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May 23, 2019

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, S.W.
Mail Stop 0485
Washington, DC 20528-0485

Chief Patrol Agent
U.S. Border Patrol
Laredo Sector Headquarters
207 W. Del Mar Blvd.
Laredo, Texas 78041

U.S. Customs and Border Protection
Office of the Chief Counsel
1300 Pennsylvania Avenue, N.W.
Washington, DC 20229

U.S. Border Patrol
Laredo South Station
9001 San Dario Avenue
Laredo, Texas 78045

**Re: Notice of Claim for Damages
Gilberto Gomez Vicente & Lidia Gonzalez Vasquez, individually and o/b/o Claudia
Patricia Gomez Gonzalez (deceased)**

Dear Sir or Madam:

Along with attorneys affiliated with the American Civil Liberties Union (ACLU) of Texas, I represent Claimants Gilberto Gomez Vicente and Lidia Gonzalez Vasquez, individually and on behalf of Claudia Patricia Gomez Gonzalez (deceased), and am authorized as their counsel to make claims against the U.S. Department of Homeland Security (“DHS”) and against U.S. Customs and Border Protection (“CBP”) on their behalf.

Pursuant to 28 U.S.C. § 2675(a) and 28 C.F.R. § 14.2(a), I hereby provide notification of incidents that occasion liability under the Federal Tort Claims Act and present claims for money damages for personal injury and wrongful death.

Please find enclosed on behalf of Claimants:

1. Standard Form 95 (“SF-95”) and attachment, together with supporting documents;
2. Grant of Authority to file claim on behalf of Claimants.

KIRKLAND & ELLIS LLP

Office of the General Counsel, U.S.D.H.S.

Office of the Chief Counsel, U.S.C.B.P.

Chief Patrol Agent, U.S.B.P.

May 23, 2019

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I look forward to your prompt response to this demand. I may be reached at the telephone number and email address listed above.

Sincerely,

A handwritten signature in blue ink, appearing to read "Yosef J. Riemer". The signature is fluid and cursive, with a large initial "Y" and "R".

Yosef J. Riemer, P.C.

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FTCA Standard Form 95 -- Attachment

Claimants: Gilberto Gomez Vicente & Lidia Gonzalez Vasquez, individually and o/b/o Claudia Patricia Gomez Gonzalez (deceased)

Boxes 8/10. Basis of Claim

I. Factual Basis for Claims

On May 23, 2018, an unknown agent of the U.S. Border Patrol (the “Agent”) killed Claudia Patricia Gomez Gonzalez by shooting her in the head. She was shot and died on United States soil near Laredo, Texas.

Gilberto Gomez Vicente and Lidia Gonzalez Vasquez are the parents of the deceased, Claudia Patricia Gomez Gonzalez (“Claudia”). They submit this claim individually and on behalf of themselves and on behalf of their daughter’s estate.

Based on Claimant’s investigation and other sources, the factual basis for the Claim is as follows:

Claudia was a 20-year old, hard-working, studious, and caring young woman. She was an honors student and had studied accounting.

In addition to her studies, Claudia helped her mother with household chores, was a devout member of her church group, and served her community nobly and humbly. Claudia was well respected and known for her willingness to help and uplift those around her.

Rio Bravo is a quiet, small town of just under 5,000 people. It is located on the outskirts of Laredo. It is bordered on the west by the Rio Grande (the Spanish name for which is Río Bravo), the international border between Mexico and the United States. It largely consists of modest single-story homes, located along four streets that run perpendicular to the river. In 2016, the FBI’s Uniform Crime Reporting program reported *zero* incidents of violent crime in Rio Bravo—making it the safest town in Texas.

Local Border Patrol agents are familiar with Rio Bravo. The Webb County Detention Center and Rio Grande detention center are just to the north of town. And there are usually one or two Border Patrol vehicles along Tulipan Drive, which runs parallel to the river just inland, with a clearing between the river and the road.

Shortly after noon on May 23, 2018, Claudia was walking along Centeno Lane in Rio Bravo, about one-third of a mile from the river, with a few other people.

Claudia wore jeans, a light grey shirt, and a hoodie, with her hair tied back in a ponytail. She was not carrying a bag, backpack, or any visible objects. She did not have any weapons. Nor did she have anything that could even be perceived as a weapon.

