

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MINNESOTA**

<p>Jesus Manuela Mendoza Sierra Plaintiff,</p> <p>v.</p> <p>City of Gaylord; Sibley County; City of Arlington; Gaylord police officers Jeff Milette and Thomas Webster; Gaylord Police Chief Kenn Mueller; Sibley County Sheriff Deputy Marvin Doeden; Sibley County Sheriff Bruce Ponath; Sibley County Chief Deputy Patrick Nienaber; Arlington Police Chief Bruce Rovinsky; John Doe & Richard Roe, unknown/unnamed officers. All individuals being sued in their individual and official capacity.</p> <p style="text-align: center;">Defendants.</p>	<p>Civil Action No: _____</p> <p>COMPLAINT FOR DAMAGES AND OTHER RELIEF</p> <p>JURY TRIAL DEMANDED</p>
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Plaintiff, Jesus Manuela Mendoza Sierra, by her attorneys' of record, for her
Complaint against the Defendants named above, states as follows:

INTRODUCTION

1. This civil rights case arises from an unjustified search and seizure of the
Plaintiff, Ms. Jesus Manuela Mendoza Sierra, by officers of the Gaylord Police
Department and deputies of the Sibley County Sheriff's Office which began at the First
National Bank in Gaylord, MN. Defendants, lacking probable cause, targeted Plaintiff
due to her color, ethnicity and national origin. Despite showing proper and legal
Minnesota issued identification, Defendants did not release her until she brought the
police to her home and showed them her immigration documentation. Plaintiff seeks,

inter alia, a declaration that the actions of the Defendants violated her rights under the United States Constitution and Minnesota Constitution; injunctive relief to prevent injury to herself in the future; compensatory and punitive damages for violation of her civil rights; and her costs and attorneys' fees.

2. Plaintiff has served timely notice of her state law claims in compliance with Minn. Stat § 466.05.

JURISDICTION

3. This Court has jurisdiction over the claims alleged in this Complaint pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1343 (civil rights), 28 U.S.C. § 2201 (declaratory relief), and 42 U.S.C. § 1981, 1983, § 1985-1986 and 1988.

4. Supplemental jurisdiction over the pendent state law claims is proper pursuant to 28 U.S.C. § 1367.

5. This action arises under the United States Constitution, as applied to state and/or local authorities through 42 U.S.C. § 1983.

VENUE

6. Venue is proper in this judicial district based on 28 U.S.C. § 1391(b), as Defendants are residents of this judicial district and the acts or occurrences giving rise to these claims took place in Minnesota.

PARTIES

7. Plaintiff is Jesus Manuela Mendoza Sierra, a lawful permanent resident who immigrated to Minnesota in May 2009. Plaintiff is a Hispanic female and a member

of a protected class. She lives and works in Gaylord, MN. She works at an egg processing plant, commonly called Michaels Food, Inc. but officially called W. G. Waldbaum Co.

8. Defendants are all, upon information and belief, Minnesota municipal entities and/or individual members of law enforcement agencies, in an appointed or elected capacity.

9. Defendant City of Gaylord is a municipality under Minnesota law with the capacity to sue and be sued. The city is the legal entity responsible for the Gaylord Police Department. Plaintiff bases all applicable and appropriate claims on the doctrine of respondeat superior or vicarious liability as to Defendant City of Gaylord.

10. Defendants City of Gaylord, Sibley County, and the City of Arlington operate law enforcement agencies and each is a municipality capable of being sued under Minnesota law.

11. Defendant Kenn Mueller is the Chief of Police of the Gaylord Police Department and is a law enforcement officer acting under color of state law as contemplated by 42 U.S.C. § 1983. Chief Mueller is being sued in his personal, individual, and official capacities pursuant to Minnesota Statutes § 466.01 et seq. and other applicable law.

12. Defendant Thomas Webster is an officer in the Gaylord Police Department and is a law enforcement officer acting under color of state law as contemplated by 42

U.S.C. § 1983. Officer Webster is being sued in his personal, individual, and official capacities pursuant to Minnesota Statutes § 466.01 et seq. and other applicable law.

13. Defendant Jeff Milette is an officer in the Gaylord Police Department and is a law enforcement officer acting under color of state law as contemplated by 42 U.S.C. § 1983. Officer Milette is being sued in his personal, individual, and official capacities pursuant to Minnesota Statutes § 466.01 et seq. and other applicable law.

14. Defendant Bruce Ponath is the Sheriff of Sibley County and is a law enforcement officer acting under color of state law as contemplated by 42 U.S.C. § 1983. Sheriff Ponath is being sued in his personal, individual, and official capacities pursuant to Minnesota Statutes § 466.01 et seq. and other applicable law.

15. Defendant Patrick Nienaber is the Chief Deputy the Sibley County Sheriff's Office and is a law enforcement officer acting under color of state law as contemplated by 42 U.S.C. § 1983. Chief Deputy Nienaber is being sued in his personal, individual, and official capacities pursuant to Minnesota Statutes § 466.01 et seq. and other applicable law.

