



COUNTY OF MADERA CLAIM FOR DAMAGES

NOTE: Claims for bodily injury or death, damage to personal property or damage to growing crops must be filed not later than six months after the occurrence out of which the claim/claims arose. All other claims must be filed not later than one year after the occurrence out of which the claim/claims arose. (Refer to California Government Code Section 911.2)

DIRECTIONS: File the original and one copy with County of Madera Administrative Office, Madera County Government Center, 200 W. Fourth St. 4th Floor, Madera, California 93637. Retain the pink copy for your records.

NAME OF CLAIMANT: Mr. Santos Cuevas Ivan
(Injured or damaged party) Ms. _____ (Last) _____ (First) _____ (Middle)
Mrs. _____ (Last) _____ (First) _____ (Middle)

(Date of Birth) _____ (Social Security No.) _____ (Ca. Drivers License No.)

HOME ADDRESS _____
(Number/Street) _____ (City/State/Zip Code) _____ (Phone Number)

BUSINESS ADDRESS N/A
(Number/Street) _____ (City/State/Zip Code) _____ (Phone Number)

DIRECTIONS: Indicate to which address you wish notices sent. Home Business See Attachment A

WHEN DID INJURY OR DAMAGE OCCUR? December 28, 2018 X A.M. / P.M.
(Month/Day/Year) _____ (Day of Week) _____ (Time of Day)

WHERE DID INJURY OR DAMAGE OCCUR? See Attachment A
(Street address, intersecting streets, or other location)

HOW DID INJURY OR DAMAGE OCCUR? See Attachment A
(Describe accident or occurrence in complete detail)

NAMES OF ANY WITNESSES? N/A
(Phone Number)

NAMES OF COUNTY EMPLOYEES INVOLVED? See Attachment A

POLICE REPORT NUMBER See Attachment A

WHAT ACTION OR INACTION OF COUNTY EMPLOYEE(S) CAUSED YOUR INJURY OR DAMAGES?
See Attachment A

WHAT INJURIES OR DAMAGES DID YOU SUFFER? See Attachment A

TOTAL AMOUNT CLAIMED \$ 750,000

DIRECTIONS: Sign and date this Claim for Damages below. If the signer is not the claimant, indicate the relationship of the signer to the claimant (parent, attorney, etc., and mailing address).

(Signature) _____ 6/26/19
(Month/Day/Year)

Angélica Salceda, Attorney of Claimant 2600 Ventura St. Suite 206, Fresno, CA 93721
(Relationship of signer, if not claimant) (Address)

DIRECTIONS: Attach & include, with this completed form, any bills for medical treatment and expenses and any estimates or bills for personal property damage.

NOTE: PRESENTATION OF A FALSE CLAIM IS A FELONY. (Refer to California Penal Code Section 72)



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Northern
California

June 27, 2019

VIA FEDEX & HAND DELIVERY

County of Madera Administrative Office
Madera County Government Center
200 W. Fourth St. 4th Floor
Madera, CA 93637

RE: Claim Against the Madera County on Behalf of Ivan Santos Cuevas

To whom it may concern:

The ACLU Foundation of Northern California, a nonprofit civil rights organization, is filing the enclosed claim pursuant to Cal. Gov't Code § 910 on behalf of Mr. Ivan Santos Cuevas. We are representing Mr. Santos Cuevas in this matter. Please direct any correspondence to us at:

Angélica Salceda, Staff Attorney
ACLU of Northern California

[REDACTED]
[REDACTED]
[REDACTED]

Thank you for your attention to this matter.

