

JUDGE PHILIP MARTINEZ

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

2005 DEC 21 PM 2:32

JANET PADILLA, INDIVIDUALLY §
AND AS REPRESENTATIVE OF THE §
OF THE ESTATE OF §
LUIS PADILLA; AND ON BEHALF §
OF LUIS PADILLA, JR., (A MINOR) §
INDIVIDUALLY AND AS §
REPRESENTATIVE OF THE ESTATE §
OF LUIS PADILLA, AND JACQUELINE §
PADILLA, (A MINOR) INDIVIDUALLY §
AND AS REPRESENTATIVE OF THE §
ESTATE OF LUIS PADILLA; AND §
JASMINE PADILLA (A MINOR) §
INDIVIDUALLY AND AS §
REPRESENTATIVE OF THE §
ESTATE OF LUIS PADILLA, §
ENRIQUE PADILLA AND SILVIA §
PADILLA §

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EP05CA0478

MARIA TERESA REYES, §
INDIVIDUALLY AND AS §
REPRESENTATIVE OF THE ESTATE §
OF FERNANDO REYES; AND ON §
BEHALF OF FERNANDO REYES, JR. §
(A MINOR), MAYTE REYES, CLAUDIA §
REYES, AND TANIA REYES §

Civil Action No. EP _____

JUDGE MONTALVO

BERTHA ORTIZ, INDIVIDUALLY §
AND AS REPRESENTATIVE OF THE §
OF THE ESTATE OF RAMIRO ORTIZ, §
BERTHA SANCHEZ, ELIZABETH §
ORTIZ, AND DALIA ORTIZ §

MAYRA RODRIGUEZ, INDIVIDUALLY §
AND AS REPRESENTATIVE OF THE §
OF THE ESTATE OF OSCAR §
RODRIGUEZ §

Plaintiffs, §

vs. §

UNITED STATES OF AMERICA §
Defendant. §

PLAINTIFFS' ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

The Plaintiff, Janet Padilla (“Janet” or “Ms. Padilla” or “Plaintiff”) files this complaint on behalf of herself, the estate of Luis Padilla, and her children Luis Padilla, Jr., Jaqueline Padilla, Jasmine Padilla; as well as Enrique Padilla, and Silvia Padilla collectively the (“Padilla Plaintiffs” or “Plaintiffs”). In addition, Plaintiff, Maria Teresa Reyes, files this complaint on behalf of herself, the estate of Fernando Reyes, and on behalf of her child Fernando Reyes, Jr.; Mayte Reyes, Claudio Reyes, and Tania Reyes, collectively the (“Reyes Plaintiffs” or “Plaintiffs”). Also, Plaintiff, Bertha Ortiz, files this complaint on behalf of herself, the estate of Ramiro Ortiz; Bertha Sanchez, Elizabeth Ortiz, and Dalia Ortiz, collectively the (“Ortiz Plaintiffs” or “Plaintiffs”). Also, Plaintiff, Mayra Rodriguez, files this complaint on behalf of herself and the estate of Oscar Rodriguez, collectively the (“Rodriguez Plaintiffs” or “Plaintiffs”).

Each of the Plaintiffs complain of the Defendant, The United States of America (“USA” or “United States”) and in support of a cause of action, would show the Court the following:

I.

PARTIES AND SERVICE

1. Plaintiff Janet Padilla is the wife of the deceased, Luis Padilla a resident of El Paso, El Paso County, Texas. Ms. Padilla is a representative of the Estate of Luis Padilla.
2. Plaintiff Luis Padilla. Jr., a minor, is the son of the deceased, Luis Padilla, a resident of El Paso, El Paso County, Texas. Luis Padilla. Jr. is a representative of the Estate of Luis Padilla.
3. Plaintiff Jacqueline Padilla, a minor, is the daughter of the deceased, Luis Padilla, a resident of El Paso, El Paso County, Texas. Jacqueline Padilla is a representative of the Estate of Luis Padilla.

4. Plaintiff Jasmine Padilla, a minor, is the daughter of the deceased Luis Padilla, is a resident of El Paso, El Paso County, Texas. Jasmine Padilla is a representative of the Estate of Luis Padilla.

5. Plaintiff the Estate of Luis Padilla, is represented by Plaintiff Ms. Padilla for the benefit of all parties entitled to bring a cause of action for the death of Luis Padilla and for any and all other causes of action at common law to which they are entitled. There was no need for an administration of the Estate of the Deceased and all lawful heirs are parties to the lawsuit.

6. Plaintiff Enrique Padilla is the father of Luis Padilla and a resident of El Paso, Texas.

7. Plaintiff Silvia Padilla is the mother of Luis Padilla and a resident of El Paso, Texas.

8. Plaintiff Maria Teresa Reyes is the wife of the deceased, Fernando Reyes a citizen of Mexico. Ms. Reyes is a representative of the Estate of Fernando Reyes.

9. Plaintiff Fernando Reyes, Jr. a minor, is the son of the deceased, Fernando Reyes.

10. Plaintiff Mayte Reyes is the daughter of the deceased, Fernando Reyes.

11. Plaintiff Claudia Reyes is the daughter of the deceased Fernando Reyes.

12. Plaintiff Tania Reyes is the daughter of the deceased Fernando Reyes.

13. Plaintiff Bertha Ortiz is the wife of the deceased, Ramiro Ortiz a citizen of Mexico. Ms. Ortiz is a representative of the Estate of Ramiro Ortiz.

14. Plaintiff Bertha Sanchez is the daughter of the deceased Fernando Reyes.

15. Plaintiff Elizabeth Ortiz is the daughter of the deceased Fernando Reyes.
16. Plaintiff Dalia Ortiz is the daughter of the deceased Fernando Reyes.
17. Plaintiff Mayra Rodriguez is the wife of the deceased, Oscar Rodriguez. Ms. Rodriguez is a representative of the Estate of Oscar Rodriguez.

The Plaintiffs of each estate are represented by their survivors for the benefit of themselves, the estate, and the minor child, and each is entitled to bring a cause of action for the deaths described herein and for any and all other causes of action at common law to which they are entitled. There is no need for an administration of the Estate of the Deceased and all lawful heirs are parties to the lawsuit.

18. Defendant the United States of America may be served with a summons and copy of this Complaint by serving the following:

- a. Johnny Sutton, the United States Attorney for the Western District of Texas at 601 N.W. Loop 410, Suite 600, San Antonio, Texas 78216.
- b. Alberto Gonzales, the Attorney General, Department of Justice, 950 Pennsylvania Avenue, N.W., Room B-324, Washington, D.C. 20530.

