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8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF ARIZONA

10 STEVEN STREETER,  
11 Plaintiff,  
12 v.  
13 CARLOS DOMINGUEZ,  
14 JOHN FOUNTAIN,  
15 and DOES 1 through 20, inclusive,  
16 Defendants.

CASE NO.  
  
COMPLAINT FOR DAMAGES  
AND DEMAND FOR JURY TRIAL  
  
1. UNLAWFUL SEARCH OF  
PROPERTY  
  
2. RETALIATION FOR PROTECTED  
SPEECH

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18  
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21 Plaintiff alleges:

22 **GENERAL ALLEGATIONS**

23 1. Jurisdiction of this matter is founded on Title 28, United States Code sections 1331 and  
24 1343. This action arises under the First and Fourth Amendment to the United States  
25 Constitution pursuant to the doctrine established in *Bivens v. Six Unknown Named Agents*  
26 *of the Federal Bureau of Narcotics*, 403 U.S. 388, 91 S.Ct. 1999 (1971).

- 1 2. Venue is proper in the District of Arizona in that Plaintiff's claims arose in this district by  
2 virtue of defendants' contact with plaintiff and plaintiff's property in the city and county  
3 of Yuma.
- 4 3. Plaintiff is informed and believes that defendant Carlos Dominguez is an employee of the  
5 United States government and, at all times relevant to this complaint, was a Field  
6 Operations Supervisor with the United States Border Patrol assigned to the Yuma, Arizona  
7 Border Patrol Station.
- 8 4. Plaintiff is informed and believes that defendant John Fountain is an employee of the  
9 United States government and, at all times relevant to this complaint, was a Special  
10 Operations Supervisor with the United States Border Patrol assigned to the Yuma, Arizona  
11 Border Patrol Station.
- 12 5. The true names and capacities of defendants named herein as DOES 1-20 are unknown to  
13 plaintiff who therefore sues said defendants by such fictitious names. Plaintiff will amend  
14 this complaint to show the true names and capacities of the DOE defendants when the  
15 same have been ascertained. Plaintiff is informed and believes and thereon alleges that the  
16 defendants sued herein as DOES 1-20 are in some manner responsible for the acts and  
17 injuries alleged herein.

18 **FACTUAL ALLEGATIONS**

- 19 6. Plaintiff Steven Streeter is a resident of the County of Yuma, Arizona, and is employed by  
20 the Department of Homeland Security, Bureau of Customs and Border Protection, United  
21 States Border Patrol as a Border Patrol agent assigned to the Yuma Border Patrol Station.
- 22 7. On November 1, 2010, Mr. Streeter arrived at work and parked his personally owned Ford  
23 Raptor pickup truck in the east parking lot area between the Yuma Border Patrol Station,  
24 located at 4151 South Avenue A, Yuma, Arizona, and the Yuma Sector Headquarters  
25 building located at 4035 South Avenue A, Yuma, Arizona. When Mr. Streeter parked his  
26 vehicle, the tailgate to his truck was in the upright, closed position and the personal duffel  
27 bag he had placed in the bed of the truck was zipped closed.

28

- 1 8. At approximately 2:45 P.M., Mr. Streeter, along with a fellow border patrol agent, were
- 2 walking towards their personally owned vehicles when they observed two individuals
- 3 standing behind Mr. Streeter's vehicle.
- 4 9. When the individuals noticed Mr. Streeter and the other agent approaching, they closed
- 5 the tailgate of Mr. Streeter's truck and proceeded eastbound in the parking lot away from
- 6 Mr. Streeter's truck.
- 7 10. Mr. Fountain was one of the two individuals Mr. Streeter observed at the back of his
- 8 vehicle.
- 9 11. Mr. Dominguez was the other individual present at the back of Mr. Streeter's vehicle.
- 10 12. When Mr. Streeter arrived at his vehicle, he lowered the tailgate and inspected his lunch
- 11 box and duffel bag.
- 12 13. The duffel bag was not in the same position where he had left it.
- 13 14. Mr. Streeter did a quick, visual inventory of the duffel bag. Nothing appeared to be
- 14 missing so Mr. Streeter got in his truck and left.
- 15 15. A couple days later, Mr. Streeter discovered that a handwritten note had been left inside a
- 16 closed DVD case in his duffel bag by one of the two individuals. The handwritten note
- 17 said "Do not watch movie on duty! Honor First".
- 18 16. "Honor First" is the current motto of the United States Border Patrol.
- 19 17. Mr. Dominguez wrote the note and placed it in Mr. Streeter's duffel bag.
- 20 18. At the time Mr. Dominguez placed the note in Mr. Streeter's duffel bag, Mr. Dominguez
- 21 did not observe or discover a portable radio in the duffel bag.
- 22 19. At the time Mr. Dominguez placed the note in Mr. Streeter's duffel bag, Mr. Dominguez
- 23 did not observe or discover Customs and Border Protection credentials in the duffel bag.
- 24 20. At the time Mr. Dominguez placed the note in Mr. Streeter's duffel bag, Mr. Dominguez
- 25 did not observe or discover any "sensor list" in the duffel bag.
- 26 21. At the time Mr. Dominguez placed the note in Mr. Streeter's duffel bag, Mr. Dominguez
- 27 did not observe or discover any government issued property in the duffel bag.
- 28

