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8 *and*

9 Darius Charney
10 'pending admission *pro hac vice*'
11 Pamela Spees
12 'pending admission *pro hac vice*'
13 **CENTER FOR CONSTITUTIONAL**
14 **RIGHTS**
15 666 Broadway, 7th Floor
16 New York, New York 10012
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20 Attorneys for Plaintiffs

21 **IN THE UNITED STATES DISTRICT COURT**
22 **FOR THE DISTRICT OF ARIZONA**

23 SUNITA PATEL; and THE CENTER FOR
24 CONSTITUTIONAL RIGHTS,

25 Plaintiffs,

26 v.

MARICOPA COUNTY; JOSEPH ARPAIO,
and AVA ARPAIO, husband and wife;
DAVID HENDERSHOTT, and ANNA
HENDERSHOTT, husband and wife;
BRIAN SANDS, and JANE DOE SANDS,
husband and wife; DAVID TROMBI, and
JANE DOE TROMBI, husband and wife;
CHAD BRACKMAN, and JANE DOE
BRACKMAN, husband and wife; GARY
MCGUIRE, and JANE DOE MCGUIRE,
husband and wife; JOHN AND JANE DOES

NO.

COMPLAINT

JURY TRIAL DEMANDED

1 1-8 (whose identities are unknown but who
2 are known to be Deputies and/or supervisory
3 personnel of the Maricopa County Sheriff's
4 Office), individually and in their official
5 capacities;

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Defendants.

PRELIMINARY STATEMENT

1. This is a civil rights action in which the Plaintiff Sunita Patel seeks relief for Defendants' violation, under color of state law, of her rights, privileges and immunities secured by 42 U.S.C. §1983, the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, and the Constitution and common law of the State of Arizona.

2. On or about July 29, 2010, Defendants, acting individually and in their official capacities, jointly and severally, did cause Plaintiff Sunita Patel to be falsely arrested and imprisoned for approximately fifteen hours, during which time she was repeatedly subjected to illegal and abusive custodial interrogations, and then maliciously prosecuted for almost a year thereafter, all in retaliation for exercising her constitutional rights to engage in the First Amendment-protected activity of observing and documenting Maricopa County Sheriff's Office (MCSO) officers' behavior during a peaceful political protest. Upon information and belief, these unconstitutional and tortious acts were the result of inadequate training, monitoring and supervision of MSCO officers as well as a de facto policy, practice and/or custom developed, implemented, encouraged, and sanctioned by Maricopa County, through the MCSO and its Sheriff, Defendant

1 Joseph Arpaio, of arresting and detaining, without probable cause, individuals who exercise their
2 constitutionally-protected First Amendment rights in ways that are critical of Maricopa County,
3 MSCO, and/or Arpaio. Defendants' tortious and unconstitutional conduct has caused plaintiff Patel
4 to suffer mental and emotional injuries, and her employer, Plaintiff Center for Constitutional Rights,
5 to incur significant economic losses, and has had a chilling effect on Patel's ability and desire to
6 exercise her First Amendment rights in the future.
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9 3. Plaintiffs seek compensatory and punitive damages, declaratory and injunctive relief,
10 an award of attorney fees and costs, and such other and further relief as the Court deems proper.
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12 JURISDICTION

13 JURISDICTIONAL ALLEGATIONS

14 4. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1343 (3) and (4),
15 as this action seeks redress for the violation of Plaintiff's federal constitutional and civil rights. This
16 Court has supplemental jurisdiction over Plaintiffs' state constitutional and law claims pursuant to
17 28 U.S.C. § 1367(a).
18

19 5. Plaintiffs' claim for declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202
20 and Rule 57 of the Federal Rules of Civil Procedure.
21

22 6. Plaintiffs bring this action pursuant to 42 U.S.C. § 1983, the United States
23 Constitution (certain Amendments).
24

25 7. Plaintiffs have satisfied all the provisions of A.R.S. §12-821.01 by timely serving a
26 Notice of Claim more than sixty (60) days prior to the date of the filing of this Complaint.

1 Defendants denied the Notice of Claim by failing to respond.

2 8. Venue is proper in the United States District Court for District of Arizona pursuant
3 to 28 U.S.C. § 1391 (b)(2), in that this is the judicial district in which a substantial part of the events
4 giving rise to Plaintiffs' claims occurred and in which all defendants are residents.
5

6 **JURY DEMAND**

7
8 9. Plaintiffs demand trial by jury in this action on each and every one of her claims.