16. Defendant Marvin Doeden is a deputy in the Sibley County Sheriff's Office and is a law enforcement officer acting under color of state law as contemplated by 42 U.S.C. § 1983. Deputy Doeden is being sued in his personal, individual, and official capacities pursuant to Minnesota Statutes § 466.01 et seq. and other applicable law.

17. Defendant Bruce Rovinsky is the Chief of Police of the Arlington Police Department and is a law enforcement officer acting under color of state law as

contemplated by 42 U.S.C. § 1983. Chief Rovinsky is being sued in his personal, individual, and official capacities pursuant to Minnesota Statutes § 466.01 et seq. and other applicable law.

18. John Doe & Richard Roe are unknown/unnamed defendants whom, on information and belief, are believed to be officers in the Gaylord Police Department, were acting under color of state law as contemplated by 42 U.S.C. § 1983. These individuals are being sued in their personal, individual, and official capacities pursuant to Minnesota Statutes § 466.01 et seq. and other applicable law.

19. When the names of the unknown and unnamed defendants are ascertained, Plaintiff will seek leave to amend this complaint to indicate their names.

20. All Defendant law enforcement officers were, at all times relevant to this complaint, working as on or off duty licensed Minnesota peace officers acting within the scope and course of their official duties and employment as officers with the Defendant entities. Each has the authority to threaten, commence, or seek institution of a criminal prosecution or refer a matter for prosecution against Plaintiff.

FACTS

21. On March 9, 2012, Plaintiff Jesus Manuela Mendoza Sierra was the passenger in a car being driving by her daughter, Luz Maria Cisneros Mendoza.

22. Luz Maria was suspected by police of using a false name, Ruth Rendon, to open a bank account at First National Bank in Gaylord, MN.

23. Upon information and belief, an individual named Ruth Rendon, living in Texas, contacted the Gaylord Police Department after she learned a bank account had been opened with that name. Gaylord Police Department officials notified the bank and instructed them to call the police if “Ruth Rendon” came to the bank.

Unlawful Seizure and Search of Plaintiff

24. Around 1:30pm on March 9, 2012 Luz Maria drove Plaintiff to the First National Bank where Plaintiff attempted to deposit her paycheck through the drive through teller.

25. Plaintiff put her pay check and Minnesota issued identification card into the bank drive thru chute.

26. The bank teller, upon recognizing Ruth Rendon, then contacted Gaylord Police Department through a 911 call. Officers from both Gaylord Police Department and Sibley County Sheriff’s Office went to the bank.

27. Gaylord police officer Jeff Milette approached the car and asked Luz Maria to follow him in her car to the Gaylord police station. She agreed and Plaintiff then exited the car.

28. Sibley Sheriff Deputy Marvin Doeden approached Plaintiff. He spoke in English and motioned for her to follow him to his car. He told her to sit in his car. She objected to going with him and told him that she had to go to work, in both English and Spanish. Plaintiff did not feel free to leave the area and at no time did Deputy Doeden or

any other law enforcement officer tell her that she was free to leave. Deputy Doeden used the radio to get instructions.

29. At about 1:35pm he indicated to dispatch that Plaintiff had no identification. He asked what they wanted to do with the passenger and added that the passenger did not want to come with him and that she wanted to leave. Defendant Doeden suggested that maybe Plaintiff, who had no ID, was the person they wanted. Gaylord officer Jeff Milette, responded over the radio that the driver, Luz Maria, was the only person they wanted.

30. No law enforcement official was aware of the familial relationship between Luz Maria and Plaintiff.

31. During this time, someone from the bank came out and returned Plaintiff's paycheck and Minnesota Identification card back to her.

32. Deputy Doeden then took Plaintiff's Minnesota Identification card and contacted dispatch to run Plaintiff's identity card. At 1:41 pm, Dispatch confirmed over the radio that the card was valid and that there were no warrants for Plaintiff. Despite the lack of probable cause or of any reasonable suspicion of criminal conduct and despite her unequivocal statement that she wished to leave the area in order to go to work, defendant Doeden continued to detain Plaintiff.

33. When Plaintiff attempted to leave, Deputy Doeden yelled at her and ordered her to sit in his car. Frustrated by the deputy, Plaintiff used her phone to call

Rovinda Cardenes who spoke better English than Plaintiff to try to understand what was happening.

34. The deputy instructed Cardenes to explain to the Plaintiff that Deputy Doeden was taking Plaintiff to where “the other woman was” taken. Deputy Doedin then searched Plaintiff by motioning for Plaintiff to turn her pockets inside out, revealing her keys. The deputy kept her identification card.

35. Despite the lack of probable cause or reasonable suspicion of criminal conduct and her unequivocal statement that she wished to leave the area in order to go to work, defendants transported Plaintiff in the back of a squad car to the Gaylord Police Station.

