

CARDOZO LAW

BENJAMIN N. CARDOZO SCHOOL OF LAW • YESHIVA UNIVERSITY

KATHRYN O. GREENBERG IMMIGRATION JUSTICE CLINIC

Peter L. Markowitz
Associate Clinical Professor of Law
Director

Betsy Ginsberg
Visiting Assistant Clinical Professor of Law

Sonia R. Lin
Clinical Teaching Fellow

Lindsay C. Nash
Clinical Litigation Fellow

212.790.0895
FAX 212.790.0256

March 12, 2013

Customs and Border Protection
Swanton Sector, Ogdensburg Station
127 North Water Street
Ogdensburg, NY 13669

Re: **Administrative Complaint pursuant to the Federal Tort Claims Act**
for [REDACTED] [REDACTED]

To Whom It May Concern:

We submit this letter as an addendum to the attached Form SF-95 on behalf of [REDACTED] Ms. [REDACTED] an American citizen, was driving near Huevelton, New York in December 2011 when she was stopped by Customs and Border Protection ("CBP") purely because of her dark complexion, for a "citizenship check-up." Without any basis, CBP placed Ms. [REDACTED] under arrest and took her into custody, where she was detained for several hours and had her Garmin Nuvi Global Positioning System navigation device ("GPS") taken from her possession. She was never charged with any crime and CBP refused to return her GPS for approximately seven months.

[REDACTED] submits this administrative complaint against CBP for torts arising under New York law, including false arrest and imprisonment, assault and battery, and conversion. Pursuant to the Federal Tort Claims Act, [REDACTED] requests damages amounting to \$210,000.

FACTS

[REDACTED] is a twenty-seven year old United States citizen of [REDACTED] descent. She resides in Chateaugay, New York, with her husband and newborn son. Since October 2010, [REDACTED] has worked for [REDACTED] providing transportation and interpretation services to Spanish-speaking farmworkers who need medical treatment or consultation. Her position is partially funded by a grant from the federal government.

At approximately 10:30 a.m. on December 28, 2011, Ms. [REDACTED] left her house and drove her Suzuki Sx4 to Rensselaer Falls to pick up two of the three patients she was assigned to accompany that day to their dental appointments in Potsdam. She then proceeded on Route 812 in the direction of the Canadian border to pick up her third patient. At the intersection of Route 812 and Route 184, Ms. [REDACTED] observed a CBP vehicle sitting on the side of the road. At the intersection, Ms. [REDACTED] turned west onto Route 184, which runs parallel to the border; as she made the turn, she observed the CBP vehicle begin to follow her. Ms. [REDACTED] was not speeding, nor had she committed any traffic violation. Ms. [REDACTED] continued to observe all traffic laws until the CBP officer in the vehicle pulled her over, a few minutes after he began shadowing her vehicle.

Border Patrol ("BP") Agent [REDACTED] pulled Ms. [REDACTED] over at around noon, and told her he was conducting a "citizenship check-up" – an investigatory protocol that does not appear in any CBP manual. BP Agent [REDACTED] asked Ms. [REDACTED] if she was a citizen, and she answered in the affirmative, providing her New York State driver's license. One of her passengers told the officer that he was a citizen but had forgotten his paperwork at home. The second passenger told Agent [REDACTED] that he was not a citizen. Agent [REDACTED] then questioned Ms. [REDACTED] about her destination; she informed him she was heading to Potsdam, which was her final destination. Agent [REDACTED] walked back to his truck with Ms. [REDACTED] driver's license. Several minutes later, he returned to Ms. [REDACTED] car, telling her passengers to get out of the car. He handcuffed them and placed them in the CBP truck. While the agent was arresting Ms. [REDACTED] passengers, she called her husband to let him know that she had been stopped by CBP, and she didn't know why. Her husband told her to find out if she was being arrested.