9 **PARTIES**

10 10. Plaintiff, Sunita Patel, is a citizen of the United States, and was at all
11 times relevant herein a resident of the City of New York, County of QUEENS, State of New York.
12 At the time of the incident herein, Patel was an attorney practicing at the Center for Constitutional
13 Rights.
14

15 11. Plaintiff the Center for Constitutional Rights (hereinafter "CCR") is a national not-
16 for-profit civil and human rights legal organization located in New York, New York.
17

18 12. Defendant Maricopa County is a public entity formed and designated under the
19 Constitution and laws of the State of Arizona. As such, it is ultimately responsible for the acts of
20 each of its offices and agencies, including the Maricopa County Sheriff's Office (MCSO).
21

22 13. Defendant Joseph Arpaio, is and was, at all times relevant to this complaint, the duly
23 elected Sheriff of Maricopa County and a final policy maker for the policies, practices and customs
24 of the Maricopa County Sheriff's Office (MCSO), which is an agency and office of the government
25 of Maricopa County.
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1 14. Defendant Ava Arpaio is, and was at all times relevant to this complaint, the spouse
2 of Defendant Joseph Arpaio and is so designated because the wrongful conduct of Defendant Joseph
3 Arpaio was engaged in for the benefit of their marital community, thereby rendering his spouse and
4 marital community liable for such conduct.
5

6 15. Defendant David Hendershott was, at all times relevant to this complaint, the Chief
7 Deputy of the MSCO. Defendant Sheriff Arpaio has delegated to Hendershott final policy-making
8 authority over the policies, practices, and customs of the Maricopa County Sheriff's Office (MCSO),
9 including, but not limited to, authority to establish all training for officers, agents, and employees
10 of the MCSO.
11

12 16. Defendant Anna Hendershott, is, and was at all times relevant to this complaint, the
13 spouse of Defendant David Hendershott and is so designated because the wrongful conduct of
14 Defendant David Hendershott was engaged in for the benefit of their marital community, thereby
15 rendering his spouse and marital community liable for such conduct.
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18 17. Defendant Brian Sands is or was at all times relevant to this complaint, employed as
19 the Executive Chief of the MCSO.
20

21 18. Defendant Jane Doe Sands is, or was at all times relevant to this complaint, the
22 spouse of Defendant Brian Sands and is so designated because the wrongful conduct of Defendant
23 Brian Sands was engaged in for the benefit of their marital community, thereby rendering his spouse
24 and marital community liable for such conduct
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1 19. Defendant David Trombi is, or was at all times relevant to the complaint, employed
2 as the Patrol Bureau Resources Chief of the MSCO. Trombi's direct supervisor is, or was at all
3 times relevant to this complaint, Defendant Sands.
4

5 20. Defendant Jane Doe Trombi is, or was at all times relevant to the complaint, the
6 spouse of Defendant David Trombi and is so designated because the wrongful conduct of Defendant
7 David Trombi was engaged in for the benefit of their marital community, thereby rendering his
8 spouse and marital community liable for such conduct
9

10 21. Defendant Chad Brackman, is, or was at all times relevant to this complaint,
11 employed as a Lieutenant in the MCSO. Brackman's direct supervisor is, or was at all times
12 relevant to this complaint, Defendant Trombi.
13

14 22. Defendant Jane Doe Brackman is, or was at all times relevant to this complaint, the
15 spouse of Defendant Chad Brackman, and is so designated because the wrongful conduct of
16 Defendant Chad Brackman, was engaged in for the benefit of their marital community, thereby
17 rendering his spouse and marital community liable for such conduct
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19 23. Defendant Gary McGuire is, or was at all times relevant to this complaint, employed
20 as a Deputy in the MCSO. McGuire's direct supervisor is, or was at all times relevant to this
21 complaint, Defendant Brackman.
22

23 24. Defendant Jane Doe McGuire is, or was at all times relevant to this complaint, the
24 spouse of Defendant Gary McGuire and is so designated because the wrongful conduct of Defendant
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1 Gary McGuire was engaged in for the benefit of their marital community, thereby rendering his
2 spouse and marital community liable for such conduct

3
4 25. John and Jane Does 1-8, are deputies, supervisors, and/or 287(g) officers in the
5 MCSO, and include individuals who assisted and/or conspired to and/or acted in concert and/or did
6 engage in the torts and violations of plaintiff's constitutional rights described herein, or who failed
7 to protect the plaintiff from such torts and violations of her rights.
8

9 26. Defendants Joseph Arpaio, David Hendershott, Brian Sands, David Trombi, Chad
10 Brackman,, Gary McGuire, and John and Jane Does 1-8 (collectively, "the individual defendants")
11 are, or at all times relevant to the complaint, were, employees, agents, servants, and/or officers of
12 Maricopa County and/or the MCSO.
13

14 27. At all times relevant herein, each of the individual defendants acted under color of
15 state law in the course and scope of his duties and functions as an agent, employee, servant and/or
16 officer of Maricopa County and/or the MCSO in engaging in the conduct described herein.
17

18 28. At all times relevant herein, the individual defendants have acted for and on behalf
19 of Maricopa County and/or the MCSO, and incidental to the lawful pursuit of their duties as officers,
20 agents, employees, and/or servants of Maricopa County and/or the MCSO.
21

22 29. At all times relevant herein, the individual defendants violated clearly established
23 constitutional standards under the First, Fourth, Fifth, and Fourteenth Amendments of which a
24 reasonable law enforcement officer and/or public official under his respective circumstances would
25 have known.
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STATEMENT OF FACTS

Patel's Unlawful Arrest, Interrogation, and Prosecution

30. On July 29, 2010, at approximately 12:00pm, Plaintiff Patel was standing on a sidewalk on Madison Street between Third and Fourth Avenues, in front of the north side of the Fourth Avenue Jail facility, in Phoenix, Arizona.