Unlawful Detention and Interrogation of Plaintiff

36. At around 1:45pm, Plaintiff arrived at the Gaylord Police Station.

37. At the station, Plaintiff was put into a large conference room with 4-5 other police officers, some dressed in uniform and armed with guns, and some in civilian clothes. Rovinda Cardenes arrived at the station but was not allowed through the front door. He was told to leave despite the police station being a public building.

38. Plaintiff was told to sit down. No rights were explained to her. She did not know where Luz Maria was being held. At no time was she told that she was free to leave.

39. Plaintiff was informed that Defendants would be recording their interrogation of her.

40. Plaintiff was never asked about Luz Maria or Luz Maria's identity.

41. Defendant Arlington Police Chief Bruce Rovinsky had been contacted and was present at the request of Deputy Doedin for the purpose of translating the interrogation. Despite that, Defendant Rovinsky failed to translate much of what was said to Jesus, because upon information and belief he was not qualified to do so.

42. Plaintiff was frightened for her daughter and worried that she would lose her own job.

43. Gaylord Police Officer Milette questioned Plaintiff about her identity. He repeatedly asked her for her name. When Plaintiff told deputies her name was Jesus Manuela Mendoza Sierra, Officer Milette accused her of lying. Plaintiff nervously laughed and told him that that was her name. Officer Milette violently hit the table to stop her laughter and again called her a liar.

44. Defendants asked her how she came to the United States. Plaintiff responded that she came here legally.

45. Officer Milette told Plaintiff to shut up in both English and Spanish and said they knew she was lying.

46. When there were breaks in the questioning, Plaintiff attempted to get up but was instructed to sit down.

47. The officers continued to accuse her of lying. Officer Milette continued on this line of questioning, repeatedly yelling at Plaintiff and telling her that they knew she was lying, despite her truthful statements and the lack of any reason to disbelieve her

veracity or the validity of her Minnesota identification card. He held three unidentified pieces of paper in front of him, indicating toward them every time he questioned her name. Based upon information and belief, those papers either verified her identification or were intended to intimidate her by falsely suggesting that the police knew something that Plaintiff did not.

48. Defendants had access to the Minnesota Identification Database that verifies Minnesota identification documents, including driver's license and state issued identification cards. They even accessed this service to review the driver's license issued to Luz Maria. Accessing this same system for Plaintiff would have confirmed that her identity was real, after already being confirmed by dispatch. By not accessing the system, Defendants willfully ignored evidence that confirmed Plaintiff's identity under Minnesota law. By not accessing the system for Plaintiff, it shows that Defendants failed to conduct a proper investigation and were more concerned with her national origin and immigration status than any violation of Minnesota law.

49. Plaintiff was asked if she had any immigration documentation. They asked her for her ID and when she pointed to her Minnesota ID they said no, they wanted her "other ID." She understood that to mean her green card and she replied that it was at her home. When asked why she had it there she replied that if she stored it in her locker at work, it would be stolen.

Officers Transport Plaintiff to her Home and enter without consent or a warrant and by threat of Force

50. The defendants then continued her detention by transporting her from the Gaylord Police Department to her home where they demanded that she allow them to enter without a warrant or probable cause and to inspect her immigration documentation. Specifically, Defendants wanted to know if “she had paperwork to prove that she is the same person on her license.”

51. At 2:02pm, Plaintiff was escorted by Officer Milette and Arlington police chief Bruce Rovinsky and a third officer to her home. They arrived at her home at 2:03pm.

52. Plaintiff entered her home to get her documents but the police officers followed her into her home without her permission or her consent or a warrant. She did not feel that she was free to tell them to wait outside, both because her English wasn't strong enough and also because of the way she had been treated. She felt powerless.

53. One officer waited in the front of the home while Officer Milette went with her into her bedroom. Plaintiff felt uncomfortable with Officer Milette in her bedroom but didn't know how to get him out of her room.

54. Chief Rovinsky, who had been summoned purportedly because he spoke Spanish, remained outside.

55. Inside her bedroom, Plaintiff was gathering up her personal papers as well as those of her children. Officer Milette grabbed all the documents from her, which included her Green Card, Mexican birth certificate and passport; the very same documents she would have used to obtain her Minnesota identification card in the first

place. Officer Milette also reviewed Plaintiff's son's birth certificate and other personal papers.

56. After staying inside her home for seven minutes, Officer Milette contacted dispatch at 2:09pm that Plaintiff's ID "had been confirmed."

57. Officer Milette then returned Plaintiff's Minnesota ID and put Plaintiff in the backseat of his squad car and drove her to her job at Michael's foods.

58. The Gaylord Police Department defendants instructed Arlington Police Chief Rovinsky that he did not have to write a report for his involvement since they had created a tape.

59. Plaintiff, through ACLU of MN, requested the reports filed by Deputy Deodin from Sibley County Sheriff's Office. Their response, from Chief Deputy Nienaber, was that "our deputy did not write a report on this matter. His car is also not equipped with a squad camera."

