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10 **UNITED STATES DISTRICT COURT**  
11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

12 Fleta Christina Cousin Sabra

13 Plaintiffs,

14 v.

15 The United States of America

16 Defendant.

Civil Action No.: **'18CV2690 JLS AGS**

**Complaint for Damages**

**28 U.S.C. § 1346(b) – Federal Tort  
Claims Act**

17 **JURISDICTION AND VENUE**

18  
19 1. This is an action for damages pursuant to the Federal Tort Claims Act  
20 (FTCA).

21 2. Jurisdiction lies pursuant to 28 U.S.C. § 1331 because Plaintiff's  
22 claims arise under federal law.

23 3. Plaintiff timely filed a notice of administrative tort claim with U.S.  
24 Customs and Border Protection (CBP) on September 12, 2017. CBP denied  
25 Plaintiff's claim in its entirety on May 24, 2018. Plaintiff has thus exhausted her  
26 administrative remedies and this action is ripe for suit.

27 4. Venue is proper within this District because the events that gave rise to  
28 Plaintiff's claims occurred here.

1 **PARTIES**

2 5. Plaintiff Sabra is a 58 year-old native and citizen of the United States  
3 and resident of North Carolina.

4 6. Defendant U.S. Customs and Border Protection (CBP) is an agency  
5 component of the Department of Homeland Security (DHS). Officers of the Border  
6 Patrol, an agency sub-component of CBP, committed the tortious acts and  
7 omissions alleged herein. Consequently, the United States is the appropriate party  
8 for suit.

9 **FACTUAL ALLEGATIONS**

10 7. Ms. Sabra is an Accredited Representative with the U.S. Board of  
11 Immigration Appeals. At all times relevant to this Complaint she was the Executive  
12 Director of the MAS (Muslim American Society) Immigrant Justice Center in Cary,  
13 North Carolina.

14 8. Ms. Sabra practices the religion of Islam, and routinely wears a hijab  
15 head-covering. Sabra was wearing her hijab head-covering when she re-entered the  
16 United States on September 11, 2015, along with a long tunic-style blouse and long  
17 pants.

18 9. On September 11, 2015, Ms. Sabra arrived at a U.S. border port of  
19 entry near San Ysidro, California, traveling in a vehicle with a U.S. Lawful  
20 Permanent Resident and 5 members of that resident's family (3 adults and 2  
21 children), who were refugees from Syria intending to seek asylum in America  
22 (collectively, "group").

23 10. Ms. Sabra explained to a CBP employee that she was a BIA accredited  
24 representative, that she was there to represent the accompanying individuals, and  
25 that they wished to file for asylum based on fear of persecution.

26 11. The CBP employee responded that asylum-seekers can only arrive by  
27 walking on foot—not in a vehicle.

28 12. The CBP employee instructed the group to drive back out of the U.S.

1 port of entry, and then walk in to the port of entry.

2 13. Ms. Sabra expressed her concerns about the potential of not being  
3 permitted to re-enter if they did so, and the group was eventually permitted to drive  
4 forward.

5 14. A CBP employee instructed the group to park in a particular location,  
6 and the group did so.

7 15. The group provided their identification documents to CBP employees,  
8 and explained that the driver was a lawful permanent resident, and that Ms. Sabra  
9 was a U.S. citizen.

10 16. Female CBP employee Michel (whose first name is unknown and last  
11 name is spelled on information and belief) reached into the vehicle and seized Ms.  
12 Sabra's cellphone.

13 17. Ms. Sabra provided her U.S. Passport, Passport card, and Global Entry  
14 card to CBP Employee Michel, but Michel threw the documents into a trash  
15 receptacle.

16 18. Since approximately 2013, Ms. Sabra was a participant in the CBP's  
17 Global Entry Program (Global Entry), which had required a rigorous background  
18 check and in-person interview, and permitted her expedited clearance when  
19 returning to the U.S. from international travel.

