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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF ARIZONA**

10 ANA MARIA VICENTE; GERARDO  
GONZALEZ; SAMUEL JORDAN;  
11 SANDRA VELAZQUEZ; MATEO  
JORDAN; ADELA VICENTE;  
12 NANCY VICENTE, through her next  
friend, ANA MARIA VICENTE;  
13 FRANCISCO VILCHES; ABEL  
CRUZ; MANUEL MARTINEZ;  
14 TOMÁS S.; ANDRES C.; ADRIAN  
M.; ALEJANDRO R.; JOSE H.;  
15 MARIA S.,

16  
17 Plaintiffs,

18 vs.

19 ROGER BARNETT; BARBARA  
BARNETT; DONALD BARNETT;  
20 DOES 1-10; LARRY DEVER, in his  
individual capacity and his official  
21 capacity as Sheriff of Cochise County,

22 Defendants.  
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Case No. CIV 05-157TUC-JMR

**COMPLAINT FOR DAMAGES**

**DEMAND FOR JURY TRIAL**

1 Plaintiffs, complaining of defendants, allege as follows:

2 **JURISDICTION AND VENUE**

3 1. This Court has jurisdiction over the claims asserted in this  
4 complaint under 28 U.S.C. § 1331, 28 U.S.C. § 1332, 28 U.S.C. § 1343, and 28  
5 U.S.C. § 1367. The Court has jurisdiction over all claims asserted in this  
6 complaint under 28 U.S.C. § 1332, because Plaintiffs are citizens of a foreign  
7 state or reside in a state other than Arizona, Defendants are citizens of the state  
8 of Arizona, and the amount in controversy is more than \$75,000. The Court has  
9 jurisdiction over the First, Second, and Third Claims under 28 U.S.C. § 1331,  
10 because these claims arise under federal law. The Court also has jurisdiction  
11 over the First Claim under 28 U.S.C. § 1343(1), because the claim arises out of  
12 acts done in furtherance of a conspiracy of the kind mentioned in 42 U.S.C. §  
13 1985. The Court also has jurisdiction over the Second Claim under 28 U.S.C. §  
14 1343(2), because the claim arises out of Defendant's failure to prevent or to aid  
15 in preventing wrongs of the kind mentioned in 42 U.S.C. § 1985 that they had  
16 knowledge were about to occur and power to prevent. The Court has jurisdiction  
17 over the Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth Claims under 28  
18 U.S.C. § 1367, because these claims, which arise under Arizona law, are so  
19 related to the claims arising under federal law that they form part of the same  
20 case or controversy.

21 2. Venue is proper in the District of Arizona under 28 U.S.C. §  
22 1391(b) because all Defendants reside within the district.

23 **STANDING AS NEXT FRIEND**

24 3. Under Federal Rule of Civil Procedure 17(c), Plaintiff Nancy  
25 Vicente brings this action by and through her next friend, Ana Maria Vicente,  
26 who is Nancy Vicente's sister. Plaintiff Nancy Vicente is a minor and is not  
27 competent to bring this action on her own behalf. Nancy Vicente's parents are  
28 both deceased, and Ana Maria Vicente is willing and able to act as Nancy

1 Vicente's next friend and will conduct this litigation at all times in Nancy  
2 Vicente's best interests.

3 **PLAINTIFFS**

4 4. PLAINTIFF Ana Maria Vicente is a 23 year-old Mexican citizen.  
5 She resides in Michoacan, Mexico. At the time of the incident that underlies this  
6 suit, she was in Cochise County, Arizona.

7 5. PLAINTIFF Gerardo Gonzalez is a 38 year-old Mexican citizen.  
8 He resides in Michoacan, Mexico. At the time of the incident that underlies this  
9 suit, he was in Cochise County, Arizona.

10 6. PLAINTIFF Samuel Jordan is a 23 year-old Mexican citizen. He  
11 resides in Michoacan, Mexico. At the time of the incident that underlies this  
12 suit, he was in Cochise County, Arizona.