60. However, John Stein, the senior claims representative from MCIT Claims, reviewed the claim for Sibley County. As part of his investigation, he reviewed the report made by Deputy Doedin. Sibley County denied the existence of the report but then relied upon it for their claims adjuster's review.

Officer Milette's Bias Towards Hispanic Minorities

61. Later that day, Officer Milette drove Luz Maria to her home in Chaska and then back to the Sibley County Jail in Gaylord. Officer Milette's digital audio/video

recording device was active for the trip and remained active once he returned to the Sibley County Jail for Luz Maria's processing.

62. At the jail, Luz Maria was escorted into a woman's restroom to take out a lip piercing. While in the bathroom, a jail employee and Officer Milette can be heard on Officer Milette's microphone joking about there being a "glory hole" in the bathroom. The term "glory hole" is a vulgar term, colloquially used to describe an opening in a wall or bathroom stall partition, which is used to facilitate sexual activity between anonymous individuals on either side of the wall. This language was, upon information and belief, intended to degrade Luz Maria, a Hispanic female.

63. While working on the arresting paperwork, Officer Milette asked the employees if they knew what he would like to do. They didn't. He told them that he'd like to make some popcorn and pull a chair up in front of the lockup. While eating his popcorn he could say "Look at the monkeys! Look at the monkeys!" When the inmates got in a fight, he'd wipe up the blood later. This language was, upon information and belief, intended to degrade Hispanic and minority individuals.

64. One of the jail employees, understanding who and what he was talking about, suggested that two Hispanic inmates, Rosales and Zambrano, should fight. Milette responded by saying that Rosales wanted "no part of Zambrano" the other night.

Injunctive Relief

65. As a result of the search and seizure to which she was subjected without reasonable suspicion or probable cause, Plaintiff felt violated and degraded. She fears

that she will again be subjected to unreasonable searches and seizures by the Defendant agencies and individuals based on her ethnicity and national origin in the future. She continues to live and work in the Gaylord area and socializes with other immigrants from Mexico. She fears that she could again be an innocent bystander who is swept up by police who assume that her identification is not genuine or that she is in the country illegally merely because she looks Hispanic and speaks with an accent. She is also concerned that police will target her because she reported the incident and has now commenced a lawsuit.

Gaylord Police Department and Sibley County Sheriff's office

66. Defendants Milette, Webster, Doeden and other unknown/unnamed Defendants acted unlawfully by seizing and searching Jesus without reasonable suspicion or probable cause and forcing her to let officers into her home and her bedroom. The Defendants did not have any reasonable or legal justification for the seizure of Plaintiff and based their search, seizure and detention on her ethnicity and national origin.

67. At all relevant times, all law enforcement officers and employees were employed and working under color of state law.

68. Defendant Gaylord Police Department and Sibley County Sherriff have a duty to properly supervise its employees and agents. Defendants breached that duty by:

- a. Improperly training, authorizing, encouraging or directing officers and deputies to engage in impermissible searches and seizures, without reasonable suspicion or probable cause and without sufficient legal basis,

and/or condoning such actions, based on hostility by law enforcement toward Hispanic residents of Gaylord.

69. Defendant Deputy Doeden acted unlawfully by initiating the search and seizure of Jesus without reasonable suspicion or probable cause and unreasonably prolonging her detention without any legal basis and beyond the scope of any investigative requirements; to wit: Deputy Doeden was instructed by Officer Milette that the Plaintiff was not the target of the arrest; dispatch confirmed her legal identity and valid status and Plaintiff repeatedly attempted to leave. Despite this, Deputy Doeden arrested Plaintiff, searched and detained her.

70. Gaylord Police Officers Milette, Webster and the other unknown/unnamed Gaylord Police Officers continued the unlawful seizure of Plaintiff and expanded it to a custodial interrogation and a forced warrantless search of her private documents in her bedroom.

71. The city of Gaylord has a duty to properly supervise all Gaylord police officers. The City and named individuals breached that duty by:

- a. Improperly training, authorizing, encouraging or directing officers and deputies to engage in impermissible searches and seizures, without reasonable suspicion or probable cause and without sufficient legal basis, and/or condoning such actions, based on hostility by law enforcement toward Hispanic residents of Gaylord.

72. The actions and/or omissions of the Defendants described herein were conducted intentionally, willfully, maliciously and/or recklessly and with callous, reckless and deliberate indifference to the constitutional rights of Plaintiff.

Arlington Police Department

73. Defendant Arlington Police Department through police Chief Bruce Rovinsky acted unlawfully by failing to stop a conspiracy to violate a persons' civil rights. He breached that duty by:

- a. Failing to stop the continued seizure of Jesus over the status of her immigration papers and not for any legal merit under Minnesota law. It should have been clear to him that Gaylord PD was not interested in anything but her immigration status in the questions he was supposed to translate. The fact that Gaylord Police Department did not feel that they needed him to enter Plaintiff's home or to file a written report on this matter should have alarmed him and alerted him to obviously unlawful character and illegality of the actions taking place.