31. The Fourth Avenue Jail is funded by Maricopa County and operated by the MCSO.

32. Patel was present in front of the Fourth Avenue Jail on July 29, 2010 in the course of her employment as an attorney with CCR to observe and document the actions of the MSCO in policing First Amendment activity undertaken by hundreds of protestors peacefully protesting in front of the Jail against S.B. 1070, the restrictive immigration law enacted by the State of Arizona in the spring of 2010.

33. Patel had been asked to provide legal support during the anti-SB1070 events on July 29, 2010 by Puente, a Phoenix-based immigrant-rights advocacy organization, and the National Day Laborer Organizing Network, a national organization supporting day laborer organizing around the country, including in Phoenix, Arizona. Patel has provided, and continues to provide, legal advice and services to both organizations.

34. Patel was identifiable as a legal observer that day because of her neon green hat which she was wearing at all times relevant herein.

35. Besides Patel, there was another legal observer present at the protest that day wearing a neon green hat, as well as a legal witness wearing a bright yellow t-shirt clearly identifying her as

1 such, and several members of the press wearing press badges and carrying photographic and video
2 cameras who were there to document and report on the protest.

3
4 33. The MCSO SWAT division, which was supervised by Defendant Brackman, was
5 assigned to police the protest in front of the Fourth Avenue Jail on July 29, 2010.

6
7 37. On July 28, 2010, Brackman had spoken to Defendant Trombi, his direct supervisor,
8 about what measures Brackman and the SWAT division officers under his supervision were to
9 implement when policing the protest in front of the Fourth Avenue Jail the following day.

10
11 38. On the morning of July 29 2010, prior to the start of the protest, Brackman met with
12 the SWAT division's Tactical Operations Unit, (TOU), which was supervised by Defendant
13 McGuire, to provide instructions for policing the protest in front of the Fourth Avenue Jail that day.

14
15 39. At around 10:30am on July 29, 2010, protesters began congregating in front of the
16 north side motor vehicle entrance, or sally port, to the Fourth Avenue Jail on Madison Street.

17
18 40. After about an hour, several hundred protesters had gathered in front of the north side
19 sally port. Patel remained on the sidewalk, behind several large stanchions which separated the
20 sidewalk from the driveway leading to the sally port.

21
22 41. Upon information and belief, Defendants Trombi and Sands, both of whom were on
23 duty that day, observed the entire protest while standing on the sidewalk on the opposite side of
24 Madison Street from the Jail.

25
26 42. In addition, upon information and belief, at some point prior to 12:00pm that day,
while Defendant Trombi was standing on the sidewalk across the street from the Jail, he spoke to

1 the protesters' designated police liaison, who informed him that Patel and the other legal observer
2 would be acting as legal observers, not protesters, during the protest and would be identifiable as
3 such by the bright green hats they were wearing.
4

5 43. Brackman, McGuire, and several other TOU officers deployed to the north side of
6 the Jail, just inside the north side sally port door. Brackman then went out of a side door next to the
7 sally port on to the sidewalk along Madison Street and spoke to the protesters through a megaphone,
8 advising them that they needed to clear the sally port driveway and move onto the sidewalk
9 immediately or they would be arrested. Brackman then went back inside the Jail building.
10

11 44. Meanwhile, Patel remained on the sidewalk, behind the stanchions.
12

13 45. After about 10 minutes had elapsed, Brackman, McGuire, and several other TOU
14 Deputies came out of the Jail Building, arrested some of the protesters standing in the sally port
15 driveway, and took them inside the Jail building.
16

17 46. Patel photographed these arrests with her camera while standing on the sidewalk.
18

19 47. Immediately after these initial arrests, several more protesters went to stand on the
20 driveway in front of the sally port. Concerned that they too would likely be arrested, Patel briefly
21 walked on to the sally port driveway to ask each of the protesters their name and other information,
22 which she wrote down in a notebook she was carrying.
23

24 48. Upon information and belief, while this second group of protesters was standing in
25 the sally port driveway, Defendant Trombi telephoned Brackman to discuss the location and conduct
26 of these protesters and what the MCSO's response would be.

