13 presented himself for inspection at the San Ysidro port of entry vehicle lanes on  
14 December 28, 2018.

15  
16           81. Defendants admit that Plaintiff Valenzuela was referred to secondary  
17 inspection as part of his border inspection. Defendants lack knowledge or information  
18 sufficient to form a belief about the truth of the remaining allegations in this paragraph.

19  
20           82. Defendants lack knowledge or information sufficient to form a belief about  
21 the truth of the allegations in this paragraph.

22  
23           83. Defendants lack knowledge or information sufficient to form a belief about  
24 the truth of the allegations in this paragraph.

25  
26           84. Defendants admit that Valenzuela was interviewed by CBP Officer Ochoa as  
27 part of his secondary border inspection. Defendants deny that the interview was

1 intimidating or aggressive and deny the allegation characterizing the interview as an  
2 “interrogation.” Defendants admit that Valenzuela was interviewed by two plainclothes  
3 CBP Officers in an interview room with a metal table and metal chairs. Defendants admit  
4 that CBP Officer Ochoa took notes during the interview. Defendants lack knowledge or  
5 information sufficient to form a belief about the truth of the remaining allegations in this  
6 paragraph.  
7

8  
9 85. Defendants lack knowledge or information sufficient to form a belief about  
10 the truth of the allegations in this paragraph.

11 86. Defendants lack knowledge or information sufficient to form a belief about  
12 the truth of the allegations in the first sentence of this paragraph. Defendants deny the  
13 allegation in the second sentence characterizing the interview as an “interrogation,” and  
14 aver that Mr. Valenzuela was interviewed. Defendants lack knowledge or information  
15 sufficient to form a belief about the truth of the remaining allegations in this paragraph.  
16  
17

18 87. Defendants deny the allegation in the first sentence of this paragraph  
19 characterizing the interview as an “interrogation.” Defendants admit that Valenzuela was  
20 asked where and with whom he lives and that Valenzuela answered.  
21

22 88. Defendants admit that Valenzuela was asked what he does for a living, and  
23 that Valenzuela responded. Defendants lack knowledge or information sufficient to form  
24 a belief about the truth of the remaining allegations in this paragraph.  
25

26 89. Defendants lack knowledge or information sufficient to form a belief about  
27 the truth of the allegations in this paragraph.

1           90. Defendants lack knowledge or information sufficient to form a belief about  
2 the truth of the allegations in this paragraph.

3           91. Defendants deny that Mr. Valenzuela's phone was confiscated, but admit  
4 that they temporarily detained his phone to conduct a manual border examination.

5 Defendants lack knowledge or information sufficient to form a belief about the truth of  
6 the remaining allegations in this paragraph.

7  
8           92. Defendants lack knowledge or information sufficient to form a belief about  
9 the truth of the allegations in this paragraph.

10  
11           93. Defendants deny the allegations contained in this paragraph.

12           94. Defendants admit that Plaintiff presented himself for inspection in the  
13 vehicle lanes at the San Ysidro port of entry on January 9, 2019 and that he was referred  
14 to secondary inspection. Defendants deny that Valenzuela was interviewed by HSI  
15 officials. Defendants aver that Mr. Valenzuela was interviewed by CBP Officers.

16  
17 Defendants lack knowledge or information sufficient to form a belief about the truth of  
18 the remaining allegations in this paragraph.

19  
20           95. Defendants deny the allegations in the first sentence of this paragraph.  
21 Defendants admit that Plaintiff Valenzuela indicated that nothing had changed since his  
22 last inspection. Defendants lack knowledge or information sufficient to form a belief  
23 about the truth of the remaining allegations in this paragraph.

24  
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1           96. The first sentence of this paragraph is admitted. Defendants lack knowledge  
2 or information sufficient to form a belief about the truth of the remaining allegations in  
3 this paragraph.

