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10 **Attorneys for Plaintiff**

8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE DISTRICT OF ARIZONA**

10 STEVEN J. BLOMQUIST and SHARYL  
11 V. CUMMINGS, husband and wife  
12 PLAINTIFFS,  
13 v.

**CASE No.: 4:09-CV-671**

**COMPLAINT**

14 TOWN OF MARANA, an Arizona  
15 Municipal Corporation, T. P. (“Terry”)  
16 and JANE DOE TOMETICH, husband  
17 and wife, JOHN DOE BENNETT and  
18 JANE DOE BENNETT, husband and  
19 wife, JOHN DOE RITTER and JANE  
20 DOE RITTER, husband and wife,  
21 ROBERTO (Able - Last Name Unknown)  
22 and JANE DOE ABLE, husband and wife,  
23 JOHN DOE FANE and JANE DOE  
24 FANE, husband and wife, M. WILLIAMS  
25 and JANE DOE WILLIAMS, husband and  
wife, JOHN DOE MONTGOMERY and  
JANE DOE MONTGOMERY, husband  
and wife, TIM BRUNENKANT and  
JANE DOE BRUNENKANT, husband  
and wife, FRANK CASSIDY and JANE  
DOE CASSIDY, husband and wife; JOHN  
and JANE DOES 1-100, Marana Town  
Officials involved in the underlying

1 wrongful acts,  
2 DEFENDANTS.

3 NOW COME Plaintiffs, Steven J. Blomquist and Sharyl V. Cummings, by  
4 and through Counsel undersigned, and for their claims for relief, allege and aver as  
5 follows upon information and belief:  
6

7 JURISDICTION

8 I.

- 9
- 10 1. This Court has jurisdiction over the subject matter of this action  
11 pursuant to 28 U.S.C. §1331 as this suit arises under 42 U.S.C.  
12 §§1983 and 1988.
  - 13 2. To the extent any claim is deemed a state law claim and or is subject  
14 to supplemental jurisdiction, jurisdiction over such claims is  
15 appropriate under principles of supplemental jurisdiction as set forth  
16 in 28 U.S.C. §1367.  
17

18 PARTIES

19 II

- 20
- 21 3. Plaintiffs Steven J. Blomquist (“Mr. Blomquist”) and Sharyl V.  
22 Cummings (Ms. Cummings) are husband and wife, Arizona residents,  
23 and United States’ citizens.
  - 24 4. Defendant Town of Marana is an Arizona Municipal Corporation.  
25

- 1           5.     Plaintiffs do not currently have the full names of all defendants.  
2           Unless otherwise specified, if a first name is unknown, plaintiffs will  
3           use "John Doe" coupled with the last name for defendants believed to  
4           be male and "Jane Doe" coupled with the last name for defendants  
5           believed to be female.  
6
- 7           6.     Defendant T. P. "Terry" Tometich is an Arizona resident and the  
8           Town of Marana's Chief of Police.  
9
- 10          7.     Defendant Jane Doe Tometich is the spouse, if any, of T. P. "Terry"  
11          Tometich, and the acts complained of herein were for the benefit of  
12          the marital community, and bound the marital community, to the  
13          extent it exists.  
14
- 15          8.     Defendant John Doe Bennett is an Arizona resident and a Marana  
16          Police Department police officer with badge number 385.  
17
- 18          9.     Defendant Jane Doe Bennett is the spouse, if any, of John Doe  
19          Bennett, and the acts complained of herein were for the benefit of the  
20          marital community, and bound the marital community, to the extent it  
21          exists.  
22
- 23          10.    Defendant John Doe Ritter is an Arizona resident and a Marana Police  
24          Department police officer with badge number 315.  
25

- 1           11. Defendant Jane Doe Ritter is the spouse, if any, of John Doe Ritter,  
2                   and the acts complained of herein were for the benefit of the marital  
3                   community, and bound the marital community, to the extent it exists.  
4
- 5           12. Defendant Roberto Able (last name currently unknown, with Able  
6                   substituted as a temporary fictitious identifying last name) is an  
7                   Arizona resident and believed to be a member of the Marana Police  
8                   Department and/or a Town of Marana employee.  
9
- 10          13. Defendant Jane Doe Able is the spouse, if any, of the defendant  
11                   currently identified as Roberto Able, and the acts complained of  
12                   herein were for the benefit of the marital community, and bound the  
13                   marital community, to the extent it exists.  
14
- 15          14. Defendant M. Williams is an Arizona resident and Marana Police  
16                   Department police officer with badge number 316.  
17
- 18          15. Defendant Jane Doe Williams is the spouse, if any, of defendant M.  
19                   Williams, and the acts complained of herein were for the benefit of  
20                   the marital community, and bound the marital community, to the  
21                   extent it exists.  
22
- 23          16. Defendant John Doe Montgomery is an Arizona resident and Marana  
24                   Police Department police officer with badge number 183.  
25

1 17. Defendant Jane Doe Montgomery is the spouse, if any, of John Doe  
2 Montgomery, and the acts complained of herein were for the benefit  
3 of the marital community, and bound the marital community, to the  
4 extent it exists.  
5

6 18. Defendant Tim Brunenkant is an Arizona resident and Marana Police  
7 Department police officer with badge number 161.  
8

9 19. Defendant Jane Doe Brunenkant is the spouse, if any, of Tim  
10 Brunenkant, and the acts complained of herein were for the benefit of  
11 the marital community, and bound the marital community, to the  
12 extent it exists.  
13

14 20. Defendant Frank Cassidy is an Arizona resident and Town of  
15 Marana's Town Attorney.  
16

17 21. Defendant Jane Doe Cassidy is the spouse, if any, of Frank Cassidy,  
18 and the acts complained of herein were for the benefit of the marital  
19 community, and bound the marital community, to the extent it exists.  
20

21 22. Defendants John and Jane Does 1-100 are Marana town officials  
22 whose identities and involvement in the underlying claims are  
23 unknown or uncertain and who have played a part in causing damages  
24 to plaintiffs.  
25

GENERAL ALLEGATIONS

III

Background

23. On June 26, 2008, Plaintiffs Steven Blomquist and Sharyl Cummings joined in Pima County Superior Court case number C-20083779 as members of the public suing various entities involved in the development of a Marana subdivision known as Saguaro Ranch ("Saguaro Ranch").
24. Prior to the developer purchasing any land within Saguaro Ranch, a publicly dedicated, 50-foot wide, ingress and egress easement (the "Easement") wound in and out through what would become the Saguaro Ranch subdivision.
25. The Easement is recorded at docket 7718 pages 333 in the Pima County Recorder's Office.
26. One end of the Easement touches and/or intersects the Thornydale Right-of-Way.
27. The Easement's other end stopped just North of where the restaurant McClintock's Restaurant at Saguaro Ranch ("McClintock's") currently exists.
28. McClintock's was built directly on top of a portion of the Easement.

1           29.   The Easement's purpose was to allow the Public ingress and egress  
2                   access to some of the most pristine and scenic land in all of southern  
3                   Arizona.

4  
5           30.   When the Easement was dedicated, fee title to the underlying land  
6                   remained vested in the original owners with the Public merely having  
7                   an ingress and egress right.

8  
9           31.   Beginning in or around May 2001, the Saguaro Ranch developer,  
10                  Stephen Phinny, by and through his various companies, began  
11                  purchasing up lots within what would eventually become Saguaro  
12                  Ranch.