19. If the United States of America was a private person, it would be liable to the Plaintiffs in accordance with the laws of the state of Texas. The individual agents were acting on behalf of the United States of America including Kenneth Cates, Patricia Kramer, Curtis Compton, Giovanni Gaudio, Raul Bencomo, Guillermo Ramirez Peyro and Juanita Fielden in the scope of their employment with the Bureau of Immigration and Customs Enforcement ("ICE") and the United States Attorney, Department of Justice. The United States is liable for the actions of Cates, Kramer, Curtis, Gaudio, Bencomo, Ramirez and Fielden.

20. Juanita Fielden, who deviated from her responsibilities to act as a federal prosecutor, engaged in nondiscretionary actions making the government liable when she made operational decisions and acted as a federal investigative and law enforcement officer. More specifically, Mr. Giovanni Gaudioso allowed Juanita Fielden to make operational and tactical decisions to directly interfere with the investigation of DEA officials.

“In fact the prosecutor stated that she had ordered BICE personnel to refuse DEA access to tapes of the CS, while expressing concern regarding our DEA sharing of information with Mexican federal authorities.”

-DEA Chief, Sandalio Gonzalez

21. Whenever in this complaint reference is made to "Agents" such allegation shall be deemed to mean the acts of the agents working for ICE and the Department of Justice acting individually, jointly, and/or severally on behalf of the United States of America.

II.

JURISDICTION AND VENUE

22. This action arises under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-80 as fully alleged in this Complaint. The Court has jurisdiction over this action filed pursuant to 28 USCS §2675(a), as the claim was set forth herein was presented to the Department of Homeland Security, Immigration and Customs Enforcement (“ICE”). The ICE department denied the claim on June 24, 2005. Additionally, venue is proper in the Western District, El Paso Division where the Plaintiffs reside or the district in which the acts or omissions giving rise to the suit occurred. 28 U.S.C. §1402(b). In addition, venue is governed by 28 U.S.C. §1391(e) and proper in El Paso, Texas where a substantial part of the events or omissions giving rise to the claims occurred, and where the agents reside.

III.

FACT STATEMENT AND BACKGROUND

23. The allegations in this Complaint is corroborated and proven by the internal letter memorandum drafted and signed by Mr. Sandalio Gonzalez, Special Agent in Charge for the Drug Enforcement Administration, DEA and the DEA administrative head in El Paso, Texas during the time of the occurrences detailed in this complaint.

24. Mr. Gonzalez clearly delineates the “unnecessary loss of human life” caused by the negligence of agents named in this complaint. Mr. Gonzalez states that the mishandling of the Carrillo Fuentes investigation that has resulted in “unnecessary loss of human life in the Republic of Mexico, and endangered the lives of Special Agents of the Drug Enforcement Administration (DEA) and their immediate families assigned to the DEA Office in Ciudad Juarez, Chihuahua, Mexico.”

25. Mr. Gonzalez wrote to Mr. John Gaudioso that there is no excuse for the events ... which led to the emergency evacuation of our personnel and their families in Ciudad Juarez. Adding that he [has] no choice but to hold [Gaudioso] responsible for this unfortunate situation.

26. The allegations in this Complaint are proven and corroborated by the investigations completed by Mr. Sandalio Gonzalez and his team, and two separate management reviews performed by the Immigration and Customs Enforcement, and the Drug Enforcement Administration. The investigation revealed the following irrefutable facts detailed below:

- a. The disclosure of the deaths of Enrique Padilla and others and the chain of events began when hired killers working for Santillan Tabares went to the residence of a DEA agent in Ciudad Juarez, and later caused local police to make a traffic stop of the agent’s vehicle which at the time was occupied by the agent and his family members.

- b. The mishandling of the informant investigation led to the murder of several innocent people and the attempted murder of a DEA agent and his family.
- c. During the early part of 2002, the U.S. Department of Justice Drug Enforcement Administration initiated Operation Sky High, a U.S. multi-agency bilateral investigation with Mexican federal authorities, targeting the Vicente Carrillo Fuentes organization (VCFO). Coordinating meetings in El Paso were convened among the participants, which included DEA, FBI, BICE, the U.S. Attorney's Office (USAO), and Mexican federal officials representing the Office of the Attorney General (PGR). Everyone agreed to work together and do everything possible to disrupt and/or dismantle the (VCFO) on both sides of the border.
- d. As of February 24, 2004, the only U.S. agency that honored the gentleman's agreement was the DEA.
- e. From the very beginning, BICE personnel and the prosecutor from the USAO have exhibited an unfounded and indeed inexcusable lack of trust of DEA personnel, in particular the agents stationed in Mexico. Allegedly, the DEA agents in Mexico share too much information with their Mexican counterparts. This mistrust is insulting and runs contrary to the agreement made at the start of Operation Sky High.
- f. DEA agents in both El Paso and Ciudad Juarez have honored every request made by our agents, as well as by the prosecutor, to not share information with Mexican authorities even though these requests, and the attitude in general of the ICE agents and the prosecutor Juanita Fielden, go against the spirit of cooperation agreed upon by everyone present at the Operation Sky High meetings in El Paso.
- g. On about August 5, 2003, while working for your agency, Guillermo Ramirez Peyro, also called "Lalo", the BICE confidential source,

participated in murders in Ciudad Juarez. Shortly thereafter the actions of Ramirez Peyro or "Lalo" were misrepresented to Mexican authorities that were told via official BICE correspondence that Lalo had merely "witnessed" a murder and would soon be available to provide testimony to the PGR.

- h. The CS-confidential source (Guillermo Ramirez Peyro) was in fact a participant in the torture/murder of Fernando Reyes Aguado, as reflected in his debriefing report dated August 25, 2003, which clearly states that the CS **supervised the murder.**
- i. Mr. Gonzalez of the DEA states that: When considering this situation, it is not surprising to me that people in [Gaudio's] agency and the USAO would be concerned about DEA agents sharing "too much information" with their Mexican counterparts. While DEA personnel have done everything possible to assist Mexican officials without compromising BICE information, BICE personnel have thrown obstacles in the [DEA's] way and concealed vital information that could have saved lives.
- j. Following the murder of Fernando Reyes Aguado in August 2003, the BICE agents requested several country clearances for Lalo to travel to Ciudad Juarez; and they continued sending Lalo to Juarez while failing to report his activities to DEA as required by the agencies internal agreements. The BICE/FBI wrote over 200 reports of investigation regarding the VCFO Lalo investigation, yet none were distributed to the BICE personnel assigned in Mexico.
- k. BICE agents failed to provide DEA agents in Juarez with the exact location where the body of Fernando Reyes Aguado was buried, stating that the information given by Lalo, the CS, was vague, thereby obstructing a murder investigation in Mexico, and eventually placing the lives of DEA agents and their families in Ciudad Juarez in grave danger.