4           97. Defendants deny the allegation in the in this paragraph characterizing the  
5 interview as an “interrogation.” Defendants lack knowledge or information sufficient to  
6 form a belief about the truth of the remaining allegations in this paragraph.  
7

8           98. Defendants lack knowledge or information sufficient to form a belief about  
9 the truth of the allegations in the first sentence of this paragraph. Defendants deny the  
10 allegation contained in the second sentence of this paragraph.  
11

12           99. Defendants admit that Plaintiff crossed into the United States after  
13 presenting himself for inspection through a pedestrian lane at the San Ysidro port of entry  
14 on January 10, 2019. Defendants admit that Mr. Valenzuela was referred to secondary  
15 inspection. Defendants admit the allegation contained in the last sentence of this  
16 paragraph. Defendants lack knowledge or information sufficient to form a belief about  
17 the truth of the remaining allegations in this paragraph.  
18

19           100. Defendants admit that Plaintiff crossed into the United States after  
20 presenting himself for inspection through a pedestrian lane at the San Ysidro port of entry  
21 on January 15, 2019, but lack knowledge or information sufficient to form a belief about  
22 the truth of the allegation as to the purpose of his trip. Defendants admit that Mr.  
23 Valenzuela was referred to secondary inspection and his bag was inspected. Defendants  
24  
25  
26  
27

1 deny that Mr. Valenzuela was questioned by HSI officers. Defendants admit that Mr.  
2 Valenzuela was questioned by plainclothes CBP Officers.

3 101. Defendants deny the allegation in the in the first sentence of this paragraph  
4 characterizing a CBP Officer as having “interrogated” Mr. Valenzuela. Defendants admit  
5 the allegation in the first sentence that Mr. Valenzuela was interviewed by two CBP  
6 officers, one of whom was CBPO Ochoa. Defendants lack knowledge or information  
7 sufficient to form a belief about the truth of the remaining allegations in this paragraph.  
8

9 102. Defendants lack knowledge or information sufficient to form a belief about  
10 the truth of the allegations contained in the first sentence of this paragraph. Defendants  
11 admit that Mr. Valenzuela told officers that he was heading to a job interview.  
12 Defendants lack knowledge or information sufficient to form a belief about the truth of  
13 the remaining allegations in this paragraph.  
14

15 103. Defendants admit that Mr. Valenzuela was referred to secondary inspection.  
16 Defendants lack knowledge or information sufficient to form a belief about the truth of  
17 the remaining allegations in this paragraph.  
18

19 104. Defendants admit that Plaintiff crossed into the United States after  
20 presenting himself for inspection through a vehicle lane at the San Ysidro port of entry on  
21 January 25, 2019. Defendants admit that Valenzuela was referred to secondary inspection.  
22 Defendants admit that Valenzuela’s vehicle was inspected. Defendants admit that  
23 Valenzuela was placed in hand restraints after exiting his vehicle. Defendants lack  
24  
25  
26  
27

1 knowledge or information sufficient to form a belief about the truth of the remaining  
2 allegations in this paragraph.

3 105. Defendants admit that Valenzuela was taken to the security room, where his  
4 hand restraints were removed. Defendants deny that he was “booked” into a facility.  
5 Defendants admit that his belongings were removed from his pockets, that his shoes and  
6 other belongings were searched for weapons or contraband, and that he was escorted to a  
7 steel bench, where his ankle was placed in a restraint attached to the bench.  
8  
9

10 106. Defendants lack knowledge or information sufficient to form a belief about  
11 the truth of the allegations in this paragraph.  
12

13 107. Defendants admit that Valenzuela was released from secondary inspection at  
14 approximately 1:34 PST. Defendants deny that the detention lasted approximately 20-25  
15 minutes. Defendants lack knowledge or information sufficient to form a belief about the  
16 truth of the remaining allegations in this paragraph.  
17

18 108. Defendants deny that Plaintiff Valenzuela is part of a “secret watchlist.”  
19 Defendants lack knowledge or information sufficient to form a belief about the truth of  
20 the remaining allegations in this paragraph.  
21

22 109. Defendants lack knowledge or information sufficient to form a belief about  
23 the truth of the remaining allegations in this paragraph.  
24

25 110. Defendants lack knowledge or information sufficient to form a belief about  
26 the truth of the remaining allegations in this paragraph.  
27

1 111. Defendants lack knowledge or information sufficient to form a belief about  
2 the truth of the remaining allegations in this paragraph.

3 112. The allegation in this paragraph that Mr. Mensing traveled “frequently,” is  
4 are unduly vague, such that no answer is required. To the extent an answer is required,  
5 denied. Defendants admit that Mr. Mensing did travel between the United States and  
6 Mexico as often as four times per month between January 2017 and January 2019.  
7

8 113. Denied.  
9

10 114. Denied.

