

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

JEREMY DE LOS SANTOS, and
JOSHUA DE LOS SANTOS,

Plaintiffs,

vs.

CIVIL No. _____

THE CITY OF ROSWELL, NEW MEXICO,
A Municipal Corporation;
JEFFREY PRINCE; SCOTT OLDANI;
LANDON STEPHENSON; SCOTT STEVENSON;
JON GOKEY; CRUZ ZAVILA
RON SMITH; B. BAILEY;
and HELEN CHEROMIAH, in their
individual capacities,

Defendants.

**COMPLAINT TO RECOVER DAMAGES DUE TO
DEPRIVATION OF CIVIL RIGHTS AND VIOLATIONS
OF THE NEW MEXICO TORT CLAIMS ACT**

Plaintiffs bring this action to recover damages for violation of their civil rights under 42 U.S.C. Sec. 1983 and for further violations of the New Mexico Tort Claims Act. In support of this Complaint, Plaintiffs allege as follows:

INTRODUCTION

1. This civil rights action is brought to protect and ensure the well-established constitutional right to engage in free speech in a traditional public forum.
2. Defendants have implemented an informal policy of prohibiting Plaintiffs from exercising their First Amendment Rights on traditional public fora.
3. This is a civil action for damages, declaratory relief and prospective injunctive relief to redress and prevent violation of civil rights protected by the Constitutions of the United

States and the State of New Mexico.

4. Plaintiffs seek a permanent injunction and a declaration prohibiting Defendants from arresting them, or from otherwise restricting their speech, on traditional public fora due to the content and viewpoint of their speech, or because of their religious beliefs.
5. Plaintiffs seek a declaration that Defendants' actions as detailed below, in arresting Plaintiffs and in otherwise restricting their speech were unconstitutional.
6. Plaintiffs each seek compensatory and punitive damages based upon their federal claims. Plaintiffs each seek compensatory based upon their state claims. In addition, Plaintiffs each seek attorney fees and court costs pursuant to 42 U.S.C. § 1983 and § 1988.

JURISDICTION & VENUE

7. This action arises under the United States Constitution, particularly the First, Fourth, Eighth and Fourteenth Amendments; and under federal law, particularly 28 U.S.C. § 1343, 28 U.S.C. §§2201, 2202, and 42 U.S.C. § 1983 for claims arising under the United States Constitution and
8. This action also arises under the New Mexico Tort Claims Act, N.M.S.A. 1978, §41-4-1, et seq.
9. This Court has original jurisdiction over the federal claims by operation of 28 U.S.C. §§ 1331 and 1343.
10. This Court has authority to issue the requested declaratory relief under 28 U.S.C. §§2201.
11. This Court has authority to issue the requested injunctive relief under FED. R. CIV. P. 65 and 28 U.S.C. §1343(3).
12. This Court is authorized to award the requested damages under 28 U.S.C. §1343(3).
13. This Court is authorized to award the requested attorney fees and costs under 42 U.S.C. §

1988.

14. Venue is proper under 28 U.S.C. §1391 because Plaintiffs' claims arose within this District, Plaintiffs reside within this District, and based on information and belief, all Defendants reside within this District.
15. This Court has supplemental or pendent jurisdiction pursuant to 28 U.S.C. § 1367 to hear claims under the New Mexico Tort Claims Act which arise out of the same fact situation.
16. This Court has jurisdiction to award damages pursuant to the New Mexico Tort Claims Act, N.M.S.A. 1978, §41-4-12.

PARTIES

17. Plaintiff Jeremy De Los Santos is an adult citizen and resident of the City of Roswell, New Mexico.
18. Plaintiff Joshua De Los Santos is an adult citizen and resident of the City of Roswell, New Mexico.
19. Defendant City of Roswell (City) is a municipal corporation and governmental entity created and operating pursuant to the New Mexico statutes. It is located in Chaves County, New Mexico, and governs the geographical area known as the City of Roswell. The City is authorized to sue and be sued in its own name.
20. At all times material hereto, the City was responsible for the operation of the Roswell Police Department (RPD) and RPD law enforcement officers.
21. Jeffrey Prince is an employee of the City of Roswell, New Mexico. At all times material, he was a law enforcement officer acting in the scope of his duty and employment and under color of state and local law. Defendant Jeffrey Prince is sued in his individual capacity.