- l. During Lalo's debriefing by BICE agents, Lalo admitted to the killing of Fernando Reyes Aguado, as well as to knowing the exact location of the burial site because following the debriefing, Lalo went back to the house in Juarez to give money to Alex Garcia. The information regarding the murders by Lalo and explicit information regarding the house was located in the BICE debriefing report dated August 25, 2003.
- m. The obstruction of the murder investigation by BICE officials and agents gave Lalo and the Santillan Tabares organization freedom to continue their killing spree for several more months. BICE obstruction eventually led to the sequestration, torture, and murder of Luis Padilla.
- n. On August 11, 2003, DEA Group Supervisor Sandalio Gonzalez was asked by Associate SAC Kramer to convene a meeting with FBI, DEA and BICE personnel to discuss the CS-Lalo/murder issue as well as the issue of Mexican police corruption.
- o. The meeting was scheduled to take place in the DEA office on August 15, 2003 at 2:00 p.m., however, BICE personnel did not show up as scheduled, and the GS BICE counterpart notified him that the meeting had been cancelled.

The BICE and U.S. Attorney allow Murders to Occur

- p. Following the August 2003 murder of Fernando Reyes Aguado, BICE personnel and the prosecutor, Juanita Fielden, ignored well founded recommendations made by DEA agents to arrest Santillan and "take down" the case, thereby allowing at least thirteen other murders to take place in Ciudad Juarez, in what can only be described as a display of total disregard for human life, and disrespect for the rule of law in Mexico. The obstruction

of justice and callous disregard for human life was to protect the drug case against Santillan and a cigarette smuggling case in which Guillermo Ramirez Peyro was a witness.

- q. On about December 19, 2003, the BICE office submitted a request to lure Santillan into the U.S. without the requisite ASAC level coordination with the DEA office or the DEA in Mexico City. This was after DEA agents assisted and participated in the drug case against Santillan, since it fell under the umbrella of Operation Sky High. During the telephone conversation between DEA and ICE, officer Gaudioso referred to the matter of the Santillan lure as a “minor issue.”
- r. Santillan and Guillermo Ramirez Peyro “Lalo” were allowed too continue their activities in Mexico following the August 2003 of Fernando Reyes, and on January 14, 2004, DEA agents and their families stationed in Ciudad Juarez were and remain evacuated from their residences because hired killers working for Santillan tried to identify two of the DEA agents through Lalo under the ruse of a traffic stop.
- s. Santillan and others, with the assistance and participation of Lalo, committed a series of murders in Ciudad Juarez that have shocked the conscious of decent, law-abiding citizens on both sides of the border.
- t. Following the evacuation of DEA personnel in Ciudad Juarez, BICE agents, with the concurrence of Mr. Gaudioso, refused to immediately present Lalo to Mexican federal authorities so that his testimony could be used as the probable cause necessary to arrest the corrupt police officials in Juarez. Gaudioso and the BICE’s failure to present Lalo to Mexican federal officials resulted in a one-week delay before probable cause could be established to search for the dead bodies. The officials told the DEA attaches in Mexico that they would not have had to wait to discover the bodies prior to arresting the corrupt officers. Now the dangerous killers are at large. To make

matters worse, Gaudioso would not allow Lalo, the CS, to call Comandante Loya so that Mexican federal authorities could arrest him for his participation in the murders.

- u. Mr. Giovanni Gaudioso, BICE head, and the prosecutor, Juanita Fielden, delayed until February 2004, and refused repeated requests for direct access to Guillermo Ramirez Peyro, the CS, so that the DEA could at least attempt to resolve the threat.
- v. In an egregious act of misconduct, prosecutor Juanita Fielden stated that she had ordered BICE personnel to refuse DEA access to tapes of the CS, while expressing concern regarding the DEA sharing of information with Mexican federal authorities. Gaudioso allowed a prosecutor to make an operational decision that interfered with the investigation of a threat against the lives of fellow U.S. federal agents and their families.
- w. It was not until the DEA Chief of Operations met with his counterpart in the BICE agency that Gaudioso agreed to allow DEA agents direct access to the confidential source, Guillermo Ramirez Peyro, however, Gaudioso then placed restrictions on access that are inconsistent with both the spirit of cooperation that should exist between the two agencies, and with good law enforcement practices and procedures. Gaudioso's reasoning for doing this was that, in his view, DEA agents were targeting Ramirez, the CS, and that he could not allow that to happen.
- x. The DEA chief, Mr. Sandalio Gonzalez expressed his concern "In light of that, we cannot but wonder why Gaudioso would go to such extreme lengths to protect this 'homicidal maniac' informant."
- y. In fact, the procedures employed in the handling of this informant, the fact the BICE agents continued working with him after he tried to run a 100 pound load of marijuana behind the DEA's back last June, and his incredible

story after he tape recorded the murder of Fernando Reyes, leads the DEA and Mr. Gonzalez to conclude that the informant may have been controlling the agents. BICE agents allowed the CS, Guillermo Ramirez Peyro to continue on an unabated crime spree while under their so-called control.

z. The restrictions Gaudioso and Fielden placed on the DEA interview of the CS had the effect of obstructing the investigation of the threat against the agents, a threat that should have never taken place, and that came about as a result of cold killers who went to an agent's residence, and later caused local police to make a traffic stop of the agent and his family for purposes of identification and possibly their abduction and murder.

aa. The situation created by Gaudioso and Fielden is so bizarre that it was difficult for DEA chief Mr. Sandalio Gonzalez to write and for him to believe. Mr. Gonzalez had never before come across such callous behavior by fellow law enforcement officers. The bottom line is that as a result of these actions, Comandante Loya and other murder suspects are now fugitives. There was no logical reason to prevent the CS from calling Loya so Mexican authorities could arrest him.

bb. Mr. Gonzalez, the El Paso DEA chief, clearly indicts the agents as accomplices stating rhetorically:

- a. What is more important here, the safety of agent personnel and their families, or a drug and cigarette smuggling cases?
 - b. Santillan's subsequent indictment for murders that occurred after August 5, 2003, that could have been prevented, is disturbing.
- cc. Gaudioso mentioned during telephone conversation that one of the DEA Juarez agents "lost his cool and made a fool of himself" while trying to obtain information regarding the threat. The DEA chief strongly disagrees with Gaudioso's assessment in that regard, and proposed to him that while

there may be fools involved in this debacle, not one of them is employed by the DEA.