13  
14          32.   Where the Easement ran through a particular parcel, an exception was  
15                  specifically noted on the deed conveying title to the developer's  
16                  company.

17  
18          33.   For example, Mr. Phinny's company Saguaro Canyon Ranch, LLC  
19                  purchased some real property from Donald H. Albright as reflected in  
20                  a warranty deed recorded at docket 11561 page 280 (the "Albright  
21                  Deed").

22  
23          34.   The Albright Deed conveyed the real property set forth in the Albright  
24                  Deed's attached Exhibit A, "Subject to the Items set forth in Exhibit  
25                  ‘B’ attached hereto and made a part hereof.”

1 35. The Albright Deed provided an exception for the Easement in Exhibit  
2 B, which provides in relevant part,"3. Easements and rights incident  
3 thereto, as set forth in instrument . . . Docket 7718, page 333".  
4

5 36. Similar language is found in all deeds where the conveyed land  
6 touched the Easement.

7 37. As a result, the developer never purchased any rights in the Easement.

8 38. Instead, the developer purchased all of the available rights except for  
9 certain items like the Easement.  
10

11 39. When the developer tried to block off access to the Easement,  
12 members of the public approached Frank Cassidy, Marana's town  
13 attorney.  
14

15 40. Mr. Cassidy urged those Public members to pursue a declaratory  
16 judgment act action against the developer.  
17

18 41. Mr. Cassidy informed those Public members that the developer did  
19 not have a legal basis for blocking the Easement.

20 42. In October, 2008, when he was deposed in the Saguaro Ranch case,  
21 Mr. Cassidy readily acknowledged urging the Plaintiffs to take  
22 Saguaro Ranch to court.  
23

24 43. Mr. Cassidy testified on October 29, 2008:

25 Q. Okay. Did you encourage the parties to engage  
Council to get a declaration from the court's as to

1 the rights and responsibilities related to this  
2 easement.

3 A. Yes. (6:25-7:4)

4 44. Mr. Cassidy also acknowledged in his deposition that the Easement  
5 did not deed any property to the Town of Marana and that the only  
6 rights the Town received were rights to use the Easement as a member  
7 of the public.  
8

9 Q. And this easement doesn't specifically deed  
10 any property to the Town of Marana, does it?

11 A. As far as I know, it doesn't, but it's a -- an  
12 easement to the public, so to the extent the land is  
13 located in the Town of Marana, the Town of  
14 Marana represents the public, so that in my  
15 opinion, the Town of Marana, to the extent this is a  
16 valid public easement, does get easement rights  
17 from this document.

18 45. In or around 2003, some of the land in the area of Saguaro Ranch  
19 became incorporated within the boundaries of the Town of Marana.  
20

21 46. The Easement's dedication preceded the Town of Marana's  
22 incorporation of portions of the Easement.  
23

24 47. During the public's lawsuit against the Saguaro Ranch entities,  
25 members of the public, including plaintiffs, regularly and routinely  
walked the Easement carrying protest signs, and exercising their First  
Amendment right to free speech.

- 1 48. In late 2008, based in part on Mr. Cassidy's deposition, the Public  
2 filed a motion for summary judgment against Saguaro Ranch entities.  
3  
4 49. Shortly before the motion was set to be heard by the judge in the case,  
5 the Town of Marana learned of the motion.  
6  
7 50. The Town of Marana then decided to try to "abandon" the Easement.  
8  
9 51. The trial court postponed a hearing on a motion for summary  
10 judgment pending the outcome Of the Marana Town Council  
11 Meeting.  
12  
13 52. The Marana Town Council meeting to consider the "abandonment"  
14 agenda item was set for February 03, 2009.  
15  
16 53. At that meeting, a record number of Marana citizens, and members of  
17 the public at large, attended and voiced strong public opposition to the  
18 agenda item.  
19  
20 54. A couple of days after the meeting, Gilbert Davidson, Marana's Town  
21 Manager, announced that the Town of Marana would conduct a three-  
22 phase study of the public's interest in the Easement and would hold  
23 further meetings before rendering any decision.  
24  
25 55. On February 13, 2009, multiple Saguaro Ranch entities filed for  
bankruptcy protection.

- 1 56. The bankruptcy proceedings instituted an automatic stay which  
2 prevented the state court judge from being able to immediately  
3 address and rule on the pending motion for summary judgment.  
4
- 5 57. Two of the Saguaro Ranch entities listed as an asset in the bankruptcy  
6 a \$135 Million claim against the Town of Marana **and** its officials.  
7
- 8 58. Marana Town Council meetings are usually held on Tuesday  
9 evenings.  
10
- 11 59. On Tuesday, May 19, 2009, an election was held and all incumbents  
12 on the Marana Town Council who were up for election were reseated.  
13
- 14 60. Since the election was on a Tuesday, the next Marana Town Council  
15 meeting was scheduled for May 21, 2009, a Thursday.  
16
- 17 61. On May 20, 2009 with just over 24 hours remaining before a town  
18 Council meeting scheduled on the unusual Thursday evening, a  
19 consent agenda item was added and declared to be an emergency.  
20
- 21 62. The item added on May 20, 2009 purported to "abandon" the  
22 Easement.  
23
- 24 63. On May 21, 2009, the Marana Town Council passed the emergency  
25 agenda item purporting to "abandon" the Easement.
64. At that May 21, 2009 Marana Town Council meeting, Frank Cassidy announced to the Public in attendance, including plaintiffs, that, as

1 and from that vote, any member of the public walking on the  
2 Easement would be cited for criminal trespass.

3  
4 65. The Town of Marana then entered into a side agreement with the  
5 Saguaro Ranch entities.

6 66. Under the agreement, Saguaro Ranch would only call the Marana  
7 Police Department on individuals who walked the Easement while  
8 carrying protest signs.

9  
10 67. On May 26, 2009, Plaintiffs walked on the Easement, carrying their  
11 protest signs.

12 68. Officer Williams stopped plaintiffs and informed them that he would  
13 not arrest them but that other officers might if they were found  
14 walking on the Easement again with their protest signs.

15  
16 69. On May 27, 2009, Plaintiffs walked on the Easement, carrying their  
17 protest signs.

18  
19 70. Officer Williams and Officer Fane of the Marana Police Department  
20 apprehended plaintiffs, separated them, and placed them in the back of  
21 their respective police vehicles, and took them down the hill.

22  
23 71. Officer Williams and Officer Fane were informed that, under the  
24 circumstances, where protesters exercising their First Amendment  
25 rights were being targeted by the Town of Marana, the issuance of a

1 citation for criminal trespass on a disputed Easement could expose the  
2 officers to being named as a party to a civil rights lawsuit.

3  
4 72. It was explained that, though plaintiffs have the utmost respect for the  
5 officers and believe the officers are being forced to act in violation of  
6 constitutional rights under duress and/or fear of repercussions from  
7 the Town or their superiors, under applicable law naming the officers  
8 as parties in a civil rights lawsuit was pretty much required under  
9 most circumstances.  
10

11 73. Officer Fane contacted the town attorney, either directly or through a  
12 proxy, and was informed that the Town of Marana would indemnify  
13 him, and all officers, for their unconstitutional conduct and that he  
14 should proceed with the policy established by Frank Cassidy at the  
15 May 21, 2009 meeting.  
16

17 74. It is the policy of Marana to indemnify its officers for their intentional  
18 and unconstitutional acts so long as those acts are targeted at select  
19 individuals such as Plaintiffs Blomquist and Cummings.  
20

21 75. Marana's policy of encouraging civil rights violations against targeted  
22 individuals exercising their right to free speech sets up a situation  
23 where Officers feel there is no requirement to question, or problem  
24  
25

1 with ignoring, unlawful orders when they are applied to particular  
2 individuals, such as Plaintiffs.