- 1 22. Mr. Dominguez or Mr. Fountain lowered the tailgate of Mr. Streeter's truck to gain access
- 2 to the duffel bag.
- 3 23. Mr. Streeter did not give defendants permission to lower the tailgate of his truck to gain
- 4 access to the duffel bag.
- 5 24. Mr. Dominguez or Mr. Fountain unzipped the closed duffel bag that was located in the
- 6 bed of Mr. Streeter's truck in order to look inside.
- 7 25. Mr. Streeter did not give defendants permission to open his duffel bag.
- 8 26. Mr. Streeter did not give defendants permission to search his duffel bag.
- 9 27. Defendants did not obtain a search warrant prior to opening Mr. Streeter's duffel bag.
- 10 28. On or about November 4, 2010, Mr. Streeter inquired of Mission Support Supervisor Scott
- 11 Thompson of the Yuma Border Patrol Sector whether he had access to the surveillance
- 12 systems that would have captured the individuals near his vehicle.
- 13 29. On November 5, 2010, Mr. Streeter's union filed a request for information seeking all
- 14 photographic and video images capturing the area of Mr. Streeter's vehicle at the time of
- 15 the unauthorized search.
- 16 30. On or about November 5, 2010, a complaint was filed with the Department of Homeland
- 17 Security Joint Intake Center regarding the unauthorized search of Mr. Streeter's vehicle.
- 18 31. On or about November 8, 2010, the Joint Intake Center assigned Case Number 201101442
- 19 to the investigation.
- 20 32. On or about November 19, 2010, Labor and Employee Relations Specialist Edward
- 21 Messer of the Yuma Border Patrol Sector advised Mr. Streeter's union that there were no
- 22 photographic or video images of the area of Mr. Streeter's vehicle at the time of the
- 23 unauthorized search.
- 24 33. On or about December 31, 2010, Mr. Streeter attempted to file a complaint with the Yuma
- 25 Police Department regarding the unauthorized search.
- 26 34. That same day, Supervisory Border Patrol Agent Bryon Strom received a phone call from
- 27 the Yuma Police Department regarding the unauthorized search.
- 28

- 1 35. Later that day, Lieutenant Scandlin of the Yuma Police Department advised he had spoken  
2 with Yuma Border Patrol Sector management and was advised that the matter would be  
3 handled "internally."
- 4 36. On or about January 12, 2011, Mr. Streeter, while on detail to the Federal Law  
5 Enforcement Training Center, Glynco, Georgia, for a month long boat training course,  
6 received a Notice to Appear directing him to appear for an interview with the Office of  
7 Internal Affairs before Special Agent Marcie Binds.
- 8 37. The Notice to Appear identified Mr. Streeter as the "subject" of the investigation and that  
9 he was being accused of "Slanderous conduct about co-workers and failure to follow  
10 applicable rules or policies in the performance of official duties."
- 11 38. At the request of Mr. Streeter's assigned union attorney, the interview was postponed until  
12 Mr. Streeter returned from training.
- 13 39. On or about February 1, 2011, the "internal affairs" interview of Mr. Streeter was  
14 conducted in Yuma, Arizona, by Field Operations Supervisor Cesar Sotelo and  
15 Supervisory Border Patrol Agent Christopher Coleman of the Yuma Border Patrol Sector  
16 Management Inquiry Unit, rather than by any Special Agent with the Office of Internal  
17 Affairs.
- 18 40. At the time of the interview, the Management Inquiry Unit reported to Assistant Chief  
19 Patrol Agent William Justice.
- 20 41. On or about March 29, 2011, in response to requests by Mr. Streeter's union to meet  
21 regarding the investigation into the matter, Captain Chapman of the Yuma Police  
22 Department advised that the Yuma Police Department Chief of Police "directed that no  
23 report be taken as he had info from [Yuma Border Patrol Sector] administration that the  
24 matter has already been investigated internally and found that no improper actions had  
25 taken place."

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**FIRST CAUSE OF ACTION**

**[Violation of Constitutional Rights – Fourth Amendment]**

**[Against Defendants Dominguez and Fountain]**

42. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 41 above as though fully set forth herein.