1 49. At approximately 12:30pm, Brackman again came through the side door next to the
2 sally port and spoke to the protesters through a megaphone, advising them to clear the sally port
3 driveway and move on to the sidewalk immediately or they would be arrested.
4

5 50. Patel moved to the sidewalk as soon as Brackman came through the door and was
6 already standing on the sidewalk as Brackman gave the instructions.
7

8 51. Less than one minute later Brackman, McGuire, and several other TOU deputies
9 began arresting some, but not all, of the protesters standing in the sally port driveway and out on
10 Madison Street itself, while Patel, the other legal observer, and several members of the press
11 photographed and videotaped these arrests.
12

13 52. McGuire then approached Patel, who had been standing on the sidewalk, placed her
14 under arrest, confiscated her camera, and took her inside the Fourth Avenue Jail building (“Jail”).
15 At the same time, Brackman and other TOU deputies arrested the other legal observer and legal
16 witness, both of whom had also been standing on the sidewalk, and several members of the press
17 who were photographing and videotaping the protest and confiscated all of these individuals’
18 cameras.
19
20

21 53. Meanwhile, many of the protesters who had not complied with Brackman’s
22 instructions and remained standing in the sally port driveway or out on the street were not arrested.
23

24 54. Defendants Sands and Trombi observed the arrests of Patel, the other legal observer
25 and legal witness, and members of the press, but made no effort to intervene or otherwise prevent
26 these arrests.

1 55. Following her arrest, Patel was held in custody in the Fourth Avenue Jail for
2 approximately fifteen (15) hours, during which time she was questioned at least six times about her
3 place of birth, for the purpose of determining her immigration status, by Defendants John and Jane
4 Does 1-8 without an attorney or any of the other arrestees present and despite Patel's repeated
5 refusals to provide information about her immigration status.
6

7
8 56. However, despite her repeated refusals to answer, and even after she was ordered
9 released on her own recognizance by the Downtown Justice Court for Maricopa County, John and
10 Jane Does 1-8 continued to hold Patel in custody and falsely led her to believe she would not be
11 released from custody unless and until she answered questions about her immigration status, at
12 which point she relented and responded to their questions.
13

14 57. After arresting Patel, Defendant McGuire, at the direction and with the approval of
15 Defendant Brackman, falsely charged her with obstructing a public thoroughfare, A.R.S. § 13-2906,
16 and failing to obey the order of a police officer invested with the authority to direct and regulate
17 traffic, A.R.S. § 28-622.
18

19
20 58. As a result of these false charges, Patel was criminally prosecuted in the Downtown
21 Justice Court for Maricopa County for over ten months, during which time she had to fly from New
22 York to Phoenix for a court appearance on August 18, 2010, and to participate in several additional
23 court hearings and conversations with her criminal defense counsel by telephone, all of which
24 caused her to miss time from work. The cost of airfare and other costs associated with the in-person
25 court appearance totaled approximately \$1000.00.
26

1 59. Patel was also forced to retain a criminal defense attorney, who incurred and charged
2 approximately \$14,000.00 in attorneys' fees to defend against the false charges.

3
4 60. On June 9, 2011, the Downtown Justice Court for Maricopa County dismissed the
5 criminal charges against Patel.

6 61. As a direct and proximate result of the actions and conduct of the defendants, Patel
7 suffered mental injury, pain and suffering, mental anguish, and emotional distress, deprivation of
8 liberty, and deprivation of her constitutional rights, while CCR suffered economic losses and other
9 harm associated with those deprivations.
10

11 62. The individual defendants' act and omissions described above were intentional,
12 wanton, willful and malicious, and were performed with deliberate indifference and/or reckless
13 disregard of Patel's constitutional rights, entitling Patel to punitive damages.
14

15 63. On January 28, 2011, a timely notice of claim was served upon defendants in
16 compliance with A.R.S. § 12-821.01. To date, defendants have not responded to the notice of claim.
17

18 **Failure to Properly Train, Monitor and Supervise on the**
19 **Rights of Bystanders and Legal Observers**

20 64. Although fully aware that the work of law enforcement officers in policing political
21 protests demands extensive training, superior judgment and close supervision and monitoring,
22 Maricopa County, through the MCSO and its chief policy-making agents, Defendants Arpaio and
23 Hendershott, has failed to properly train and/or supervise MCSO personnel, including Defendants
24 Brackman, McGuire, Trombi, and Sands concerning:
25
26

- 1 a. the First Amendment rights of bystanders to observe and/or document a
2 protest and law enforcement (mis)conduct at said protest without suffering
3 retaliatory and false arrest and/or malicious prosecution; and
4
5 b. the First Amendment rights of legal observers to perform a monitoring
6 function at protests and other functions with an MSCO presence.
7

8 65. Upon information and belief, the above-noted failure to properly train, monitor and/or
9 supervise officers concerning the First Amendment rights of bystanders and/or legal observers is
10 evidenced by, *inter alia*, the absence of any MCSO training materials or curriculum, policies and
11 procedures, manuals, handbooks, guidelines, or instructions relating to the issue of bystanders and/or
12 legal observers at protests and demonstrations.
13