Agent [REDACTED] continued Ms. [REDACTED] roadside detention even after she provided him with her license and indicated that she was a U.S. citizen. As her husband had instructed her, Ms. [REDACTED] asked if she was being arrested, and the agent responded in the affirmative, stating that he was waiting for back up because he had run out of handcuffs. Agent [REDACTED] then requested Ms. [REDACTED] keys. Ms. [REDACTED] removed the keys from the ignition, and before she could hand them to the agent, he aggressively grabbed them out of her hand. Moments later, Ms. [REDACTED] husband called her cell phone and, as [REDACTED] went to answer it, Agent [REDACTED] again grabbed her phone from her hand and told her that she was not to take any phone calls.

Agent [REDACTED] then asked [REDACTED] if she knew that her passengers were undocumented. She replied that she had not asked her passengers that question. He told her that she must have known because she was taking the "back roads."¹ A second agent appeared at the scene in a second vehicle. BP Agent 2, a male officer, removed [REDACTED] from the vehicle and asked her if she had ever been handcuffed or arrested. [REDACTED] replied that she had not. BP Agent 2 then conducted a pat-down search of [REDACTED] behind her vehicle. [REDACTED] cried in her extreme embarrassment, fear, and discomfort as cars on the road slowed to watch the commotion. BP Agent 2 placed [REDACTED] hands behind her back, handcuffed her, and placed her in a second CBP vehicle, separated from her passengers. At no point did any agent tell her why she was being arrested. The officers then stood outside the vehicle for another half an hour

¹ Route 184 a main road leading directly into Huevelton, N.Y.

smoking cigarettes and conversing.

While Ms. [REDACTED] and her passengers sat detained in separate cars, a third CBP vehicle arrived on the scene with two more male BP agents. Ms. [REDACTED] felt humiliated, sitting handcuffed in the back of the CBP vehicle. More than an hour after her roadside detention began, BP Agent 2 drove Ms. [REDACTED] to the U.S. Border Patrol station at Ogdensburg. During the drive, Ms. [REDACTED] asked the agent if she would be permitted to make a call once they got to the station. BP Agent 2 replied that they would see once she was processed. Once Ms. [REDACTED] arrived at the Ogdensburg station, her handcuffs were removed, and two female BP agents performed a full search on her. In a private room, they asked her to remove her sweater and boots. BP Agent 3 ran her hands along the inside waistband of her underwear, and around the outside of her bra straps. BP Agent 4 then directed Ms. [REDACTED] to a cell.

A few minutes later, BP Agent 5 entered Ms. [REDACTED] cell and told her that he did not know yet whether they were going to charge her with anything. The agent left the cell, but returned approximately thirty minutes later and told Ms. [REDACTED] again that they were still unsure whether they were going to charge her. BP Agent 5 told Ms. [REDACTED] that they were going to "have a little chat" and then decide. Ms. [REDACTED] was filled with dread and fear, not knowing why she was in CBP custody and whether she would be allowed to leave, and she agonized over her husband and how worried he must be, not knowing where she was.

Approximately ten minutes later, BP Agent 5 returned to Ms. [REDACTED] cell and escorted her to an office where Agent [REDACTED] was also present. BP Agent 5 told Ms. [REDACTED] that they were going to have a conversation and, if at any point she was not cooperative, the conversation would be over. Ms. [REDACTED] interpreted this to mean that she would be charged with a crime if she did not cooperate.

BP Agent 5 then asked Ms. [REDACTED] a series of questions. He asked where she lived, her full name, where she worked, how she came to the U.S., how she received legal status, her husband's name and place of employment, what she did for a living, how she was paid, whether she received mileage as part of her job, and whether she could prove where she worked. [REDACTED] responded to all of their questions.

BP Agent 5 began asking targeted questions about [REDACTED] clients: what farms she picked them up from, the name and location of the farm where she was going to pick up the third patient, how far [REDACTED] travels for her job and whether she went to Watertown or Plattsburgh for her job. [REDACTED] responded accordingly.

