

1 ALAN BOWMAN
2 **TERRITORIAL LAW, L.L.C.**
3 Arizona Bar No. 006134
4 113 West Giss Parkway
5 Yuma, AZ 85364
6 Telephone: (928) 783-8879
7 Fax: (928) 329-1816
8 Email: abowman@territoriallaw.com

9 *Attorneys for Plaintiff*

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12
13 Charmaine Ciancio and Timothy Ciancio, a
14 married couple,
15
16 Plaintiffs,
17 vs.
18 United States of America,
19 Defendant.

CASE NO.

COMPLAINT
(Federal Tort Claims Act)

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21 For their Complaint, Plaintiffs allege as follows by and through undersigned
22 counsel:

- 23
24 1. At all times relevant herein, Plaintiff Charmaine Ciancio and Plaintiff Timothy
25 Ciancio were married and residents of Yuma County, Arizona.
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27 2. This action arises under 28 U.S.C. § 2671 *et. seq.*, the Federal Tort Claims Act,
28 and jurisdiction for this action arises under 28 U.S.C. § 1402(B) because all acts
29 referred to herein occurred within the District of Arizona.

- 1 3. Defendant through its agents/employees have caused acts or events to occur
2 within the State of Arizona, which acts or events form the basis for the cause of
3 action set forth herein.
4
- 5 4. Defendant is responsible for the negligent acts and/or omissions of its agents and
6 employees, including all active duty service members, under the doctrine of
7 *respondeat superior* and/or pursuant to 28 U.S.C. § 1346.
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- 9 5. The amount in controversy in this matter exceeds the minimum jurisdictional
10 amount required for this Court's jurisdiction.
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- 12 6. Plaintiffs have provided Defendant with a proper and timely notice of their
13 claims pursuant to the provisions of 28 C.F.R. Part 14 and/or 28 U.S.C. § 2675.
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- 15 7. The forgoing claims have been denied and this action has been timely filed in
16 accordance with the Federal Tort Claims Act.
17
- 18 8. On or about October 18, 2019, Plaintiff Charmaine Ciancio was riding her mule
19 on the north shoulder of County 14th Street in Wellton, in the County of Yuma,
20 State of Arizona when a military vehicle driven by an unidentified service
21 member and employee and/or agent of Defendants approached her, heading
22 westbound, at a high rate of speed. The service member did not slow down or
23 move over and, as he passed, the vehicle sprayed gravel from the shoulder of the
24 road into the mule. This caused the mule to spook and bolt and Plaintiff was
25 thrown to the road.
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- 27 9. The above-mentioned incident was caused by the careless, negligent, and
28 unlawful acts and/or omissions of the unidentified service member, who is
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believed to be a United State Marine, who was in control, operation, and use of a vehicle owned by Defendant.

10. Defendant's agent and/or employee violated Arizona Revised Statute § 28-858, which requires a person operating a motor vehicle to approach horses and/or livestock on a public highway with reasonable caution so as to prevent frightening the animal and to safeguard the animal and the persons riding or driving the animal. If the animal appears frightened, the person controlling the vehicle is further required to reduce its speed and not proceed further toward the animal, unless necessary to avoid an accident or injury, until the animal is under control.

11. As a direct and proximate result of the careless, negligent, and unlawful acts and/or omissions of this service member, acting within the course and scope of his or her employment for Defendant, Plaintiff was injured.

12. Defendant, as a matter of policy and practice, has negligently failed to adequately train, supervise, and/or instruct its employees while operating their vehicles in the course and scope of employment.

13. That as a direct and proximate result of the negligent acts of the Defendant, Plaintiff Charmaine Ciancio suffered injuries and continues to suffer pain, discomfort, and limitations and will continue to suffer pain, discomfort, and limitations relating to her injuries in the future.

1 14. That as a direct and proximate result of said incident, Plaintiffs have incurred
2 expenses in connection with medical care and treatment for their injuries and
3 may incur future medical expenses in connection therewith.
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5 15. As a direct and proximate result of the negligence of the Defendant, Plaintiff
6 incurred a loss of income and may have their earning capacity impaired.
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8 16. As a direct and proximate result of said incident, Plaintiff has incurred general
9 damages arising out of the pain, suffering, and disability caused to her body.
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11 17. As a direct and proximate result of said incident, Plaintiff has incurred general
12 damages arising out of the damage to Plaintiff's property.
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14 18. As a further proximate result of the conduct of the Defendant, and of Plaintiff
15 Charmaine Ciancio's resulting injuries, Plaintiff Timothy Ciancio has been
16 deprived of the services of his said wife by reason of her inability to carry on her
17 usual duties. Plaintiffs are informed and believe, and thereon allege, that said
18 injuries are of a permanent nature and that Plaintiff will be deprived of her
19 services in the future, all to his further damage in an amount that will be
20 determined at time of trial.
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23 19. WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- 24 A. For Plaintiffs' general damages;
25 B. For Plaintiffs' lost wages and diminution of her earning capacities;
26 C. For Plaintiffs' costs incurred herein; and
27 D. For such other and further relief as this Court may deem just and proper
28
29 under the circumstances.

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DATED this 29th day of December, 2021.

TERRITORIAL LAW, L.L.C.

By: /s/ Alan Bowman
ALAN BOWMAN
Attorneys for Plaintiff