20 19. Ms. Sabra was a participant in Global Entry when she arrived at the  
21 U.S. Port of Entry on September 11, 2015. Ms. Sabra had previously re-entered the  
22 U.S. without any harassment, belligerence, or prolonged obstruction.

23 20. CBP employee Michel handcuffed Ms. Sabra's hands behind her back,  
24 with metal handcuffs. All other members of the group were also handcuffed by  
25 CBP employees.

26 21. The members of the group (including Ms. Sabra) were frisked or hand-  
27 patted by CBP employees. No weapons or weapon-like items were observed on any  
28 member of the group.

1           22. Ms. Sabra asked CBP Employee Michel if Ms. Sabra had broken any  
2 laws, and CBP Employee Michel said no. Ms. Sabra asked why she was in custody,  
3 and CBP Employee Michel answered, "because I can."

4           23. Ms. Sabra advised that she was a U.S. citizen, and that Ms. Sabra  
5 believed that CBP Employee Michel was violating her constitutional rights. CBP  
6 employee Michel responded to the effect that the constitution does not exist there,  
7 and Ms. Sabra had no rights. Ms. Sabra insisted that they were in America, and  
8 CBP employee Michel told Ms. Sabra to shut up.

9           24. CBP employees escorted the group of handcuffed individuals into a  
10 CBP building at or near the port of entry, on the U.S. side of the U.S.-Mexico  
11 border.

12           25. CBP employee Michel pushed and/or pulled the handcuffed Ms.  
13 Sabra, hurrying her as she attempted to walk.

14           26. Ms. Sabra explained that she had recently had surgery on her foot, and  
15 she was still healing. Ms. Sabra indicated it was her right foot which was injured.  
16 CBP employee Michel asked Ms. Sabra if she had medication for it, and Ms. Sabra  
17 said she did, and it was in her purse.

18           27. CBP employee Michel then used her own foot (wearing a boot) to kick  
19 into Ms. Sabra's injured right foot, causing significant pain to Ms. Sabra, just  
20 before entering the CBP building.

21           28. Ms. Sabra asked CBP employee Michel if Ms. Sabra was under arrest,  
22 and Michel advised that Ms. Sabra was not under arrest.

23           29. Ms. Sabra said she felt as though she were under arrest, and she saw  
24 other U.S. Citizens who were not being so detained.

25           30. Ms. Sabra asked CBP employee Michel if her handcuffs could be  
26 loosened, but instead CBP employee Michel tightened the handcuffs on 58-year-old  
27 Ms. Sabra.

28           31. Once inside the CBP building, Ms. Sabra removed her shoe from her

1 injured foot, and CBP employee Michel laughed at Ms. Sabra.

2 32. CBP employee Michel told Ms. Sabra that Ms. Sabra would be the last  
3 to be processed. Ms. Sabra asked why she was being processed, but did not receive  
4 an explanation.

5 33. Ms. Sabra asked if Ms. Sabra was under arrest, and CBP employee  
6 Michel told Ms. Sabra that Michel was not talking to her.

7 34. CBP employee Michel denied Ms. Sabra's requests for water, for use  
8 of the toilet, for Ms. Sabra's pain-relieving medication for her foot, and to make a  
9 phone call.

10 35. Ms. Sabra spent what she perceived to be multiple hours handcuffed in  
11 the CBP building, and without water, pain-relieving medication, use of the  
12 telephone, and use of toilet facilities.

13 36. CBP employee Michel ordered Ms. Sabra to stand. Ms. Sabra asked  
14 repeatedly if she could sit down, due to pain from her foot, but CBP employee  
15 Michel told Ms. Sabra no, and to shut up.

16 37. CBP employee Michel said "fuck you" to Ms. Sabra, and CBP  
17 employee Michel called Ms. Sabra "sand ni\*\*er."

18 38. CBP employee Michel snatched off Ms. Sabra's hijab, so that Ms.  
19 Sabra's head was uncovered and visible.

20 39. CBP employee Michel asked Ms. Sabra if Ms. Sabra's hair was a  
21 "weave."

