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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PENDLETON DIVISION

LUZ NUNEZ,

Plaintiff,

vs.

B. JONES, and  
JOHN DOES 1 - 4, in their individual  
capacities as agents of the United States  
Immigration and Customs Enforcement,

Defendants.

Case No.

**COMPLAINT**

*(Bivens Action)*

DEMAND FOR JURY TRIAL

## I. NATURE OF THE ACTION

1. This case arises from an abusive, retaliatory, and illegal arrest. Plaintiff Luz Adriana Nunez is a Hispanic citizen of the United States. Defendants are agents of United States Immigration and Customs Enforcement. On September 17, 2017, three of the Defendants arrested and held Plaintiff for several hours on a public street in Ontario, Oregon, despite the fact that she presented them with identification confirming her citizenship and they had no cause to believe she had committed any crime. The three Defendants injured Plaintiff's arm and threatened her with pepper spray, placed her in chains, and drove her 55 miles to Boise, Idaho, where she was photographed and fingerprinted. After several more hours of incarceration and questioning, Defendants put Plaintiff out on the streets of Boise at night with no money and no means of getting home. Defendants' excuse for their illegal behavior was that Plaintiff had been "mouthy."

2. Plaintiff brings this action against Defendants in their individual capacities pursuant to *Bivens v. Six Unknown Agents of the Federal Bureau of Investigation*, 403 U.S. 388 (1971). She seeks compensatory damages for her physical and emotional injuries, and an award of punitive damages for Defendants' outrageous and malicious violations of her civil rights.

## II. JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331, as Plaintiff's claim arises under the Fourth Amendment to the United States Constitution.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2), as a substantial part of the events giving rise to these claims occurred in this District.

### III. PARTIES

5. Plaintiff is Hispanic and resides in Malheur County, Oregon. Plaintiff was 19 years old at the time of the events described in this Complaint. She has been a United States citizen her entire life.

6. Defendant B. Jones is a white male and deportation officer for the United States Immigration and Customs Enforcement (“ICE”). He is one of three Defendants who arrested Plaintiff on September 19, 2017. At the time of Plaintiff’s arrest, Defendant B. Jones wore a gray “Under Armour” hoodie.

7. Defendant John Doe 1 is a white male and an ICE agent. He is one of three Defendants who arrested Plaintiff on September 19, 2017. At the time of Plaintiff’s arrest, Defendant John Doe 1 wore a black long-sleeve shirt. Based on information and belief, Defendant John Doe 1’s last name is Nyland, Hope, or Maple.

8. Defendant John Doe 2 is a white male and an ICE agent. He is one of three Defendants who arrested Plaintiff on September 19, 2017. At the time of Plaintiff’s arrest, Defendant John Doe 2 wore a green short-sleeve shirt. Based on information and belief, Defendant John Doe 2’s last name is Nyland, Hope, or Maple.

9. Defendant John Doe 3 is a white male and an ICE agent. He is one of two Defendants who interviewed Plaintiff on September 19, 2017, at the U.S. Department of Homeland Security (“DHS”) offices in Boise, Idaho. At the time of Plaintiff’s arrest, Defendant John Doe 3 had gray hair and wore glasses. Defendant John Doe 3’s name is unknown to Plaintiff at this time.

10. Defendant John Doe 4 is a bald, white male and an ICE agent. He is one of two Defendants who interviewed Plaintiff on September 19, 2017 at DHS offices in Boise, Idaho. Defendant John Doe 4’s name is unknown to Plaintiff at this time.

11. Each Defendant is sued in his individual capacity.

12. Each Defendant is responsible to Plaintiff for the injuries and damages she has suffered as a result of the actions of the Defendants alleged in this Complaint.

13. Plaintiff intends to amend her Complaint to state the correct name of each Defendant once his name has been identified.

#### **IV. FACTUAL ALLEGATIONS**

14. On September 19, 2017, Plaintiff was driving her car in Ontario, Malheur County, Oregon, with two Hispanic passengers.

15. At around 3:30 p.m., Defendants Jones, John Doe 1, and John Doe 2 stopped Plaintiff's vehicle. Defendants Jones, John Doe 1, and John Doe 2 each drove an unmarked truck or sport utility vehicle.

16. Defendant John Doe 1 ordered Plaintiff out of her car. Plaintiff complied and put her hands on the roof. Defendant John Doe 1 then ordered Plaintiff to take her hands off the roof and put them on the hood of the car. As Plaintiff complied with this command, Defendant John Doe 1 grabbed her by her right arm, twisted it behind her back, and pressed her body against the side of her car. Before Defendant John Doe 1 released Plaintiff's arm, Defendant John Doe 2 threatened her with pepper spray.