22. Scott Oldani is an employee of the City of Roswell, New Mexico. At all times material, he was a law enforcement officer acting in the scope of his duty and employment and under color of state and local law. Defendant Scott Oldani is sued in his individual capacity.
23. Landon Stephenson was an employee of the City of Roswell, New Mexico. At all times material, he was a law enforcement officer acting in the scope of his duty and employment and under color of state and local law. Defendant Landon Stephenson is sued in his individual capacity.
24. Scott Stevenson is an employee of the City of Roswell, New Mexico. At all times material, he was a law enforcement officer acting in the scope of his employment and under color of state and local law. Defendant Scott Stevenson is sued in his individual capacity.
25. Jon Gokey is an employee of the City of Roswell, New Mexico. At all times material, he was a law enforcement officer acting in the scope of his duty and employment and under color of state and local law. Defendant Jon Gokey is sued in his individual capacity.
26. Cruz Zavila is an employee of the City of Roswell, New Mexico. At all times material, he was a law enforcement officer acting in the scope of his duty and employment and under color of state and local law. Defendant Cruz Zavila is sued in his individual capacity.
27. Ron Smith is an employee of the City of Roswell, New Mexico. At all times material, he was a law enforcement officer acting in the scope of his duty and employment and under color of state and local law. Defendant Ron Smith is sued in his individual capacity.
28. B. Bailey was an employee of the City of Roswell, New Mexico. At all times material, he was a law enforcement officer acting in the scope of his duty and employment and under

color of state and local law. Defendant B. Bailey is sued in his individual capacity.

29. Helen Cheromiah is an employee of the City of Roswell, New Mexico. At all times material, she was a law enforcement officer acting in the scope of her duty and employment and under color of state and local law. Defendant Helen Cheromiah is sued in her individual capacity.

FACTUAL BACKGROUND

30. Plaintiffs were arrested numerous times as a result of their efforts to preach the Gospel.

All of the charges were dismissed.

31. Based on Defendants' conduct set out below, Plaintiff Jeremy De Los Santos has suffered violations of his rights and physical harm as well as emotional pain and suffering. Plaintiff Jeremy De Los Santos is entitled to an award of compensatory damages for these injuries.

32. Based on Defendants' conduct set out below, Plaintiff Joshua De Los Santos has suffered violations of his rights, as well as emotional pain and suffering. Plaintiff Joshua De Los Santos is entitled to an award of compensatory damages for these injuries.

33. Defendants acted willfully, knowingly and purposefully and/or with deliberate indifference to deprive Plaintiffs of their Constitutional rights. As a result of the nature of defendants' conduct, Plaintiffs are entitled to recover punitive damages against the individual Defendant officers.

34. All of the actions of Defendants were done in violation of clearly established law.

35. Based on the number of incidents and the dismissals of all charges resulting therefrom, as set out below, Defendant City of Roswell is also liable because it was deliberately indifferent to the obvious need for more or different training of its police officers with

regard to citizens' exercise of First Amendment rights in public fora. This failure to provide proper training, therefore, represents a policy for which the City may be held liable.

36. In addition, Defendants have implemented an informal policy of prohibiting Plaintiffs from exercising their First Amendment Rights on traditional public fora.

37. Defendant City of Roswell is liable for the misconduct of its police officer employees pursuant to the New Mexico Tort Claims Act, N.M.S.A. 1978, §41-4-1, et seq.

38. Plaintiffs are brothers and members of the Old Paths Baptist Church in Roswell, New Mexico.

39. Plaintiff Joshua De Los Santos is the pastor of the Old Paths Baptist Church.

40. Plaintiff Jeremy De Los Santos provides religious instruction at the Old Paths Baptist Church.

41. Old Paths Baptist Church is described as a "Fundamental, Independent, King James Bible Only, Traditional Hymns, Local New Testament Church."

42. Plaintiffs believe that it is their mandatory duty to boldly preach the Gospel in public.

43. Plaintiffs believe that they are among a long history of believers, who spread their religious beliefs in public, outdoors, i.e., they are "Street Preachers."

44. Plaintiffs believe that "street preaching" is an ancient practice going back to the prophets of the Old Testament.

45. Plaintiffs believe that in the New Testament, Jesus Christ proclaimed his message in the "open-air," speaking plainly to the common man.

46. Plaintiffs believe that the Book of Acts records the early Church obeying a command to go into the world and preach the Gospel.