11 115. Defendants admit the allegation in the first sentence of this paragraph that  
12 Mr. Mensing crossed into the United States eleven times between June 10, 2018 and  
13 October 2018. Defendants admit the second sentence. Defendants admit the allegation  
14 in the third sentence, that Mensing was referred to secondary inspection on June 10, June  
15 11, June 12, July 2, July 23, September 4, September 10, September 17, October 1 and  
16 October 23, 2018, and aver that Mensing was not referred to secondary inspection on  
17 October 15, 2018. The allegation in this paragraph that Plaintiff Mensing was subjected  
18 to intrusive seizures constitutes a legal conclusion, such that no answer is required.  
19

20 Defendants deny that each secondary inspection lasted anywhere from twenty minutes to  
21 forty minutes; Defendants aver that the secondary inspections for each of these dates  
22 lasted anywhere from approximately 1 to 31 minutes. Defendants lack knowledge or  
23 information sufficient to form a belief about the truth of the remaining allegations in this  
24 paragraph.  
25  
26  
27



1 116. The allegations in this paragraph are unduly vague such that no answer is  
2 required. To the extent that a response is required, Defendants lack knowledge or  
3 information sufficient to form a belief about the truth of the allegations in this paragraph.  
4

5 117. Defendants deny the allegations in the first sentence of this paragraph.  
6 Defendants admit the allegations contained in the second sentence of this paragraph.  
7 Defendants admit the allegations in the third sentence of this paragraph, that Mr. Mensing  
8 was referred for secondary inspection. Defendants deny the allegation in the third  
9 sentence that this secondary inspection lasted for twenty minutes. Defendants admit the  
10 allegations in the fourth sentence of this paragraph, that Mr. Mensing's baggage was  
11 examined as part of this inspection. Defendants lack knowledge or information sufficient  
12 to form a belief about the truth of the remaining allegations in this paragraph.  
13  
14

15 118. Defendants lack knowledge or information sufficient to form a belief about  
16 the truth of the allegations in this paragraph.  
17

18 119. Defendants lack knowledge or information sufficient to form a belief about  
19 the truth of the remaining allegations in this paragraph.  
20

21 120. Defendants lack knowledge or information sufficient to form a belief about  
22 the truth of the remaining allegations in this paragraph.  
23

24 121. Defendants lack knowledge or information sufficient to form a belief about  
25 the truth of the remaining allegations in this paragraph.  
26

27 122. Defendants deny the allegation contained in the first sentence of this  
paragraph that Mr. Mensing had been "interrogated," and also deny that he had been

1 “interrogated extensively.” Defendants lack knowledge or information sufficient to form  
2 a belief about the truth of the allegations in the first sentence of this paragraph regarding  
3 Mr. Mensing’s expectations. The remaining allegations in this paragraph, concerning  
4 “intrusive seizures” constitute a legal conclusion, to which no answer is required.  
5

6 123. Defendants deny that Plaintiff presented himself for inspection on  
7 December 3, 2018. Defendants aver that Plaintiff presented himself for inspection on  
8 December 2, 2018, just before midnight at the San Ysidro port of entry and that  
9 Defendant was referred to secondary inspection. Defendants admit that Plaintiff  
10 presented his passport at the inspection. Defendants deny the allegation characterizing  
11 the interview as an “interrogation.” Defendants lack knowledge or information sufficient  
12 to form a belief about the truth of the remaining allegations in this paragraph.  
13  
14

15 124. Defendants admit that Plaintiff Mensing’s belongings were inspected as part  
16 of a secondary border inspection. Defendants admit that one of the Officers involved  
17 was a female. Defendants lack knowledge or information sufficient to form a belief  
18 about the truth of the remaining allegations in this paragraph.  
19

20 125. Defendants admit the allegation in the first sentence of this paragraph that  
21 Mr. Mensing was interviewed by two plainclothes Officers, a man and a woman.  
22 Defendants deny the allegations in the second sentence, that Mr. Mensing was questioned  
23 by HSI officers. Defendants aver that Mr. Mensing was referred for secondary inspection  
24 and interviewed by CBP officers. Defendants deny the allegation in the last sentence  
25 characterizing the interview as an “interrogation.” Defendants lack knowledge or  
26  
27

1 information sufficient to form a belief about the truth of the remaining allegations in this  
2 paragraph.