13 7. PLAINTIFF Sandra Velazquez is a 19 year-old Mexican citizen.  
14 She resides in Michoacan, Mexico. At the time of the incident that underlies this  
15 suit, she was in Cochise County, Arizona.

16 8. PLAINTIFF Mateo Jordan is a 51 year-old Mexican citizen. He  
17 resides in Michoacan, Mexico. At the time of the incident that underlies this  
18 suit, he was in Cochise County, Arizona.

19 9. PLAINTIFF Adela Vicente is a 34 year-old Mexican citizen. She  
20 resides in Michoacan, Mexico. At the time of the incident that underlies this  
21 suit, she was in Cochise County, Arizona.

22 10. PLAINTIFF Nancy Vicente, by and through her next friend, Ana  
23 Maria Vicente, is a 16 year-old Mexican citizen. She resides in Michoacan,  
24 Mexico. Her parents passed away. At the time of the incident that underlies this  
25 suit, she was in Cochise County, Arizona.

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1 11. PLAINTIFF Francisco Vilches is a 29 year-old Mexican citizen. He  
2 resides in Michoacan, Mexico. At the time of the incident that underlies this  
3 suit, he was in Cochise County, Arizona.

4 12. PLAINTIFF Abel Cruz is a 32 year-old Mexican citizen. He resides  
5 in Michoacan, Mexico. At the time of the incident that underlies this suit, he  
6 was in Cochise County, Arizona.

7 13. PLAINTIFF Manuel Martinez is a 38 year-old Mexican citizen. He  
8 resides in Michoacan, Mexico. At the time of the incident that underlies this  
9 suit, he was in Cochise County, Arizona.

10 14. PLAINTIFF Tomas S. is a 26 year-old resident of Cook County,  
11 Illinois. At the time of the incident that underlies this suit, he was in Cochise  
12 County, Arizona. Tomas S. appears by a pseudonym because of his fear of  
13 adverse action based on his immigration status.

14 15. PLAINTIFF Andres C. is a 19 year-old resident of Cook County,  
15 Illinois. At the time of the incident that underlies this suit, he was in Cochise  
16 County, Arizona. Andres C. appears by a pseudonym because of his fear of  
17 adverse action based on his immigration status.

18 16. PLAINTIFF Adrian M. is a 23 year-old resident of Cook County,  
19 Illinois. At the time of the incident that underlies this suit, he was in Cochise  
20 County, Arizona. Adrian M. appears by a pseudonym because of his fear of  
21 adverse action based on his immigration status.

22 17. PLAINTIFF Alejandro R. is a 23 year-old resident of Cook County,  
23 Illinois. At the time of the incident that underlies this suit, he was in Cochise  
24 County, Arizona. Alejandro R. appears by a pseudonym because of his fear of  
25 adverse action based on his immigration status.

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1 18. PLAINTIFF Jose H. is a 23 year-old resident of Fulton County,  
2 Georgia. At the time of the incident that underlies this suit, he was in Cochise  
3 County, Arizona. Jose H. appears by a pseudonym because of his fear of adverse  
4 action based on his immigration status.

5 19. PLAINTIFF Maria S. is a 28 year-old resident of Kent County,  
6 Michigan. At the time of the incident that underlies this suit, she was in Cochise  
7 County, Arizona. Maria S. appears by a pseudonym because of her fear of  
8 adverse action based on his immigration status.