Sincerely,

Angélica Salceda, Staff Attorney
ACLU of Northern California

American Civil Liberties Union Foundation of Northern California

EXECUTIVE DIRECTOR Abdi Soltani • BOARD CHAIR Magan Pritam Ray
SAN FRANCISCO OFFICE: 39 Drumm St. San Francisco, CA 94111 • FRESNO OFFICE: PO Box 188 Fresno, CA 93707
TEL (415) 621-2493 • FAX (415) 255-1478 • TTY (415) 863-7832 • WWW.ACLUNC.ORG

**CLAIM FOR MONEY OR DAMAGES AGAINST MADERA COUNTY (Pursuant to
Govt. Code section 910 et seq.)**

CLAIMANT INFORMATION

Name of Claimant: Mr. **Ivan Santos Cuevas**

Claimant's Date of Birth: [REDACTED]

Home Address: [REDACTED]
[REDACTED]

Claimant's Phone Number: [REDACTED]

Name and address where correspondence should be sent (if different from above):

**Angélica Salceda, Staff Attorney
ACLU of Northern California**
[REDACTED]
[REDACTED]

When did injury or damage occur? (Street address, intersecting streets, or other location):
12/28/2018 (06:52), inside Madera County Jail (private release area)

Exact location of the occurrence or transaction which gave rise to the claim asserted:

**Madera County Jail
1491 Road 28
Madera, CA 93638**

How did the injury or damage occur? **See Attachment A**

Names of County Employees involved?

- 1. Unknown: John/Jane Does #1-10**
- 2. Alarcon, C (Booking Officer), Madera County Jail**
- 3. Vang, T (Entry Officer), Madera County Jail**
- 4. Contreras, S (Arresting Officer)**

Police Agency/Report Number: **Booking Number** [REDACTED]

What Action or inaction of county employee(s) caused your injury or damages? **See Attachment A**

What injuries or damages did you suffer? **See Attachment A**

Total Amount CLAIMED: **\$750,000**

The amount claimed exceeds \$10,000 and the case would not be a limited civil case.

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ATTACHMENT A To Claim Against Madera County, Ivan Santos Cuevas

Describe the circumstances of the occurrence or transaction which you claim caused the damage/injury/loss:

Until recently, Mr. Ivan Santos Cuevas had lived in the City of Madera with his family. On December 28, 2018, the Madera County Jail (“Jail”) wrongfully re-imprisoned Mr. Santos Cuevas and unlawfully transferred him to the custody of U.S. Immigration and Customs Enforcement, in violation of state and federal law.

On December 27, 2018 at approximately 11:55 p.m., Mr. Santos Cuevas was booked into Madera County Jail after being arrested at 10:52 pm by California Highway Patrol (“CHP”). Mr. Santos Cuevas was charged under Cal. Veh. Code, §§ 23152(a) and 12500. He did not have any prior criminal charges or convictions. Upon his arrest by CHP, the officer told him that he would be released between 3:00 am and 4:00 am.

Sometime on December 28, U.S. Immigration and Customs Enforcement (“ICE”) lodged with the Jail an Immigration Detainer—Notice of Action (“I-247A”) for Mr. Santos Cuevas. The I-247A was a request from ICE to the Jail to “[n]otify DHS as early as practicable (at least 48 hours, if possible)” before Mr. Ivan Santo’s release from Jail. *See* I-247A Printout, Ex. A. ICE also provided the Jail with a Warrant of Removal/Deportation (I-205) for Mr. Santos Cuevas. The I-205 was signed by Immigration Officer Erik Bonnar—an administrative official who is not designated as a judicial officer or magistrate.

The same day, Mr. Santos Cuevas received a form from the Jail titled “Petición de el Servicio de Inmigración y Control de Aduana de los Estados Unidos (ICE)” to notify him that ICE had requested the Jail to notify them with his release date. The form referenced the Transparent Review of Unjust Transfers and Holds (“TRUTH”) Act and stated that the Jail “intend[ed] to comply with [ICE’s] request.” The form was signed by Mr. Santos Cuevas and the Watch Commander.

On or around 5:50 a.m., a Jail deputy told Mr. Santos Cuevas that he would be released shortly. The Jail deputy walked Mr. Santos Cuevas out of his cell and placed him in front of a television while the deputy reviewed Mr. Santos Cuevas’ documents. A few minutes later, the Jail deputy walked Mr. Santos Cuevas back into a smaller cell despite previously telling him that he would be processed for release. The Jail deputy told Mr. Santos Cuevas that he was placing him back in the cell because there was a problem and ICE was coming to pick him up. Mr. Santos Cuevas was detained inside the cell for another 40 to 50 minutes until ICE arrived.