3  
4 76. After receiving assurances that the Town would indemnify him for  
5 any unconstitutional/wrongful conduct he committed, Officer Fane  
6 issued criminal trespass citations to plaintiff Steven Blomquist and  
7 plaintiff Sharyl Cummings.

8  
9 77. A reasonable officer should have known that the intentional targeting  
10 of protesters for criminal trespass citations was an attempt to violate  
11 the First Amendment free-speech provisions.

12  
13 78. On May 29, 2009, Officer Williams, after learning of the indemnity,  
14 was dispatched to Saguaro Ranch regarding protestors.

15  
16 79. On May 29, 2009, Officer Williams again made contact with Plaintiffs  
17 Blomquist and Cummings while they were carrying their signs on the  
18 Easement.

19  
20 80. On May 29, 2009, Officer Williams told Plaintiffs Blomquist and  
21 Cummings that he had no choice, was under orders, and was required  
22 to cite them for criminal trespassing while walking on the Easement,  
23 carrying their signs.

- 1           81. On June 1, 2009, Officer Montgomery after learning of the previous  
2 incidents which included a discussion of the indemnity, was  
3 dispatched to Saguaro Ranch regarding protestors.  
4
- 5           82. On June 1, 2009, Officer Montgomery made contact with Plaintiffs  
6 Blomquist and Cummings while they were carrying their signs on the  
7 Easement.  
8
- 9           83. On June 1, 2009, Officer Montgomery told Plaintiffs Blomquist and  
10 Cummings that his supervisor told him that they were under orders to  
11 cite them for criminal trespassing while walking on the Easement,  
12 carrying their signs and if they showed up protesting on the Easement  
13 again, they would be incarcerated at Pima County Jail.  
14
- 15           84. On and after June 1, 2009, up through the initial dismissal of the  
16 criminal charges on August 21, 2009, the Town of Marana  
17 successfully halted Plaintiffs' expression of the free speech rights.  
18
- 19           85. On August 21, 2009, the prosecutor filed a motion to dismiss the  
20 claims against Steven Blomquist and Sharyl Cummings without  
21 prejudice.  
22
- 23           86. On the evening of August 21, 2009, Steven Blomquist and Sharyl  
24 Cummings began to walk the public Easement, once again carrying  
25 their signs.

1 87. During and after the same time frame, other members of the public,  
2 those without protest signs, made use of the Easement as bike and  
3 walking paths without harassment and without being questioned by  
4 the Marana Police Department.  
5

6 88. The Marana Police Department only targeted and cited certain  
7 members of the public who carried protest signs.  
8

9 89. On October 14, 2009, the judge revisited the ruling dismissing the  
10 case without prejudice against Steven Blomquist and Sharyl  
11 Cummings.  
12

13 90. The judge entered an order dismissing the case with prejudice, and  
14 wrote onto the order that **Marana had improperly used the criminal**  
15 **process against Plaintiffs Steven Blomquist and Sharyl**  
16 **Cummings.**  
17

18 91. Between August 21, 2009 and November 12, 2009 the developers  
19 employees, at the developers order, repeatedly made false claims to  
20 the Marana Police Department that Steven Blomquist and Sharyl  
21 Cummings were trespassing.  
22

23 92. The Marana Police Department repeatedly informed the Saguaro  
24 Ranch employees that Steven Blomquist and Sharyl Cummings could  
25 not be convicted for trespassing.

1 93. On and after the October 14, 2009 ruling which held that Marana had  
2 improperly used the criminal process against plaintiffs Steven  
3 Blomquist and Sharyl Cummings the Marana Police Department  
4 officers were made aware of the ruling.  
5

6 94. On and after the October 14, 2009 ruling which held that Marana had  
7 improperly used the criminal process against plaintiffs Steven  
8 Blomquist and Sharyl Cummings, the Marana Police Department  
9 officers were repeatedly and continually called out to investigate false  
10 claims of trespassing filed by Saguaro Ranch employees.  
11

12 95. Each time, if the officer saw either Steven Blomquist or Sharyl  
13 Cummings, the officers would stop them, ask them questions, and  
14 otherwise interfere with their protest activities.  
15

16 96. The pattern and behavior of stopping, questioning and temporarily  
17 detaining Steven Blomquist and Sharyl Cummings is:  
18

19 (a) A tremendous waste of public resources

20 (b) A policy and pattern of harassing individuals exercising their  
21 constitutional rights.  
22

23 97. At some point after the October 14, 2009 ruling, Marana Police  
24 Department officers began policing the private streets and ways of  
25 Saguaro Ranch whether they had been dispatched or not.

1 98. At some point after the October 14, 2009 ruling, Marana Police  
2 Department officers began coaching Saguaro Ranch employees on  
3 what steps they can take to try and create a basis for arresting Steven  
4 Blomquist and Sharyl Cummings.  
5

6 99. Such coaching included advising Saguaro Ranch employees to find  
7 "neutral" witnesses who could act as individuals whose "peace was  
8 disturbed" so that Steven Blomquist and or Sharyl Cummings could  
9 be arrested for disturbing the peace.  
10

11 100. It is believed that Saguaro Ranch found, hired, or otherwise procured  
12 individuals to act as "disturbed" patrons of McClintock's.  
13

14 101. It was unclear to plaintiffs why the town of Marana had become a de  
15 facto security force for Saguaro Ranch.  
16

17 102. Then, on November 19, 2009, a cover story on the easement dispute  
18 was run in the Tucson Weekly.  
19

20 103. In the article, Saguaro Ranch's bankruptcy attorney, Eric Sparks, was  
21 interviewed.  
22

23 104. The Article provides in relevant part,  
24

25 "Sparks explains that when the bankruptcy was filed, the town of Marana hadn't moved to abandon the west-side easement. If the town hadn't moved forward with abandoning the Thornydale right of way, Sparks says, his client would have sued. (The

1                   \$135 million is what Phinny estimates as the value  
2                   of the development.)

3                   ““We did not pursue it, and the town went ahead  
4                   and abandoned the easement,’ Sparks says.”

5                   105. As the \$135 Million claim was against the Town **and** its officials, it is  
6                   reasonable to infer that the town council members may have sold their  
7                   vote, or tried to give a gift unconstitutional under Arizona’s  
8                   constitution to the developer in exchange for avoiding the potential for  
9                   serious personal liability.

10                  106. Upon information and belief, the town of Marana, and its officials,  
11                  have an agreement with the developer to intentionally deprive  
12                  plaintiffs civil rights as a part and parcel to the agreement to drop the  
13                  \$135 million claim.

14                  107. Upon information and belief, the Town Council and/or officers may  
15                  still be experiencing some form of blackmail-like activity from the  
16                  Developer leading to the Town’s continuing activities against  
17                  Blomquist and Cummings.

18                  108. These issues came to a head on November 13, 2009 when Steven  
19                  Blomquist was arrested **and** incarcerated on the same trespassing  
20                  charge as had previously been dismissed as being an improper use of  
21

1 the criminal process, coupled with a new trumped up charge of  
2 disorderly conduct.

3  
4 109. There is and was no evidence for either charge.