43. By the acts alleged above, particularly the warrantless search of Mr. Streeter's duffel bag, Mr. Streeter's property was unlawfully searched by defendants in violation of his right against unreasonable searches and seizures as guaranteed by the Fourth Amendment to the United States Constitution. Accordingly, Plaintiff is entitled to damages pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, 91 S.Ct. 1999 (1971) and its progeny.

44. By reason of the acts of defendants and each of them as alleged above, Plaintiff has suffered anxiety and emotional distress resulting from the unlawful search and the attempts to bring false complaints against him before the Office of Internal Affairs. As a result, Plaintiff is entitled to general and compensatory damages against defendants and each of them in an amount according to proof at trial, not to exceed \$1,000,000.

45. In doing the acts alleged above, defendants acted maliciously and/or were guilty of a wanton and reckless disregard of the rights and feelings of Plaintiff and by reason thereof, Plaintiff demands exemplary and punitive damages in an amount according to proof at trial, not to exceed \$1,000,000.

**SECOND CAUSE OF ACTION**

**[Violation of Constitutional Rights – First Amendment]**

**[Against Doe Defendants]**

46. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 45 above as though fully set forth herein.

47. The First Amendment to the Constitution protects the right of citizens "to petition the Government for a redress of grievances."

1 48. Mr. Streeter's complaint to the Yuma Police Department regarding the unauthorized  
2 search was Constitutionally protected speech under the redress of grievances clause of the  
3 First Amendment.

4 49. In response to Mr. Streeter's complaints regarding the unauthorized search, Doe  
5 Defendants conspired to cover up the unlawful conduct of Defendants Dominguez and  
6 Fountain.

7 50. In retaliation for Mr. Streeter's protected speech, Doe Defendants caused an investigation  
8 to be initiated naming Mr. Streeter as the "subject" and falsely alleging he engaged in  
9 "[s]landerous conduct about co-workers and failure to follow applicable rules or policies  
10 in the performance of official duties."

11 51. The retaliatory investigation was conducted under the auspices of the Yuma Border Patrol  
12 Sector Management Inquiry Unit which, at all times relevant to this Complaint, reported to  
13 Assistant Chief Patrol Agent William Justice.

14 52. The actions of the Doe Defendants were in retaliation for Mr. Streeter's protected speech  
15 seeking redress of his grievances from the government and their actions were intended to  
16 dissuade Mr. Streeter from pursuing his complaints for fear he may continue to serve as  
17 the subject of Doe Defendants' false and baseless allegations.

18 53. By the acts alleged above, particularly the retaliatory investigation against Mr. Streeter  
19 which was intended to dissuade him from further pursuing his complaints, Mr. Streeter  
20 was unlawfully retaliated against in violation of his right to petition the government for  
21 redress of grievances as guaranteed by the First Amendment to the United States  
22 Constitution. Accordingly, Plaintiff is entitled to damages pursuant to *Bivens v. Six*  
23 *Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, 91 S.Ct. 1999  
24 (1971) and its progeny.

25 54. By reason of the acts of the Doe Defendants and each of them as alleged above, Plaintiff  
26 has suffered anxiety and emotional distress resulting from the false and baseless  
27 complaints against him. As a result, Plaintiff is entitled to general and compensatory  
28

1 damages against the Doe Defendants and each of them in an amount according to proof at  
2 trial, not to exceed \$1,000,000.

3 55. In doing the acts alleged above, the Doe Defendants acted maliciously and/or were guilty  
4 of a wanton and reckless disregard of the rights and feelings of Plaintiff and by reason  
5 thereof, Plaintiff demands exemplary and punitive damages in an amount according to  
6 proof at trial, not to exceed \$1,000,000.

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8 WHEREFORE, Plaintiff prays for judgment against defendants and each of them as  
9 follows:

- 10 1. For general and compensatory damages against defendants and each of them in an amount  
11 to be proven at trial, not to exceed \$1,000,000.
- 12 2. For exemplary and punitive damages against defendants and each of them in an amount to  
13 be proven at trial, not to exceed \$1,000,000.
- 14 3. For the costs of suit herein, including reasonable attorneys fees; and
- 15 4. For such other and further relief as the Court deems proper.

16  
17 GATTEY & BARANIC  
18 *A Professional Law Corporation*

19 DATED: August 17, 2010

By: s/Michael P. Baranic

20 Michael P. Baranic  
21 Attorneys for Plaintiff Steven Streeter

22 Plaintiff demands a jury trial in this action, pursuant to the provisions of Federal Rules  
23 of Civil Procedure 38(d).

24 GATTEY & BARANIC  
25 *A Professional Law Corporation*

26 DATED: August 17, 2011

By: s/Michael P. Baranic

27 Michael P. Baranic  
28 Attorneys for Plaintiff Steven Streeter