47. Plaintiffs believe that they must comply with the Biblical directive, found in *Mark 16:15* – “Go Ye Into All The World And Preach The Gospel To Every Creature.”
48. Plaintiffs believe that church history reveals that their forefathers brought the Gospel to those outside their church buildings.
49. Plaintiffs believe that the form of religious activity they practice occupies the same high estate under the First Amendment as do worship in the churches and preaching from the pulpits.
50. Plaintiffs believe that they must carry on this biblical practice.

APRIL 16, 2010

51. On April 16, 2010, Plaintiff Jeremy De Los Santos was attempting to preach on a public sidewalk outside of a night club named Billy Ray’s Lounge in Roswell, New Mexico. Officer Jeffrey Prince arrested Plaintiff Jeremy De Los Santos and charged him with Disorderly Conduct. He was handcuffed, taken to jail, and booked.
52. Plaintiff Jeremy De Los Santos incurred fees, costs and other expenses in order to defend against the charges.
53. After a trial on February 1, 2011, the charge was dismissed by Fifth Judicial District Judge Ralph D. Shamas.
54. Plaintiff Jeremy De Los Santos was arrested for exercising his rights to free speech and the free exercise of religion.
55. The effort by Plaintiff Jeremy De Los Santos to preach was speech protected by the Constitutions of the United States and New Mexico.
56. The arrest of Plaintiff Jeremy De Los Santos was made in retaliation his exercise of his right to free speech.

57. The arrest of Plaintiff Jeremy De Los Santos adversely affected his free speech rights.

58. The arrest of Plaintiff Jeremy De Los Santos violated his right to the free exercise of religion.

59. The arrest of Plaintiff Jeremy De Los Santos was made without a warrant and without probable cause.

60. The arrest of Plaintiff Jeremy De Los Santos constituted false imprisonment and false arrest as described in the New Mexico Tort Claims Act, N.M.S.A. 1978, §41-4-12.

SEPTEMBER 24, 2010

61. On September 24, 2010, Plaintiff Jeremy De Los Santos was attempting to preach in a public area outside of the Old Paths Baptist Church in Roswell, New Mexico. He was on church property. Officer Scott Oldani arrested Plaintiff Jeremy De Los Santos and charged him with Disorderly Conduct. He was handcuffed, taken to jail, and booked.

62. Plaintiff Jeremy De Los Santos incurred fees, costs and other expenses in order to defend against the charges.

63. The charge was later dismissed by the Roswell City Attorney before trial.

64. Plaintiff Jeremy De Los Santos was arrested for exercising his rights to free speech and the free exercise of religion.

65. The effort by Plaintiff Jeremy De Los Santos to preach was speech protected by the Constitutions of the United States and New Mexico.

66. The arrest of Plaintiff Jeremy De Los Santos was made in retaliation his exercise of his right to free speech.

67. The arrest of Plaintiff Jeremy De Los Santos violated his right to the free exercise of religion.

68. The arrest of Plaintiff Jeremy De Los Santos adversely affected his free speech rights.
69. Members of the RPD confiscated a megaphone and a digital camera from Plaintiff Jeremy De Los Santos.
70. Members of the RPD confiscated a video camera from Plaintiff Joshua De Los Santos.
71. The megaphone and digital camera have not been returned.
72. The arrest of Plaintiff Jeremy De Los Santos was made without a warrant and without probable cause.
73. After Plaintiff Jeremy De Los Santos was arrested and taken to the Roswell Police department, he was transported to the Chaves County Detention Center in a Roswell Police Department vehicle.
74. When he was transported to the detention center, the rear seat of the patrol vehicle had been sprayed with mace or another chemical agent, which caused Plaintiff Jeremy De Los Santos to experience coughing, difficulty breathing, and other discomfort.
75. The arrest of Plaintiff Jeremy De Los Santos constituted battery, false imprisonment, false arrest and violation of property rights as described in the New Mexico Tort Claims Act, N.M.S.A. 1978, §41-4-12.

NOVEMBER 28, 2010

76. On November 28, 2010, Jeremy De Los Santos and Joshua De Los Santos were attempting to preach outside of the Church on the Move in Roswell, New Mexico. They were both standing on a public sidewalk when members of the Church on the Move came outside. A disagreement ensued. Later, RPD Officer Landon Stephenson arrived, arrested Plaintiff Jeremy De Los Santos and charged him with Party to a Crime and Disturbing Lawful Assembly.