14 66. Upon information and belief, the above-noted failure to properly train, monitor and/or
15 supervise officers concerning the First Amendment rights of bystanders and/or legal observers is
16 also evidenced by other recent cases in which MCSO personnel have illegally and unconstitutionally
17 arrested bystanders and/or legal observers at political protests. These cases include: (a) *Pochoda v.*
18 *Arpaio*, 08-CV-2254 (NVW) (D.Ariz.); and (b) *Reza v. Maricopa County*, 10-CV-2313 (TMB) (D.
19 Ariz.)
20
21

22 67. As a direct and proximate result of the failure to train, monitor and/or supervise
23 Defendants Brackman, McGuire, Trombi, and Sands, Plaintiff Patel was subjected to an unlawful
24 arrest made without probable cause and in retaliation for her exercising her First Amendment rights.
25
26

1 68. By failing to properly train, monitor and supervise Brackman, McGuire, Trombi,
2 Sands and other MCSO personnel, Maricopa County, the MCSO, Arpaio, and Hendershott have
3 acted recklessly and with deliberate indifference to the constitutional rights of individuals like
4 Plaintiff Patel.
5

6 **De Facto Policy, Practice, or Custom of Retaliation for Exercising First Amendment Rights**
7

8 69. Over the past several years, there has existed within Maricopa County and the MCSO
9 a *de facto* policy and/or well-settled and widespread custom and practice, implemented by MCSO
10 personnel and known to, encouraged and/or condoned by policy-making officers and officials of the
11 MCSO and Maricopa County, including Defendants Arpaio and Hendershott, of illegally arresting
12 and/or prosecuting individuals in retaliation for exercising their First Amendment rights.
13

14 70. The existence of this *de facto policy* and/or well-settled and widespread custom and
15 practice, and Defendant ARPAIO's, HENDERSHOTT's, and other policy-makers' knowledge,
16 encouragement and sanction of it, are evidenced by several recent cases in which MCSO and other
17 Maricopa County officials, including Arpaio and Hendershott themselves, were sued for
18 participating in, ordering, approving, and/or authorizing the false arrests and/or malicious criminal
19 prosecutions of individuals, including members of the press and bystanders at political protests, who
20 had engaged in protected First Amendment activity which those officials disapproved of. These
21 cases include:
22
23

- 24 a. *Lacey v. Arpaio*, 08-CV-997 (SRB) (D. Ariz.)
25 b. *Pochoda v. Arpaio*, 08-CV-2254 (NVW) (D.Ariz.)
26

1 c. *Theilen v. Maricopa County*, 09-CV-2603 (FJM) (D.Ariz.)

2 d. *Reza v. Maricopa County*, 10-cv-2313 (TMB) (D. Ariz.)

3 e. *Wilcox v. Arpaio*, CV 2011-3631 (Maricopa Co. Super. Ct.)

4
5 71. Defendants Brackman, McGuire, Trombi, and Sands acted pursuant to this *de facto*
6 policy and/or well-settled and widespread custom and practice when they participated in, ordered,
7 approved, authorized, and/or failed to prevent the false arrest and criminal charging and prosecution
8 of Patel and other bystanders exercising their First Amendment rights.

9
10 72. The aforementioned policy, custom and/or practice of defendants violates the
11 obligation to protect the rights of assembly, association and expression, and the rights of human
12 rights defenders from arbitrary arrest and detention. The proscription against arbitrary arrest and
13 detention is a customary norm of international law, which is binding upon all nations and
14 subdivisions thereof. Moreover, the arbitrary arrest and detention of Patel violated her right to
15 freedom of expression and association in further violation of customary international law as well as
16 treaty law in accordance with Articles IX, XVI, XXI and XXII of the International Convention on
17 Civil and Political Rights, and other international human rights treaties to which the United States
18 is a party.

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21
22 **FIRST CAUSE OF ACTION**

23 (Federal Constitutional Violations – 1st, 4th, 5th, and 14th Amendments- 42 U.S.C. § 1983)
24 Against McGuire

25 73. Plaintiffs reallege and incorporate by reference the allegations set forth in the
26 paragraphs 1-72 as if fully set forth herein.

1 74. Defendant McGuire, under color of state law, subjected plaintiff Patel to the
2 foregoing acts and omissions without probable cause or due process of law and in retaliation for
3 engaging in constitutionally-protected activity, thereby depriving plaintiff Patel of her rights,
4 privileges and immunities secured by the First, Fourth, Fifth and Fourteenth Amendments to the
5 United States Constitution, including, without limitation, deprivation of the following constitutional
6 rights:
7

- 8
- 9 a. freedom to engage in protected speech, association and assembly;
 - 10 b. freedom from arrest without probable cause;
 - 11 c. freedom from false imprisonment, that being wrongful detention without
12 good faith, probable or legal just cause or justification, and of which
13 wrongful detention plaintiff was aware and to which she did not consent;
 - 14 d. freedom from the lodging of false charges against her by law enforcement
15 officers;
 - 16 e. freedom from abuse of process;
 - 17 f. freedom from deprivation of liberty without due process of law; and
 - 18 g. equal protection, privileges and immunities under the laws.