COUNT I

**42 U.S.C. § 1983 Fourth Amendment Illegal Search and Seizure
Plaintiff Against Defendants Milette, Webster, Doeden**

74. Paragraphs 1 through 73 are incorporated herein by reference as though fully set forth.

75. This is a claim under 42 USC Section 1983 for violation of the Fourth Amendment of the U.S. Constitution.

76. Defendants lacked probable cause to arrest or detain Plaintiff. Moreover, the Defendants failed to articulate a reasonable suspicion of criminal conduct prior to the search and seizure of a lawful permanent resident. Further, the search and seizure did not end upon Officers' receipt of knowledge or verifiable information that Plaintiff had provided her true identity. Moreover, Plaintiff did not consent to the continued seizure or searches.

77. Defendants had no reasonable basis to suspect illegal conduct by Plaintiff to justify a stop, detention, interrogation and search of Jesus. After verifying the legality of her Minnesota identification card, a new evaluation of the justification for stopping Plaintiff must have been conducted. There was none.

78. Defendants had no reasonable basis to hold Plaintiff. The incident reports made by Officers Milette and Webster make little mention of Plaintiff and suggest that she was held merely to determine her identity, even though her identity had been established and verified at the beginning of her encounter.

79. Conducting a search and seizure, without a warrant, without consent, and without probable cause is illegal conduct and a violation of the Fourth Amendment of the U.S. Constitution.

80. Wherefore, as a direct and proximate cause of the actions of Defendant officers, Plaintiff has suffered damages in an amount in excess of seventy-five thousand

dollars (\$75,000.00).

COUNT II
42 U.S.C. § 1983 Monell claims
Plaintiff against City of Gaylord, Arlington and Sibley County

81. Paragraphs 1 through 80 are incorporated herein by reference as though fully set forth.

82. Defendant Sibley County has a duty to properly supervise its employees and agents. Defendant breached that duty by:

- a. Improperly training, authorizing, encouraging or directing officers and deputies to engage in impermissible searches and seizures, without reasonable suspicion or probable cause and without sufficient legal basis, and/or condoning such actions, based on hostility by law enforcement toward Hispanic residents of Gaylord.

83. Defendant Doeden acted consistent with this training and in an unconstitutional manner when he continued to detain Plaintiff after he had verified Plaintiff's identity. Instead of releasing Plaintiff, Deputy Doeden searched Plaintiff and brought her to the Gaylord Police Station where she was interrogated.

84. The city of Gaylord has a duty to properly supervise all Gaylord police officers. The City and named individuals breached that duty by:

- a. Improperly training, authorizing, encouraging or directing officers and deputies to engage in impermissible searches and seizures, without reasonable suspicion or probable cause and without sufficient legal basis,

and/or condoning such actions, based on hostility by law enforcement toward Hispanic residents of Gaylord.

85. Defendants Milette and Webster acted pursuant to an unwritten policy, custom or pattern of practice to engage in racial and ethnic profiling. This policy, custom and pattern of practice of racial and ethnic profiling is demonstrated by disparities in the number of Hispanic individuals stopped, detained and cited by officers of the Gaylord Police Department.

86. Since June 1, 2011, Gaylord Police department members have issued 98 traffic citations with 37% being issued to people with Hispanic surnames. Counting all citations issued in that time period, nearly 40%, 56 out of 151, have been issued to people with Hispanic surnames. In neighboring Arlington, a city of about the same size and number of Hispanic people, the traffic stop citation for Hispanic drivers is lower than 10%.

87. Defendant Chiefs of Police City of Gaylord, City of Arlington and Sheriff of Sibley County have a duty to properly supervise all law enforcement officers. The Defendants breached that duty by:

- a. Improperly training, authorizing, encouraging or directing officers and deputies to engage in impermissible searches and seizures, without reasonable suspicion or probable cause and without sufficient legal basis, and/or condoning such actions, based on hostility by law enforcement toward Hispanic residents of Gaylord.

88. As an actual and proximate result of those actions, Plaintiff was injured and has suffered damages.

89. Wherefore, as a direct and proximate cause of the actions of Defendant officers, Plaintiff has suffered damages in an amount in excess of seventy-five thousand dollars (\$75,000.00).

COUNT III

42 U.S.C. § 1985 – Conspiracy to Deprive Plaintiffs of Rights Plaintiff Against Defendants Webster, Milette, Doeden and Rovinsky

90. Paragraphs 1 through 89 are incorporated herein by reference as though fully set forth.

91. Defendants conspired together in violation of Title 42 United States Code Section 1985(3) to deprive Plaintiff of her right to be free from unreasonable searches and seizures under the Fourth Amendment of the United States Constitution and her right to Equal Protection under the Fourteenth Amendment of the United States Constitution as applied to the states through the Due Process Clause of the Fourteenth Amendment.

92. Defendants within the Gaylord Police Department and Sibley County Sheriff's Office engaged in acts in furtherance of a conspiracy by arresting and seizing Plaintiff and then interrogating her and forcing her to allow law enforcement officers into her bedroom to view her personal immigration papers without sufficient legal grounds and based on animus toward her ethnicity and national origin.