5 110. The arresting officer apologized to Mr. Blomquist and informed Mr.  
6 Bloomquist that he had no discretion in the matter and was under  
7 orders to arrest him and take him down to Pima County jail.  
8

9 The Incarceration of Steven J. Blomquist, In Detail

10 111. On November 13, 2009 at approximately 4:45 PM, Plaintiff Steven  
11 Blomquist walked into the parking lot surrounding McClintock's.

12 112. McClintock's is a restaurant in Marana, Arizona.

13 113. Portions of McClintock's, including the porch area, are built on the  
14 dedicated public easement.  
15

16 114. At approximately 4:48 PM, Plaintiff Steven Blomquist walked up the  
17 steps at the front of McClintock's and sat down at a porch (outside)  
18 table, greeting a member of McClintock's staff with the words, "Good  
19 Afternoon".  
20

21 115. Plaintiff Steven Blomquist's sitting on the porch in the public  
22 easement was a constitutionally protected free speech expression,  
23 communicating to the Town of Marana, the McClintock's owners and  
24 staff, and the public at large, that members of the public were entitled  
25

1 to full rights of access to any place within the dedicated public  
2 easement.

3  
4 116. At approximately 4:50 PM, a McClintock's staff member asked Mr.  
5 Blomquist "How are you doing?"

6 117. Mr. Blomquist responded, "Just fine," and asked, "So what time do  
7 you start serving beer?"

8  
9 118. The waiter responded that they could serve Mr. Blomquist once the  
10 restaurant opened at 5:00 PM.

11 119. At approximately 4:52 PM the McClintock's waiter walked by and  
12 Mr. Blomquist said, "So, when you are officially open, I would like to  
13 order a beer."

14  
15 120. The waiter then volunteered that McClintock's had Bud, Bud Lite,  
16 Pacifico, and Corona.

17 121. Mr. Blomquist ordered a Pacifico.

18  
19 122. At approximately the same time, Erv Schultz, McClintock's general  
20 manager called 911 and reported that Mr. Blomquist was sitting on the  
21 front porch "taunting us".

22  
23 123. At approximately 4:53, a McClintock's staff member, Justin Fuhrman,  
24 came outside and greeted Mr. Blomquist, and an exchange along the  
25 following took place:

1 Mr. Fuhrman: "How are you doing?"

2 Mr. Blomquist: "I'm good. I'm good."

3 Mr. Fuhrman: "Good."

4  
5 Mr. Blomquist: "I got tired. Walking up the hill was hard work, I got  
6 to rest. I needed a beer."

7 Mr. Fuhrman: "You need a beer?"

8 Mr. Blomquist: "Yeah, I just ordered one."

9  
10 124. At approximately 4:53 PM the Marana Police Department's Officer  
11 Bennett, Badge Number 385 was dispatched to McClintock's.

12  
13 125. At approximately 4:54 PM a staff member from McClintock's made a  
14 statement to the effect of "I mean no disrespect" as he took a  
15 photograph of Mr. Blomquist.

16  
17 126. Mr. Blomquist told the staff member that it was okay to take the  
18 photo, stating words to the effect of, "I understand completely".

19  
20 127. At approximately 4:56 PM a McClintock's kitchen employee came  
21 out to the porch and an exchange along the lines of the following took  
22 place:

23 Kitchen Employee: "What's up boss?"

24 Mr. Blomquist: "Good evening. How are you?"

25 Kitchen Employee: "Living the dream, and yourself."

1 Mr. Blomquist: (Laughing) “That’s a good way to put it. Yeah, I  
2 could probably get into that.”

3  
4 128. At about this time, Erv Schultz was videotaped on the roof of  
5 McClintock’s apparently engaged in a several minutes long cell phone  
6 call with someone.

7  
8 129. At approximately 4:58 PM the waiter walked by and asked words to  
9 the effect of, “Did Eric come by with your beer?”

10 130. To which, Mr. Blomquist responded, “No.”

11 131. The waiter then informed Mr. Blomquist that he would look into it.

12  
13 132. At approximately 5:01 PM a McClintock’s employee named Jacob  
14 came up to Mr. Blomquist, serving him a Pacifico beer, and an  
15 exchange along the lines of the following took place:

16 Jacob: “Sir, I don’t think I have had the pleasure of meeting you. My  
17 name is Jacob.”

18  
19 Mr. Blomquist: “Hello Jacob, my name is Steve Blomquist. Steve.  
20 I’m sure you have seen me here. . .”

21 Jacob: “Yeah, I’ve seen you before.”

22  
23 Mr. Blomquist: “Before. It is interesting, this is my favorite table.  
24 The last time I was here and was served I sat at this table. But, thank  
25 you. I’m surprised. I thought they might not serve me.”

1 Jacob: "Oh. I didn't hear anything so."

2 Mr. Blomquist: "Good job. Thank you."

3 Jacob: "You're welcome."  
4

5 133. At approximately 5:02 PM Jacob came back and an exchange along  
6 the lines of the following took place,

7 Jacob: "Sir, I'm sorry. But, Erv told me I had to take this [the beer]  
8 away from you."  
9

10 Mr. Blomquist: "That's your prerogative."

11 134. At approximately 5:02 PM, Jacob took the Pacifico from Mr.  
12 Blomquist.  
13

14 135. Mr. Blomquist was not asked to leave the porch.

15 136. At approximately 5:03 PM another employee came out and had an  
16 exchange along the lines of the following with Mr. Blomquist:

17 Mr. Blomquist: "How are you tonight?"

18 Employee: "Pretty good."  
19

20 Mr. Blomquist: "Good"

21 Employee: "How about you?"  
22

23 Mr. Blomquist: "Yeah, fine."

24 Employee: "Doing good?"

25 Mr. Blomquist: "Yeah, really good. It just gets better."

1 137. The employee laughed and walked on.

2 138. Someone, Steven Phinny and/or one or more other Town Officials  
3 currently identified as John and Jane Does, may have told Mr. Schultz  
4 to make false statements to the arriving officer as part of a conspiracy  
5 to deprive Steven Blomquist of his civil rights.  
6

7 139. At approximately 5:09 PM Officer Bennett arrived at McClintock's.

8 140. Officer Bennett went in to speak to McClintock's manager, Erv  
9 Schultz.  
10

11 141. As part of the conspiracy to deprive Steven Blomquist of his civil  
12 rights, Erv Schultz made multiple false statements to Officer Bennett  
13 which are recorded in Officer Bennett's police report.  
14

15 142. Mr. Schultz falsely told Officer Bennett that Mr. Schultz had refused  
16 to serve Mr. Blomquist a beer.  
17

18 143. The statement is false because Mr. Blomquist was served a Pacifico  
19 by a waiter named Jacob.

20 144. That the waiter Jacob subsequently came back and asked Steven  
21 Blomquist to return the beer, does not change the fact that the beer  
22 was, indeed, served.  
23  
24  
25

1 145. Mr. Schultz falsely told Officer Bennett that he had told Mr.  
2 Blomquist that Mr. Blomquist was not welcome to patronize  
3 McClintock's.  
4

5 146. The statement is false because Mr. Schultz did not speak with Mr.  
6 Blomquist.