9 **DEFENDANTS**

10 20. Defendant Roger Barnett is a private citizen and resident of Cochise  
11 County, Arizona. Defendant Roger Barnett committed assault and battery,  
12 falsely arrested and imprisoned Plaintiffs, acted negligently, committed the tort  
13 of intentional infliction of emotional distress, engaged in a conspiracy to deprive  
14 Plaintiffs of their civil rights in violation of 42 U.S.C. § 1985, and committed  
15 other illegal acts against Plaintiffs on March 7, 2004.  
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17 21. Defendant Barbara Barnett is a private citizen and resident of  
18 Cochise County, Arizona. Defendant Barbara Barnett is married to Defendant  
19 Roger Barnett. Defendant Barbara Barnett falsely arrested and imprisoned  
20 Plaintiffs, acted negligently, committed the tort of intentional infliction of  
21 emotional distress, engaged in a conspiracy to deprive Plaintiffs of their civil  
22 rights in violation of 42 U.S.C. § 1985, and committed other illegal acts against  
23 Plaintiffs on March 7, 2004.

24 22. Defendant Donald Barnett is a private citizen and resident of  
25 Cochise County, Arizona. Defendant Donald Barnett is Defendant Roger  
26 Barnett's brother. Defendant Donald Barnett acted negligently, engaged in a  
27 conspiracy to deprive Plaintiffs of their civil rights in violation of 42 U.S.C. §  
28 1985, and committed other illegal acts against Plaintiffs on March 7, 2004.



1 seventeen individuals rested in one area in a group, while three women rested  
2 under a bush approximately ten feet away.

3         26.     Soon after first hearing the noise of the vehicle, Plaintiffs heard  
4 loud barking. A large dog, barking aggressively, then approached and circled  
5 around the larger group of approximately seventeen individuals.

6         27.     A man, later identified as Defendant Roger Barnett, arrived on a  
7 four-wheel ATV. Barnett got off his ATV, jumped into the wash, and  
8 immediately began yelling at the large group of individuals in English and some  
9 broken Spanish.

10         28.     Barnett aimed his handgun at the larger group, and yelled racial  
11 epithets and swore at them. He called them “fucking Mexicans” and ordered  
12 them around, yelling “move, motherfuckers” and “you fucking Mexicans, sit  
13 down,” all while aiming his gun at the group.

14         29.     Barnett cocked his gun and waved it at the group of approximately  
15 seventeen individuals. Barnett appeared extremely agitated, and the group  
16 feared that he might shoot them or have the dog, which continued to bark  
17 menacingly, attack them.

18         30.     Barnett noticed the group of three young women resting under the  
19 shade of a bush, separate from the larger group, when his dog saw them and ran  
20 over to them. The dog was so close that one of the women, Sandra Velazquez  
21 could smell the dog’s breath. Barnett went over to the women and began yelling  
22 at them to move over to the larger group.

23         31.     Barnett yelled at Plaintiff Ana Maria Vicente, one of the women  
24 resting under the bush, saying in Spanish, “levantate perra” (get up, bitch). She  
25 did not stand up because she feared the dog who continued to bark menacingly.  
26 Barnett then kicked her very hard in the leg as she lay on the ground.  
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1           32. Barnett attempted to kick Plaintiff Ana Maria Vicente again, but she  
2 blocked the kick by moving a bag in the way. The kick destroyed some of the  
3 belongings she had in the bag. Ana Maria began crying in pain and fear.

4           33. Sandra Velazquez, who was in the smaller group of three women,  
5 witnessed Barnett kicking Ana Maria, and feared that she too would be attacked.

6           34. Plaintiff Maria S., another woman in the small group, also witnessed  
7 Barnett kicking Ana Maria, and feared that she too would be attacked by Barnett  
8 or by his large dog.

9           35. The dog continued to bark loudly and aggressively at the women,  
10 and they feared that it might attack them. Barnett yelled in broken Spanish, "mi  
11 perro tiene hambre, tiene ganas de culo" (my dog is hungry and he's hungry for  
12 buttocks).

13           36. The women moved over to the larger group, followed by Barnett  
14 aiming his gun at their backs. Barnett then waved his gun at the entire group,  
15 yelling and swearing at them to stay down and not move or else he would shoot  
16 or his dog would attack.

17           37. Barnett detained Plaintiffs for some time before calling someone on  
18 a radio or telephone, saying, "Barbara, I got about twenty fucking Mexicans at  
19 my location." Barnett laughed while he talked on the radio.

