

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI**

HANS JOACHIM KEIL	)	
Plaintiff	)	CASE NO. _09-3417__
v.	)	
	)	
GLENN TRIVELINE,	)	
Acting Field Office Director,	)	
Immigration and Customs	)	
Enforcement, MICHAEL SPINELLA;	)	
Resident Agent in Charge, Springfield, MO	)	
Office; LAURA FOSTER and TODD	)	
HAMILTON; Special Agents US	)	
Immigration and Custom's Enforcement;	)	
JACK BARNHART, Special Agent	)	
United States Department of State,	)	
Diplomatic Security Service in their	)	
individual capacities	)	
Defendants.	)	
_____	)	

**COMPLAINT FOR VIOLATIONS OF THE FOURTH AND FIFTH AMENDMENT TO  
THE CONSTITUTION  
DEMAND FOR JURY TRIAL**

Plaintiff, Hans Joachim Keil, by and through his undersigned attorneys, alleges as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over the subject matter of this case pursuant to 28 USC §§1331 (federal question), 1346(a)(2) (civil action against the United States), 1361 (mandamus), 2201 (declaratory judgment), 2241 (habeas corpus) and 5 U.S.C. § 702 (Administrative Procedures Act).

2. Venue is proper in this district pursuant to 28 USC §1391(b), (e).

**THE PARTIES**

3. Plaintiff, HANS JOACHIM KEIL is a US Citizen. He is a resident and citizen of California. He is also a dual citizen of Western Samoa. Plaintiff is an Associate Minister of Western Samoa; this is a recognized diplomatic position.

4. Defendant, GLENN TRIVELINE, is the Acting Field Office Director of ICE for the Kansas City District Office. At all relevant times TRIVELINE was acting under color of federal law and is sued in his individual capacity.

5. Defendant MICHAEL SPINELLA is the Resident Agent in Charge of the Springfield, MO Office. At all relevant times SPINELLA was acting under color of federal law and is sued in his individual capacity.
6. Defendant LAURA FOSTER is a Senior Special Agent for U.S. Immigration and Custom's Enforcement in Springfield, MO. At all relevant times FOSTER was acting under color of federal law and is sued in her individual capacity.
7. Defendant TODD HAMILTON is a Senior Special Agent for U.S. Immigration and Custom's Enforcement in Springfield, MO. At all relevant times HAMILTON was acting under color of federal law and is sued in his individual capacity.
8. Defendant JACK BARNHART is a Special Agent for the U.S. Department of State, Diplomatic Security Service. At all relevant times BARNHART was acting under color of federal law and is sued in his individual capacity.
9. Plaintiff is informed and believes and thereon alleges that each of the Defendants caused and is liable for the unconstitutional and unlawful conduct and resulting injuries, by and among other things, personally participating in said conduct or acting jointly with others who did so; by authorizing, acquiescing or setting in motion policies, plans or actions that led to the unlawful conduct; by failing to take actions to prevent the unlawful conduct; by failing of refusing with deliberate indifference to maintain adequate training and supervision; and/or by ratifying the unlawful conduct taken by employees under their direction and control. Plaintiff is informed and believes and thereon alleges that Defendants' actions were pursuant to a policy, custom or usage of ICE, the Department of State or other related Federal Agencies.

#### **FACTS GIVING RISE TO THE CLAIMS**

10. On September 9, 2008, Defendants seized Keil a United States Citizen, and took him into their custody, without lawful cause and without a warrant for his arrest at the Dutton Family Theater in Branson, Mo.
11. At the time of his arrest Defendants referred to Plaintiff, a United States Citizen, as an "illegal alien."
12. Defendants' booked Respondent into the Greene County, Mo jail on an ICE detainer.
13. Defendants improperly issued a Notice to Appear (NTA) in Immigration Court to Respondent alleging he was an "arriving alien" as defined at 8 CFR 1.1(q) in order to deny him bond.
14. The NTA was signed by Defendants FOSTER, HAMILTON AND SPINELLA.
15. The Notice of Custody Determination, form I-286, remanding Plaintiff without