3         126. Defendants deny the allegation in the first sentence of this paragraph  
4 characterizing the interview as an “interrogation.” Defendants admit that Plaintiff  
5 Mensing was interviewed in secondary inspection, and that he provided information about  
6 his work and education, and his parents’ occupations. Defendants admit that Mr.  
7 Mensing’s belongings were returned to him and he was and permitted to enter the United  
8 States. Defendants lack knowledge or information sufficient to form a belief about the  
9 truth of the remaining allegations in this paragraph  
10  
11

12         127. The allegation in the first sentence of this paragraph that Plaintiff Mensing  
13 was subjected to intrusive seizures constitutes a legal conclusion, such that no answer is  
14 required. Defendants admit that Mensing presented himself for inspection at the San  
15 Ysidro Port of Entry on December 23, 2018 at approximately 10:00 a.m., and that he  
16 presented his passport at that time. Defendants lack knowledge or information sufficient  
17 to form a belief about the truth of the remaining allegations in this paragraph.  
18  
19

20         128. Defendants admit the allegation in the first sentence of this paragraph, that  
21 Mr. Mensing was referred to secondary inspection and was interviewed by two  
22 plainclothes Officers with badges. Defendants aver that these Officers were CBP  
23 Officers Leon and LeNier. Defendants deny the allegation in the second sentence that  
24 Mr. Mensing was interviewed by HSI Agents. Defendants lack knowledge or information  
25 sufficient to form a belief about the truth of the remaining allegations in this paragraph.  
26  
27

1           129. Defendants admit the first sentence of this paragraph, that Mensing was  
2 escorted to an interview room. Defendants aver that Mr. Mensing was interviewed as part  
3 of a secondary border inspection. Defendants admit the allegation in the second  
4 sentence, that Mr. Mensing was patted down for officer and public safety concerns, and  
5 that the materials in his pockets were inspected, per normal CBP protocols and  
6 procedures. Defendants deny the allegation in the third sentence of this paragraph that he  
7 was placed in an “interrogation cell.” Defendants lack knowledge or information  
8 sufficient to form a belief about the truth of the remaining allegations in this paragraph.  
9

10           130. Defendants deny the allegation in the in the first sentence of this paragraph  
11 characterizing the interview as an “interrogation.” Defendants admit the allegation in the  
12 second sentence, that as part of the secondary inspection Mr. Mensing was asked how  
13 long he had been in Mexico and when the last time he entered Mexico was. Defendants  
14 lack knowledge or information sufficient to form a belief about the truth of the remaining  
15 allegations in this paragraph.  
16

17           131. Defendants admit the allegation in the first sentence of this paragraph, that  
18 Mr. Mensing was asked about his activities while in Mexico, including a discussion of his  
19 volunteer activities. Defendants lack knowledge or information sufficient to form a belief  
20 about the truth of the allegation contained in the first sentence of this paragraph, that this  
21 was a “similar line of questioning from prior detentions.” Defendants deny the  
22 allegations in the last sentence of the paragraph.  
23  
24  
25  
26  
27

1           132. Defendants deny the allegations contained in the first sentence of this  
2 paragraph. Defendants lack knowledge or information sufficient to form a belief about  
3 the truth of the allegations concerning specifically what Mr. Mensing was asked.  
4  
5 Defendants deny the remaining assertions in this paragraph.

6           133. Defendants lack knowledge or information sufficient to form a belief about  
7 the truth of the allegations in the first sentence of this paragraph. Defendants deny the  
8 allegation in the second sentence, that Mr. Mensing answered all questions posed to him.  
9  
10 Defendants lack knowledge or information sufficient to form a belief about the truth of  
11 the allegation contained in the second sentence, regarding what Mr. Mensing believed  
12 and/or why he provided information.  
13

14           134. Denied.