On or around 6:50 a.m., a male and a female ICE officer entered the private Jail area where Mr. Santos Cuevas was detained. A Jail deputy took Mr. Santos Cuevas out of his cell. While still in the private Jail area, the ICE officers asked Mr. Santos Cuevas to sign a few documents and then arrested him. Mr. Santos Cuevas never experienced a moment of freedom because he was detained by ICE inside the secure, private Jail area.

Provide a description of the damage/injury/loss incurred so far as is known as of the time of this claim:

Mr. Santos Cuevas was detained by the Madera County jail for additional time past his release in order to effectuate his transfer to ICE custody pursuant to an ICE detainer, Form I-

247A. As described in further detail below, these actions violated his right against unlawful search and seizure under the Fourth Amendment to the U.S. Constitution and Article 1, Section 13 to the California Constitution; his due process rights under the Fourteenth Amendment to the U.S. Constitution and Article 1, Section 7 to the California Constitution; the prohibition against holding individuals on the basis of an immigration detainer request and restrictions on transferring individuals to ICE custody under the California Values Act (Cal. Gov't Code §§ 7284.6(a)(1), (a)(4)); and his right to be free from coercive unlawful detention in violation of the Bane Act (Cal. Civ. Code § 52.1). *See Cornell v. City & Cty. of San Francisco*, 17 Cal. App. 5th 766, 801 (2017), *as modified* (Nov. 17, 2017), *review denied* (Feb. 28, 2018). Mr. Santos Cuevas further alleges that the Madera County Jail engaged in false imprisonment, intentional infliction of emotional distress, negligent infliction of emotional distress, and negligence, in violation of California tort law.

The delay in Mr. Santos Cuevas' release constituted an unlawful seizure because it was not justified by probable cause. The Madera County jail relied on an immigration detainer request to delay Mr. Santos Cuevas' release. The detainer request was signed by a deportation officer and not a judge, and therefore did not contain the necessary judicial finding of probable cause to justify further detention. *See Miranda-Olivares v. Clackamas County*, 2014 WL 1414305, at * 9-10 (D. Or. Apr. 11, 2014) (the "continuation of [plaintiff's] detention based on the ICE detainer" constituted a "new arrest, and must be analyzed under the Fourth Amendment"); *see also Berry v. Baca*, 379 F.3d 764 (9th Cir. 2004) (recognizing due process violation for intentional delays in processing individuals for release). Because Madera County Jail officers detained Mr. Santos Cuevas and delayed his release without a judicial finding of probable cause, the detention violated his Fourth Amendment, Fourteenth Amendment, and California constitutional rights. Madera County jail officials acted in the performance of their official duties, under color of law, when they intentionally violated Mr. Santos Cuevas' rights to be free from unreasonable seizure under the federal and California constitutions and California tort law, as described above.

The Madera County Jail also violated the California Values Act by detaining Mr. Santos Cuevas past his release date and time. Cal. Gov't Code § 7284.6(a)(1)(B). Under the Values Act, there is a blanket prohibition on "[d]etaining an individual on the basis of a hold request." *Id.* The Madera County Jail delayed his release by approximately 40 to 50 minutes to facilitate his transfer to ICE custody. Moreover, the Madera County Jail effectuated Mr. Santos Cuevas' transfer to ICE within the Madera County Jail in violation of the Values Act. Cal. Gov't Code § 7284.6(a)(4). Under the Values Act, local law enforcement agencies may not transfer, or facilitate the transfer of, a person into ICE custody "unless authorized by a judicial warrant or judicial probable cause determination" or in accordance with a limited list of convictions codified in section 7282.5. *Id.* There is no evidence that ICE presented a judicial warrant or judicial probable cause determination, and Mr. Santos Cuevas has no convictions covered by section 7282.5. Therefore, the Madera County Jail violated Mr. Santos Cuevas' rights under the Values Act by both holding him and transferring him to ICE custody.