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Claudia and the people she was with were in the corner of a vacant lot. That was where an unknown agent of the U.S. Border Patrol came into contact with them.

Two people from Claudia's group ran toward the river. Two others ran toward an abandoned and dilapidated mobile home two lots away, to hide. Claudia and another person stayed in the vacant lot.

The Agent drew his weapon. When Claudia took a step, The Agent aimed at her, pulled the trigger, and shot her in the head. Claudia fell to the ground, face down. The Agent then chased the two men who hid in the mobile home. Soon other Border Patrol agents arrived at the scene.

At this point, another Border Patrol agent stood over Claudia's body. He attempted to turn her over, revealing blood across one side of her face. As Claudia lay dying, she opened her mouth and gasped for air. It took her at least several minutes to die.

Claudia posed no threat to anyone, as would have been obvious from the slightest glance. She was a petite woman of small build. She was clearly unarmed. She was not carrying anything that could even remotely be perceived as a weapon or any other kind of threat.

No one else in Claudia's group near her created any threat of danger either—not to the Agent, and not to anyone else. No one other than the Agent had any weapons. No one in the group did anything that could remotely be construed as threatening or violent, let alone as posing any imminent danger of serious physical injury or death.

Following the shooting, CBP issued a press release stating that members of Claudia's group had used "blunt objects" to attack the Agent, and that Claudia was "one of the assailants." CBP later retracted that statement and issued a new statement—which did not include any reference to blunt objects, and which also did not include any allegations that Claudia had assaulted the Agent.

II. Legal Basis for Claims

Battery

(Texas Wrongful Death and Survival Statute)

DHS and CBP, through their employee or agent, intentionally caused harmful or offensive contact with Claudia when an unknown agent of the U.S. Border Patrol intentionally fired his weapon at Claudia and intentionally and fatally shot Claudia in the head, causing Claudia to suffer injury and death.

As a direct and proximate result of the battery, Claudia suffered physical, mental, and emotional pain and distress, and death.

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Claimants: Gilberto Gomez Vicente & Lidia Gonzalez Vasquez, individually and o/b/o Claudia Patricia Gomez Gonzalez (deceased)

As a direct and proximate result of the battery, Gilberto Gomez Vicente and Lidia Gonzalez Vasquez suffered extreme mental and emotional pain and distress, as well as loss of love and companionship, loss of support from their daughter's potential future earnings, and other harms.

DHS and CBP are directly and vicariously liable for the Agent's battery. The Agent is an investigative or law enforcement officer who is empowered by law to execute searches, to seize evidence, and to make arrests, and accordingly the United States is not immune from liability for his intentional torts.

Negligence, Gross Negligence, and Recklessness (Texas Wrongful Death and Survival Statute)

DHS and CBP had a duty to execute their agency functions in a manner that avoid causing the unreasonable, excessive, and unprovoked harm, injury, and death of third parties. DHS and CBP breached this duty when: (i) one of their employees or agents acted unreasonably or recklessly, resulting in an unknown agent of the U.S. Border Patrol shooting Claudia, for which DHS and CBP are directly and vicariously liable; (ii) DHS and CBP failed to supervise the Agent to ensure that the Agent took reasonable steps to avoid harm to others; (iii) DHS and CBP failed to train the Agent to ensure that the Agent did not unlawfully use lethal force; and (iv) DHS and CBP failed to take reasonable steps in planning the operation to minimize the risk that lethal force would be used.

As a direct and proximate result of this negligence, gross negligence, and reckless conduct, Claudia suffered physical, mental, and emotional pain and distress, lost wages, and death.

As a direct and proximate result of this negligence, gross negligence, and reckless conduct, Gilberto Gomez Vicente and Lidia Gonzalez Vasquez suffered extreme mental and emotional pain and distress, as well as loss of love and companionship, loss of support from their daughter's potential future earnings, and other harms.

This is not intended to be an exhaustive list of possible causes of action.

Box 10. Personal Injury/Wrongful Death

Claudia suffered physical, mental, and emotional pain and distress, lost wages, and death.

Gilberto Gomez Vicente and Lidia Gonzalez Vasquez suffered extreme mental and emotional pain and distress, as well as loss of love and companionship, loss of support from their daughter's potential future earnings, and other harms.