15           135. Defendants admit that CBP officers asked whether Mr. Mensing had a cell  
16 phone or other electronic media in his possession, and that Mr. Mensing replied that he  
17 left his cell phone in Mexico. Defendants lack knowledge or information sufficient to  
18 form a belief about the truth of the remaining allegations in this paragraph.  
19

20           136. Defendants admit that Mr. Mensing's belongings were inspected as part of  
21 secondary inspection. Defendants admit that copies were made of materials in his  
22 pockets, and that Mr. Mensing was informed that copies were made. Defendants lack  
23 knowledge or information sufficient to form a belief about the truth of the remaining  
24 allegations in this paragraph.  
25  
26  
27

1 137. Defendants lack knowledge or information sufficient to form a belief about  
2 the truth of the allegations in this paragraph.

3 138. Defendants admit that Plaintiff presented himself for inspection through the  
4 pedestrian lane of the San Ysidro port of entry on January 11, 2019 at approximately 6:40  
5 p.m. Defendants admit that Mr. Mensing presented a passport at his primary inspection  
6 and was asked by CBPO Salazar about his destination in the United States. Defendants  
7 lack knowledge or information sufficient to form a belief about the truth of the remaining  
8 allegations in this paragraph.  
9

10 139. Defendants admit that Mr. Mensing was referred to secondary inspection by  
11 CBPO Salazar. The allegation in this paragraph that Plaintiff Mensing was subjected to an  
12 intrusive seizure constitutes a legal conclusion, such that no answer is required.  
13

14 140. Defendants admit that a secondary inspection was conducted on Mr.  
15 Mensing as part of his border inspection. Defendants lack knowledge or information  
16 sufficient to form a belief about the truth of the remaining allegations in this paragraph.  
17

18 141. Defendants admit that Mr. Mensing was asked questions about his travel by  
19 CBPO Tamayo. Defendants aver that Mr. Mensing provided information about his  
20 activities while in Mexico and travel plans. Defendants lack knowledge or information  
21 sufficient to form a belief about the truth of the remaining allegations in this paragraph.  
22

23 142. Defendants admit that Mr. Mensing told Officer Tamayo about his travel  
24 and activities while in Mexico, including information about his volunteer work with  
25  
26  
27

1 migrants in Mexico. Defendants lack knowledge or information sufficient to form a belief  
2 about the truth of the remaining allegations in this paragraph.

3 143. Defendants admit that Mr. Mensing's work with migrants was discussed  
4 during his secondary inspection. Defendants lack knowledge or information sufficient to  
5 form a belief truth of the remaining allegations in this paragraph.

7 144. Defendants admit that Mr. Mensing was released from secondary inspection  
8 at approximately 8:00 p.m. PST and entered the United States. Defendants lack  
9 knowledge or information sufficient to form a belief about the truth of the remaining  
10 allegations in this paragraph.

12 145. Admitted.

14 146. Defendants admit that Mr. Mensing entered the United States and was  
15 referred to secondary inspection. Defendants lack knowledge or information sufficient to  
16 form a belief about the truth of the remaining allegations in this paragraph.

18 147. Defendants lack knowledge or information sufficient to form a belief about  
19 the truth of the allegations in this paragraph.

20 148. The allegation contained in the first sentence of this paragraph is unduly  
21 vague as to the specific time period involved, such that no answer is required. To the  
22 extent an answer is required, denied. Defendants admit the second sentence of this  
23 paragraph. Defendants admit that Mensing was referred to secondary inspection on  
24 September 3, 2019, and that his baggage was inspected. The allegation in this paragraph  
25 that this inspection constituted "another intrusive seizure" constitutes a legal conclusion,  
26  
27

1 such that no answer is required. Defendants lack knowledge or information sufficient to  
2 form a belief about the truth of the remaining allegations in this paragraph.

3 149. Defendants admit that Plaintiff presented himself for inspection the San  
4 Ysidro port of entry on September 12, 2019. Defendants admit that Mr. Mensing was  
5 referred for secondary inspection, where his baggage was inspected and he was asked  
6 questions as part of his border inspection. Defendants lack knowledge or information  
7 sufficient to form a belief about the truth of the allegations regarding the specific nature  
8 of the questions posed to Mensing. The allegation in the second sentence of this  
9 paragraph that Plaintiff Mensing was subjected to a “seizure” constitutes a legal  
10 conclusion, to which no response is required. Defendants deny the allegation in the  
11 second sentence of this paragraph characterizing the interview as Plaintiff Mensing being  
12 “interrogated.” Defendants admit that Mr. Mensing entered the United States.  
13