Moreover, the Madera County Jail violated its own internal policies. In a policy revised on April 27, 2018, the Madera County Department of Corrections states that it will "honor only those detainer requests from ICE that are accompanied by a judicial determination of probable cause satisfying the Fourth Amendment...and to release those individuals that are otherwise eligible for release." *See* Madera County Department of Corrections, Immigration Verification and Conformance to Laws DPPM 03-09, available at

<https://www.maderacounty.com/home/showdocument?id=9819>. The Madera County jail violated this policy by detaining Mr. Santos Cuevas on the basis of an ICE detainer unaccompanied by a judicial determination of probable cause. The policy further states that Madera County will “not hold a person beyond his/her release date for the purpose of an immigration hold request or other hold request.” *Id.* The Madera County jail violated this policy by detaining Mr. Santos Cuevas beyond his release date in response to an immigration hold request. Madera County’s policy further states that “for a non-sentenced inmate, the Department of Corrections will not provide information regarding a release date unless the individual is arrested and taken before a magistrate on a charge involving a serious and violent felony.” *Id.* The Madera County jail violated this policy by communicating Mr. Santos Cuevas’ release date to ICE even though he was not taken before a magistrate on a felony charge.

The Madera County Jail’s detention of Mr. Santos Cuevas pursuant to the ICE detainer also constitutes false imprisonment, as Mr. Santos Cuevas’ confinement was a (1) nonconsensual, intentional confinement of a person, (2) without lawful privilege, and (3) for an appreciable period of time, however brief. *See Young v. City of Los Angeles*, 655 F.3d 1156, 1169 (9th Cir. 2011) (citing *Easton v. Sutter Coast Hosp.*, 90 Cal. App. 4th 485 (Cal. App. 2000)). The Madera County Jail did not have the requisite probable cause to detain Mr. Santos Cuevas pursuant to the ICE detainer, and therefore the delay in his release and transfer to ICE was unlawful.

In addition, the Madera County Jail’s unlawful detention of Mr. Santos Cuevas pursuant to the ICE detainer caused him emotional distress, as the Madera County Jail “engaged in extreme and outrageous conduct that exceeded the bounds of what is generally tolerated in a civilized society.” *Braunling v. Countrywide Home Loans, Inc.*, 220 F.3d 1154, 1158 (9th Cir. 2000). The Madera County Jail’s conduct went beyond the bounds of decency by detaining Mr. Santos Cuevas without cause and transferring him to ICE in violation of the law. As a result of the Madera County Jail’s conduct, Mr. Santos Cuevas has suffered severe emotional distress, including, but not limited to, anxiety, worry, and fear. Finally, the Madera County Jail’s actions constitute negligence, as the Madera County Jail failed to exercise due care, which resulted in Mr. Santos Cuevas’ unlawful detention and transfer to ICE custody.

Damages Claimed

Mr. Santos Cuevas has suffered injuries and damages, including: 1) loss of physical liberty; 2) violation of his constitutional rights; 3) serious emotional distress, pain, suffering, trauma, worry, anxiety, humiliation, and embarrassment; and 4) his deportation from the United States.

Mr. Santos Cuevas requests the following:

1. Compensatory, statutory, punitive, and nominal damages to Mr. Santos Cuevas for violating his right against unlawful seizure; his right to due process; his rights under the California Values Act; false imprisonment; causing him emotional distress; and negligence.
2. Injunctive and declaratory relief enjoining the Madera County Jail from continuing to engage in the above-described policies, practices, and conduct that interfere with the exercise and enjoyment of the rights of Mr. Santos Cuevas and others under state and federal law.