7 147. The statement is false because no agent of Mr. Schultz told Mr.  
8 Blomquist that Mr. Blomquist was not welcome to patronize  
9 McClintock's.  
10

11 148. Indeed, those members of McClintock's staff with whom Mr.  
12 Blomquist interacted were pleasant, professional and courteous, even  
13 apologizing when they felt that they were in the wrong (such as when  
14 Jacob had to take the beer, and when others were ordered to take Mr.  
15 Blomquist's photograph).  
16

17 149. Mr. Schultz falsely told Officer Bennett that Mr. Schultz had told Mr.  
18 Blomquist that Mr. Blomquist was trespassing and had trespassed  
19 numerous times.  
20

21 150. The statement is false because Mr. Schultz did not speak with Mr.  
22 Blomquist and did not tell Mr. Blomquist anything.  
23

24 151. The statement is false because no agent of Mr. Schultz told Mr.  
25 Blomquist anything.

- 1 152. Mr. Schultz falsely told Officer Bennett that Mr. Blomquist refused to  
2 leave the porch when asked by Mr. Schultz.  
3  
4 153. The statement is false because Mr. Schultz did not speak with Mr.  
5 Blomquist and did not tell Mr. Blomquist anything.  
6  
7 154. The statement is false because no agent of Mr. Schultz told Mr.  
8 Blomquist anything.  
9  
10 155. Mr. Schultz did make an honest statement to Officer Bennett when he  
11 told Officer Bennett that Mr. Blomquist was exercising his free  
12 speech rights.  
13  
14 156. Officer Bennett's report of the incident provides, "Mr. Schultz stated  
15 that Mr. Blomquist was trying to make a 'in your face' statement that  
16 he could go and sit wherever he pleased."  
17  
18 157. Officer Bennett knew, or should have known, that Mr. Blomquist has  
19 a constitutional right of free speech.  
20  
21 158. Officer Bennett's report also falsely claims that Steven Blomquist,  
22 "was sitting on the patio area antagonizing customers."  
23  
24 159. At no time did Mr. Blomquist antagonize any customers.  
25  
160. At approximately 5:22 PM Officer Bennett approached Mr. Blomquist  
(the "Custodial Arrest").



1 167. Something in the Pressure Phone Call induced or compelled T.P.  
2 Tometich to manufacture a trumped up disorderly conduct charge  
3 against Mr. Blomquist.  
4

5 168. Something in the Pressure Phone Call induced or compelled T.P.  
6 Tometich to manufacture a trumped up trespassing charge against Mr.  
7 Blomquist.  
8

9 169. Upon information and belief, Chief Tometich was promised  
10 indemnity and or other benefits in exchange for his ordering the  
11 wrongful arrest of Steven Blomquist.  
12

#### 13 The Conspiracy to Deprive Steven Blomquist of his Civil Rights

14 170. The decision to wrongfully arrest Mr. Blomquist was made in the  
15 Pressure Phone Call between T.P. Tometich, and/or the John or Jane  
16 Does involved in the call to T.P. Tometich.  
17

18 171. On October 14, 2009, less than one month before T.P. Tometich's  
19 order to arrest and incarcerate Steven Blomquist for trespassing, a  
20 Judge of competent jurisdiction dismissed a previous criminal  
21 trespassing citation issued by the Marana Police Department against  
22 Steven Blomquist.  
23

24 172. The Judge's dismissal order was with prejudice, precluding the  
25 refiling of charges.

1 173. In issuing his dismissal order, the Judge hand wrote onto that order  
2 that the citation was an **improper use of the criminal process**.

3  
4 174. That order was never appealed or contested (hereinafter the order will  
5 be referred to as the “Trespass Ruling”).

6 175. That order involved the same parties, the same easement, and the  
7 same criminal trespass statute/charge.

8  
9 176. T.P. Tometich knew that the order had not been appealed or contested.

10 177. T.P. Tometich had actual knowledge of the Judge’s ruling when he  
11 ordered his Officers to arrest, and incarcerate, Mr. Blomquist on a  
12 trespassing charge.

13  
14 178. T.P. Tometich had actual knowledge that Mr. Blomquist was on the  
15 exact same easement at issue in the previous case resulting in a  
16 dismissal with prejudice order.

17  
18 179. T.P. Tometich knew that the trespassing charge was meritless when he  
19 ordered his officers to use it as a basis for incarcerating Mr.  
20 Blomquist.

21  
22 180. Chief T.P. Tometich had not spoken with any officers and did not  
23 have any direct knowledge of any activity which would constitute  
24 disorderly conduct by Mr. Blomquist when he issued his order.  
25

1 181. The order to arrest and incarcerate Steven Blomquist for Disorderly  
2 Conduct was based on the Pressure Phone Call.

3  
4 182. T.P. Tometich's order to arrest and incarcerate Steven Blomquist was  
5 not based on any investigation he conducted or any evidence of  
6 disorderly conduct that he witnessed or experienced.

7  
8 183. Whether T.P. Tometich acted willfully, or under duress or some  
9 perceived threat from the Town, its Mayor, or its Council, is irrelevant  
10 to a conspiracy to deprive an individual of their civil rights.

11  
12 184. T.P. Tometich and the others involved in the conspiracy intentionally  
13 chose to ignore the law when they ordered the incarceration of Steven  
14 Blomquist.

15  
16 185. T.P. Tometich and the others involved in the conspiracy acted with an  
17 evil intent or requisite reckless disregard of Steven Blomquist's rights,  
18 knowing that their actions would deprive Steven Blomquist of his  
19 freedom.

20  
21 186. Chief T.P. Tometich is not entitled to qualified immunity as T.P.  
22 Tometich violated clearly established statutory and constitutional  
23 rights.

1 187. Chief T.P. Tometich is not entitled to qualified immunity as T.P.  
2 Tometich was not performing a discretionary duty when he conspired  
3 to deprive Steven Blomquist of his civil rights.  
4

5 188. Chief T.P. Tometich was under orders from one or more of his  
6 superiors on the town council and/or the town manager, to order the  
7 arrest and incarceration of Mr. Blomquist.  
8

9 Roberto's Involvement in the Conspiracy

10 189. T.P. Tometich tried to conceal his involvement in the scheme by using  
11 a go-between for relaying his orders to conduct the Custodial Arrest  
12 based on Trespassing and Disorderly Conduct.  
13

14 190. The go-between was an individual (and a defendant) named Roberto  
15 (Last Name Unknown) (hereinafter "Defendant Roberto").  
16

17 191. T.P. Tometich's attempt at concealment is an acknowledgment of T.P.  
18 Tometich's knowledge that he was violating the law and public trust.  
19

20 192. Prior to the Custodial Arrest, T. P. Tometich told Defendant Roberto  
21 to contact Defendant Officer Tim Brunenkant with orders to have the  
22 onsite officers handcuff Mr. Blomquist and haul him to Pima County  
23 Jail on charges of trespassing and disorderly conduct.  
24  
25

1 193. Defendant Roberto knew that Chief T.P. Tometich did not have, and  
2 could not have, firsthand knowledge of any crimes taking place at  
3 McClintock's.  
4

5 194. Defendant Roberto knew, or should have known, that Chief T.P.  
6 Tometich, by ordering the arrest of Steven Blomquist for trespassing  
7 and disorderly conduct was violating police procedure.  
8

9 195. Defendant Roberto knew, or should have known, that Chief T.P.  
10 Tometich had no basis for ordering an incarceration of a protestor and  
11 that such an arrest would be improper and a violation of civil rights.  
12

13 196. Regardless, Defendant Roberto contacted Marana Police  
14 Department's dispatch in an effort to track down Defendant  
15 Brunenkant so that he could relay Defendant T.P. Tometich's orders.  
16

17 197. Defendant Roberto contacted Marana Dispatch and spoke with  
18 Marana Police Department dispatcher Patty (Last Name Unknown)  
19 (hereinafter "Patty").  
20

21 198. Defendant Roberto had a conversation along the lines of the following  
22 with Patty,  
23

24 Roberto: "Hey, I just got a call from the Chief [Chief T.P. Tometich],  
25 apparently there are officers out there at McClintock's right now?"