93. As an actual and proximate result of those actions, Plaintiff was injured and has suffered damages.

94. Wherefore, as a direct and proximate cause of the actions of Defendant officers, Plaintiff has suffered damages in an amount in excess of seventy-five thousand dollars (\$75,000.00).

COUNT IV

42 U.S.C. § 1986– Failure to Prevent Conspiracy to Deprive Plaintiff of Rights Against Defendants Webster, Milette, Doeden and Rovinsky

95. Paragraphs 1 through 94 are incorporated herein by reference as though fully set forth.

96. Defendants conspired together in violation of Title 42 United States Code Section 1985(3) to deprive Plaintiff of her right to be free from unreasonable searches and seizures under the Fourth Amendment of the United States Constitution and her right to Equal Protection under the Fourteenth Amendment of the United States Constitution as applied to the states through the Due Process Clause of the Fourteenth Amendment.

97. Defendants within the Gaylord Police Department and Sibley County Sheriff's Office engaged in acts in furtherance of a conspiracy by arresting and seizing Plaintiff and then interrogating her and forcing her to allow law enforcement officers into her bedroom to view her personal immigration papers without sufficient legal grounds and based on animus toward her ethnicity and national origin. Defendants within the Gaylord Police Department and Sibley County Sheriff's Office and Arlington Police Chief Rovinsky failed to prevent the conspiracy to violate Plaintiff's rights.

98. As an actual and proximate result of those actions, Plaintiff was injured and has suffered damages.

99. Wherefore, as a direct and proximate cause of the actions of Defendant officers, Plaintiff has suffered damages in an amount in excess of seventy-five thousand dollars (\$75,000.00).

COUNT V
Tort Claims – False Arrest
Plaintiff against Individually named Defendants

100. Paragraphs 1 through 99 are incorporated herein by reference as though fully set forth.

101. All of the individual Defendants named in this Complaint are officers, deputies or agents of municipalities.

102. All acts of the individual Defendants alleged above were conducted within the scope of the Defendants' employment or duties.

103. The actions of Defendant were willful, malicious and violations of known rights of Plaintiff.

104. Defendant Doedin on March 9, 2012, without probable cause or articulated suspicion, put Plaintiff in his squad car after he had already verified the legality of her Minnesota ID card. Deputy Doedin, and all Defendants, had been told by dispatch that Plaintiff was valid and had no warrants.

105. Defendant Doedin brought her to the Gaylord police station where he turned her over to Gaylord Defendants Milette, Webster, Doe and Roe as well as Arlington police chief Rovinsky so that they could hold and interrogate Plaintiff and search her bedroom for material not relevant to any suspected Minnesota state crime.

106. Defendants restrained and deprived Plaintiff of her freedom without proper legal authority and held her for about 30 minutes, only releasing her after she had allowed them to view her personal documents in her bedroom.

107. Conduct of Defendants was intentional and done through the assertion of legal authority over Plaintiff.

108. Wherefore, as a direct and proximate cause of the actions of Defendant officers, Plaintiff has suffered damages in an amount in excess of seventy-five thousand dollars (\$75,000.00).

COUNT VI
Tort Claims – False Imprisonment
Plaintiff against Individually named Defendants

109. Paragraphs 1 through 108 are incorporated herein by reference as though fully set forth.

110. All of the individual Defendants named in this Complaint are officers, deputies or agents of municipalities.

111. All acts of the individual Defendants alleged above were conducted within the scope of the Defendants' employment or duties.

112. The actions of Defendant were willful, malicious and violations of known rights of Plaintiff.

113. On March 9, 2012, Defendant Doedin imprisoned Plaintiff in his squad car after Plaintiff had indicated to Deputy Doedin that she wanted to leave.

114. Instead, Deputy Doedin instructed Plaintiff to remain in the back of his squad car until he placed into the custody of Defendants Milette, Webster, Doe, Roe and Rovinsky.

115. Plaintiff attempted to stop her imprisonment by calling a friend who spoke better English but Deputy Doedin instructed the friend to tell Plaintiff that she was going to be taken to where the other woman was going.

116. Defendants Milette, Webster, Doe, Roe and Rovinsky continued to imprison Plaintiff at the Gaylord police station. Defendants instructed Plaintiff to remain seating in the station while they interrogated her.

117. Defendants Milette and Doe imprisoned Plaintiff at her home after they had brought her there. Defendants would not let Plaintiff leave her bedroom until she had turned over personal documents to them.

118. Conduct of Defendants was intentional and done through the assertion of legal authority over Plaintiff.

119. At all times, Plaintiff knew that she was imprisoned by Defendants.

120. Wherefore, as a direct and proximate cause of the actions of Defendant officers, Plaintiff has suffered damages in an amount in excess of seventy-five thousand dollars (\$75,000.00).