14 150. Defendants admit that Plaintiff presented himself for inspection at the  
15 pedestrian lanes at the San Ysidro port of entry on October 7, 2019. Defendants admit  
16 that Mr. Mensing was referred for secondary inspection where he was asked questions as  
17 part of his border inspection. Defendants lack knowledge or information sufficient to  
18 form a belief about the truth of the allegations regarding the specific nature of the  
19 questions posed to Mr. Mensing. Defendants deny the allegation in the second sentence  
20 of this paragraph characterizing the interview as Plaintiff Mensing being “interrogated.”  
21 Defendants admit that Mr. Mensing entered the United States.  
22  
23  
24  
25  
26  
27



1           151. Defendants admit that Plaintiff presented himself for inspection at the San  
2 Ysidro port of entry on October 8, 2019. Defendants admit that Mensing was referred  
3 for secondary inspection where he was asked questions and his baggage was inspected as  
4 part of his border inspection. Defendants admit that Mr. Mensing was temporarily  
5 detained during this secondary inspection.  
6

7           152. Defendants admit that Plaintiff presented himself for inspection at the San  
8 Ysidro port of entry on October 9, 2019. Defendants admit that Mr. Mensing spent 40  
9 minutes at the San Ysidro Port of Entry on October 9, 2019. Defendants admit that Mr.  
10 Mensing was referred for secondary inspection, where he was asked questions and his  
11 baggage was inspected as part of his border inspection. Defendants lack knowledge or  
12 information sufficient to form a belief about the precise nature of any specific questions  
13 asked. Defendants admit that a record of this encounter, which lasted approximately  
14 forty minutes, was made, and that this was a computer record. Defendants deny the  
15 allegation in the second sentence of this paragraph characterizing the interview as Plaintiff  
16 Mensing being “interrogated.” Defendants lack knowledge or information sufficient to  
17 form a belief about the truth of the remaining allegations in this paragraph.  
18

19           153. Defendants admit that Plaintiff presented himself for inspection at the San  
20 Ysidro port of entry on October 10, 2019, October 11, 2019, October 13, 2019, October  
21 14, 2019 and October 15, 2019 at the San Ysidro Port of Entry. Defendants admit that  
22 Mr. Mensing was referred to secondary inspection on each of those occasions and that his  
23 baggage was inspected as part of his border inspection. Defendants admit that Mr.  
24  
25  
26  
27

1 Mensing entered the United States on each of those dates. Defendants deny that each of  
2 these detentions lasted approximately ten minutes. Defendants aver that each of these  
3 detentions lasted 9 minutes or less. Defendants lack knowledge or information sufficient  
4  
5 to form a belief about the truth of the remaining allegations in this paragraph.

6 154. The allegations in this paragraph, as to whether “seizures were justified,” and  
7 whether Defendants had “reasonable suspicion” of Mr. Mensing, constitute legal  
8  
9 conclusions to which no answer is required. Defendants lack knowledge or information  
10 sufficient to form a belief about the truth of the remaining allegations in this paragraph.

11 155. Defendants lack knowledge or information sufficient to form a belief about  
12 the truth of the allegations in this paragraph.  
13

14 156. Defendants lack knowledge or information sufficient to form a belief about  
15 the truth of the remaining allegations in this paragraph.  
16

## 17 CLAIMS

18 157. This paragraph incorporates the allegations set forth in the preceding  
19 paragraphs. By way of response, Defendants incorporate their responses to paragraphs 1  
20 through 156 as though fully set forth herein.  
21

22 158. The allegations in this paragraph constitute legal conclusions to which no  
23 answer is required.  
24

25 159. The allegations in this paragraph constitute legal conclusions to which no  
26 answer is required.  
27

1           160. The allegations in this paragraph constitute legal conclusions to which no  
2 answer is required.

3           161. The allegations in this paragraph constitute legal conclusions to which no  
4 answer is required.  
5

6           162. The allegations in this paragraph constitute legal conclusions to which no  
7 answer is required.  
8

9           163. This paragraph incorporates the allegations set forth in the preceding  
10 paragraphs. By way of response, Defendants incorporate their responses to paragraphs 1  
11 through 162 as though fully set forth herein.  
12

13           164. The allegations in this paragraph, concerning a purported “dragnet  
14 surveillance operation” are unduly vague and constitute argument, such that no answer is  
15 required. To the extent an answer is deemed required, denied.  
16

17           165. The allegations in this paragraph constitute legal conclusions to which no  
18 answer is required.