Patty: "Yep."

1 Roberto: "Yeah he wants them, uh, he wants them cuffed and taken  
2 away."

3 Patty: "Cuffed and taken away?"  
4

5 Roberto: "Yep"

6 Patty: "And you want me to tell them that on the radio?"  
7

8 Roberto: "Well, I wanted you to get Timmy to call me but . . .  
9

10 Patty: "Well"

11 Roberto: "He's calling me; he's calling me right now."  
12

13 Patty: "Okay bye."  
14

15 199. Defendant Roberto did not know that there was anything going on at  
16 McClintock's before getting called by Chief T.P. Tometich.  
17

18 200. From the content of the phone call, and Patty's tone of voice, Patty  
19 did not want to relay the order over the radio and believed that the  
20 arrest would be wrongful.  
21

22 201. Shortly after hanging up with Patty, Defendant Roberto called the  
23 dispatcher back and spoke with a different dispatcher named "Kelly".  
24

25 202. In this second call to the dispatcher, Defendant Roberto asked Kelly to  
have Marana Police Department Officer Tim Brunenkant call  
Defendant Roberto's cell phone.

1           203. In this second call, Defendant Roberto did not relay to Kelly his intent  
2           to order the wrongful arrest of Steven Blomquist.

3           204. Defendant Roberto eventually made contact with Defendant Officer  
4           Tim Brunenkant and instructed him to have Steven Blomquist arrested  
5           for trespassing and disorderly conduct.  
6

7           205. Whether Defendant Roberto acted willfully, or under duress or some  
8           perceived threat from T.P. Tometich, is irrelevant to a conspiracy to  
9           deprive an individual of their civil rights.  
10

11          206. Defendant Roberto and the others involved in the conspiracy  
12          intentionally chose to ignore the law when they ordered the  
13          incarceration of Steven Blomquist.  
14

15          207. Defendant Roberto is not entitled to qualified immunity as Defendant  
16          Roberto violated clearly established statutory and constitutional rights.  
17

18          208. Defendant Roberto is not entitled to qualified immunity as Defendant  
19          Roberto was not performing a discretionary duty when he conspired to  
20          deprive Steven Blomquist of his civil rights.  
21

22          209. Defendant Roberto was under orders from one or more of his  
23          superiors in the Town, and acting pursuant to an established Town  
24          policy to target the protestors and to order the arrest and incarceration  
25          of Mr. Blomquist.

1 Officer Brunenkant's Involvement in the Conspiracy

2 210. When Defendant Roberto called Officer Brunenkant, neither Chief  
3 T.P. Tometich nor Defendant Roberto had spoken with the onsite  
4 officers, Officer Bennett and Officer Ritter.  
5

6 211. Defendant Roberto knew about the Trespass Ruling when he  
7 instructed Officer Brunenkant to order Officers Bennett and Ritter to  
8 arrest Steven Blomquist for trespassing.  
9

10 212. Defendant Roberto knew that he did not have any direct knowledge of  
11 any activity which would constitute disorderly conduct by Mr.  
12 Blomquist when he instructed Officer Brunenkant to have Mr.  
13 Blomquist arrested on that charge.  
14

15 213. Officer Brunenkant called Officer Bennett and/or Officer Ritter and  
16 instructed them to arrest and incarcerate Mr. Blomquist for disorderly  
17 conduct and trespassing.  
18

19 214. Defendant Brunenkant knew about the Trespass Ruling when he  
20 instructed Officer Bennett and/or Officer Ritter to arrest and  
21 incarcerate Steven Blomquist for trespassing.  
22

23 215. Defendant Brunenkant knew that he did not have any direct  
24 knowledge of any activity which would constitute disorderly conduct  
25

1 by Mr. Blomquist when he instructed Officer Bennett and/or Officer  
2 Ritter to have Mr. Blomquist arrested on that charge.

3  
4 216. Whether Defendant Brunenkant acted willfully, or under duress or  
5 some perceived threat from Defendant Roberto or others in the  
6 conspiracy, is irrelevant to a conspiracy to deprive an individual of  
7 their civil rights.

8  
9 217. Defendant Brunenkant and the others involved in the conspiracy  
10 intentionally chose to ignore the law when they ordered the  
11 incarceration of Steven Blomquist.

12  
13 218. Defendant Brunenkant is not entitled to qualified immunity as  
14 Defendant Brunenkant violated clearly established statutory and  
15 constitutional rights.

16  
17 219. Defendant Brunenkant is not entitled to qualified immunity as  
18 Defendant Brunenkant was not performing a discretionary duty when  
19 he conspired to deprive Steven Blomquist of his civil rights.

20  
21 220. Defendant Brunenkant was under orders from one or more of his  
22 superiors in the Town, and acting pursuant to an established Town  
23 policy to target the protestors and to order the arrest and incarceration  
24 of Mr. Blomquist.

25 Officer Bennett's and Officer Ritter's Involvement in the Conspiracy

- 1           221. Officers Bennett and Ritter were both onsite prior to the Custodial  
2           Arrest and incarceration.
- 3           222. Officer Ritter was the back-up officer.
- 4           223. At no point did Officer Bennett approach Mr. Blomquist to investigate  
5           the issue from Mr. Blomquist's point of view.
- 6           224. At no point prior to Officer Bennett's approach of Mr. Blomquist did  
7           anyone ask Mr. Blomquist to leave.
- 8           225. At no point prior to Officer Bennett's approach of Mr. Blomquist did  
9           Mr. Blomquist commit any of the predicate acts of disorderly conduct.
- 10          226. At no point prior to Officer Bennett's approach did Officer Ritter  
11          approach Mr. Blomquist to investigate whether Mr. Blomquist had  
12          committed any crime.
- 13          227. At all times prior to, and including, his arrest, Steven Blomquist was  
14          friendly, courteous and respectful to every individual he met.
- 15          228. At all times, including during his arrest, Steven Blomquist was  
16          courteous and friendly with Officer Bennett.
- 17          229. Indeed Steven Blomquist regrets the necessity of naming any officers,  
18          but needs to do so to protect his civil rights and hopes the officers  
19          understand that he sympathizes with their being placed in an  
20          understand that he sympathizes with their being placed in an  
21          understand that he sympathizes with their being placed in an  
22          understand that he sympathizes with their being placed in an  
23          understand that he sympathizes with their being placed in an  
24          understand that he sympathizes with their being placed in an  
25          understand that he sympathizes with their being placed in an

1           untenable situation by their superiors and by the unknown John and/or  
2           Jane Does responsible for creating this situation.

3  
4           230. Those John and Jane Doe Town Officials behind this plan or scheme  
5           have let down the police department, brought disgrace upon  
6           distinguished officers, and have left a taint that will not easily be  
7           cleaned up.

8  
9           231. Officer Bennett and Officer Ritter did not arrest any other member of  
10          the public on the public easement even though such individuals were  
11          present and observed by the officers.

12  
13          232. Officer Bennett knew that Mr. Blomquist had not committed any of  
14          the predicate acts of disorderly conduct.

15          233. Officer Bennett and Officer Ritter knew about the Trespass Ruling  
16          when they arrested and incarcerated Steven Blomquist.