COUNT VII
Tort Claims – Common Law Trespass
Plaintiff against Defendant Milette and unknown officer

121. Paragraphs 1 through 120 are incorporated herein by reference as though fully set forth.

122. All of the individual Defendants named in this Complaint are officers, deputies or agents of municipalities.

123. All acts of the individual Defendants alleged above were conducted within the scope of the Defendants' employment or duties.

124. The actions of Defendant were willful, malicious and violations of known rights of Plaintiff.

125. Defendant Milette and Defendant Roe, without a warrant, necessity or reasonable cause and against Plaintiff's wishes, made an unlawful entry into Plaintiff's home.

126. Defendant's conduct was particularly malicious as he forced himself into Plaintiff's bedroom instead of waiting in the kitchen with Defendant Roe or instructing Chief Rovinsky, who was present at request of Gaylord P.D. to translate, to accompany Plaintiff.

127. Defendant Milette had intimidated Plaintiff to the point that she felt she could not prevent the two officers to enter her home or even her bedroom.

128. Through their conduct, Defendants continued to trespass. After giving Milette her personal documents, Milette loitered in her bedroom for several minutes before leaving.

129. Wherefore, as a direct and proximate cause of the actions of Defendant

officers, Plaintiff has suffered damages in an amount in excess of seventy-five thousand dollars (\$75,000.00).

COUNT VIII
Tort Claims – Invasion of Privacy
Plaintiff against Defendant Milette and unknown officer

130. Paragraphs 1 through 129 are incorporated herein by reference as though fully set forth.

131. All of the individual Defendants named in this Complaint are officers, deputies or agents of municipalities.

132. All acts of the individual Defendants alleged above were conducted within the scope of the Defendants' employment or duties.

133. The actions of Defendant were willful, malicious and violations of known rights of Plaintiff.

134. Defendant Milette and Defendant Doe, on March 9, 2012 at around 2:00pm, entered the private home and residence of Plaintiff without her consent. Defendant's actions were a continuation of false arrest and imprisonment.

135. Defendant Doe remained stationed inside the door, near the kitchen, while Defendant Milette followed Plaintiff into her bedroom. Defendant Milette had intimidated Plaintiff to the point that she felt she could not prevent the two officers to enter her home or even her bedroom.

136. Defendants intentionally interfered with the private affairs and concerns of Plaintiff by carrying out an intrusive search of her personal property.

137. Plaintiff gathered up her families personal documents in her bedroom. Defendant Milette took those personal documents where he conducted his own review of their authenticity. Defendant Milette loitered in her bedroom for several minutes before leaving.

138. Plaintiff is entitled to a legitimate expectation of privacy. Defendants violated that privacy in a manner that was highly offensive. To wit, they went into her house and bedroom which had personal and intimate effects, and did not leave until they took from Plaintiff highly personal documents that no one should be expected to share with another person.

139. Defendants' intrusion occurred in a way that would be highly offensive to a reasonable person in Plaintiff's position.

140. Wherefore, as a direct and proximate cause of the actions of Defendant officers, Plaintiff has suffered damages in an amount in excess of seventy-five thousand dollars (\$75,000.00).

COUNT IX
State Bias Offense Statute Minn. Stat 611A.79
Plaintiff against Individually named Defendants

141. Paragraphs 1 through 140 are incorporated herein by reference as though fully set forth.

142. Plaintiff is a Hispanic woman residing legally in the Unites States through a greencard.

143. Defendants Milette, Webster, Doe, Roe and Rovinsky had no reasonable basis to arrest Plaintiff and did so because she belonged to a minority group in Gaylord. Conducting a search and seizure based on hostility toward people of Hispanic descent is illegal conduct. Further, Defendants exhibited racial and national origin based malice toward Plaintiff. Moreover, the acts of Defendants in reviewing Plaintiff's identification required no exercise of their discretion, but rather were ministerial acts.

144. Defendants have exhibited bias against Latinos, including Plaintiff. On March 9, 2012, Defendant Milette was heard to compare Hispanics to monkeys.

145. Defendant's conduct that gave rise to Plaintiff's 1983 action (Count I), 1985 action (Count III) & 1986 action (count IV) as well as Defendant's actions that arose to a false imprisonment under Minn. Statutes § 609.255 were all racially motivated.

146. The individual officers who committed these crimes against Plaintiff were motivated to do so due to her race, color, ethnicity or national origin.

147. Wherefore, as a direct and proximate cause of the actions of Defendant officers, Plaintiff has suffered damages in an amount in excess of seventy-five thousand dollars (\$75,000.00).

COUNT X
Violation of Minnesota Government Data Practices Act
Plaintiff against Defendant Sibley County Sheriff's Office and Chief Deputy
Nienaber

148. Paragraphs 1 through 147 are incorporated herein by reference as though fully set forth.

149. The Minnesota Government Data Practices Act (MNDPA) “regulates the collection, creation, storage, maintenance, dissemination, and access to government data and government entities [and] establishes a presumption that government data are public and are accessible by the public for both inspection and copying, unless there is a federal law, a state statute, or a temporary classification of data that provides that certain data are not public.” Minn. Stat. §13.01, subd. 3. In other words, all government records are presumptively accessible to the public unless there is a specific legal basis for restricting such access.