Agent [REDACTED] informed [REDACTED] that they confiscated her Garmin Nuvi GPS unit from her car and told her that they will need her to sign it over to them otherwise they would have to get a warrant. [REDACTED] did not respond. She was then escorted back to her cell. After several minutes, BP Agent 5 returned to [REDACTED] cell with paperwork. He once again told [REDACTED] that she needed to sign the paperwork that would give CBP permission to search [REDACTED] GPS. He told Ms. [REDACTED] that if she did not sign the paperwork, they would have to get a warrant and that it would take a long while to do so. [REDACTED] understood this statement to be a threat that if she did not sign the paperwork she would be held indefinitely in CBP

custody. Because she was afraid of a prolonged detention, Ms. [REDACTED] signed the paperwork given to her by BP Agent 5.

Approximately ten to fifteen minutes later, BP Agent 5 returned to Ms. [REDACTED] cell and told her she was free to leave. The time was approximately 3:45 pm – more than three hours after Ms. [REDACTED] was pulled over in Huevelton. She was photographed by CBP, given her car keys, her purse, and the contents of her glove box, and then was escorted to her vehicle. Ms. [REDACTED] was not given any documents from CBP related to her stop, arrest or detention. No charges were ever filed against Ms. [REDACTED]

Upon reunifying with her husband, Ms. [REDACTED] learned that throughout the time she was in detention, her husband and her boss had been trying to verify her placement at Ogdensburg station. The agents had told her husband repeatedly that they did not have her. Only when Ms. [REDACTED] husband told the agents that he knew they were holding her did the agents admit to her being in their station, but did not give him further details.

After about a month of repeated calls by her and her husband, Ms. [REDACTED] received a letter and a receipt for her GPS, notifying her that it was being analyzed and would be returned to her within sixty days. Ms. [REDACTED] husband called repeatedly to retrieve the GPS, but to no avail. Ms. [REDACTED] was forced to buy a new one because she needed a GPS to perform her job duties. On July 18, 2012 – almost eight months after CBP took custody of the device – Ms. [REDACTED] received another letter from CBP informing her that her GPS was available for her to pick up. However, CBP conditioned its release on her physically coming to the Ogdensburg station to retrieve it, and the completion of an enclosed “Hold Harmless Release Agreement.” The “Hold Harmless Release Agreement,” included with the letter, would require Ms. [REDACTED] to release CBP of any and all past or future claims against CBP related to the seizure, detention, and release of her property, and further, reimburse CBP for any attorneys’ fees associated with enforcement of the agreement. Ms. [REDACTED] did not sign the agreement and her GPS unit was released to her without incident, almost eight months after it was initially taken from her without cause.

Because of this incident, Ms. [REDACTED] feels fear and panic whenever she passes a CBP vehicle, and she vividly recalls the embarrassment she suffered from being detained like a criminal. Now [REDACTED] avoids the road where she was detained, knowing that even though she was not breaking the law in any way, CBP agents in the area act with impunity and may stop her simply because of the color of her skin.

ANALYSIS

I. APPLICABLE LAW UNDER THE FEDERAL TORT CLAIMS ACT

The Federal Tort Claims Act (“FTCA”) is a limited waiver of the federal government’s sovereign immunity, under which the U.S. is liable for the torts committed by its employees “in the same manner and to the same extent as a private individual under like circumstances.” 28 U.S.C. § 2674. Sovereign immunity is explicitly waived “with regard to acts or omissions of investigative or law enforcement officers of the United States,” for “any claim arising ... out of

assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution.” *Liranzo v. U.S.*, 690 F.3d 78, 85 (2d Cir. 2012) (footnote omitted), *quoting* 28 U.S.C. § 2680(h). Border patrol agents “are ‘investigative or law enforcement officers’ within the meaning of this section.” *See Caban v. U.S.*, 728 F.2d 68, 72 (2d Cir. 1984).