- a. The DEA chief further adds: What would you [Gaudio] have done if you and your family had been threatened by VCFO killers and I refused you access to a DEA informant who might be of help in this case?
- dd. The CS, Guillermo Ramirez Peyro, knew on January 13, 2004 that Santillan was planning a “carne asada” or “barbeque” [code for torture and murder] for the Parsioneros house the following day, and nothing was done about it until Santillan called the CS on the night of the 14th to check the names of the DEA agents. By that time, three more human beings had been tortured and killed. Luis Padilla was one of those victims.
- ee. Gaudio told the DEA Chief that it was not until January 25, 2004 that he learned of the CS’s involvement in murders other than the one on August 5, 2003.
- ff. Gaudio also told the DEA Chief that BICE agents no longer work with DEA personnel assigned to the Ciudad Juarez Resident Office.
- gg. Gaudio’s actions are unacceptable and go against the spirit of cooperation inherent in the reasons for creating the Department of Homeland Security.
- hh. According to the DEA Chief, Mr. Gonzalez, it appeared to him after reading the statement given by the CS to the Mexican authorities, that the CS’s handlers may have known about the “carne asada” [torture and murders] scheduled for January 14th, and perhaps others prior to that.
- ii. The obvious question to the DEA Chief: “If the killer had not called the CS to check on the DEA agents on January 14, how many more dead bodies would we have by now?”

- jj. Now by February 2004, six months after the murder of Fernando Reyes Aguado, the PGR has testimony from several member of Santillan's killing circle. The PGR knows that U.S. authorities could and should have taken steps to stop these assassins. Both the DEA and the PGR have spent countless hours building trust and sharing sensitive information without compromise with trusted counterparts in Mexico.
- kk. The misconduct, obstruction of justice, and collusion with a homicidal maniac by Giovanni Gaudioso and Juanita Fielden have severely strained the relationship with the Mexican Attorney General (PGR) and the Drug Enforcement Administration (DEA).
- ll. The Regional Director in Mexico and the DEA Chief find the situation created by BICE officials including Mr. Giovanni Gaudioso and the U.S. Attorney's office, Juanita Fielden, extremely disturbing and appalling especially since the agents are sworn to uphold the laws of the United States.

27. According to the United States Code, 18 U.S.C.S § 1111 (2005) and § 2340, murder and torture is defined as follows:

Murder

(a) Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, child abuse, burglary, or robbery; or perpetrated as part of a pattern or practice of assault or torture against a child or children; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.

Torture

(1) "torture" means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

(2) "severe mental pain or suffering" means the prolonged mental harm caused by or resulting from--

(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death; or

(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

(3) "United States" means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States.

Furthermore, according to the United States Code, 18 U.S.C.S § 3 (2005) accessory after the fact is defined as follows:

Accessory after the fact.

Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact.

Luis Padillas was a victim of torture and murder by Guillermo Ramirez Peyro and the VCFO; and the victim of mishandling and collusion by BICE and the U.S. Attorney's office in El Paso.

28. Luis Padilla, husband of Plaintiff Ms. Padilla and father of three minor children, Plaintiffs Luis Padilla Jr., Jacqueline and Jasmine was a former Socorro High School athlete and a 1995 Socorro graduate. Luis Padilla went missing since January 14, 2004. His body was later found in the backyard of a small house in Juarez, Mexico. He was 29. The story behind his death is detailed below.

29. Beginning on or about January 2003, agents working for the United States Immigration and Customs Enforcement hired and paid a confidential informant who took part in the killing of several people in the border city of El Paso, Texas. Between August 2003 and January 2004, nearly twenty people, including Luis Padilla, were tortured, killed and then buried in the back yard of a house in Juarez, Mexico.

30. The informant was a high-level member of the Juarez drug cartel working for Santillan Tabares, a member of the Vicente Carrillo Fuentes drug cartel. The informant worked as a double agent: providing the U.S. authorities with questionable intelligence information, while also working for the Juarez drug cartel.

31. The informant operated under the supervision and under the authority of the United States Immigration and Customs Enforcement ("ICE") officers, agents Cates, Kramer, Compton, and his handler Bencomo. The informant also operated under the authority and supervision of the Assistant United States Attorney, Fielden. Contrary to protocol Fielden made tactical decisions regarding the handling and operations of the informant. As early as August 2003, ICE officials including agent Cates, Kramer, Compton, and Bencomo and assistant U.S. attorney Fielden were aware that the informant was participating in kidnapping and killings.

32. The informant was later identified as Guillermo Ramirez Peyro, a/k/a "Ramirez" or "Lalo", "SA-913-EP" in a debriefing before the Drug Enforcement Administration, the Mexican Consulate, the Legal Attaché for the Attorney General's Office of the Republic of Mexico (PGR), and the Mexican Office of Public Depositions. The informant admitted to the kidnapping and killings of several individuals including Luis Padilla.

Testifying under condition of immunity, Ramirez detailed the numerous killings he committed while under the protection of the United States government. Ramirez bragged in grisly detail how the murders were carefully planned and carried out.

33. In August 2003 Ramirez had killed his first victim while on the U.S. payroll, a well known Juarez attorney named Fernando Reyes Aguado. The killing was actually monitored and recorded by the ICE officials as it occurred. The ICE account of the incident details how Ramirez and his men tortured and brutally killed. The shocking details also reveal how Reyes pleaded for his life.

34. In the course of six months, Ramirez participated in the killings of over twelve (12) people, possibly more. In each incident, the informant was instrumental in luring the victims to the house on Parsioneros Street in Juarez, Mexico where the killings occurred. He used duct tape, rope, and a plastic bag for extensive torture of the cartel victims. After each horrible ordeal, Ramirez would purchase sacks of lime for burial and decomposition of the bodies. Ramirez stacked and buried the bodies on top of each other in the backyard of the house. In a later debriefing, Ramirez provided his ICE handlers a drawing of the house with numerous stick figures representing over a dozen murder victims.

The Recruitment

35. Ramirez had worked for the DEA but the agency "deactivated" him in June 2003 when the U.S. Border Patrol caught him trying to smuggle drugs across the New Mexico border into the United States. Ramirez had attempted to smuggle a load of marijuana through Las Cruces, New Mexico. The DEA had targeted Ramirez for prosecution but ICE officials recruited him as an informant. A deal was struck. The United States Justice Department was able to get the charges dropped against Ramirez. Thereafter, Ramirez became a paid informant for ICE under the protection of the U.S. Attorney's office in El Paso. Instead of landing in jail, Ramirez continued to work for Immigration and Customs -ICE.