150. Minn. Stat. § 13.08 permits civil actions for violations of the MNDPA.

151. Defendants violated MNDPA by failing to turn over the documents requested by Plaintiff, through the ACLU of MN, by claiming those documents didn’t exist but later gave those documents to their claims adjuster who based his report upon those documents.

COUNT XI
Violation of Minnesota Human Rights Act - Discrimination
Plaintiff against all Defendants

152. Paragraphs 1 through 151 are incorporated herein by reference as though fully set forth.

153. Plaintiff is a protected class as defined by Minn. Statutes § 363A.02.

154. Defendants are public services as defined by Minn. Statutes § 363A.03 subd. 35.

155. Defendants discriminated against Plaintiff by committing the acts that that gave rise to Plaintiff's 1983 action (Count I), 1985 action (Count III), 1986 action (Count IV), false arrest (Count V), false imprisonment (Count VI) and trespass (Count VII).

156. Defendant's conduct that gave rise to Plaintiff's 1983 action (Count I), 1985 action (Count III), 1986 action (Count IV), false arrest (Count V), false imprisonment (Count VI) and trespass (Count VII) were all racially motivated.

157. The individual officers who committed these offenses against Plaintiff were motivated to do so due to her race, color, ethnicity or national origin in violation of Minn. Statutes § 363A.12, prohibiting discrimination against any person in the access to, admission to, full utilization of or benefit from any public service based on their protected class status.

COUNT XII

Violation of Minnesota Human Rights Act – Aiding and Abetting Discrimination Plaintiff against all Defendants

158. Paragraphs 1 through 157 are incorporated herein by reference as though fully set forth.

159. Plaintiff is a protected class as defined by Minn. Statutes § 363A.02.

160. Defendants are public services as defined by Minn. Statutes § 363A.03 subd. 35.

161. Defendants aided and abetted discrimination against Plaintiff by assisting in the acts that that gave rise to Plaintiff's 1983 action (Count I), 1985 action (Count III), 1986 action (Count IV), false arrest (Count V), false imprisonment (Count VI) and

trespass (Count VII) or by failing to prevent such actions from occurring as set out in Minn. Statutes § 363A.14.

162. Defendant's conduct of aiding and abetting, or failure to prevent such actions that gave rise to Plaintiff's 1983 action (Count I), 1985 action (Count III), 1986 action (Count IV), false arrest (Count V), false imprisonment (Count VI) and trespass (Count VII) were all racially motivated.

163. The individual officers who committed these offenses against Plaintiff were motivated to do so due to her race, color, ethnicity or national origin in violation of Minn. Statutes § 363A.12, prohibiting discrimination against any person in the access to, admission to, full utilization of or benefit from any public service based on their protected class status.

164. The individual officers aided and abetted a violation of the Minnesota Human Rights Act, under Minn. Stat. Chapter 363A.14.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests that this court enter judgment in favor of Plaintiff and against the Defendants,

- a) Declaring that the Defendants have violated the guarantees against unreasonable searches and seizures and due process of law under the U.S. and Minnesota Constitutions.
- b) Declaring that the Defendants conspired to violated Plaintiff's rights under the U.S. Constitution.

- c) Permanently enjoining and prohibiting Defendants from interfering with Plaintiff's constitutional rights. Specifically, to enjoin Defendants from:
 - a. Retaliating against Plaintiff or her family for bringing this lawsuit
 - b. From subjecting Plaintiff to illegal search and seizures in the future.
- d) For an order compelling disclosure of the requested public documents, pursuant to Minn. Stat. §13.08, subd. 4.
- e) For an award to plaintiffs of their costs, disbursements, and reasonable attorney's fees incurred in this action, pursuant to Minn. Stat. §13.08, subd. 4.
- f) Awarding damages to compensate Plaintiff for her injuries in an amount to be determined at trial.
- g) Awarding Plaintiff punitive and other exemplary damages based on 42 USC Section 1983 claims.
- h) Awarding costs and attorneys' fees including pursuant to 42 USC Section 1988; pre-judgment interest and any other relief deemed necessary and proper.
- i) Plaintiff demands a jury trial as to all available claims triable to a jury.
- j) For leave to amend complaint to include a claim for punitive damages.
- k) For any other relief the court may see fit.

AMERICAN CIVIL LIBERTIES
UNION OF MINNESOTA

s/ Ian S. Bratlie

Ian Bratlie #0319454
227 E Main St, Suite 100
Mankato, MN 56001
(507) 625-7966

Teresa Nelson #269736
2300 Myrtle Ave, Suite 180
St Paul, MN 55114-1879
(651) 645-4097

GOINS LAW OFFICES
Albert Turner Goins, Sr. #0126159
Goins Law Offices, Ltd.
301 Fourth Avenue South, Suite 378N
Minneapolis, MN 55415
(612) 339-3848