Because the aforementioned events occurred in New York, Ms. [REDACTED] claims against CBP are dictated by New York tort law. *See* 28 U.S.C. § 1346(b)(1) (liability under the FTCA is determined “in accordance with the law of the place where the act or omission occurred.”).

II. FALSE ARREST AND IMPRISONMENT²

False imprisonment is the “unlawful deprivation of another’s freedom to choose his own location,” *Caban*, 728 F.2d at 71, and to successfully establish a claim under New York law, a plaintiff must demonstrate four elements: “(1) the defendant intended to confine [the plaintiff], (2) the plaintiff was conscious of the confinement, (3) the plaintiff did not consent to the confinement and (4) the confinement was not otherwise privileged.” *Id.* (*quoting Broughton v. State*, 37 N.Y.2d 451, 456, *cert denied*, 423 U.S. 929 (1975)).³

The BP agents intended to confine Ms. [REDACTED] when they subjected her to roadside detention and stated their objective to do so, satisfying the first element of false imprisonment under New York law. Ms. [REDACTED] asked BP Agent 1 whether she was being detained and he explicitly responded that she was. Moreover, BP Agent 2, when he arrived at the scene, asked her if she had ever been handcuffed or arrested, and subsequently placed her under arrest. Her several hour detention, on both the Huevelton road and at the Ogdensburg border patrol station, demonstrated that the agents intended to confine her and acted on those intentions.

Ms. [REDACTED] was conscious of this confinement throughout the encounter and feared that she could be detained indefinitely. Her questions to the agents of whether she was being detained illustrate her comprehension of her own confinement. Ms. [REDACTED] also stated that she was fearful throughout the encounter because she had no idea how long the detention could last for. She had never been arrested before and, as a U.S. citizen, was unsure why border patrol agents had chosen to handcuff and detain her. Ms. [REDACTED] did not consent to this confinement, and was placed in CBP custody against her own free will.

Finally, CBP’s confinement was not “otherwise privileged.” The Second Circuit recently held that, under New York law, whether confinement was “otherwise privileged” is “determined by consulting federal privileges applicable to federal immigration officers.” *Liranzo*, 690 F.3d at 95, *quoting Caban* 728 F.2d at 71.

There is nothing in federal regulations, border patrol practice manuals or otherwise that permits a BP agent to detain a U.S. citizen without any cause. Roving patrols allow officers to

² Under New York law, “the tort of false arrest is synonymous with that of false imprisonment.” *Posr v. Doherty*, 944 F.2d 91, 96 (2d Cir. 1991).

³ The Second Circuit has recently held that with respect to immigration detention, a private analogue existed for FTCA purposes in the form of false arrest and imprisonment under New York law. *See Liranzo*, 690 F.3d at 95 (holding that a U.S. citizen could bring a false imprisonment claim under the FTCA where he was arrested and detained by Immigration and Customs Enforcement as a removable noncitizen).

stop vehicles “only if [they are] aware of specific *articulable facts, together with rational inferences from those facts, that reasonably warrant suspicion that the vehicle contains illegal aliens*. Absent consent, a more in-depth search requires probable cause for both types of inland traffic-checking operations.”(Inspector Field Manual §18.6(e)) (emphasis added). *See also Gallegos v. Haggerty*, 689 F. Supp. 93, 99-102, 105 (N.D.N.Y. 1988) (INS could not show as a matter of law that they acted in conformance with federal standards when they made a warrantless entry into a house and detained migrant farmworkers for over ninety minutes).