36. In the course of two years, Ramirez was paid hundreds of thousands of dollars by the U.S. government to work for ICE and the U.S. attorney. Although Ramirez purported to work for ICE, yet he continued to work illegally and take orders from the Juarez drug cartel. Ramirez had outsmarted his handlers: he could traffic in drugs, torture and kill countless victims -while on the payroll of the U.S. government. With no fear of prosecution, Ramirez killed and threatened indiscriminately. Yet ICE and Fielden were not necessarily outsmarted. Both agencies had recorded the killing of Reyes as early as August 2003. The last murders according to the Superseding indictment filed by Fielden, occurred in January 2004, six months later.

37. Apathy, marred by incompetence characterized the operations run by ICE and the United States Attorney's office in El Paso. Yet the facts would reveal that both agencies were consciously aware of the ongoing killings. All killings after August of 2003 could have been prevented. At the very least, the Ramirez operation should have been shut down. After the Reyes murder, a senior government official demanded that ICE and the prosecutor shut down the operation. The request was refused.

38. Both ICE and the Justice Department had every opportunity to arrest Santillan and the cartel members and shut down the organization in El Paso and Juarez. ICE and the assistant U.S. Attorney knew the intimate details of most of the killings -from the initial planning to the eventual torture and burial of the bodies. Most revealing was the statement from an ICE supervisor when confronted with the evidence of the killings. "Who gives a damn, they're only Mexican," was the response.

Ramirez as a Double Agent

39. Ramirez continued to work for the Juarez drug cartel and its chief, Vicente Carrillo Fuentes and the Bureau of Immigration and Customs Enforcement and the Justice Department and their chiefs Gaudioso and Fielden. Ramirez provided disinformation to both organizations and receiving money from both organizations -while leaving a trail of dead bodies.

40. The cartel got its point across and Fielden got her indictments. Both sides got what they wanted –and Ramirez got paid. But the cost was high: after the killing of Reyes, twelve more people were brutally killed.

The killing of Fernando Reyes Aguado

41. The informant notified his ICE supervisors on August 5th, 2003 of a planned killing that day in Juarez. Ramirez and his cartel cohorts had planned the brutal killing of Fernando Reyes. Ramirez had communicated the murder plot to his ICE handlers and the Justice Department. No action was taken to prevent the killings –instead ICE and the Justice Department facilitated the process in order to record the killing.

42. ICE official Garcia recounted details of the killing of Reyes in a memorandum written on August 25, 2003. The memo discusses Ramirez' first recorded death victim. The document from ICE details the debriefing of the informant to “obtain information related to events that occurred between Thursday July 31, 2003 and Tuesday, August 5, 2003 related to a homicide that was allegedly supervised by SA-913-EP [the informant].” The informant was later identified as Jesus Ramirez in his sworn deposition at the Mexican Consulate in Dallas, Texas.

43. Ramirez recounted the details of the brutal killing of Reyes, the hapless Mexican lawyer. Apparently, the ICE officials ordered Ramirez to turn on his cell phone so they could listen in on his activities from their El Paso offices. The ICE officials listened as Ramirez and his Mexican accomplices bound Reyes using duct tape, a rope, and finally used a plastic bag and a shovel to kill the victim. ICE officials recorded the brutal torture and slaying of the lowly victim suspected of losing a delivery belonging to the cartel. In deposition, Ramirez claimed that Reyes “begged for his life” as the brutal torture ensued.

44. According to the memo, the informant was always provided with a firearm when he crossed the border into Mexico. As a routine matter, ICE handlers allowed Ramirez to carry a 9mm Beretta with a 15 round magazine upon crossing the border. Ramirez even carried a second magazine, in case the first magazine contained only blanks.

45. The U.S. government was clearly on notice that Ramirez had committed the killing. ICE officials had a live feed of the Reyes killing as it occurred via Ramirez' cell phone. The officials knew and should have known that other killings would soon follow. The ICE memorandum, as well as the Ramirez deposition reveals that ICE sponsored, controlled, and armed Ramirez allowing him to torture and kill on behalf of the drug cartel. With no fear of prosecution, Ramirez and his Mexican accomplices would terrorize the border town in a siege of violence and murder.

The Dead Bodies

46. By January 2004, over a dozen dead bodies were discovered buried in a house on Parsioneros Street in Juarez, Mexico. The key killer was Jesus Ramirez, a/k/a Lalo, otherwise known by his handlers as SA-913-EP. In a debriefing, Ramirez provided his ICE handlers a drawing of the house with numerous stick figures representing over a dozen death victims. ICE and the Justice Department, however, knew that the bodies were stacking up.

47. By February 2004, ICE and the Justice Department had to come to terms with the crimes committed by Ramirez. Ramirez gave a sworn deposition at the Mexican Consulate in Dallas, Texas. Ramirez admits he bought duct tape, gauze, and plastic bags in order to carry out the killings. He even purchased several sacks of lime for the decomposition and burial of the bodies. Ramirez was an accomplice in the death of Reyes –handing the plastic bag that would eventually suffocate Reyes. The deposition reveals that the informant was instrumental in another twelve (12) deaths.

48. The ICE memorandum read in conjunction with Ramirez' deposition clearly proves that ICE officials had details of the planning, the torture, and killing of Fernando Reyes. The memo discusses the torture and killing of Reyes preceded by Ramirez purchasing duct tape, plastic bags and quick lime for later burial. By January 2004, Ramirez admitted to torturing and killing several victims -carried out in the same manner as the Reyes killing. Under the watchful eyes of ICE officials, Ramirez actively

participated in the planning and carrying out of several killings. Ramirez even alerted his ICE handlers before the killings took place. Afterwards, Ramirez paid the other killers to help bury the bodies in the Parsioneros house in Juarez.

A Serial Killer

49. During his debriefing in Dallas, Ramirez was less than remorseful. Testifying on condition of immunity, Ramirez was brazen in his testimony. After recounting dozens of killings, Ramirez bragged that he struck fear in Juarez announcing to all that “we are a serious organization,” capable of killing anyone. Ramirez and his band of killers even killed women and children. Ramirez describes the killing of a mother and three-year-old daughter. The two came to ask the cartel for assistance -money for the legal defense of their father. Rather than giving the mother and little girl money, they were killed, instead.