20           38. A short time later, a woman, later identified as Barbara Barnett,  
21 drove up. Shortly after that, two United State Border Patrol agents arrived.  
22 Plaintiffs, along with the Border Patrol agents and the Barnetts, walked  
23 approximately 10-15 minutes out of the wash and to the Border Patrol agents'  
24 car.  
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1           39. The Border Patrol agents began talking with the Plaintiffs. Plaintiff  
2 Geraldo Gonzalez began to tell the agents that Barnett had kicked one of the  
3 women, but Barnett walked up to him and angrily said, “What did you fucking  
4 say?” Gonzalez stayed quiet because he was fearful of Barnett.

5           40. Plaintiffs Ana Maria and Sandra told a Border Patrol agent that  
6 Barnett had kicked Ana Maria. Barnett walked over to them and challenged  
7 them to repeat the allegation. Ana Maria said nothing because she feared Barnett.

8           41. After the Border Patrol agents conducted their initial inquiry and  
9 began to drive Plaintiffs away, Barnett drove the ATV onto the truck that  
10 Barbara Barnett had arrived in.

11           42. At no time during the incident did Barnett tell any of the Plaintiffs  
12 that he was holding them because they had been trespassing, nor did any of the  
13 Plaintiffs ever see any “no trespassing” or other sign notifying them that they  
14 were on private property.

15           Defendant Dever’s Notice of Barnetts’ Actions and the Conspiracy Claim:

16           43. In the three years from 1999 to 2002, the United States Border  
17 Patrol received approximately forty reports of incidents where the Barnetts  
18 illegally detained immigrants.

19           44. Out of those forty incidents, approximately twenty incident reports  
20 were filed with the Cochise County Sheriffs Department, and approximately  
21 fifteen reports were filed with the Office of the Cochise County District  
22 Attorney.

23           45. Defendant Roger Barnett claimed, in an April 2004 interview, that  
24 he, his wife Barbara, and his brother Donald, have turned over close to 12,000  
25 immigrants to the United States Border Patrol in the previous six and a half  
26 years.  
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1 FIRST CLAIM

2 (Violation of Civil Rights - 42 U.S.C. § 1985(3))

3 (By All Plaintiffs Against Defendants Roger, Barbara, and Donald Barnett,  
4 Doe Defendants 1-8, and Defendant Dever, in his individual and official  
5 capacities)  
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7 46. Plaintiffs incorporate by reference all foregoing paragraphs as if set  
8 forth fully here.

9 47. In doing the things complained of in this complaint, Defendants  
10 Roger, Barbara, and Donald Barnett, Does 1-8, and Defendant Dever conspired  
11 with the purpose of depriving, either directly or indirectly, Plaintiffs of the equal  
12 protection of the laws and of due process under the law.

13 48. In doing the things complained of in this action, Defendants Roger,  
14 Barbara, and Donald Barnett, Does 1-8, and Defendant Dever acted in  
15 furtherance of the object of the conspiracy; as a result, Plaintiffs were injured in  
16 their persons or property and deprived of having and exercising the rights  
17 granted under the United States Constitution.

18 49. In doing the things complained of in this complaint, Defendants  
19 Roger, Barbara, and Donald Barnett, Does 1-10, and Defendants Dever were  
20 motivated by racial and other class-based invidious discriminatory animus.  
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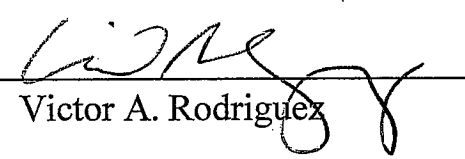
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**DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury.

Dated: March 4, 2005

Respectfully submitted,  
MEXICAN AMERICAN LEGAL DEFENSE  
AND EDUCATIONAL FUND

By:   
Victor A. Rodriguez

Attorneys for Plaintiffs.