19           166. The allegations in this paragraph constitute legal conclusions to which no  
20 answer is required.  
21

22           167. The allegations in this paragraph constitute legal conclusions to which no  
23 answer is required.

24           168. The allegations in this paragraph constitute legal conclusions to which no  
25 answer is required.  
26

27           169. This paragraph incorporates the allegations set forth in the preceding

1 paragraphs. By way of response, Defendants incorporate their responses to paragraphs 1  
2 through 168 as though fully set forth herein.

3 170. The allegations in this paragraph constitute legal conclusions to which no  
4 answer is required.  
5

6 171. Defendants admit that Plaintiff Mensing submitted letters to all Defendants  
7 concerning certain records purportedly held. The remainder of the allegations in the first  
8 and second sentences of this paragraph characterize the letters cited by Plaintiffs, and the  
9 Court is respectfully referred to the letters for a full and accurate statement of their contents.  
10 The third sentence is denied.  
11

12 172. Defendants admit that Plaintiff Valenzuela submitted letters to all Defendants  
13 concerning certain records purportedly held. The remainder of the allegations in the first  
14 and second sentences of this paragraph characterize the letters cited by Plaintiffs, and the  
15 Court is respectfully referred to the letters for a full and accurate statement of their contents.  
16 The third sentence is denied.  
17

18 173. Defendants admit that Plaintiff Adlerstein submitted letters to all Defendants  
19 concerning certain records purportedly held. The remainder of the allegations in the first  
20 and second sentences of this paragraph characterize the letters cited by Plaintiffs, and the  
21 Court is respectfully referred to the letters for a full and accurate statement of their contents.  
22 The third sentence is denied.  
23

24 174. The allegations in this paragraph constitute legal conclusions, to which no  
25 answer is required.  
26  
27

1 175. Defendants deny that all Defendants did not respond to Plaintiffs' letters.  
2 Defendants lack knowledge or information sufficient to form a belief about the truth of the  
3 remaining allegations in this paragraph.

4  
5 176. The allegations in this paragraph citing purported Privacy Act violations and  
6 other purported legal violations constitute legal conclusions, to which no answer is required.  
7 The allegation in the second sentence of this paragraph, that the "existence" of certain  
8 unspecified "records" somehow "resulted in alerts placed on Mr. Mensing," is unduly vague  
9 such that no answer is required. To the extent an answer is required, denied. Defendants  
10 lack knowledge or information sufficient to form a belief about the truth of the remaining  
11 allegations in this paragraph.  
12

13  
14 177. The allegations in this paragraph citing purported Privacy Act violations and  
15 other purported legal violations constitute legal conclusions, to which no answer is required.  
16 Defendants lack knowledge or information sufficient to form a belief about the truth of the  
17 allegations in this paragraph.  
18

19 178. The allegations in this paragraph citing purported Privacy Act violations and  
20 other purported legal violations constitute legal conclusions, to which no answer is required.  
21 The allegations in the third sentence of this paragraph, as to whether electronic searches  
22 were "unwarranted" are unduly vague and constitute argument, to which no answer is  
23 required. Defendants lack knowledge or information sufficient to form a belief about the  
24 truth of the remaining allegations in this paragraph.  
25  
26

27 179. The allegations in this paragraph constitute legal conclusions, to which no

1 answer is required.

2 180. This paragraph and the sub-paragraphs numbered (a)-(h) constitute a prayer  
3 for relief. To the extent an answer is deemed necessary, Defendants deny that Plaintiffs  
4 are entitled to such relief.  
5

6 **AFFIRMATIVE DEFENSES**

- 7 1. Plaintiffs have failed to state a claim upon which relief may be granted.  
8 2. Plaintiffs' claims are not justiciable.  
9 3. Plaintiffs' have suffered no legally cognizable harm.  
10 4. Plaintiffs' requested relief is impermissibly vague and unenforceable.  
11 5. Plaintiffs have failed to exhaust administrative remedies.  
12 6. Defendants' actions were lawful and/or in furtherance of a compelling  
13 government interest.  
14

15  
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