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7 Attorney for Plaintiff
8 SHEYLA KEREN LOPEZ-CASTILLO

9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 SHEYLA KEREN LOPEZ-CASTILLO,

12 Plaintiff,

13 v.

14 MARK A. MORGAN, in his official
15 capacity as Commissioner of United States
16 Customs and Border Protection; TWO
17 UNKNOWN UNITED STATES
18 CUSTOMS AND BORDER PROTECTION
19 AGENTS, in their individual and official
20 capacities; TWO UNKNOWN UNITED
21 STATES CUSTOMS AND BORDER
22 PROTECTION SUPERVISING AGENTS,
23 in their individual and official capacities;
24 TWO UNKNOWN IMMIGRATION AND
25 CUSTOMS ENFORCEMENT AND
26 BORDER PROTECTION AGENTS, in
27 their individual and official capacities; and
28 DOES 1 through 100, inclusive,

Defendants.

Case No. '20CV1013 BAS WVG

**COMPLAINT FOR DAMAGES AND
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

DEMAND FOR JURY TRIAL

COMPLAINT FOR DAMAGES

COMES NOW PLAINTIFF SHEYLA KEREN LOPEZ-CASTILLO (hereafter as
"Plaintiff") and alleges as follows:

1 **I. INTRODUCTION**

2 1. This action concerns constitutional limits on the government’s ability to invade a person’s
3 most intimate bodily spaces to search for drugs without any judicial oversight or even reasonable
4 suspicion. Government agents brutally probed the body cavities of Plaintiff, a minor child at the
5 time of the incident, without the consent of her parents and against her will in multiple, redundant,
6 and increasingly intrusive searches even though none of the searches uncovered any evidence of
7 drug smuggling. After enduring hours of demeaning and highly invasive searches, Plaintiff was
8 released without any charge.

9 2. Plaintiff, then a 16 year old, was returning to her home in the United States from Mexico
10 on September 5, 2017 at around 7:30 pm with her two sisters. All three of them were attempting
11 safe and lawful passage at San Ysidro International Border Crossing pedestrian gate west. Upon
12 Plaintiff entering the United States, Plaintiff was flagged for secondary search by United States
13 Customs and Border Patrol (“CBP”) agents. This set off a sequence of searches conducted by CBP
14 agents, escalating without probable cause to the next level and in violation of several protocols
15 ending in an abusive, cavity search with the minor having to disrobe in front of agents, suffering
16 humiliation without parental consent.

17 3. Over the course of the next couple hours, Defendants subjected Plaintiff to a series of
18 highly invasive searches, any one of which would have been humiliating and demeaning. First,
19 government agents patted her down and frisked her in secondary processing. Finding nothing,
20 defendants then subjected Plaintiff to a strip search and made a visual and manual inspection of
21 her genitals and anus. Plaintiff was forced to remove her clothing, squat, and expose her genital
22 and intimate areas in plain view of other agents even through her tears and emphatic statements of
23 not having done anything wrong. In the end, no contraband was found on Plaintiff and she was
24 released without any charges. .

25 4. The searches conducted by Defendants traumatized plaintiff physically and emotionally.
26 Plaintiff respectfully seeks relief from this court for her injuries.
27

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1 **II. JURISDICTION AND VENUE**

2 5. This court has subject matter jurisdiction pursuant to 28 U.S.C. Section 1331 because
3 Plaintiff's claims arise under the Constitution and laws of the United States of America.

4 6. Venue is proper in that this judicial district under 28 U.S.C. Section 1391(b)(2) because
5 the incident giving rise to this action occurred in this district.

6 **III. PARTIES**

7 7. Plaintiff, SHEYLA KEREN LOPEZ-CASTILLO, is a United States citizen and a resident
8 of San Diego, California.

9 8. Defendant MARK A. MORGAN is Commissioner of United States Customs and
10 Border Protection. Upon information and belief, at all times relevant to this complaint, he was
11 supervising and managing the United States Customs and Border Protection Agents and
12 Supervising Agents subject to this lawsuit. He is sued in his individual and official capacity.

13 9. Defendants TWO UNKNOWN UNITED STATES CUSTOMS AND BORDER
14 PROTECTION AGENTS (hereinafter "Two Unknown CBP Agents") are employees of the United
15 States Customs and Border Protection. At all times relevant to this complaint, these agents were
16 acting in the course and scope of their employment. They are sued in their individual and official
17 capacities.

18 10. Defendants TWO UNKNOWN UNITED STATES CUSTOMS AND BORDER
19 PROTECTION SUPERVISING AGENTS (hereinafter "Two Unknown CBP Supervisors") are
20 employees of the United States Customs and Border Protection. At all times relevant to this
21 complaint, these agents were acting in the course and scope of their employment. They are sued
22 in their individual and official capacities.