77. Plaintiff Jeremy De Los Santos incurred fees, costs and other expenses in order to defend against the charges.
78. The charges were later dismissed by the Roswell City Attorney before trial.
79. Plaintiff Jeremy De Los Santos was arrested for exercising his rights to free speech and the free exercise of religion.
80. The effort by Plaintiff Jeremy De Los Santos to preach was speech protected by the Constitutions of the United States and New Mexico.
81. The arrest of Plaintiff Jeremy De Los Santos was made in retaliation his exercise of his right to free speech.
82. The arrest of Plaintiff Jeremy De Los Santos adversely affected his free speech rights.
83. The arrest of Plaintiff Jeremy De Los Santos violated his right to the free exercise of religion.
84. The arrest of Plaintiff Jeremy De Los Santos was made without a warrant and without probable cause.
85. RPD Officer Landon Stephenson did not observe the alleged altercation or have contact with the alleged pastor/victim. No conduct constituting a violation of “Party to a Crime” or disorderly conduct was committed in his presence.
86. The arrest of Plaintiff Jeremy De Los Santos constituted false imprisonment and false arrest as described in the New Mexico Tort Claims Act, N.M.S.A. 1978, §41-4-12.

MAY 28, 2011

87. On May 28, 2011, Plaintiff Jeremy De Los Santos attended a public event at the *Cielo Grande* Park in Roswell, New Mexico. RPD Officer Scott Stevenson arrested Plaintiff Jeremy De Los Santos and charged him with obstructing a police officer. He was

handcuffed, taken to jail, and booked.

88. Plaintiff Jeremy De Los Santos incurred fees, costs and other expenses in order to defend against the charges.

89. The charge was later dismissed by the Roswell City Attorney before trial.

90. While he was jailed at the Roswell Police station, he was handcuffed with his hands behind his back and attached to a wall in a stress position by Officer Scott Stevenson. The handcuffing reduced the circulation to his shoulder, arms, and hands and caused pain and later numbness.

91. This conduct by Officer Scott Stevenson constituted excessive force and violated Plaintiff Jeremy De Los Santos' right to substantive due process and rights guaranteed by the Fourth Amendment and the Eighth Amendment to the U.S. Constitution.

92. The arrest of Plaintiff Jeremy De Los Santos constituted personal injury, bodily injury, and battery as described in the New Mexico Tort Claims Act, N.M.S.A. 1978, §41-4-12.

MAY 28, 2011

93. On May 28, 2011, Plaintiff Joshua De Los Santos was at the Roswell Convention Center to preach outside while a rap concert was being held inside. He intended to preach against the explicit lyrics that were being used at the concert.

94. On information and belief, Plaintiff Joshua De Las Santos was standing on a public sidewalk that had not been leased to the concert promoter.

95. Plaintiff Joshua De Las Santos was not blocking anyone from entry into the concert. RPD Officer Jon Gokey and Sgt. Cruz Zavila arrested Plaintiff Joshua De Los Santos and charged him with criminal trespass. He was handcuffed, taken to jail, and booked.

96. Plaintiff Joshua De Los Santos incurred fees, costs and other expenses in order to defend

against the charges.

97. The charge was later dismissed by the Roswell City Attorney before trial.

98. Plaintiff Joshua De Los Santos was arrested for exercising his rights to free speech and the free exercise of religion.

99. The effort by Plaintiff Joshua De Los Santos to preach was speech protected by the Constitutions of the United States and New Mexico.

100. The arrest of Plaintiff Joshua De Los Santos was made in retaliation for his exercise of his right to free speech.

101. The arrest of Plaintiff Joshua De Los Santos adversely affected his free speech rights.

102. The arrest of Plaintiff Joshua De Los Santos violated his right to the free exercise of religion.

103. The arrest of Plaintiff Joshua De Los Santos was made without a warrant and without probable cause.

104. The arrest of Plaintiff Joshua De Los Santos constituted false imprisonment and false arrest as described in the New Mexico Tort Claims Act, N.M.S.A. 1978, §41-4-12.

JULY 1, 2011

105. On July 1, 2011, Plaintiffs Jeremy De Los Santos and Joshua De Los Santos attended a public event on Main Street at the UFO Museum in Roswell. The Mayor of the City of Roswell, the City Manager, and a City Council member were present.

106. Plaintiffs attended the event in order to preach the Gospel. Plaintiff Joshua De Los Santos attempted to videotape the encounters that occurred. An RPD officer took his camera.

