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8 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
9 FOR KITSAP COUNTY

10 SAMUEL RAMIREZ-RANGEL, LETICIA
11 GONZALEZ-SANTIAGO, and JOSE SOLIS-
LEON,
12 Plaintiffs,

13 v.

14 KITSAP COUNTY, JUSTIN T. CHILDS, in his
15 official capacity as a Kitsap County Sheriff's
Deputy, and SCOTT C. JENSEN, in his official
16 capacity as a Kitsap County Sheriff's Deputy,
Defendants.

NO.

COMPLAINT FOR DAMAGES AND
DECLARATORY RELIEF

17
18 I. INTRODUCTION

- 19 1. This Complaint arises out of the unlawful seizure, detention, and arrest of Samuel
20 Ramirez-Rangel, Leticia Gonzalez-Santiago, and Jose Solis-Leon; acts which constitute
21 violations of state tort law and Article I, Section 7 of the Washington State Constitution.

22 II. JURISDICTION AND VENUE

- 23 2. This is an action for damages for state tort law violations, and for declaratory relief under
24 Article I, Section 7 of the Washington State Constitution.

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COMPLAINT FOR DAMAGES
AND DECLARATORY RELIEF - 1

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901 Fifth Ave, Suite 630
Seattle, WA 98164

1 3. Jurisdiction and venue are proper in this Court because the incidents complained of
2 occurred in Kitsap County, RCW 4.12.020, and because Defendants reside in Kitsap
3 County, RCW 4.12.025.

4 III. PARTIES

5 4. Plaintiff Samuel Ramirez-Rangel is an individual who identifies as Latino and who at all
6 pertinent times worked in Kitsap County, Washington; Plaintiff Leticia Gonzalez-
7 Santiago is an individual who identifies as Latina, who at all pertinent times worked in
8 Kitsap County, Washington; and Plaintiff Jose Solis-Leon is an individual who identifies
9 as Latino, who at all pertinent times worked in Kitsap, Washington. Collectively
10 Plaintiffs Ramirez-Rangel, Gonzalez-Santiago, and Solis-Leon will hereinafter be
11 referred to as "Plaintiffs".

12 5. Defendant Kitsap County is a governmental entity that employs Sheriff's Deputies to
13 enforce local and state laws. At all times relevant to this Complaint, Defendant Kitsap
14 County employed Defendants Childs and Jensen as Deputies and authorized them to act
15 as its agents.

16 6. Defendant Justin T. Childs is, and at all times relevant to this Complaint was, employed
17 as a Deputy for the Kitsap County Sheriff's Department and acted as Kitsap County's
18 agent.

19 7. Defendant Scott C. Jensen, is and at all times relevant to this Complaint was, employed
20 as a Deputy for the Kitsap County Sheriff's Department and acted as Kitsap County's
21 agent.

22 8. On, or about, August 10, 2011, Plaintiffs provided the Kitsap County Board of County
23 Commissioners with notice of their tort claims pursuant to R.C.W. 4.96.020.
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26

IV. FACTS

9. On the night of February 1-2, 2010, Plaintiff Ramirez-Rangel drove Plaintiffs Gonzalez-Santiago and Solis-Leon and another colleague to a beach at Gamble Bay to engage in the commercial gathering of oysters, pursuant to a valid commercial license.
10. Plaintiffs were traveling in a Ford F350 truck owned by their employers.
11. Unbeknownst to Plaintiffs, Defendants Childs and Jensen conducted surveillance on them as they gathered shellfish.
12. As Defendants Childs and Jensen observed Plaintiffs, they noted that fluent Spanish could be heard spoken from the Plaintiffs on the beach.
13. Defendants Childs and Jensen continued to watch as Plaintiffs gathered oyster clusters and placed them in five gallon buckets and a large bag.
14. While Plaintiffs were still on the beach gathering oysters, Defendants Childs and Jensen ran the license plate number of the truck in which Plaintiffs travelled and determined that it was registered to a white male named Donald DeNotta.
15. Upon information and belief, after observing Plaintiffs for an undisclosed period of time, and in order "to further investigate", Defendants Childs and Jensen returned to their cars and each parked at a distance from the truck on either side of a street, thereby requiring Plaintiffs to drive by either Defendant Childs or Jensen as they left the beach in the early morning of February 2, 2010.
16. As the truck passed Defendant Jensen's patrol car, he noticed that one of the headlights of the truck was defective.
17. Upon information and belief, Defendant Jensen relied on the defective headlight as a pretextual basis to stop and investigate Plaintiffs.
18. Defendant Jensen seized Plaintiffs by conducting a traffic stop. When Plaintiffs pulled over and stopped in response to the police show of authority, Defendant Jensen made contact with Plaintiff Ramirez-Rangel. Jensen advised Plaintiff Ramirez-Rangel that the

1 headlight was defective, and Plaintiff Ramirez-Rangel stated that he was aware of that
2 and would get it fixed. Defendant Jensen did not issue a citation for the defective
3 headlight, nor did he initiate the process for issuing a citation.