23 **IV. FACTS**

24 11. In September of 2017, Plaintiff and her sisters went to Mexico for a regularly planned trip
25 to visit her grandmother. On September 5, 2017 in the evening around 7:30 p.m., after visiting
26 their grandmother, Plaintiff and her two sisters came back to the United States. All three of them,
27 Plaintiff included, lined up for inspection.
28

1 12. Plaintiff was a minor and is still a minor to date. Her sisters were all over 21 years of age.
2 The attempted safe and lawful passage at the San Ysidro international crossing by foot. They were
3 trying to get back to the United States so they could be home in time to prepare for school the next
4 day. All three sisters were in line together.

5 13. A canine officer passed a dog to all three sisters. The dog smelled Plaintiff who was
6 menstruating at this time. The dog did not sit in front of Plaintiff.

7 14. The canine officer pulled Plaintiff from the line and sent her to secondary. Without
8 additional probable suspicion, or probable cause, the officers escalated the inspection of this minor
9 without requiring parental consent, without explaining to her what was going on and without
10 inspecting her backpack or her box of cereal she had with her.

11 15. Officers then directed Plaintiff to secondary processing where she was forced to remove
12 her clothing. Plaintiff was menstruating at the time. However, Plaintiff was still required to remove
13 her clothing. While nude, she was forced to squat and cough while officers probed and shined a
14 flashlight on her vaginal and anal areas. When they were satisfied with their search, CBP officers
15 then allowed Plaintiff to get dressed, gather her belongings, and go home.

16 16. The entire search was done outside of the presence of Plaintiff's family members.
17 Plaintiff's parents did not voluntarily waive consent to either the search or to Plaintiff's prolonged
18 detention. The officers did not give the proper warnings under Miranda v. Arizona, 384 U.S. 436,
19 86 S. Ct. 1602 (1966). The search inevitably yielded no contraband or wrongdoing by Plaintiff.
20 Custom's officers never asked for Plaintiff's age, never asked her for her parents' information, and
21 never attempted to contact her parents. Plaintiff was told by CBP officers that if she did not want
22 to be searched in such way then she should not cross the border. Plaintiff in fact did not bring any
23 contraband of any kind across the border.
24

25 17. On October 16, 2017, Plaintiff, with the assistance of the American Friends Service
26 Committee, filed a formal complaint with the California and Border Protection of the San Ysidro
27 Ped-West border crossing, the Office of the Inspector General Inspections Division, and the Office
28 of Civil Rights and Civil Liberties in the U.S. Department of Homeland Security. However, to

1 date, there has been no attempt by any agency to remedy or rectify Plaintiffs' grievances.

2 18. Plaintiff also submitted a claim packet to the Office of the General Counsel, U.S.
3 Department of Homeland Security at 245 Murray Lane, SW, Mail Stop 0485, Washington, DC
4 20528-0485 and to Customs and Border Protection at 720 East San Ysidro Boulevard, San Ysidro CA
5 92173 on September 3, 2019. The Claim was denied on January 13, 2020 giving Plaintiff 6 months
6 to file her lawsuit. The claim was timely and complied with The Federal Tort Claim Act.

7 19. Plaintiff is extremely traumatized because of this incident. For months after the incident,
8 C.R. would have random outbursts where she would cry uncontrollably. She is emotionally
9 unstable and uncomfortable being by herself, anxious all the time, and angry towards herself
10 because of this incident. Plaintiff cannot concentrate on even every day activities anymore because
11 she relives the experience of the abused she suffered on the day she was unreasonably searched.

12 **V. CAUSES OF ACTION**

13 **FIRST CAUSE OF ACTION**

14 **Unreasonable Seizure, False Arrest, and False Imprisonment**
15 **in Violation of the Fourth Amendment to the U.S. Constitution**

16 **Against All Defendants**

17 ***(Bivens Claim)***

18 20. Plaintiff incorporates paragraphs 1-19 as set forth above.

19 21. All Defendants' actions are the legal and proximate cause of Plaintiff's injuries. As a direct
20 result of their actions set forth in this Complaint, Defendants acted under the color of federal law
21 to deprive Plaintiff of her right to be free from unreasonable seizures by sizing, arresting, and
22 detaining her without reasonable suspicion or probable cause that she was committing a crime, in
23 violation of the Fourth amendment of the U.S. constitution.

24 22. This cause of action for the violation of C.R.'s Fourth Amendment right is brought pursuant
25 to *Bivens v. Six Unknown Agents*, 403 U.S. 388 (1971).

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1 **VII. PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff respectfully asks this court:

- 3 1. For a declaration that the actions of Defendants, and each of them, violated the U.S.
4 Constitution;
- 5 2. For an injunction restraining Defendants, and each of them, from engaging in invasive law
6 enforcement searches;
- 7 3. For an award of compensatory damages in an amount to be determined at the time of trial;
- 8 4. For an award of punitive damages in an amount to be determined at the time of trial
- 9 5. For an award of attorney's fees and costs pursuant to 42 U.S.C. Section 1988; and,
- 10 6. For any such other and further relief as the court deems just and proper.

11
12
13 Dated: June 1, 2020

By: /s/ Francisco J. Aldana, Esq.
FRANCISCO JAVIER ALDANA
Attorney for Plaintiff