19 75. As a direct and proximate result of defendant McGuire's deprivation of Plaintiff
20 Patel's constitutional rights, Patel suffered mental injury, pain and suffering, mental anguish, and
21 emotional distress, and plaintiff CCR suffered economic losses and other harm.
22

23

24 **SECOND CAUSE OF ACTION**

25 (Individual Supervisory Liability- - 42 U.S.C. § 1983)

26 Against Arpaio, Hendershott, Brackman, Trombi and Sands

1 76. Plaintiffs reallege and incorporate by reference the allegations set forth in paragraphs
2 1-75 as if fully set forth herein.

3
4 77. Defendants Arpaio, Hendershott, Brackman, Trombi and Sands were, at all relevant
5 times, supervisory personnel in the MSCO, with oversight responsibility for the training, instruction,
6 monitoring and supervision of defendant McGuire and other MCSO personnel.

7
8 78. Defendants Brackman, Trombi and Sands knew or should have known that defendant
9 McGuire was conducting an unreasonable and retaliatory seizure and false arrest of Plaintiff Patel.

10 79. Defendants Brackman, Trombi and Sands were personally involved in either
11 ordering, approving, authorizing, or failing to take preventative and remedial measures to guard
12 against Patel's constitutional deprivations. Brackman, Trombi and Sands knew, or in the exercise
13 of due diligence, should have known that the actions taken against Plaintiff by Defendant McGuire
14 were likely to occur.

15
16
17 80. Defendants Arpaio, Hendershott, Brackman, Trombi and Sands failed to train,
18 monitor or supervise defendant McGuire with respect to the constitutional rights of legal observers,
19 bystanders at political protests, and this failure amounted to gross negligence, deliberate
20 indifference, and/or intentional misconduct.

21
22 81. As a direct and proximate result of Defendants' acts and omissions, Plaintiff Patel
23 suffered a deprivation of her constitutional rights, mental injury, pain and suffering, mental anguish,
24 and emotional distress, and plaintiff CCR suffered economic losses and other harm.

1 **THIRD CAUSE OF ACTION**

2 (Federal Constitutional Violations-5th and 14th Amendments- 42 U.S.C. § 1983)
3 Against John and Jane Does 1-8

4 82. Plaintiffs reallege and incorporate by reference the allegations set forth in paragraphs
5 1-81 as if fully set forth herein.

6 83. Defendants John and Jane Does 1-8, under color of state law, subjected Plaintiff Patel
7 to repeated coercive and unlawful custodial interrogations in a manner that shocks the conscience,
8 thereby depriving Patel of rights, privileges, and immunities secured by the Fifth and Fourteenth
9 Amendments of the United States Constitution, including without limitation, the right to be free
10 from deprivation of liberty without due process of law.
11

12 84. As a direct and proximate result of defendants' deprivation of Plaintiff Patel's
13 constitutional rights, plaintiff suffered mental injury, pain and suffering, mental anguish, and
14 emotional distress.
15

16 **FOURTH CAUSE OF ACTION**

17 (Monell Liability- 42 U.S.C. § 1983)
18 Against Maricopa County, Arpaio, and Hendershott

19 85. Plaintiffs reallege and incorporate by reference the allegations set forth in the
20 paragraphs 1-84 as if fully set forth herein.
21

22 86. All of the acts and omissions by the named and unnamed individual MCSO officer
23 and supervisor defendants described above were carried out pursuant to overlapping policies and
24 practices of Maricopa County which were in existence at the time of the conduct alleged herein and
25 were engaged in with the full knowledge, consent, and cooperation and under the supervisory
26

1 authority of the defendant Maricopa County and its agency, the MCSO.

2 87. Defendant Maricopa County and the MCSO, by their policy-making agents, servants
3 and employees, including Defendants Maricopa County Sheriff Joseph Arpaio and Chief Deputy
4 David Hendershott, authorized, encouraged, sanctioned and/or ratified the individual police
5 defendants' wrongful acts; and/or failed to prevent or stop those acts; and/or allowed or encouraged
6 those acts to continue.
7

8
9 88. The actions of the individual defendants resulted from and were taken pursuant to the
10 following *de facto* policies and/or well-settled and widespread customs and practices of Maricopa
11 County and the MCSO, which are implemented by MCSO personnel:
12

- 13 a. MCSO personnel, with the knowledge, approval and encouragement of
14 Sheriff Arpaio and Chief Deputy Hendershott, engage in repeated
15 unconstitutional arrests and criminal prosecutions of civilians in retaliation
16 for those civilians' exercise of their First Amendment rights;
17
18 b. the MCSO, with the knowledge, approval and encouragement of Sheriff
19 Arpaio and Chief Deputy Hendershott, fails to properly train, supervise
20 and/or discipline officers concerning the First Amendment rights to observe,
21 document and protest police (mis)conduct without suffering retaliatory use
22 of false arrest and/or malicious prosecution.
23
24

25 89. The existence of the foregoing unlawful *de facto* policies and/or well-settled and
26 widespread customs and practices is known to, encouraged and/or condoned by supervisory and

1 policy-making officers and officials of the MCSO and Maricopa County, including, without
2 limitation Defendants Arpaio and Hendershott.