American Civil Liberties Union Foundation of Northern California

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EXHIBIT A

FBI/
SID/
FIN/

DEPARTMENT OF HOMELAND SECURITY
IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID: [REDACTED]
Event #: WSM1912003471

CASE#
1800005416-1193874

Date: December 28, 2019

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency)
MADERA CO DEPT OF CORRECT
MADERA COUNTY DEPARTMENT OF
CORRECTIONS
MADERA, CA 93638

FROM: (Department of Homeland Security Office Address)
ERO - Westminster, CA Sub Office
ICE
ERO PERC LAGUNA NIGUEL
24000 AVILA RD RM# 1552
LAGUNA NIGUEL, CA 92677

Name of Alien: SANTOS CUEVAS, IVAN AKA: CUEVAS, PURFIRIO SANTOS

Date of Birth: [REDACTED] Citizenship: MEXICO Sex: M

DHS HAS DETERMINED THAT PROBABLE CAUSE EXISTS THAT THE SUBJECT IS A REMOVABLE ALIEN. THIS DETERMINATION IS BASED ON (complete Part 1 or 2)

- A final order of removal against the alien;
- The pendency of ongoing removal proceedings against the alien;
- Biometric confirmation of the alien's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- Statements made by the alien to an immigration officer and/or other reliable evidence that affirmatively indicate the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

DHS TRANSFERRED THE ALIEN TO YOUR CUSTODY FOR A PROCEEDING OR INVESTIGATION (complete Part 1 or 2)

- Upon completion of the proceeding or investigation for which the alien was transferred to your custody, DHS intends to resume custody of the alien to complete processing and/or make an admissibility determination.

IT IS THEREFORE REQUESTED THAT YOU:

- Notify DHS as early as practicable (at least 48 hours, if possible) before the alien is released from your custody. Please notify DHS by calling U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP) at (559) 351-2665. If you cannot reach an official at the number(s) provided, please contact the Law Enforcement Support Center at: (802) 872-6020.
 - Maintain custody of the alien for a period **NOT TO EXCEED 48 HOURS** beyond the time when he/she would otherwise have been released from your custody to allow DHS to assume custody. The alien must be served with a copy of this form for the detainer to take effect. This detainer arises from DHS authorities and should not impact decisions about the alien's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters
 - Relay this detainer to any other law enforcement agency to which you transfer custody of the alien.
 - Notify this office in the event of the alien's death, hospitalization or transfer to another institution.
- If checked: please cancel the detainer related to this alien previously submitted to you on _____ (date).

H 3405 ZEBARI - DEPORTATION OFFICER

(Name and title of Immigration Officer)

[Signature]
(Signature of Immigration Officer) (Sign in Ink)

Notice: If the alien may be the victim of a crime or you want the alien to remain in the United States for a law enforcement purpose, notify the ICE Law Enforcement Support Center at (802) 872-6020. You may also call this number if you have any other questions or concerns about this matter.

TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE ALIEN WHO IS THE SUBJECT OF THIS NOTICE:

Please provide the information below, sign, and return to DHS by mailing, emailing or faxing a copy to _____

Local Booking/Inmate #: _____ Estimated release date/time: _____

Date of latest criminal charge/conviction: _____ Last offense charged/conviction: _____

This form was served upon the alien on _____, in the following manner:

- in person by inmate mail delivery other (please specify): _____

(Name and title of Officer)

(Signature of Officer) (Sign in Ink)

NOTICE TO THE DETAINEE

The Department of Homeland Security (DHS) has placed an immigration detainer on you. An immigration detainer is a notice to a law enforcement agency that DHS intends to assume custody of you (after you otherwise would be released from custody) because there is probable cause that you are subject to removal from the United States under federal immigration law. DHS has requested that the law enforcement agency that is currently detaining you maintain custody of you for a period not to exceed 48 hours beyond the time when you would have been released based on your criminal charges or convictions. **If DHS does not take you into custody during this additional 48 hour period, you should contact your custodian (the agency that is holding you now) to inquire about your release. If you believe you are a United States citizen or the victim of a crime, please advise DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.**