4 19. Instead, after advising Plaintiff Ramirez-Rangel that one of the headlights was defective,
5 Defendant Jensen asked Plaintiff Solis-Leon, who was sitting in the rear passenger seat
6 on the driver's side of the truck, for identification. Plaintiff Solis-Leon did not have his
7 identification with him, but he verbally identified himself by his name and birthdate.

8 20. After Defendant Jensen asked Plaintiff Solis-Leon for his identification, Plaintiff
9 Ramirez-Rangel produced his driver's license and gave it to Defendant Jensen along with
10 a valid commercial shellfishing license. Plaintiff Ramirez-Rangel also showed
11 Defendant Jensen the commercial tags on the bags and buckets of shellfish that Plaintiffs
12 collected at the Port Gamble Bay beach.

13 21. Defendant Jensen verified Plaintiff Ramirez-Rangel's commercial shellfishing license
14 and observed his valid driver's license.

15 22. Upon information and belief, Defendant Jensen knew or should have known at that time
16 that there was no probable cause to believe the passengers were engaged in illegal
17 poaching.

18 23. At the same time, Defendant Childs interrogated Plaintiff Gonzalez-Santiago and the
19 other passenger about their identities.

20 24. After observing the shellfishing license and commercial tags on the bags and buckets of
21 shellfish, Defendant Jensen ran a background search on Plaintiffs Ramirez-Rangel and
22 Solis-Leon. Neither of their background checks returned a warrant.

23 25. Defendant Childs ran a background search on Ms. Gonzalez-Santiago and the other
24 passenger. Neither of their background checks returned a warrant.

1 26. Upon information and belief, at that time, Defendants Jensen and Childs knew or should
2 have known that there was no probable cause to believe that any of Plaintiffs had
3 committed or were committing any crime.

4 27. After Defendants Childs and Jensen completed the background searches of the Plaintiffs
5 and other passenger, Defendant Jensen made Plaintiff Ramirez-Rangel step away from
6 the truck and asked him questions about his immigration status. While Defendant Jensen
7 questioned Plaintiff Ramirez-Rangel, Defendant Childs interrogated the three other
8 passengers about their immigration statuses.

9 28. Defendants Childs and Jensen directed Plaintiff Ramirez-Rangel to return to the truck and
10 then directed all the Plaintiffs to remain in the truck's cab. Defendants Childs and Jensen
11 confiscated the keys to the truck and Plaintiff Ramirez-Rangel's driver's license.
12 Defendants Childs and Jensen then told Plaintiffs: "Don't move. If you try to get out,
13 we'll arrest you."

14 29. Defendant Jensen called U.S. Customs and Border Patrol and informed it that he had
15 stopped four individuals whom he suspected might have immigration issues. Defendant
16 Jensen also assured Border Patrol that Defendants Jensen and Childs would detain the
17 Plaintiffs until a Border Patrol official arrived at the scene.

18 30. Defendant Childs requested other law enforcement officers to assist. Two officers from
19 the Suquamish and Port Gamble law enforcement agencies responded. The officers were
20 armed and in marked cars.

21 31. Without any probable cause or reasonable suspicion to believe Plaintiffs had engaged in,
22 or were engaging in, any criminal activity, Defendants Childs and Jensen detained
23 Plaintiffs in the truck for more than an hour, the length of time that it took for a Border
24 Patrol official to arrive at the scene.

1 32. During the time that Plaintiffs remained detained in the truck, Defendants Jensen and
2 Childs, assisted by the other officers, kept the truck surrounded at all times by at least
3 four armed police officers.

4 V. CAUSES OF ACTION

5 First Cause of Action:

6 Violations of Washington State Constitution Article I, Section 7

7 33. Plaintiffs reallege and incorporate by reference herein all the allegations of paragraphs 1
8 through 32 above.