107. RPD Officers Oldani, Smith, Preston, Rightsell, Northcutt, Bailey and Sanford confronted Plaintiffs and told them that they had to remain in an area away from the public gathering.
108. When Plaintiffs did not do so, RPD Officer Ron Smith ordered the arrests of Plaintiffs.
109. RPD Officer B. Bailey arrested Plaintiff Jeremy De Los Santos and charged him with criminal trespass, obstructing an officer, and wrongful use of public property. He was handcuffed, taken to jail, and booked.
110. Plaintiff Jeremy De Los Santos incurred fees, costs and other expenses in order to defend against the charges.
111. The charges were later dismissed by the Roswell City Attorney before trial.
112. RPD Officer Helen Cheromiah arrested Plaintiff Joshua De Los Santos and charged him with criminal trespass, obstructing an officer, and wrongful use of public property. He was handcuffed, taken to jail, and booked.
113. Plaintiff Joshua De Los Santos incurred fees, costs and other expenses in order to defend against the charges.
114. The charges were later dismissed by the Roswell City Attorney before trial. .
115. Plaintiffs were arrested for exercising their rights to free speech and the free exercise of religion.
116. The effort by Plaintiffs to preach was speech protected by the Constitutions of the United States and New Mexico.
117. The arrests of Plaintiffs were made in retaliation for their exercise of their right to free speech.

118. The arrests of Plaintiffs adversely affected their free speech rights.
119. The arrests of Plaintiffs violated their right to the free exercise of religion.
120. The arrests of Plaintiff Jeremy De Los Santos and Plaintiff Joshua De Los Santos were made without warrants and without probable cause.
121. The arrests of Plaintiff Jeremy De Los Santos and Plaintiff Joshua De Los Santos constituted false imprisonment and false arrest as described in the New Mexico Tort Claims Act, N.M.S.A. 1978, §41-4-12.

AUGUST 28, 2011

122. On August 26, 2011, Plaintiff Jeremy De Los Santos went to the Roswell Police Department in order to see the Chief of the RPD, to try to resolve the issues between Plaintiffs and the RPD. The Chief refused to see him.
123. Plaintiff Jeremy De Los Santos exited the police station and began to preach outside of the station.
124. Later, RPD Officer Ron Smith later filed a criminal complaint for disorderly conduct and obtained a warrant for the arrest of Plaintiff Jeremy De Los Santos.
125. On information and belief, Officer Ron Smith was not present when the disorderly conduct allegedly occurred.
126. Plaintiff was arrested for exercising his rights to free speech and the free exercise of religion.
127. The effort by Plaintiff Jeremy De Los Santos to preach was speech protected by the Constitutions of the United States and New Mexico.
128. The arrest of Plaintiff Jeremy De Los Santos was made in retaliation for his exercise of his right to free speech.

129. The arrest of Plaintiff Jeremy De Los Santos adversely affected his free speech rights.
130. The arrest of Plaintiff Jeremy De Los Santos violated his right to the free exercise of religion.
131. The Roswell Municipal Court judge issued a warrant for the arrest of Plaintiff Jeremy De Los Santos.
132. Upon information and belief, the Roswell Municipal Court judge did not make a finding based on good cause which showed that the interests of justice would be better served by the issuance of a warrant for arrest instead of a summons.
133. RPD Officer Ron Smith acted with malice.
134. The procurement of an arrest warrant from the Municipal judge by RPD Officer Ron Smith resulted in a violation of Plaintiff Jeremy De Los Santos' right to procedural due process and/or his rights under the Fourth Amendment.
135. Later that week, on Sunday, August 28, 2011, RPD officers went to the Old Paths Baptist Church. Plaintiff Jeremy De Los Santos was inside the church conducting services.
136. On that date, RPD Officer James Burton met Plaintiff Joshua De Los Santos outside of the church and informed him that they had an arrest warrant for Plaintiff Jeremy De Los Santos and were there to arrest him.
137. Plaintiff Jeremy De Los Santos left the church, and surrendered to RPD Officer James Burton, who arrested him pursuant to a charge of disorderly conduct. He was taken to jail, and booked.
138. Plaintiff Jeremy De Los Santos incurred fees, costs and other expenses in order to

defend against the charges.

139. The charge was later dismissed by the Roswell City attorney before trial.

140. The filing of the criminal complaint by Officer Ron Smith constituted an improper use of process because it was filed without probable cause.

141. A primary motive behind the filing of the criminal complaint by Officer Ron Smith in the use of process was to harass Plaintiff Jeremy De Los Santos.

142. Plaintiff Jeremy De Los Santos suffered damages due to the malicious abuse of process.

143. The arrest and prosecution of Plaintiff Jeremy De Los Santos constituted malicious abuse of process, false imprisonment and false arrest as described in the New Mexico Tort Claims Act, N.M.S.A. 1978, §41-4-12.