NOTIFICACIÓN A LA PERSONA DETENIDA

El Departamento de Seguridad Nacional (DHS) le ha puesto una retención de inmigración. Una retención de inmigración es un aviso a una agencia de la ley que DHS tiene la intención de asumir la custodia de usted (después de lo contrario, usted sería puesto en libertad de la custodia) porque hay causa probable que usted está sujeto a que lo expulsen de los Estados Unidos bajo la ley de inmigración federal. DHS ha solicitado que la agencia de la ley que le tiene detenido actualmente mantenga custodia de usted por un periodo de tiempo que no exceda de 48 horas más del tiempo original que habría sido puesto en libertad en base a los cargos judiciales o a sus antecedentes penales. **Si DHS no la pone en custodia durante este periodo adicional de 48 horas, usted debe de contactarse con su custodio (la agencia que le tiene detenido en este momento) para preguntar acerca de su liberación. Si usted cree que es un ciudadano de los Estados Unidos o la víctima de un crimen, por favor avise al DHS llamando gratuitamente al Centro de Apoyo a la Aplicación de la Ley ICE al (855) 448-6903.**

AVIS AU DETENU OU À LA DÉTENUÉ

Le Département de la Sécurité Intérieure (DHS) a placé un dépositaire d'immigration sur vous. Un dépositaire d'immigration est un avis à une agence de force de l'ordre que le DHS a l'intention de vous prendre en garde à vue (après cela vous pourrez par ailleurs être remis en liberté) parce qu'il y a une cause probable que vous soyez sujet à expulsion des États-Unis en vertu de la loi fédérale sur l'immigration. Le DHS a demandé que l'agence de force de l'ordre qui vous détient actuellement puisse vous maintenir en garde pendant une période ne devant pas dépasser 48 heures au-delà du temps après lequel vous auriez été libéré en se basant sur vos accusations criminelles ou condamnations. **Si le DHS ne vous prend pas en garde à vue au cours de cette période supplémentaire de 48 heures, vous devez contacter votre gardien (ne) (l'agence qui vous détient maintenant) pour vous renseigner sur votre libération. Si vous croyez que vous êtes un citoyen ou une citoyenne des États-Unis ou une victime d'un crime, s'il vous plaît aviser le DHS en appelant gratuitement le centre d'assistance de force de l'ordre de l'ICE au (855) 448-6903**

NOTIFICAÇÃO AO DETENTO

O Departamento de Segurança Nacional (DHS) expediu um mandado de detenção migratória contra você. Um mandado de detenção migratória é uma notificação feita à uma agência de segurança pública que o DHS tem a intenção de assumir a sua custódia (após a qual você, caso contrário, seria liberado da custódia) porque existe causa provável que você está sujeito a ser removido dos Estados Unidos de acordo com a lei federal de imigração. O DHS solicitou à agência de segurança pública onde você está atualmente detido para manter a sua guarda por um período de no máximo 48 horas além do tempo que você teria sido liberado com base nas suas acusações ou condenações criminais. **Se o DHS não leva-lo sob custódia durante este período adicional de 48 horas, você deve entrar em contato com quem tiver a sua custódia (a agência onde você está atualmente detido) para perguntar a respeito da sua liberação. Se você acredita ser um cidadão dos Estados Unidos ou a vítima de um crime, por favor informe ao DHS através de uma ligação gratuita ao Centro de Suporte de Segurança Pública do Serviço de Imigração e Alfândega (ICE) pelo telefone (855) 448-6903.**

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement
WARRANT OF REMOVAL/DEPORTATION

Subject ID: [REDACTED]
File No: [REDACTED]
Event No: WSM1912003471
Date: December 28, 2018

To any immigration officer of the United States Department of Homeland Security:

IVAN SANTOS CUEVAS AKA: CUEVAS, PURFIRIO SANTOS

(Full name of alien)

who entered the United States at Unknown Place on Unknown Date
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

- an immigration judge in exclusion, deportation, or removal proceedings
- a designated official
- the Board of Immigration Appeals
- a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:
241 (a) (5)

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Secretary of Homeland Security under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of:
Salaries and Expenses, Department of Homeland Security 2019

For [Signature] Bonnax, Erik S
(Signature of immigration officer)

(A) FOD
(Title of immigration officer)

December 28, 2018, SAN FRANCISCO, CA
(Date and office location)