9 34. Defendants Childs' and Jensen's stop of Plaintiffs' vehicle on a pretext violated Article I,
10 Section 7 of the Washington State Constitution. Article I, Section 7 of the Washington
11 State Constitution "forbids the use of pretext as a justification for a warrantless search or
12 seizure[.]" *State v. Ladson*, 138 Wn.2d 343, 352, 979 P.2d 833 (1999). Defendants
13 violated Plaintiffs' constitutional rights under Article I, Section 7 when they used
14 pretextual reasons to seize Plaintiffs, and subjected them, under threat of arrest, to an
15 unlawfully prolonged detention that lasted for over an hour.

16 35. Defendants' pretextual stop of Plaintiffs caused Plaintiffs harm and a loss of liberty and
17 constituted an invasion of their individual privacy rights in violation of Article I, Section
18 7 of the Washington State Constitution.

19 36. Defendants Childs and Jensen seized Plaintiffs Gonzalez-Santiago and Solis-Leon, who
20 were passengers in the truck, when they requested identification from them without an
21 independent cause, separate from the pretextual reason for the stop, and questioned them
22 about their identity, immigration status, and/or presence in the truck. Plaintiffs'
23 individual freedom of movement was restrained by this request, and Plaintiffs did not
24 believe that they were free to leave the scene or to decline a request, because Defendants
25 Childs and Jensen used a display of authority to make the request.

26 37. Article I, Section 7 of the Washington State Constitution protects Plaintiffs' privacy
interest and "prohibits law enforcement officers from requesting identification from

1 passengers for investigative purposes unless there is an independent reason that justifies
2 the request.” *State v. Rankin*, 151 Wn.2d 698, 700, 92 P.3d 202 (2004).

3 38. Defendants Childs’ and Jensen’s use of a display of authority, and an implicit threat of
4 force, to obtain identification from Plaintiffs, without an independent reason justifying
5 the request, caused Plaintiffs harm and loss of liberty, invaded their privacy, and
6 constituted a violation of Article I, Section 7 of the Washington State Constitution.

7 39. Defendant Jensen’s order for Plaintiff Ramirez-Rangel to stop the truck carrying
8 Plaintiffs Gonzalez-Santiago and Solis-Leon resulted in the warrantless seizure of all
9 Plaintiffs. Neither the defective headlight nor Defendants’ investigation of a possible
10 shellfishing violation provided any lawful basis for seizing Plaintiffs in the first instance.
11 Even if these constituted a lawful basis for the stop, these reasons could not justify
12 continuing the seizure after Plaintiff Ramirez-Rangel was warned of the headlight and
13 Defendants Childs and Jensen observed his shellfishing license. Article I, Section 7 of
14 the Washington State Constitution guarantees individuals the right to be free from
15 prolonged detention by police officers where there is no lawful basis to continue the
16 detention. *State v. Duncan*, 146 Wn.2d 166, 174-75, 43 P.3d 513 (2002). Defendants
17 Childs and Jensen caused Plaintiffs harm and loss of liberty, invaded their privacy, and
18 violated Article I, Section 7 by measurably extending the duration of the stop by
19 inquiring into matters unrelated to the justification for the stop and by restraining
20 Plaintiffs for the time it took for Border Patrol officials to arrive.

21 **Second Cause of Action:**
22 **False Arrest**

23 40. Plaintiffs reallege and incorporate by reference herein all the allegations of paragraphs 1
24 through 39 above.

25 41. Defendants Childs and Jensen seized Plaintiffs when they engaged in the pretextual stop
26 of the truck in which Plaintiffs travelled. Defendants Childs and Jensen continued the

1 warrantless seizure for more than an hour, until a Border Patrol official arrived.
2 Defendants Childs and Jensen restrained Plaintiffs' movements, and interfered with their
3 liberty, by a show of force and by a showing of Defendants' authority as Kitsap County
4 Deputies, when they ordered Plaintiffs to stay in the truck, further threatened Plaintiffs by
5 stating that there would be consequences if Plaintiffs exited the truck, and surrounded the
6 truck with two other law enforcement officers flanked by marked law enforcement
7 vehicles.

8 42. Defendants Childs' and Jensen's prolongation of the detention of Plaintiffs constituted a
9 violation of state tort law of false arrest.