Agent ██████ did not have the requisite reasonable suspicion to stop Ms. ██████ necessitated by CBP’s manual and mandated by the Fourth Amendment. *See U.S. v. Singh*, 415 F.3d 288, 294 (2d. Cir. 2005). In *Singh*, the Second Circuit stated that officers should look at the “totality of the circumstances” in order to determine whether reasonable suspicion exists to perform an inland roving patrol stop, and specifically cited eight factors previously articulated by the Supreme Court. *Id.* at 294, *citing U.S. v. Brignoni-Ponce*, 422 U.S. 873, 884-885 (1975). The factors include:

- 1) characteristics of the area where the vehicle is found; (2) its proximity to the border; (3) usual traffic patterns on that road; (4) previous experience with alien traffic in the area; (5) recent information about specific illegal border crossings there; (6) the driver’s behavior, such as attempting to evade officers; (7) characteristics of the vehicle itself; and (8) the appearance of persons in the vehicle, such as mode of dress.

Singh at 294. None of these factors were present when CBP initiated the stop of Ms. ██████. Ms. ██████ was driving on Route 184, the main road leading to Huevelton. She did not attempt to evade border patrol officers and at no time committed a driving infraction while the agent followed her. The vehicle she was driving was an ordinary sedan, capable of seating five people; she only had three occupants including herself. Ms. ██████ was in the driver’s seat, one passenger was in the front passenger seat and the other was in the backseat. All passengers were dressed in ordinary clothes – jeans, t-shirts and jackets. Moreover, the fact that Ms. ██████ was driving near the border cannot in itself constitute reasonable suspicion. *See U.S. v. Rangel-Portillo*, 586 F.3d 376, 380 (5th Cir. 2009) (“[P]roximity of the stop to the border ... alone does not constitute reasonable suspicion to stop and search an individual’s vehicle.”).

Lacking reasonable suspicion to initiate the roving patrol stop, the officers certainly lacked probable cause to conduct “a more in-depth search” of her vehicle and her person pursuant to their own manual. The stop, search and detention of ██████ violated her Fourth Amendment rights and therefore cannot be considered “privileged” actions by federal officers. *See Voskerchian v. U.S.*, 1999 WL 66709 *4, No. 98-CV-0335E(M) (W.D.N.Y. Feb. 10, 1999) (unreported) (“New York cases support the proposition that a law enforcement officer’s privilege remains limited to *constitutional* searches and seizures.”) (emphasis added). *See also Rhoden v. U.S.*, 55 F.3d 428, 432 n.5 (9th Cir 1995) (finding that if the detention by the INS was contrary to the Fourth Amendment as interpreted by federal law, then “it was not legally justified or privileged” and plaintiff could therefore “establish the [CA] state tort of false imprisonment.”).

██████ confinement was not based on regulations and manuals dictating the

practices and rules of immigration officers, and furthermore, CBP's actions violated her Fourth Amendment rights to be free from unreasonable search and seizures. Therefore, the actions of the BP agents were not "privileged" under New York law, which would apply these federal standards, and therefore CBP cannot justify its unlawful arrest and imprisonment of Ms. [REDACTED]

III. ASSAULT AND BATTERY

Assault is defined as an intentional attempt or threat to do injury or commit a battery. To sustain a cause of action to recover damages for assault, there must be proof of physical conduct placing the plaintiff in imminent apprehension of harmful contact. *See Stanley v. Amalithone Realty, Inc.*, 31 Misc.3d 995, 1006 (Sup. Ct. NY County 2011); *see also Holtz v Wildenstein & Co.*, 261 AD2d 336 (1st Dept. 1999).

A battery is intentional and wrongful physical contact with a person without his or her consent. *See Pope v. State of New York*, 192 Misc.587 (Ct. Cl. 1948), *Wende C. v United Methodist Church, N.Y. W. Area*, 4 N.Y.3d 293, 298 (Ct. App. 2005). The Restatement [Second] of Torts § 18 (1965) states that in order to be subject to liability for battery an actor "acts intending to cause a harmful or offensive contact with the person of the other or a third person, or an imminent apprehension of such a contact" and "an offensive contact with the person of the other directly or indirectly results."