**COUNT I – FOURTH & FOURTEENTH AMENDMENT
CLAIMS (FALSE ARREST, FALSE IMPRISONMENT,
ILLEGAL DETENTION, MALICIOUS PROSECUTION)**

144. Plaintiffs incorporate the allegations in paragraphs 1 - 143 as though fully set forth herein.

145. The seizures and detentions of Plaintiffs, as set forth above, were committed without reasonable suspicion and without probable cause to believe that Plaintiffs were engaged in criminal activity.

146. The detentions and arrests of Plaintiffs were not justified or privileged under the law and constitute unreasonable seizures and false imprisonment under the Fourth Amendment.

147. The prosecution of Plaintiff Jeremy De Los Santo for conduct that allegedly occurred on August 26, 2011 amounted to malicious abuse of process.

COUNT II – FIRST AMENDMENT CLAIMS
(RETALIATION FOR EXERCISE OF FREEDOM OF SPEECH)

148. Plaintiffs incorporate the allegations in paragraphs 1 - 147 as though fully set forth herein.

149. The arrests and prosecutions of Plaintiffs, as set out above, were made in retaliation for their exercise of their right to free speech and violated their First Amendment Rights.

COUNT III – FIRST AMENDMENT CLAIMS
(VIOLATION OF THE RIGHT TO FREE EXERCISE OF RELIGION)

150. Plaintiffs incorporate the allegations in paragraphs 1 - 139 as though fully set forth herein.

151. The Constitution mandates that access to the streets, sidewalks, parks, and other similar public places for purpose of exercising First Amendment rights cannot be denied broadly and absolutely.

152. Public expression of ideas may not be prohibited merely because ideas are themselves of offensive to some of their hearers.

153. The arrests of Plaintiffs violated their right to the free exercise of religion.

COUNT IV – FOURTH & EIGHTH AMEMDMENTS & FOURTEENTH
AMENDMENT SUBSTANTIVE DUE PROCESS (EXCESSIVE FORCE)

154. The excessive and unnecessary use of force by Defendants against Plaintiff Jeremy De Los Santos, while he was a pretrial detainee, as set forth in paragraphs 73, 74 and 90 above, constituted excessive force in violation of Plaintiff Jeremy De Los Santos' Constitutional rights.

COUNT V – MUNICIPAL LIABILITY

155. Defendant City of Roswell is also liable because it was deliberately indifferent to the obvious need for more or different training of its police officers with regard to citizens' exercise of First Amendment rights in public fora. This failure to provide proper training, therefore, represents a policy for which the City may be held liable.

COUNT VI -- TORT CLAIMS

156. Plaintiffs incorporate the allegations in paragraphs 1 - 154 as though fully set forth herein.

157. Pursuant to the New Mexico Tort Claims Act, Defendants are liable to Plaintiffs for damages resulting from assault, battery, false imprisonment, false arrest, malicious abuse of process, violation of property rights and deprivation of rights, privileges or immunities secured by the constitution and laws of the United States or New Mexico.

158. The wrongful taking of Plaintiffs' property, as described above, constituted conversion of Plaintiff's property and violation of Plaintiffs' property rights.

159. Based on the conduct of the RPD officers, Defendant City of Roswell is liable under the doctrine of *respondeat superior* on all of the Plaintiffs' claims under the New Mexico Tort Claims Act.

160. The excessive and unnecessary use of force by Defendants against Plaintiff Jeremy De Los Santos as set forth in paragraphs 73, 74 and 90 above, constituted battery.

161. The detentions, arrests, and imprisonment of Plaintiffs as set forth above constituted false imprisonment, false arrest, malicious abuse of process, violation of property rights and deprivation of rights, privileges or immunities secured by the constitution and laws of the United States or New Mexico.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs seek the following relief:

1. Actual and compensatory damages sufficient to make them whole against the Defendants jointly and severally.
2. Punitive damages on the Plaintiffs' federal law claims against Defendants – sufficient to punish them and to deter further wrongdoing.
3. The issuance of permanent injunction and a declaration prohibiting Defendants from arresting Plaintiffs, or from otherwise restricting their speech, on traditional public fora due to the content and viewpoint of their speech, or because of their religious beliefs.
4. Attorneys' fees, litigation expenses, costs, pre- and post-judgment interest and provided by law, and
5. Such other and further relief as the Court deems proper.

Respectfully submitted,

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