10 43. Defendants' actions, which were unlawful under Article I, section 7, were not carried out
11 pursuant to any statutory duty and were not reasonable.

12 44. Plaintiffs suffered harm, loss of liberty, and an invasion of their privacy as a result of the
13 false arrest to which they were subjected by Defendants Childs and Jensen.

14 **Third Cause of Action:**
15 **Respondeat Superior**

16 45. Plaintiffs reallege and incorporate by reference herein all the allegations of paragraphs 1
17 through 44 above.

18 46. On February 2, 2010, Defendants Childs and Jensen, while acting within the scope of
19 their employment, used the authority Kitsap County granted them as Deputies to stop,
20 falsely arrest, and prolong the detention of Plaintiffs in violation of state tort law and
21 Article I, Section 7 of the Washington State Constitution.

22 47. As their employer, Defendant Kitsap County is liable for the actions of Defendants
23 Childs and Jensen, under the theory of respondeat superior, that constituted violations of
24 state tort law that caused Plaintiffs to be harmed and to suffer a loss of liberty and an
25 invasion of their privacy.
26

1 VI. RELIEF REQUESTED

2 WHEREFORE, Plaintiffs Samuel Ramirez-Rangel, Leticia Gonzalez-Santiago, and Jose
3 Solis-Leon pray for relief as follows:

- 4 A. Damages against Defendants in an amount to be determined at trial;
5 B. A declaration that Defendants are not authorized to enforce federal immigration law.
6 C. A declaration that Defendants do not have authority to prolong a detention to interrogate
7 the individuals detained about their immigration status.
8 D. For such other and further relief as the Court may deem just and equitable.

9 DATED this 31st the day of January, 2012.

10 ACLU OF WASHINGTON FOUNDATION

11 By: /s/ La Rond Baker

12 Attorneys for Plaintiffs

13 Sarah A. Dunne, WSBA # 34869

14 Nancy Talner, WSBA # 11196

15 La Rond Baker, WSBA # 43610

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Attorneys for Plaintiffs

COMPLAINT FOR DAMAGES
AND DECLARATORY RELIEF - 9

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Kitsap **CASE TYPE 2**
COUNTY SUPERIOR COURT
CASE INFORMATION COVER SHEET

Case Number _____ Case Title Bamirez-Banagel et al. v. Kitsap County, et al
Attorney Name Maren R. Norton Bar Membership Number 35435

Please check one category that best describes this case for indexing purposes. Accurate case indexing not only saves time in docketing new cases, but helps in forecasting needed judicial resources. Cause of action definitions are listed on the back of this form. Thank you for your cooperation.

APPEAL/REVIEW

- ☐ Administrative Law Review (ALR 2)
- ☐ Appeal of a Department of Licensing Revocation (DOL 2)
- ☐ Civil, Non-Traffic (LCA 2)
- ☐ Civil, Traffic (LCI 2)

CONTRACT/COMMERCIAL

- ☐ Breach of Contract (COM 2)
- ☐ Commercial Contract (COM 2)
- ☐ Commercial Non-Contract (COL 2)
- ☐ Third Party Collection (COL 2)

MERETRICKIOUS RELATIONSHIP

- ☐ Meretricious Relationship (MER 2)

PROTECTION ORDER

- ☐ Civil Harassment (HAR 2)
- ☐ Domestic Violence (DVP 2)
- ☐ Foreign Protection Order (FPO 2)
- ☐ Sexual Assault Protection (SXP 2)
- ☐ Vulnerable Adult Protection (VAP 2)

JUDGMENT

- ☐ Abstract Only (ABJ 2)
- ☐ Foreign Judgment (FJU 2)
- ☐ Judgment, Another County (ABJ 2)
- ☐ Judgment, Another State (FJU 2)
- ☐ Tax Warrant (TAX 2)
- ☐ Transcript of Judgment (TRJ 2)

OTHER COMPLAINT/PETITION

- ☐ Action to Compel/Confirm Private Binding Arbitration (MSC 2)
- ☐ Change of Name (CHN 2)
- ☐ Deposit of Surplus Funds (MSC 2)
- ☐ Emancipation of Minor (EOM 2)
- ☐ Injunction (INJ 2)
- ☐ Interpleader (MSC 2)
- ☐ Malicious Harassment (MHA 2)
- ☐ Minor Settlement (No guardianship) (MST 2)