3
4 90. Despite knowledge of such unlawful *de facto* policies, practices and/or customs, these
5 supervisory and policy-making officers and officials of the MCSO and Maricopa County, including
6 Defendants Arpaio and Hendershott, have not taken steps to terminate these policies, practices
7 and/or customs, do not discipline individuals who engage in such polices, practices and/or customs,
8 or otherwise properly train police officers with regard to the constitutional and statutory limits on
9 the exercise of their authority, and instead sanction and ratify these policies, practices and/or
10 customs through their active encouragement of, deliberate indifference to and/or reckless disregard
11 of the effect of said policies, practices and/or customs upon the constitutional rights of persons in
12 the City of New York.

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16 91. The plaintiffs' injuries were a direct and proximate result of Defendant Maricopa
17 County, its agency, the MCSO, and its chief law enforcement policy-making official, Defendant
18 ARPAIO's, wrongful *de facto* policies and/or well-settled and widespread customs and practices and
19 of the knowing and repeated failure of defendant Maricopa County, the MCSO, and defendants
20 Arpaio and Hendershott to properly supervise and train their law enforcement officers.

21
22 92. Defendant Maricopa County and its policy-making agents, including Defendants
23 Arpaio and Hendershott, knew or should have known that the acts alleged herein would deprive
24 plaintiff Patel of her rights, in violation of the First, Fourth, Fifth and Fourteenth Amendments to
25 the United States Constitution.
26

1 **FIFTH CAUSE OF ACTION**

2 (Arizona Constitution, Art. II §§ 4, 6, and 8)
3 Against Brackman, McGuire, Trombi, and Sands

4 93. Plaintiffs reallege and incorporate by reference the allegations set forth in the
5 paragraphs 1-92 as if fully set forth herein.

6 94. The acts of defendants Brackman, McGuire, Trombi, and Sands under color of law, in
7 participating in, ordering, authorizing, approving, and/or failing to prevent the arrest of Plaintiff Patel
8 without due process or probable cause and in retaliation for her exercise of rights protected by Article
9 II, § 6 of the Constitution of the State of Arizona deprived Plaintiff Patel of rights guaranteed under
10 Article II §§ 4, 6, and 8 of the Constitution of the State of Arizona.
11

12 95. The foregoing acts and conduct of defendants were a direct and proximate cause of the
13 mental injury, pain and suffering, mental anguish, emotional distress, and economic injuries suffered
14 by plaintiffs and violated Plaintiff Patel's rights as guaranteed by the Constitution of the State of
15 Arizona.
16
17

18 **SIXTH CAUSE OF ACTION**

19 (Arizona Constitution, Article II § 4)
20 Against John and Jane Does 1-8

21 96. Plaintiffs reallege and incorporate by reference the allegations set forth in the
22 paragraphs 1-95 as if fully set forth herein.

23 97. The acts of Defendants John and Jane Does 1-8, acting under color of law, in subjecting
24 plaintiff to repeated coercive custodial interrogations without legal justification and in a manner that was
25 shocking to the conscience, deprived Plaintiff Patel of her right to due process of law guaranteed by
26

1 Article II § 4 of the Constitution of the State of Arizona.

2 98. The foregoing acts and conduct of defendants were a direct and proximate cause of the
3 mental injury, pain and suffering, mental anguish, and emotional distress suffered by Plaintiff Patel
4 and violated her rights as guaranteed by the Constitution of the State of Arizona.
5

6 **SEVENTH CAUSE OF ACTION**

7 (Common Law False Arrest and False Imprisonment)
8 Against Brackman, McGuire, Trombi, and Sands

9 99. Plaintiffs reallege and incorporate by reference the allegations set forth in the
10 paragraphs 1-98 as if fully set forth herein.
11

12 100. Defendants Brackman, McGuire, Trombi, and Sands participated in, ordered,
13 authorized, approved, and/or acquiesced in the arrest and subsequent detention of Plaintiff Patel
14 without legal authority or legal process and without her consent.
15

16 101. As a direct and proximate result of defendants' acts, Plaintiff Patel suffered mental
17 injury, pain and suffering, mental anguish, and emotional distress, and Plaintiff CCR suffered
18 economic injuries and other harm.
19

20 **EIGHTH CAUSE OF ACTION**

21 (Common Law Malicious Prosecution)
22 Against Brackman, McGuire, Trombi, and Sands

23 102. Plaintiffs reallege and incorporate by reference the allegations set forth in the
24 paragraphs 1-101 as if fully set forth herein.