50. Ramirez and his band of cutthroats continued to kill anyone who crossed them, whether or not they were involved in the drug trade. The victims are targeted for sequestration, torture, and eventual killing. The targets, however, were seldom found alone. Many were taken off the street, at restaurants, shops, and businesses. And along with the targets, any perceived companions were also abducted and killed. Luis Padilla was one such innocent victim.

Death of Luis Padilla

51. Ramirez and his group killed indiscriminately. Bystanders are abducted along with the principal targets. Protected by the U.S. government while working for the Mexican drug cartel there was no limit to their siege of torture and killing. Ramirez continued to take orders from the Carillo-Fuentes drug cartel whose sole objective was to increase power and wealth and at the same time eliminate any competition through torture and death.

52. On or about January 8th, 2004 six months after the recorded killing of Reyes, Ramirez and his cohorts targeted a courier for the “carne asada” or barbeque. The reference is meant to signify the usual abduction, torture, and killing. Santillan ordered Ramirez to prepare a carne asada for the targeted courier or “mule.” But as usual, others were abducted along with the target. Making a day trip to Juarez, Luis Padilla, an El Paso resident, was also taken. A victim of the Ramirez hit squad, Padilla was never again seen by his family. In attempt to leave no trace, Padilla and the target were killed by Ramirez and the cartel. His mutilated body was eventually identified at the Parsioneros house in Juarez.

53. Luis Padilla was one of the last persons killed by Ramirez’ group. His death could and should have been prevented. Nevertheless, Padilla was abducted, tortured, and killed due to the negligence and conscious indifference of the Bureau of Immigration and Customs Enforcement and the assistant U.S. Attorney in El Paso. Mr. Padilla left a wife and three small children.

DEA agent, wife and children targeted for death

54. On January 13, 2004 the torture and killings would have continued had not two U.S. DEA agents been targeted for assassination. One victim of Ramirez’ brutal torture revealed the address of the house in a gated residential community occupied by a businessman living in Juarez, Mexico. The group suspected that the house contained a large cache of illegal drugs. Ramirez and the cartel planned a siege on the house and a “barbeque” of the occupants.

55. On January 14, 2004 Ramirez discovered, through his ICE contacts, that the businessman was actually a DEA agent living in Mexico with his family. Ramirez immediately reported to the drug cartel the identity and location of the DEA agent and his family. The stage was set for the kidnapping, torture, and killing.

Time to leave

56. On that day cartel gunmen accompanied by heavily armed Juarez police, descended upon the house in Juarez and lay in ambush for the agent and his family. They knocked on the door. The agent's wife realized that something was amiss. Trained to suspect strange visitors, she did not answer and waited for her husband. When he returned home, everyone jumped in the car and immediately vacated. It was no longer safe.

57. Waiting for the family to leave the gated community, several gunmen accompanied by Juarez police, pulled the family over at a street light. With guns drawn, the cartel gunmen accompanied by paid police officers forced the agent, wife, and two children out of his automobile. Facing imminent death of his family, in desperation the agent used his cell phone to call his partner who was in Juarez at the time. The second agent appeared on the scene to assist his comrade and his family.

58. The agent and his family along with the second agent faced several gunmen intent on killing. The second agent acted quickly and summoned help. By sheer luck, the agent reached his diplomatic contacts and several state police officers who immediately appeared on the scene. The Chihuahua State Police officers, verifying the diplomatic identification cards carried by the agents, were able to secure their release.

59. A Drug Enforcement Agency agent and his family were almost kidnapped and murdered sending shock waves throughout the law enforcement community. ICE and the Justice Department could no longer ignore the siege of mayhem and murder. They could no longer ignore the serial killings. Tracking the serial killers was easy (Ramirez is on their payroll). Covering it up proved much more difficult.

The Criminal Prosecution

60. Just one month prior to the DEA fiasco, December 3, 2003, the Justice Department had filed a sealed indictment in the U.S. District Court in El Paso, listed as Cause No. EP-03-CR-2291-KC. The Justice Department and agent Fielden were aware, as early as in December 2003 that Ramirez had supervised and participated in several

murders. A senior official strongly recommended to both ICE and the prosecutor to arrest Santillan and shut down the operations in Juarez. These demands were ignored. Agent Fielden and ICE refused to make any arrests and instead continued the Ramirez operation. In January 2004, three more people, including Luis Padilla, were killed.

61. The sealed indictment is most revealing. While alleging drug charges and criminal conspiracy, it makes no mention of the multiple killings. Clearly the killings would have continued had the threat not extended to a DEA agent and his family. To agent Fielden, the innocent murder of El Paso residents was an acceptable price to pay. And to the ICE Immigration supervisors "Who gives a damn ... they are only Mexican."

62. After the attempted murder of two DEA agents, -the gig was up. The DEA discovered that Ramirez was kept on the ICE payroll and was the key participant in the Juarez murders. Back in August 2003, ICE never took the advice of the DEA to arrest Santillan and shut the operation down. Now, there is no denying that the ICE informant was involved in several killings. The original indictment has been amended by the Superseding Indictment that now includes various selective murder charges against the defendants. Santillan is named as the primary criminal defendant. Ironically, Santillan was nowhere in the vicinity at the time of the killings. In contrast, Ramirez was directly involved in the kidnapping, torture, and killing of each individual. Ramirez was never arrested. On the contrary, he was left on the street -free to carry out at least three more killings.

63. On January 15, 2004, El Paso sheriff's officers arrested Mr. Santillan Tabares, the day after attempts to kill two Juarez-based U.S. agents of the Drug Enforcement Administration were foiled. Shortly after the arrest of Mr. Santillan Tabares, Mexican and U.S. federal authorities unearthed several bodies at a home in Juarez. Initially, authorities believed the men were victims in a killing spree involving rival drug traffickers. Officials later learned about the role of the ICE informant in at least one of the killings.

Cartel members escape

64. In January 2004 shortly after the attempted assassination of the DEA agent and his family, senior DEA officials attempted to question Ramirez. The debriefing by the DEA allowed the PGR to obtain a search warrant for the Parsioneros house and arrest all the cartel members. The ICE handlers and the assistant U.S. attorney, intent on disguising evidence of their complicity, denied all access to Ramirez. The government officials also purported to protect Ramirez as a witness in a cigarette smuggling case. The DEA and the cooperating PGR in Mexico were both kept in the dark. The resulting one week delay allowed the cartel members to escape capture.

65. That same month, ICE and Fielden proclaim the results of a 2½ year old cigarette smuggling case filed under seal at the same time as the indictment of Santillan. ICE officials and the Justice Department laud the superior exploits of the Justice Department.

