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10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF ARIZONA**

12 **ELISA BECKEL, for and on behalf**
13 **of all statutory beneficiaries,**

14 **Plaintiff,**

15 -VS-

16 **THE UNITED STATES OF**
17 **AMERICA,**

18 **Defendant.**

19 NO.

20 **COMPLAINT**
(Federal Tort Claims Act)

21 Assigned to:

22 Plaintiffs allege:

23 **I**

24 This Court has jurisdiction to hear this Complaint pursuant to 28 U.S.C. §
1346 (b)(1). Venue is proper within the District of Arizona pursuant to 28 U.S.C. §
1402 (b) because all acts referred to herein occurred within the District of Arizona.

II

2 The plaintiffs are citizens of the United States of America. The acts
3 complained of herein were committed by employees of the United States Customs
4 and Border Protection in the scope of their employment. Plaintiff Elisa Beckel sues
5 on her behalf and on behalf of all statutory beneficiaries pursuant to Arizona's Death
6 by Wrongful Act statutes A.R.S. § 12-611 et seq. for the death of her son Jose Luis
7 Arambula Silva.

III

9 Pursuant to 28 U.S.C. § 2675 the plaintiffs mailed a claim by Certified or
10 Registered mail to the U.S. Customs and Border Protection. The claim was received
11 by that agency on October 24, 2014. On February 23, 2015, plaintiffs received a
12 formal denial of their claim.

IV

14 On May 30, 2014, United States Border Patrol agents attempted to stop Mr.
15 Arambula. Mr. Arambula failed to yield and led the agents on a pursuit. During the
16 pursuit by Border Patrol agents, the vehicle Mr. Arambula was allegedly driving
17 became stuck in a sandy wash near a golf course in Green Valley.

18 Mr. Arambula ran away from the agents across the wash and some desert and
19 ran into a pecan orchard. Two Border Patrol agents, agent Daniel Marquez and
20 Agent Todd Palmer followed on foot.

Border Patrol Agent Daniel Marquez fired his weapon perhaps nine times and ultimately killed Mr. Jose Luis Arambula with a hollow point bullet in the back of his head. Mr. Arambula was pronounced dead at the scene.

V

25 Mr. Arambula was unarmed at the time of the shooting. Mr. Arambula at no
26 time threatened the chasing agents. The shooting of Mr. Arambula was not justified

1 as he was not employing deadly force against agent Marquez nor agent Palmer nor
2 was he attempting to do so.

3 **VI**

4 The Border Patrol Agents were acting within the scope of their
5 employment thereby giving rise to liability of the United States, pursuant to the
6 principles of *respondeat superior* and by act of Congress pursuant to 28 U.S.C.
7 §1346.

8 **VII**

9 The shooting of Mr. Arambula resulted from the negligent handling of the
10 weapon or was an unnecessary use of deadly or excessive force, either of which
11 give rise to a cause of action under Arizona law for money damages.

12 **VIII**

13 Plaintiffs have proximately suffered special and general damages.
14 Plaintiffs have lost the love, affection, companionship, care, protection, and
15 guidance since the death and in the future.

16 Plaintiffs have suffered emotionally and mentally and will continue to
17 suffer in the future. Plaintiffs have suffered pain, grief, sorrow, anguish, stress,
18 and mental suffering since the death and reasonably probable to be experienced in
19 the future. Plaintiffs have incurred funeral and burial expenses.

20
21 **Wherefore**, Plaintiffs pray for judgment against the United States of
22 America as follows:

23 1. For their general and special damages incurred herein in a sum
24 deemed reasonable and just;
25 2. For their assessable costs incurred herein; and
26 3. For such other and further relief as seems proper in the premises.

1
2 DATED this 21st day of August, 2015.

3 **JESUS R. ROMO VEJAR, P.C.**
4 **RISNER & GRAHAM**

5 */s/ William J. Risner*

6 **William J. Risner, Esq.**
7 *Attorneys for Defendants*
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