bond was signed by Defendant SPINELLA

16. Defendant's took Respondent's facially valid US Passport and Samoan Diplomatic Passport
17. Plaintiff told the agents he was a United States Citizen, a Veteran of the U.S. military and that he was a Diplomat for the Government of Samoa
18. Plaintiff was interviewed by Defendant Barnhart without the benefit of counsel.
19. Defendants unlawfully seized and retained Plaintiff's diplomatic passport.
20. Defendant's did not allow Plaintiff, a Diplomat, to contact his Embassy.
21. Defendant's deliberately denied Plaintiff the ability to obtain bond.
22. Defendant was later charged in the Western District of Missouri, for falsely claiming to be a United States Citizen. Those charges were dismissed. Defendant's passport was returned when the Department of State acknowledged he was a U.S. Citizen.
23. As a direct and proximate result of Defendants' conduct, Plaintiff Keil has been harmed. His harm includes but is not limited to:
  - a. Being detained arrested or seized and held for a period of 9 days without lawful authority;
  - b. being denied the opportunity to contact his embassy
  - c. pain and suffering; and
  - d. being subject to intimidation and inflicted with emotional and mental distress.
  - e. being denied the ability to leave Missouri for nearly four months to attend to diplomatic duties or personal business interests.
24. Plaintiff is informed and believes and thereon alleges that the above described acts of Defendants were done knowingly, intentionally, maliciously with deliberate, reckless or callous indifference to Plaintiff's security, freedom and civil and constitutional rights or with intent to injure, harass and oppress Plaintiff. Accordingly, Plaintiff is entitled to an award of punitive damages against Defendants.

### **COUNT I**

**(Violation of Fourth Amendment and Title 3 United States Code Section )**

25. Plaintiff hereby incorporates paragraphs 1 through 24 above and each allegation therein as though fully set forth herein.

26. The Fourth Amendment to the United States Constitution provides that each person has the right to be secure in his or her person, houses, papers and effects against unreasonable searches and seizures.

27. The conduct of Defendants violated clearly established constitutional or other rights of which Defendants knew, or of which a reasonable public official should have known. Defendants exceeded their authority to make detentions, seizures and arrests, including the limitations set for the in Title 8 United States Code Section 1357. See also *Matter of Villanueva* 13 I&N Dec. 2968 (BIA 1984)

28. Plaintiff has no effective administrative mechanism or other remedy at law by which to seek the proper measure of damages for these constitutional wrongs.

## **COUNT II**

### **(Violation of Fifth Amendment)**

29. Plaintiff re-alleges and incorporates by reference as if set forth fully herein the statements in paragraphs 1 through 28 above.

30. The Fifth Amendment to the United States Constitution requires that no person shall be deprived of life, liberty or property without due process of law.

31. By committing the above described acts, Defendants violated Plaintiff's rights under the substantive due process and/or procedural due process clauses of the Fifth Amendment to the United States Constitution.

32. The conduct of Defendants violated clearly established constitutional of other rights of which defendants knew or, of which a reasonable public official should have known.

33. Plaintiff has no effective administrative mechanism or other remedy at law by which to seek the proper measure of damages for these constitutional wrongs.

## **ADDITIONAL CLAIMS FOR RELIEF**

34. In addition to filing this complaint, Plaintiff is presenting a claim pursuant to the Federal Tort Claims Act seeking relief from the United States of America. If the claim is denied, Plaintiff will amend this Complaint to seek monetary damages from the United States of America for various torts committed.

## **PRAYER FOR RELIEF**

Plaintiff prays that judgment be entered in his favor and the following relief be granted against each and every Defendant:

- a. Actual and compensatory damages in an amount to be determined.
- b. Punitive or exemplary damages against Defendants as permitted by law.
- c. Attorneys' fees and costs of suit, pursuant to all applicable statutory, common law or constitutional provisions; and
- d. Such relief as the Court may deem just and proper

Dated this \_\_6\_\_ day of \_\_\_\_November\_\_\_\_\_, 2009.

Respectfully submitted,

/s/Rekha Sharma-Crawford  
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## **DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable to the full extent permitted by law.

Dated this \_\_6\_\_ day of \_\_\_\_November\_\_\_\_\_, 2009.

Respectfully submitted,

/s/Rekha Sharma-Crawford  
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