17. Defendants John Doe 1 and John Doe 2 ordered Plaintiff to stand next to her car and told her that she was not free to leave.

18. Plaintiff felt pain in her right shoulder caused by Defendant John Doe 1 twisting her arm.

19. Defendant John Doe 1 asked Plaintiff where she was from. Plaintiff stated that she was from "here."

20. Defendants Jones and John Doe 1 asked Plaintiff for identification. Plaintiff gave Defendants Jones and John Doe 1 her Oregon Driver License. Since 2008, Oregon law has required that a person be a citizen or permanent legal resident of the United States or otherwise legally present in the United States in accordance with federal immigration laws in order to receive a driver license.

21. Defendant Jones called 9-1-1 and several Ontario Police Officers arrived at the scene. Defendant Jones told Ontario Police that Plaintiff “got mouthy and stuff like that,” and alleged falsely that she had attempted to assault Defendant John Doe 1 who then “used pretty much soft techniques, put[ ] her on the hood, [got] her to calm down.”

22. At around 5:30 p.m., Defendant Jones told Plaintiff she was being arrested without providing a reason for her arrest. Defendant Jones took Plaintiff’s keys and phone, and then restrained her in handcuffs locked to a chain around her waist and placed her into Defendant Jones’ unmarked vehicle. Defendant Jones initially handcuffed Plaintiff’s hands behind her back but then re-handcuffed Plaintiff’s hands in front of her body because of the pain in her shoulder.

23. Defendant Jones drove Plaintiff to the DHS offices located at 1185 S. Vinnell Way in Boise, Idaho, approximately 55 miles from Ontario, Oregon.

24. Defendants Jones and John Doe 2 locked Plaintiff in a cell at the DHS offices.

25. Defendant John Doe 2 called paramedics because Plaintiff continued to experience pain in her shoulder.

26. Defendant Jones photographed Plaintiff and took her fingerprints.

27. One to two hours after Plaintiff arrived at the DHS offices, Defendants John Doe 3 and John Doe 4 took Plaintiff to another room and questioned her about her place of birth.

Defendants John Doe 3 and John Doe 4 told Plaintiff that she had been arrested because they were unsure whether she was a United States citizen and because she had been “uncooperative.”

28. Defendants released Plaintiff from their office in Boise at around 9:30 p.m. that evening. Plaintiff had to rely on family to drive from Oregon to pick her up in Boise, Idaho, and take her back to Oregon.

29. Plaintiff possessed a valid Oregon Driver License at all relevant times.

30. Plaintiff spoke to Defendants in English.

31. Plaintiff never assaulted, or intended or attempted to assault, anyone.

32. Plaintiff reasonably believed that she was not free to leave from the time she was stopped by Defendants in Ontario, Oregon, to the time she was released from the DHS offices in Boise, Idaho.

33. Defendants acted intentionally when they arrested Plaintiff.

34. Defendants acted in their capacities as agents under the color of federal law when they arrested Plaintiff.

35. Plaintiff was not then, and never has been, charged with a crime. There never has been a warrant for Plaintiff’s arrest issued by any state or federal court.

36. Plaintiff’s arrest was not supported by probable cause to believe that she had committed a crime, nor was it pursuant to a violation of immigration law or warrant issued by a state or federal magistrate.

37. As a result of her arrest by Defendants, Plaintiff has suffered loss of liberty, loss of enjoyment of life, humiliation, mental suffering, emotional distress, stress, anxiety, personal injury, pain, lost wages, and other damages in amounts to be proved at trial.

**V. CLAIM FOR RELIEF**

**Fourth Amendment (Unlawful Seizure): *Bivens* Claim**

38. Plaintiff incorporates paragraphs 1 through 37 above.

39. Plaintiff's arrest and prolonged detention by Defendants were unreasonable seizures that deprived her of rights secured by the Fourth Amendment to the Constitution of the United States.

40. Defendants acted in clear violation of well-settled law with regard to standards for seizure, of which a reasonable person should have been aware. They are not entitled to qualified or official immunity.

41. The actions of these Defendants were intentional, malicious, and reckless and showed a callous disregard for, or indifference to, the civil rights of Plaintiff.

42. The actions of these Defendants give rise to a cause of action for damages against them in their individual capacities pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

43. As a direct and proximate result of the unlawful actions of these Defendants, Plaintiff is entitled to recover damages from Defendants.

44. Plaintiff also is entitled to an award of punitive damages because of the unlawful actions of these Defendants.

**VI. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment as follows:

1. An award of compensatory and punitive damages in an amount to be determined at trial;  
and

2. Such other and further relief as the Court deems just and proper.

Plaintiff demands a jury trial.

DATED this 2nd day of March, 2018.

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s/David Henretty

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