Where an assault or battery occurred in the course of an arrest, the question becomes whether or not the arrest was lawful. Where an arrest is unlawful, a technical assault and battery occurs when a claimant is handcuffed. *See Johnson v. Suffolk County Police Dept.*, 245 A.D.2d 340 (N.Y. Sup. Ct. 1997) (because the arrest of the plaintiff by the police officer was unlawful, the officer committed a battery when he touched her during the arrest.); *see also Sulkowska v. City of New York*, 129 F. Supp.2d 274, 294 (S.D.N.Y. 2001) ("If an arrest is determined to be unlawful, any use of force against a plaintiff may constitute an assault and battery, regardless of whether the force would be deemed reasonable if applied during a lawful arrest."); *Pawloski v. State*, 258 N.Y.S.2d 258, 265 (1965) (police officer liable to plaintiff falsely arrested where plaintiff "was touched by State Police.")

Agent Crawford committed a battery upon [REDACTED] when he intentionally made physical contact with [REDACTED] when he forcibly and offensively removed her car keys from her hand without her consent. Additionally, Agent [REDACTED] committed a second battery upon [REDACTED] when he forcibly and offensively grabbed her phone out of her hand without her consent.

Because the arrest was unlawful, BP Agent 2 also committed a battery upon [REDACTED] when he intentionally and wrongfully made physical, offensive and harmful contact with [REDACTED] by conducting a pat-down search, placing her arms behind her back and placing handcuffs on her wrists without her consent. [REDACTED] was subjected to further battery when she was searched a second time in CBP custody when she underwent a more thorough search of her person.

IV. CONVERSION

When Ms. [REDACTED] was detained by border patrol, they took unlawful possession of her Garmin Nuvi GPS unit. This is an unlawful conversion under New York law. Conversion is the “exercise of unauthorized dominion over the property of another in interference with a plaintiff’s legal title or superior right of possession.” *Citadel Mgmt. Inc. v. Telesis Trust, Inc.*, 123 F. Supp.2d 133, 147 (S.D.N.Y.2000) (quoting *Lopresti v. Terwilliger*, 126 F.3d 34, 41 (2d Cir.1997)). To maintain a claim for conversion, a plaintiff must show: (1) the property subject to conversion is a specific identifiable thing; (2) plaintiff had ownership, possession or control over the property before its conversion; and (3) defendant exercised an unauthorized dominion over the thing in question, to the alteration of its condition or to the exclusion of the plaintiff’s rights. *Moses v. Martin*, 360 F. Supp. 2d 533, 541(S.D.N.Y. 2004). See also *AD Rendon Communications, Inc. v. Lumina Americas, Inc.*, 2006 WL 1593884 (S.D.N.Y. June 7, 2006), *In re Refco Sec. Litig.*, 759 F. Supp. 2d 301, 327 (S.D.N.Y. 2010).

The facts of the incident satisfy all the elements to establish an unlawful conversion. Ms. [REDACTED] property is a specific identifiable thing. The GPS unit that was removed from Ms. [REDACTED] possession was a Garmin Nuvi. Before its conversion, Ms. [REDACTED] undoubtedly had ownership, possession *and* control over the GPS. She purchased the GPS for use in her vehicle, and she utilized it to navigate between locations in the course of her employment. Lastly, CBP exercised an unauthorized dominion over the GPS unit to the exclusion of Ms. [REDACTED] rights when the officers unlawfully took it from her. Although Ms. [REDACTED] may have signed a consent form turning over the unit to CBP, this consent was coerced. Ms. [REDACTED] was told that if she did not sign the paperwork turning over the unit, CBP would have to get a warrant and that it would take a long time to do so. Ms. [REDACTED] understood this statement to be a threat that if she did not sign the paperwork she would be stuck indefinitely in CBP custody. Ms. [REDACTED] signed the consent form out of fear of indefinite detention. Consent is not freely given when the consenting party has been threatened. *Miranda v. Arizona*, 384 U.S. 436, 504 (1966). Therefore, Ms. [REDACTED] coerced signing of a consent form cannot be considered authorized consent to disrupt the third requirement of a conversion claim.