66. The reality is much different. The main defendant is a wheel chair bound invalid made out to be a drug kingpin. In the meantime, thirteen people are murdered and all the Attorney General is applauding the accomplishments in foiling a case involving the importation of tax free cigarettes. The tobacco companies are now protected.

Sweetheart Deals

67. Embarrassed, shamed, and incriminated, the prosecution of Santillan was marred by unorthodox procedure, lack of disclosure, and ultimately resulted in “sweetheart deals” for the criminals. Unprecedented deals were struck and criminal defendants were given “wrist slaps” for their complicity in the drug trafficking and killings. In court documents, Fielden, the assistant U.S. attorney, sought to modify the Court’s standing Order regarding the discovery of the criminal files. Fielden claims to have “massive amount of tape recordings and corresponding transcripts in this case” and would not “produce the copies until fourteen (14) days prior to trial.”

68. Thus, attorney Fielden thwarted any disclosure regarding the ICE and Ramirez murders and concealed her complicity. Lawful discovery is denied to the criminal defendants. Attorney Fielden claimed that early disclosure of such material regarding certain witnesses would place those witnesses, and possibly their families, in grave danger. Yet, Fielden failed to inform the Court that Ramirez, the key murderer, was put back on the street.

69. In the end, the criminal defendants received the sweetheart deals in order to hide the egregious ethical violations and miscarriage of justice by Immigration and Customs and the U.S. Attorney.

a. Criminal defendant, Jorge Abraham, leader of the cigarette smuggling case received only a five year sentence.

b. Criminal defendant, Heriberto Santillan Tabares, the Ciudad Juarez top lieutenant for Vicente Carrillo Fuentes Organization, responsible for at least twelve (12) tortures and murders will serve only twenty (20) years.

The Government Investigation

70. The Justice Department initiated a Management Review to investigate the killings murders involving a government informant. Several officials reported the violations of policy, regulations, and breach of protocol that led to over twelve (12) known murders perpetrated by Ramirez. The investigations even reveal criminal violations by several government officials involved in supporting and sponsoring the killings by Ramirez. The voluminous reports read in conjunction with the sworn deposition of Ramirez implicate all the agents as “accessories to murder.” The audit reveals that ICE officials and the assistant U.S. Attorney used extremely bad judgment but falls short of recommending prosecution.

71. Ramirez' complicity in the killings under the sponsorship and protection of the U.S. attorney's office and ICE officials –made him a dangerous liability for the U.S. government. Requests by the DEA to question and debrief Ramirez were repeatedly thwarted and blocked. Despite the fact that two DEA agents were nearly killed, access to Ramirez was denied. The truth regarding the killings involving ICE and Ramirez was suppressed.

72. On May 27, 2004, ICE official, agent Garcia issued a CONFIDENTIAL INFORMANT POLICY ADDENDUM. The memorandum states the following:

“[I]f an active informant is arrested or is believed to have engaged in unauthorized, unlawful conduct, including any act of violence, other than a petty crime or a minor traffic offense the use of that CI (confidential informant) should be immediately suspended. This pertains to information regarding any act of violence by the CI; whether alleged or confirmed, whether anticipated, current or historical.”

73. The memorandum, however, ignores the agency's incompetence and complicity regarding the 12 killings. Other reports are much more critical and nearly convict the officials involved in the Ramirez debacle. Thus far, however, the Justice Department has refused to take any legal action.

A Serial Killer roams Free

74. Ramirez became a liability. To everyone. To the U.S. government, to the Mexican government, and to the drug cartel. The U.S. government wanted to be rid of him. And the drug dealers seek his death. The Mexican government denies existence of the entire matter.

75. There is a problem. Ramirez refuses protective custody and the witness protection program. In the tainted view of the Justice Department, prosecution of Ramirez for murder is out of the question. He is a witness in the cigarette case and the

Santillan murders. If he is prosecuted for murder, he will take others down with him. Therefore, Ramirez is allowed to roam free.

Another Ramirez linked murder -death of Abraham Guzman

76. Ramirez won't go away. On August 25th, 2004 Ramirez negotiated a payment for himself to be delivered to at a Whataburger restaurant in El Paso. The informant sent his friend Abraham Guzman to make the pickup. Not trusting his friend, Ramirez sent his wife to watch the transaction from a parked car. There was no payment –only payback. Two gunmen shouted the name “Lalo” and emptied the bullets of a gun in the back of Guzman's head.

Injustice by the Justice Department

77. Lives are ruined. Children are left without a father. And the border town is cloaked in a reign of terror. Without a doubt, the Bureau of Immigration and Customs Enforcement and the Justice Department officials showed conscious indifference and callous disregard for human life. Attorney Fielden and ICE officials ignored the admonishments and warnings of the Drug Enforcement Administration after the agency had “blacklisted” Ramirez when he began running drugs behind their back. Attorney Fielden routinely made untrained and unqualified operational decisions regarding the control of Ramirez. Attorney Fielden has no authority or training in order to make such decisions. ICE and the Justice Department had full knowledge of the serial murders. A conscientious official demanded that ICE and the U.S. Attorney arrest Santillan and shut down the operation. ICE and Fielden refused. As early as August 2003, the U.S. Attorney and ICE knew where the bodies were buried. One auditor concluded that the agencies would have allowed the killings to continue had a DEA and his family not been threatened.

78. Ramirez and the cartel members kidnapped and murdered: Ramiro Ortiz, Fernando Reyes, and Oscar Rodriguez. Each individual was abducted in El Paso and subsequently tortured and murdered. The bodies were later buried in Juarez, Chihuahua,

Mexico. Even after the murders were discovered, Ramirez was allowed to roam free in El Paso. Subsequently, Ramirez caused the death of Abraham Guzman at a Whataburger restaurant in El Paso, Texas. Mr. Guzman was gunned down by assassins meant for Ramirez.

IV.

FEDERAL TORT CLAIM

79. The Plaintiffs hereby repeat and reallege the allegations contained within the preceding paragraphs as if fully set forth herein.

80. The Plaintiffs seek recovery of damages under the Federal Tort Claims Act, 28 U.S.C. §2671 et seq., where the intentional, negligent or otherwise wrongful acts or omissions of certain employees of the United States of America, Bureau of Immigration and Customs Enforcement, acting within the scope of their office or employment, proximately caused or substantially contributed to the harms complained of herein, all under circumstances where the United States, if a private person would be liable to Plaintiffs in accordance with the laws of the State of Texas.