22 40. Two other female CBP employees, Ramirez (first name unknown, last  
23 name spelled on information and belief) and an African-American female (name  
24 unknown, hereafter "Unnamed Female") also participated in searching Ms. Sabra.

25 41. Once CBP employee Michel snatched off Ms. Sabra's hijab, all three  
26 CBP employees—Michel, Ramirez, and Unnamed Female—searched through Ms.  
27 Sabra's hair, handling it roughly and yanking it.

28 42. CBP employee(s) ordered Ms. Sabra to remove all of her clothes,

1 including her bra, leaving only her bottom underwear. Ms. Sabra obeyed the order,  
2 and removed all her clothing, standing before CBP employees entirely naked,  
3 except for the underwear on her lower half.

4 43. CBP employee(s) ordered Ms. Sabra to put her hands on the wall, and  
5 spread her legs. Ms. Sabra obeyed the order, and put her hands on the wall, with her  
6 legs spread.

7 44. A CBP employee (either Michel or Ramirez) kicked both of Ms.  
8 Sabra's feet.

9 45. CBP employees Michel and Ramirez were pushing and shoving Ms.  
10 Sabra.

11 46. CBP employees Michel and Ramirez conducted an invasive hand  
12 search of Ms. Sabra, while Ms. Sabra was naked, placing their hands on her naked  
13 body.

14 47. A CBP employee (either Michel or Ramirez) hit Ms. Sabra's head into  
15 the wall, causing pain to Ms. Sabra.

16 48. CBP employee Michel advised that Michel's shift was ending. CBP  
17 employee Michel asked Ms. Sabra if Ms. Sabra had learned a lesson.

18 49. After Ms. Sabra redressed herself, CBP employee Ramirez took Ms.  
19 Sabra elsewhere in the CBP building.

20 50. Ms. Sabra asked CBP employee Ramirez about seizing people without  
21 legally sufficient grounds, and CBP employee Ramirez asked why Ms. Sabra didn't  
22 just shut up.

23 51. CBP employee Ramirez hit Ms. Sabra in the head with CBP employee  
24 Ramirez's own fist, causing severe pain to Ms. Sabra.

25 52. CBP employee Ramirez insisted that Ms. Sabra be fingerprinted and  
26 photographed. Ms. Sabra advised that she did not want to be photographed or  
27 fingerprinted. CBP employee Ramirez fingerprinted and photographed Ms. Sabra.  
28 CBP employee Ramirez instructed Ms. Sabra to stand.

1 53. Male CBP employee Hernandez (first name unknown, last name on  
2 information and belief), who appeared to be a supervisor, instructed that Ms. Sabra  
3 be allowed to sit down and be given her medication.

4 54. Ms. Sabra's medication was returned to her partially destroyed.

5 55. Asylum applications for the Syrian refugee family were given to a  
6 CBP employee, who appeared to discard them.

7 56. At approximately 5:00 a.m. on September 12, 2015, CBP employees  
8 permitted Ms. Sabra to leave the CBP building, and continue in to the United  
9 States. CBP did not return Ms. Sabra's passport to her at that time.

10 57. Ms. Sabra required extensive medical treatment for the injuries she  
11 suffered in CBP custody, including surgery.

12 58. She continues to suffer and receive mental health treatment for the  
13 severe anxiety and the lingering psychological effects of the injuries and  
14 humiliation she endured while in CBP custody.

15 **CLAIMS FOR RELIEF**

16 **Count One: False Arrest**

17 59. All previous paragraph are incorporated as though fully set forth  
18 herein.

19 60. CBP law enforcement officials seized Ms. Sabra without legal  
20 justification or probable cause by handcuffing her and removing her from her  
21 vehicle in secondary inspection.

22 61. CBP officials' conduct violated the agency's binding statutes,  
23 regulations, sub-regulatory rules, and the Fourth Amendment to the United States  
24 Constitution.