Even if taking [REDACTED] GPS unit were to be considered lawful, CBP unlawfully retained possession of the unit. In New York, there is a distinction between the wrongful taking of another’s property and the wrongful detention of that property. *In re Refco Sec. Litig.*, 759 F. Supp. 2d 301, 327 (S.D.N.Y. 2010). For claims of wrongful detention in which the possession is originally lawful, a conversion occurs when the owner makes a demand for the return of the property and the person in possession of the property refuses to return it, thus no longer having rightful possession. *Newbro v. Freed*, 409 F. Supp. 2d 386, 394 (S.D.N.Y. 2006) *aff’d*, 06-1722-CV, 2007 WL 642941 (2d Cir. Feb. 27, 2007) (quoting *In re King*, 305 A.D.2d 683, 759 N.Y.S.2d 895 (2003)).

[REDACTED] GPS unit was not returned to her for many months. When she returned home after her arrest, both she and her husband made calls to CBP requesting the return of her CBP unit. [REDACTED] and her husband were informed that it had to be sent to a lab out of state. Approximately one month later [REDACTED] received a letter and a receipt for her GPS unit from CBP notifying her that it was being analyzed and would be returned to her within 60 days.

However, Ms. [REDACTED] was not notified by CBP that she could pick up her GPS unit until nearly seven months after it was taken from her. Accompanying the notice that stated that her GPS unit was available to be picked up was a "Hold Harmless Release Agreement." The agreement asked Ms. [REDACTED] to release CBP of any and all past or future claims against CBP related to the seizure, detention, and release of her property, and further, to reimburse CBP for any attorneys' fees associated with enforcement of the agreement. Ms. [REDACTED] did not sign or return the agreement.

As held in *Newbro*, even if CBP lawfully retained possession of the GPS unit, when Ms. [REDACTED] and her husband made requests for its return, and CBP refused to return it, the detention of the unit became an unlawful conversion. After sending Ms. [REDACTED] a notice that the unit would be returned within sixty days and even after sixty days had elapsed, the unit was not returned to her. Even if a court were to make the unlikely finding that her consent was not coerced, that consent did not last 60 days, nor the additional six months that CBP withheld her property. Further, no claim can be made that a third person had a right to possession of the GPS unit. The government did not have a right to possession. Ms. [REDACTED] was never charged with any crime, or served with a warrant for the GPS unit. It was not evidence in any case against her, and even if there had been a case against her, the GPS unit would likely been unable to be admitted as evidence.

As such, both the taking of Ms. [REDACTED] Garmin Nuvi GPS unit, and its detention, are unlawful conversions under the law of New York.

V. DAMAGES

Based on the foregoing, Ms. [REDACTED] respectfully requests \$210,000 in damages.

VI. CONCLUSION

Ms. [REDACTED] a U.S. citizen, was simply doing her federally-funded job when she was stopped by border patrol without cause, subjected to roadside detention, arrested and confined, and eventually stripped of her property for over seven months. Under the FTCA, Ms. [REDACTED] has made out valid claims for false imprisonment and arrest, assault and battery, and conversion under New York law, and she respectfully requests damages in the amount articulated herein.

Respectfully submitted,



Betsy Ginsberg, Esq.

Lindsay Nash, Esq.

Britany Nunez, *Legal Intern*

Jackie Pearce, *Legal Intern*

Sarah Telson, *Legal Intern*

Cardozo Immigration Justice Clinic

Benjamin N. Cardozo School of Law

55 Fifth Avenue, 11th Floor

New York, NY 10003
Tel: (212) 790-0871
Fax: (212) 790-0256

Andrea Callan, Esq.
Rebecca Engel, Esq.
New York Civil Liberties Union
125 Broad Street
New York, NY 10004
Tel: 212-607-3300
Fax: 212-607-3329