17  
18          234. Officer Bennett knew that citing Steven Blomquist for trespassing for  
19          being in the public easement was an improper use of the criminal code  
20          when he cited Steven Blomquist for criminal trespassing.

21  
22          235. Officer Bennett was unfortunately under orders from those John and  
23          Jane Does hiding in the shadows who had directed the chief of police  
24          to incarcerate Mr. Blomquist.

- 1           236. Officer Bennett was prohibited by his superiors from asking Mr.  
2           Blomquist any questions.
- 3           237. Officer Bennett was prohibited by his superiors from conducting any  
4           investigation of Mr. Blomquist's position.
- 5           238. Officer Bennett was prohibited by his superiors from exercising any  
6           discretion.
- 7           239. Officer Bennett was under explicit instruction by his superiors to  
8           handcuff and double lock Mr. Blomquist.
- 9           240. Officer Bennett was under explicit instructions by his superiors to take  
10          Mr. Blomquist into custody.
- 11          241. Officer Bennett was under explicit instructions by his superiors to take  
12          Mr. Blomquist to Pima County Jail and have him incarcerated.
- 13          242. Officer Bennett apologized to Mr. Blomquist before arresting him,  
14          telling Mr. Blomquist that he was doing something "I don't want to  
15          do" but that he was under orders from his Sergeant to take Mr.  
16          Blomquist to Pima County Jail.
- 17          243. Officer Bennett did not read Mr. Blomquist his rights.
- 18          244. Officer Bennett did not conduct any investigation other than speaking  
19          with Mr. Shultz.
- 20  
21  
22  
23  
24  
25

1 245. Whether Defendant Bennett or Defendant Ritter acted willfully, or  
2 under duress or some perceived threat from Defendant Brunenkant or  
3 others in the conspiracy, is irrelevant to a conspiracy to deprive an  
4 individual of their civil rights.  
5

6 246. Defendant Bennett, Defendant Ritter and the others involved in the  
7 conspiracy intentionally chose to ignore the law when they ordered  
8 the incarceration of Steven Blomquist.  
9

10 247. Defendant Bennett or Defendant Ritter are not entitled to qualified  
11 immunity as they violated clearly established statutory and  
12 constitutional rights.  
13

14 248. Defendant Bennett or Defendant Ritter are not entitled to qualified  
15 immunity as they were not performing a discretionary duty when they  
16 conspired to deprive Steven Blomquist of his civil rights.  
17

18 249. Indeed, Defendant Bennett specifically told Steven Blomquist that he  
19 had no discretion in arresting and incarcerating Steven Blomquist.

20 250. Defendant Bennett or Defendant Ritter were under orders from one or  
21 more of their superiors in the Town, and acting pursuant to an  
22 established Town policy to target the protestors and to order the arrest  
23 and incarceration of Mr. Blomquist.  
24  
25

1           **251. On November 15, 2009, two days after Steven Blomquist’s arrest,**  
2           **Marana’s Town Manager Gilbert Davidson was greeted at the**  
3           **door to McClintock’s with what appeared to be a champagne**  
4           **toast.**

5  
6           252. Subsequently, one or more of Mr. Davidson’s guests filed reports  
7           claiming that protestors “disturbed their peace.”

8  
9           253. It is believed, though not yet established, that Mr. Davidson may be  
10          one of the John Does responsible for conspiring to order Steven  
11          Blomquist’s arrest.

12  
13          254. In all of their nights protesting the Easement, this was the first time  
14          ever Plaintiffs saw guests greeted at the door with a champagne toast.

15          255. Upon information and belief, the toast, be it champagne or some other  
16          drink, was a thank you present for the Town of Marana arresting and  
17          hauling Steven Blomquist to Pima County Jail.

18  
19          256. All requirements for the finding of punitive damages against these  
20          individuals has been met, and they are all personally liable for  
21          punitive damages for abusing their offices and the public trust.

22  
23          Marana’s Policy

24          257. T.P. Tometich was required to follow the Town Code.

1 258. On and before November 13, 2009 the Marana Town Code provided  
2 in section 4.1.4:

3 Departmental rules and regulations  
4

5 The police department shall be operated and  
6 managed in accordance with the departmental rules  
7 and regulations as may from time to time be  
8 adopted by the chief of police, with the approval of  
9 the council.

10 259. The Rules and Regulations implemented and used by T.P. Tometich  
11 in arresting Steven Blomquist were specifically approved by the Town  
12 Council.

13 The Town's Liability for its Officer's Unconstitutional Acts

14 260. The Town of Marana is liable for the Unconstitutional Acts of its  
15 officers, including T.P. Tometich, and other John and Jane Doe  
16 defendants who are Town of Marana officers, if and as later  
17 discovered.

18 261. The Unconstitutional Acts complained of include, *inter alia*, an  
19 attempt to stop Steven Blomquist's and Sharyl Cummings expression  
20 of free speech in violation of the first amendment, an unreasonable  
21 seizure of Mr. Blomquist in violation of the fourth amendment, and a  
22 deprivation of Mr. Blomquist's liberty in violation of the fourteenth  
23 amendment.  
24  
25

1           262. The Unconstitutional Acts were part of Marana's policy as and after a  
2                    May 21, 2009 Town Council meeting where Town Attorney Frank  
3                    Cassidy announced that the Town would arrest any member of the  
4                    public protesting on the public easement.  
5

6           263. The Custodial Arrest happened as part of the Town's policy of trying  
7                    to appease the Developer and to prevent Steven Blomquist and others  
8                    from exercising their Free Speech rights on any part of the public  
9                    easement after the Town took the steps to avoid \$135 million in  
10                   personal liability to the developer.  
11

12 Amending Town Code

13  
14           264. On November 23, 2009, at approximately 12:25 PM, Marana's Town  
15                    Attorney Frank Cassidy was provided a copy of the phone call  
16                    between Roberto and Patty via e-mail.  
17

18           265. After listening to the contents of that e-mail, the Marana Town  
19                    Attorney's office added an agenda item, Item A.2, to the December 1,  
20                    2009 Town Council Agenda.  
21

22           266. Item A.2 on the Agenda, as it existed on November 25, 2009 provides  
23                    in full:

24                            A 2: Ordinance No. 2009.24: Relating to the  
25                            Police Department; amending Town Code Section  
                              4-1-4 ("Departmental Rules and Regulations") to  
                              eliminate the requirement for Town Council

1 approval of Marana Police Department rules and  
2 regulations and to establish that police department  
3 rules and regulations shall be in compliance with  
4 federal and state law, the Town Code and Town  
5 ordinances, policies, directives, rules and  
6 procedures; and declaring an emergency (Jane  
7 Fairall).

8  
9 267. Under this change, the Town Council would not have a right to  
10 interfere with the Police Department Rules and Regulations.  
11

12 268. Under this change, the Town Council could not order the chief of  
13 police to disregard federal law, including the constitutional rights.  
14

15 269. This change was necessary because the Chief of Police acted pursuant  
16 to his authority/town policy as it existed on November 13, 2009, and  
17 that policy allowed and/or required him to ignore federal law and state  
18 law (and the Plaintiff's constitutional rights).  
19

## 20 CAUSES OF ACTION

### 21 III

#### 22 COUNT ONE

#### 23 **(Violaton of Civil Rights arising from November 13, 2009 Arrest)**

24 270. Plaintiffs incorporate all prior allegations.