81. The Plaintiffs have exhausted all administrative mandates under the Federal Tort Claims Act before the appropriate federal agency and a cause of action against the United States pursuant to 28 U.S.C. §2675. The government has denied the claims; and, therefore, the Plaintiffs seek redress through the court.

82. The right to be free from unwarranted bodily injury at the hands of law enforcement officers is supported by both the fourth amendment guarantee of the right to be secure in one's person and the Fifth Amendment guarantee against the loss of liberty without due process of law. *Shillingford v. Holmes*, 634 F.2d 263, 265 (5th Cir.1981). Where the intentional torts of federal law enforcement officers violate constitutional rights, the plaintiff "shall have an action under FTCA against the United States as well as a *Bivens* action against the individual officials alleged to have infringed their constitutional rights." *Carlson v. Green*, 446 U.S. 14, 20. The actions and omissions of

agents Cates, Garcia, Kramer, Curtis, Gaudioso, Bencomo, and Fielden were wanton and oppressive and were done with reckless and callous indifference to the Plaintiff decedent's constitutional rights. The actions, omissions and conduct of agents Garcia, Kramer, Curtis, Gaudioso, Bencomo, and Fielden directly and proximately caused the Plaintiff's death. The FTCA permits suit on claims for personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his employment. 28 U.S.C. §1346(b). The United States shall be liable "in accordance with the law of the place where the act or omission occurred." Therefore, the government is liable to the Plaintiffs for the following:

A) Wrongful Death

83. The government is liable for the wrongful death of the Plaintiff decedents by reason of the conscious indifference, reckless, negligent, and gross negligence for the conscious disregard for human life. The agent's conduct directly and proximately caused the foreseeable death of the individuals. The agents' actions and omissions were performed in the course and scope of their employment. As a result, the Plaintiffs are entitled to recover all actual damages allowed by law. The agents' actions and omissions constitute gross negligence and malice. The agents acted with malice characterized by ill will, spite, evil motive, and a purpose to injure. The agents' actions involved an extreme degree of risk but proceeded anyway with a conscious indifference to the rights, safety, and welfare of the decedents. As a result, the Plaintiffs are entitled to compensatory damages.

B) Malice:

84. The actions and omissions of agent Garcia, Kramer, Curtis, Gaudioso, Bencomo, and Fielden in recruiting, encouraging and allowing Ramirez to torture and kill several victims including Luis Padilla, under the shield of law was characterized by ill will, spite, evil motive, and a purpose to injure constituting malice. Such malice gave rise to a reasonably foreseeable risk of harm to the Decedent Luis Padilla and his survivors. As a result, the Plaintiffs are entitled to recover all damages allowed by law on account of

agents Cates, Garcia, Kramer, Curtis, Gaudio, Bencomo, Ramirez and Fielden actions and omissions constituting malice.

C) Negligence:

85. Agents Garcia, Kramer, Curtis, Gaudio, Bencomo, Ramirez Peyro and Fielden were all acting in the course of their employment at all times when they recruited, encouraged and allowed Ramirez to torture and kill several victims including Luis Padilla, under the shield of law. Needless to say that such action constituted a breach of their duty resulting to damages caused to the Plaintiffs by such breach amounting to negligence. As a result, the Plaintiffs are entitled to recover all damages allowed by law on account of agents Garcia, Kramer, Curtis, Gaudio, Bencomo, and Fielden actions and omissions constituting negligence.

D) Gross negligence:

86. Agents Garcia, Kramer, Curtis, Gaudio, Bencomo, and Fielden were all acting in the course of their employment at all times when they recruited, encouraged and allowed Ramirez to torture and kill several victims including Luis Padilla, under the shield of law. The acts and omissions of agents Garcia, Kramer, Curtis, Gaudio, Bencomo, and Fielden were the result of a conscious indifference to the rights, safety and welfare of Ramirez' victims including Luis Padilla and his family, resulting in damages caused to the Plaintiffs. Agents Garcia, Kramer, Curtis, Gaudio, Bencomo, and Fielden are therefore guilty of gross negligence and as a result, the Plaintiffs are entitled to recover all damages allowed by law on account of agents Garcia, Kramer, Curtis, Gaudio, Bencomo, and Fielden actions and omissions constituting gross negligence.

E) Conspiracy:

87. Agents Garcia, Kramer, Curtis, Gaudio, Bencomo, and Fielden were all in agreement in recruiting, encouraging and allowing Ramirez to torture and kill several victims including Luis Padilla, under the shield of law which was undoubtedly unlawful

and beyond their call of duty amounting to conspiracy. As a result, the Plaintiffs are entitled to recover all damages allowed by law on account of agents Garcia, Kramer, Curtis, Gaudioso, Bencomo, and Fielden actions and omissions constituting conspiracy

F) Intentional Infliction of Emotional Distress:

88. The actions and omissions of agents Garcia, Kramer, Curtis, Gaudioso, Bencomo, Ramirez and Fielden in recruiting, encouraging and allowing Ramirez to torture and kill several victims including Luis Padilla, under the shield of law were intentional, reckless, extreme and outrageous. Such actions and omissions resulted in the killing of Luis Padilla resulting in severe emotional distress to the Plaintiffs. As a result, the Plaintiffs are entitled to recover all damages allowed by law on account of agents Garcia, Kramer, Curtis, Gaudioso, Bencomo, and Fielden actions and omissions which resulted in intentional infliction of emotional distress on the Plaintiffs.

**V.
ATTORNEY FEES**

89. Plaintiffs hereby seek lawful, reasonable attorney's fees and expenses. Plaintiffs repeat and reallege by reference each and every allegation contained in all previous paragraphs and incorporates the same herein as though fully set forth. The Plaintiffs have been forced to retain counsel to prosecute their FTCA claims. Pursuant to 42 U.S.C. § 1988, Plaintiffs hereby request that they be awarded their reasonable attorneys' fees and costs incurred in prosecuting this action.

**VI.
CLAIM FOR INTEREST**

90. Plaintiffs seek all lawful interest from January 2004 until the date of payment of any judgment.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that the Defendant be cited to appear and answer herein and upon final hearing of this cause, Plaintiffs have judgment against the Defendant for the damages described herein, for costs of suit, interest from the date of the incident and for such other relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

LOYA & ASSOCIATES, P.C.

By: 
Raul Loya
Texas Bar No. 00791142
J. Bruse Loyd
Texas Bar No. 24031683
10830 N. Central Expressway, Suite 200
Dallas, Texas 75219
Telephone (214) 521-8766
Facsimile (214) 521-8820
JUSTICE@LOYALAW.COM

ATTORNEYS FOR PLAINTIFFS