25 62. As a direct and proximate result of CBP officials' tortious conduct,  
26 Ms. Sabra suffered damages in the form of a deprivation of her liberty, physical  
27 injury, and severe emotional distress.

28 63. She consequently seeks compensatory damages.

1 **Count Two: False Imprisonment**

2 64. All previous paragraph are incorporated as though fully set forth  
3 herein.

4 65. Following their unlawful seizure, CBP officials deprived Ms. Sabra of  
5 her liberty inside the Border Patrol station for several hours without legal  
6 justification.

7 66. CBP officials' conduct violated the agency's binding statutes,  
8 regulations, sub-regulatory rules, and the Fourth Amendment to the United States  
9 Constitution.

10 67. As a direct and proximate result of CBP officials' tortious conduct,  
11 Ms. Sabra suffered damages in the form of a deprivation of her liberty, physical  
12 injury, and severe emotional distress.

13 68. She consequently seeks compensatory damages.

14 **Count Three: Assault**

15 69. All previous paragraph are incorporated as though fully set forth  
16 herein.

17 70. CBP officials repeatedly assaulted Ms. Sabra by carrying out an  
18 unwanted physical touching of her person without any lawful justification,  
19 including, but not limited to:

- 20 a. Handcuffing Ms. Sabra so tightly that her wrists were left with  
21 deep, painful bruises for several days after the encounter;  
22 b. Kicking Ms. Sabra in her foot after she stressed that she was  
23 overcoming an injury;  
24 c. Tearing off Ms. Sabra's hijab without permission or justification;  
25 d. Repeatedly slamming Ms. Sabra's head into the wall;  
26 e. Physically abusing Ms. Sabra through unwanted physical touching  
27 throughout her detention in CBP custody.

28 71. CBP officials' conduct violated the agency's binding statutes,



1 regulations, sub-regulatory rules, and the Fourth Amendment to the United States  
2 Constitution.

3 72. As a direct and proximate result of CBP officials' tortious conduct,  
4 Ms. Sabra suffered including physical injury and severe emotional distress for  
5 which she required mental health treatment.

6 73. She consequently seeks compensatory damages.

7 **Count Four: Intentional Infliction of Emotional Distress**

8 74. All previous paragraph are incorporated as though fully set forth  
9 herein.

10 75. Throughout Ms. Sabra's encounter with CBP as alleged herein, CBP  
11 law enforcement officials engaged in outrageous conduct intended to cause her  
12 severe emotional distress, including but not limited to:

- 13 a. Verbally insulting Ms. Sabra's race and religion;  
14 b. Forcing Ms. Sabra's headscarf off without her consent;  
15 c. Forcing Ms. Sabra to strip naked in violation of CBP policy;  
16 d. Verbally abusing Ms. Sabra when she attempted to speak up for  
17 herself and the asylum-seekers and Lawful Permanent Resident she  
18 was attempting to represent; and  
19 e. Physically abusing Ms. Sabra.

20 76. Alternatively, CBP law enforcement officials acted with reckless  
21 disregard that of the substantial and unjustifiable risk that their conduct would  
22 inflict such emotional distress.

23 77. As a direct and proximate result of CBP law enforcement officials  
24 tortious conduct, Ms. Sabra suffered severe emotional distress requiring her to seek  
25 and undergo mental health treatment.

26 78. She consequently seeks compensatory damages.

27 **REQUEST FOR RELIEF**

28 **WHEREFORE**, Plaintiff seeks the following relief:

- 1 1. Assume jurisdiction over this action;  
2 2. Enter a judgment for compensatory damages in Plaintiff's favor in an amount  
3 to be proven at a bench trial.  
4 3. Award Plaintiff pre- and post-judgment interest to the fullest extent allowed  
5 by law.  
6 4. Grant such further relief as this Court deems just and appropriate.

7 Respectfully submitted this 26th day of November, 2018 by:

8 /s/ Bashir Ghazialam, Esq.  
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27 *Application for Admission Pro Hac*  
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