- ☐ Petition for Civil Commitment (Sexual Predator) (PCC 2)
- ☐ Property Damage-Gangs (PRG 2)
- ☐ Public Records Act (PRA 2)
- ☐ School District - Required Action Plan (SDR 2)
- ☐ Seizure of Property from Commission of Crime (SPC 2)
- ☐ Seizure of Property Resulting from a Crime (SPR 2)
- ☐ Subpoenas (MSC 2)

PROPERTY RIGHTS

- ☐ Condemnation (CON 2)
- ☐ Foreclosure (FOR 2)
- ☐ Land Use Petition (LUP 2)
- ☐ Property Fairness (PFA 2)
- ☐ Quiet Title (QTI 2)
- ☐ Unlawful Detainer (UND 2)

TORT, MEDICAL MALPRACTICE

- ☐ Hospital (MED 2)
- ☐ Medical Doctor (MED 2)
- ☐ Other Health Care Professional (MED 2)

TORT, MOTOR VEHICLE

- ☐ Death (TMV 2)
- ☐ Non-Death Injuries (TMV 2)
- ☐ Property Damage Only (TMV 2)
- ☐ Victims of Motor Vehicle Theft (VVT 2)

TORT, NON-MOTOR VEHICLE

- ☐ Asbestos (PIN 2)
- ☐ Other Malpractice (MAL 2)
- ☐ Personal Injury (PIN 2)
- ☐ Products Liability (TTO 2)
- ☐ Property Damage (PRP 2)
- ☐ Wrongful Death (WDE 2)

WRIT

- ☐ Habeas Corpus (WHC 2)
- ☐ Mandamus (WRM 2)
- ☐ Restitution (WRR 2)
- ☐ Review (WRV 2)
- ☐ Miscellaneous Writs (WMW 2)

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Complaint for Damages and Declaratory Relief

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Client Number 0099820
Matter Number 00275
Client Name Pro Bono/Firm-Sponsored
Matter Name Ramirez-Rangel, Solis-Leon, and Gonzalez-Santiago
Amount 230.00
Date January 30, 2012
Payee KITSAP COUNTY SUPERIOR COURT CLERK
Description Summons and Complaint Filing Fee
Attorney Number and Initials 4090/Skylee Robinson approved by:

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15 KITSAP COUNTY, JUSTIN T. CHILDS,
16 in his official capacity as a Kitsap County
17 Sheriff's Deputy, and SCOTT C. JENSEN,
18 in his official capacity as a Kitsap County
19 Sheriff's Deputy,

20 Defendants.

No.

SUMMONS (20 days)

21 TO THE ABOVE-NAMED DEFENDANTS: A lawsuit has been started against you in
22 the above entitled court by SAMUEL RAMIREZ-RANGEL, LETICIA GONZALEZ-
23 SANTIAGO, and JOSE SOLIS-LEON, Plaintiffs. Plaintiffs' claim is stated in the written
24 Complaint, a copy of which is served upon you with this Summons.

25 In order to defend against this lawsuit, you must respond to the Complaint by stating your
26 defense in writing, and serve a copy upon the person signing this Summons within twenty (20)
days after the service of this Summons, excluding the day of service, or a default judgment may
be entered against you without notice. A default judgment is one where Plaintiffs are entitled to

SUMMONS - 1

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1 what they ask for because you have not responded. If you serve a notice of appearance on the
2 undersigned person, you are entitled to notice before a default judgment may be entered.

3 You may demand that the Plaintiffs file this lawsuit with the court. If you do so, the
4 demand must be in writing and must be served upon the person signing this Summons. Within
5 fourteen (14) days after you serve the demand, the Plaintiffs must file this lawsuit with the court,
6 or the service on you of this Summons and Complaint will be void.

7 If you wish to seek the advice of an attorney in this matter, you should do so promptly so
8 that your written response, if any, may be served on time.

9 The Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State
10 of Washington.

11 DATED: January 31, 2012.

ACLU OF WASHINGTON FOUNDATION

12 By: /s/ La Rond Baker

Attorneys for Plaintiffs

13 Sarah A. Dunne, WSBA # 34869

14 Nancy Talner, WSBA # 11196

La Rond Baker, WSBA # 43610

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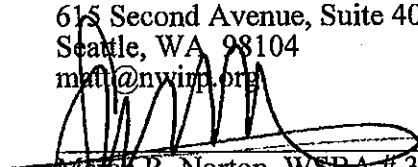
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SUMMONS - 2

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