25 103. Defendants Brackman, McGUIRE, Trombi, and Sands knowingly and maliciously,
26 participated in, ordered, authorized, approved, and/or acquiesced in the false charging of Plaintiff

1 Patel with criminal violations of the laws of the State of Arizona. These charges were made against
2 Plaintiff Patel without probable cause and in retaliation for her engaging in constitutionally-
3 protected activities.
4

5 104. Plaintiff Patel was criminally prosecuted for these charges for more than 10 months,
6 at the end of which time all charges were terminated in plaintiff's favor.
7

8 105. As a direct and proximate result of defendants' acts, Plaintiff Patel suffered mental
9 injury, pain and suffering, mental anguish, and emotional distress, and Plaintiff CCR suffered
10 economic injuries and other harm.
11

12 **NINTH CAUSE OF ACTION**

13 (Common Law Abuse of Process)

14 Against Brackman, McGuire, Trombi, and Sands

15 106. Plaintiffs reallege and incorporate by reference the allegations set forth in the
16 paragraphs 1-95 as if fully set forth herein.

17 107. By participating in, ordering, authorizing, approving and/or acquiescing in the arrest,
18 detention, and charging of Plaintiff, Defendants Brackman, McGuire, Trombi, and Sands willfully
19 used and threatened to use the criminal legal process to accomplish an ulterior purpose for which
20 the process is not designed, namely to improperly punish, humiliate, inconvenience and injure
21 plaintiff Patel in retaliation for her engaging in constitutionally-protected activities.
22

23 108. As a direct and proximate result of defendants' acts, Plaintiff Patel suffered mental
24 injury, pain and suffering, mental anguish, and emotional distress, and Plaintiff CCR suffered
25 economic injuries and other harm.
26

1 respect to the First Amendment right to observe, document and monitor police activity.

2 116. Defendants Brackman, Trombi, Sands, Hendershott, and Arpaio knew or should have
3 known that a failure to properly train and/or supervise MSCO law enforcement officers, including
4 McGuire, with respect to these issues would likely lead to Plaintiff Patel's illegal and
5 unconstitutional arrest and subsequent detention. However, Brackman, Trombi, Sands, Hendershott,
6 and Arpaio failed to provide McGuire and other MSCO officers with reasonably adequate training,
7 monitoring and supervision with respect to these issues.
8
9

10 117. As a direct and proximate cause of Defendants' acts and omissions, Plaintiff Patel
11 suffered a deprivation of her constitutional rights, mental injury, pain and suffering, mental anguish,
12 emotional distress, and CCR suffered economic losses and other harm.
13

14 **TWELFTH CAUSE OF ACTION**

15 (*Respondeat Superior* Liability)

16 Against Maricopa County

17 117. Plaintiffs reallege and incorporate by reference the allegations set forth in the
18 paragraphs 1-116 as if fully set forth herein.
19

20 118. The conduct of Defendants Brackman, McGuire, Trombi, Sands and John and Jane
21 Does 1-8 occurred while they were on duty, in and during the course and scope of their duties and
22 functions as Maricopa County Sheriff's Office employees, and while they were acting as agents and
23 employees of Defendant Maricopa County. As a result, Defendant Maricopa County is liable to
24 Plaintiffs under the doctrine of *respondeat superior*.
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WHEREFORE, Plaintiffs demand the following relief jointly and severally against all

defendants:

- (a) a declaration that defendants violated the federal and state constitutional rights of Plaintiff Patel;
- (b) an injunction requiring defendants Maricopa County and Arpaio to develop and implement formal policies and procedures and training materials concerning the constitutional rights of individuals to observe, document and photograph law enforcement officers' conduct;
- (c) compensatory damages for physical, emotional, and economic injuries suffered by plaintiffs by reason of defendants' unlawful and unjustified conduct, in an amount just and reasonable and in conformity with the evidence at trial;
- (d) punitive damages against the individual defendants to the extent allowable by law;
- (e) treble damages pursuant to 18 U.S.C. § 1964 (c);
- (f) reasonable attorneys fees pursuant to 42 U.S.C. § 1988 and 18 U.S.C. § 1964(c);
- (g) the costs and disbursements of this action; and
- (h) such other and further relief as appears just and proper.

...
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1 RESPECTFULLY SUBMITTED this 28th day July, 2011.

2 **BOHM & JONES, P.C.**

3
4 By: /s/ Robert D. Bohm
5 Robert Bohm
6 2141 East Camelback Road, Suite 100
7 Phoenix, Arizona 85016

8 *and*

9 **CENTER FOR CONSTITUTIONAL RIGHTS**

10 Darius Charney 'pending admission *pro hac vice*'
11 Pamela Spees 'pending admission *pro hac vice*'
12 666 Broadway, 7th Floor
13 New York, New York 10012

14 Attorneys for the Plaintiffs
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