25 271. Every person who, under color of any statute, ordinance, regulation,  
custom, or usage, of any State or Territory or the District of  
Columbia, subjects, or causes to be subjected, any citizen of the

1 United States or other person within the jurisdiction thereof to the  
2 deprivation of any rights, privileges, or immunities secured by the  
3 Constitution and laws, shall be liable to the party injured in an action  
4 at law.  
5

6 272. The Defendants Town of Marana, T.P. Tometich, Defendant Roberto,  
7 Tim Brunenkant, Officer Bennett, Officer Ritter, and/or John or Jane  
8 Does are persons within the meaning of 42 USC 1983.  
9

10 273. The Defendants Town of Marana, T.P. Tometich, Defendant Roberto,  
11 Tim Brunenkant, Officer Bennett, Officer Ritter and/or John or Jane  
12 Does acted under color of law when they subjected Steve Blomquist  
13 to a deprivation of civil rights under the 1<sup>st</sup> (free speech), 4<sup>th</sup> (unlawful  
14 seizure) and 14<sup>th</sup> (equal protection) Amendments of the U.S.  
15 Constitution as more fully described in the above allegations.  
16

17 274. The Defendants are not entitled to any immunity for their wrongful  
18 actions.  
19

20 275. The non-municipal defendants, one or more, acted with the requisite  
21 wrongful intent and or evil purpose, giving rise to punitive damages.  
22

23 276. Steven Blomquist was damaged and is entitled to an award of  
24 damages.  
25

## COUNT TWO

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COUNT THREE

**(Violation of Civil Rights – Town Policy to Arrest Protestors)**

277. Plaintiff incorporates all prior allegations.

278. The Town of Marana instituted a policy, in concert with Saguaro Ranch and its developer, to target protestors for arrest and harassment in violation of 42 USC 1983.

279. The Town of Marana regularly and routinely responded to “Trespass” calls knowing that the Easement was a dedicated public easement and a dispute as to the Town’s activities in “Abandoning” the easement is currently pending in Pima County Superior Court.

280. The arrest and citations issued by the Marana Police Department at the end of May and the beginning of June resulted in more than 2 and ½ months of free speech suppression.

281. The arrest and citations were done maliciously, with evil intent.

282. The Plaintiffs were damaged as a result.

COUNT FOUR

**(VIOLATION OF CIVIL RIGHTS – POLICY OF STOPPING AND QUESTIONING  
PROTESTORS)**

283. Plaintiff incorporates all prior allegations.





1 301. Plaintiff incorporates all prior allegations.

2 302. Every person who, under color of any statute, ordinance, regulation,  
3 custom, or usage, of any State or Territory or the District of  
4 Columbia, subjects, or causes to be subjected, any citizen of the  
5 United States or other person within the jurisdiction thereof to the  
6 deprivation of any rights, privileges, or immunities secured by the  
7 Constitution and laws, shall be liable to the party injured in an action  
8 at law.  
9

10  
11 303. The Defendants Town of Marana, Officer Fane, Officer Williams and  
12 Officer Montgomery, and/or John or Jane Does are persons within the  
13 meaning of 42 USC 1983.  
14

15 304. The Defendants Town of Marana, Officer Fane, Officer Williams and  
16 Officer Montgomery, and/or John or Jane Does acted under color of  
17 law when they subjected Steve Blomquist and Sharyl Cummings to a  
18 deprivation of civil rights under the 1<sup>st</sup> (free speech), 4<sup>th</sup> (unlawful  
19 seizure – detention at arrest) and 14<sup>th</sup> (equal protection) Amendments  
20 of the U.S. Constitution as more fully described in the above  
21 allegations.  
22

23  
24 305. The Defendants are not entitled to any immunity for their wrongful  
25 actions.

1 306. The non-municipal defendants, one or more, acted with the requisite  
2 wrongful intent and or evil purpose, giving rise to punitive damages.

3  
4 307. Steven Blomquist and Sharyl Cummings were damaged and are  
5 entitled to an award of damages.

6  
7 **COUNT EIGHT**

8 **(Civil Conspiracy to Deprive Rights on November 13, 2009)**

9 308. Plaintiffs incorporate all prior allegations.

10 309. Every person who, under color of any statute, ordinance, regulation,  
11 custom, or usage, of any State or Territory or the District of  
12 Columbia, subjects, or causes to be subjected, any citizen of the  
13 United States or other person within the jurisdiction thereof to the  
14 deprivation of any rights, privileges, or immunities secured by the  
15 Constitution and laws, shall be liable to the party injured in an action  
16 at law.  
17

18  
19 310. The Defendants T.P. Tometich, Defendant Roberto, Tim Brunenkant,  
20 Officer Bennett, Officer Ritter, and/or John or Jane Does (the  
21 “Conspiring Defendants”) are persons within the meaning of 42 USC  
22 1983.  
23

24 311. On November 13, 2009, the Conspiring Defendants acted under color  
25 of law as they conspired together to deprive Steven Blomquist of civil

1 rights under the 1<sup>st</sup> (free speech), 4<sup>th</sup> (unlawful seizure) and 14<sup>th</sup> (equal  
2 protection) Amendments of the U.S. Constitution as more fully  
3 described in the above allegations.  
4

5 312. The Conspiring Defendants are not entitled to any immunity for their  
6 wrongful actions.

7 313. The Conspiring Defendants, one or more, acted with the requisite  
8 wrongful intent and or evil purpose, giving rise to punitive damages.  
9

10 314. Steven Blomquist was damaged by the conspiracy and is entitled to an  
11 award of damages.

12 DEMAND FOR JURY TRIAL

13  
14 IV

15 Pursuant to Rule 38(b), Federal Rules of Civil Procedure, the Plaintiff  
16 demands a jury trial on all issues.

17 PRAYER FOR RELIEF

18  
19 WHEREFORE, Plaintiff prays for the following relief from Town of  
20 Marana, T.P. Tometich, Defendant Roberto, Tim Brunenkant, Officer Bennett,  
21 Officer Ritter, and/or John or Jane Does:

22 A. For the Actual and Consequential Damages in an amount determined  
23 by a jury for the violation Steven Blomquist's civil rights arising from the arrest  
24 and incarceration Pima County jail;  
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B. For interest on said sum at the legal rate per annum until paid;

C. Reasonable attorney's fees and costs as provided by 42 USC 1988 or  
as otherwise required by law; and

D. For such other and further relief as the Court deems just and proper.

**RESPECTFULLY SUBMITTED** this 1<sup>st</sup> day of December, 2009.

WEEKS & LAIRD PLLC

By: 

STEPHEN M. WEEKS  
Attorney for Plaintiffs

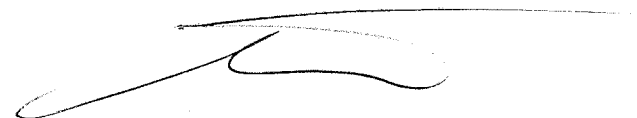
1 Verification

2 STATE OF ARIZONA )  
3 ) ss.  
4 County of Pima )


5 Steven Blomquist, being first duly sworn, upon oath, deposes and says:

6 That I am a Plaintiff in this action, and that the facts contained in the  
7 Complaint are true and correct to the best of my knowledge and belief.

8  
9  
10 DATED this \_\_\_/\_\_\_ day of December, 2009.

11   
12 \_\_\_\_\_  
13 Steven Blomquist

14 **SUBSCRIBED AND SWORN TO** before me this 1<sup>ST</sup> day of December,  
15  
16 2009, by Steven Blomquist.

17  
18   
19 \_\_\_\_\_  
20 Notary Public

21 My Commission Expires:

22 September 25, 2013  
23  
24  
25

