

1 **Joy Bertrand, Esq.**
PO Box 2734
2 Scottsdale, Arizona 85252-2734
Telephone: 480-656-3919
3 Fax: 480-361-4694
joyous@mailbag.com
4 www.joybertrandlaw.com
Arizona State Bar No. 024181

5
6 **John McBee, Esq.**
3104 E Camelback Rd PMB 851
7 Phoenix, AZ 85016-4595
Telephone: 602-903-7110
8 Fax: 602-532-7077
mcbree@cox.net
9 Arizona State Bar No. 018497

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE DISTRICT OF ARIZONA

13 **MIRIAM MENDIOLA-MARTINEZ,**
14 **Plaintiff,**

15 **v.**

16
17 **JOSEPH M. ARPAIO, MARICOPA**
COUNTY SHERIFF; MARICOPA
18 **COUNTY SHERIFF'S OFFICE;**
19 **MARICOPA MEDICAL CENTER; JANE**
20 **DOE OFFICERS 1-5, in their individual**
21 **capacities; JOHN DOE OFFICERS 1-5 in**
22 **their individual capacities; JANE DOE**
23 **DOCTORS 1-5, in their individual**
24 **capacities; JOHN DOE DOCTORS 1-5, in**
25 **their individual capacities; JANE DOE**
26 **NURSES 1-5, in their individual**
27 **capacities; and JOHN DOE NURSES 1-5,**
28 **in their individual capacities,**
29 **Defendants.**

Case No. _____

COMPLAINT

(Jury Trial Demanded)

30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

NOW COMES the Plaintiff, Miriam Mendiola, by her attorney, Joy Bertrand, to
allege this complaint against Joseph M. Arpaio, the Maricopa County Sheriff; the

1 Maricopa County Sheriff's Office (hereinafter MCSO); the Maricopa County Medical
2 Center; Jane Doe Officers 1-5; John Doe Officers 1-5, Jane Doe Doctors 1-5; John Doe
3 Doctors 1-5; Jane Doe Nurses 1-5; and John Doe Nurses 1-5.
4

5 **PARTIES**

6 1. The Plaintiff, Miriam Mendiola-Martinez, is an Hispanic female, who presently
7 resides in Maricopa County, Arizona.
8

9 2. Between October 23, 2009 and December 25, 2009, Ms. Mendiola-Martinez was
10 detained as a prisoner in either the Estrella Jail or Fourth Avenue Jail in Maricopa
11 County, Arizona.

12 3. Ms. Mendiola-Martinez currently is a citizen of Mexico.
13

14 4. Maricopa County is a political subdivision of the State of Arizona.

15 5. MCSO is a public law enforcement agency run by Maricopa County, Arizona.
16

17 6. Joseph M. Arpaio, the Maricopa County Sheriff, oversees the operations of the
18 Maricopa County jails and is responsible for and accountable for ultimate decisions of
19 the Office.

20 7. The Maricopa County Medical Center is a public hospital run by Maricopa
21 County, Arizona through the Maricopa Integrated Health System.
22

23 8. On information and belief, the Maricopa County Medical Center is the hospital
24 to which prisoners in the Maricopa County jails are taken for medical care.
25

26 9. Jane Doe Officers and Johns Does Officers 1-5 are either Maricopa County
27 Sheriff's Deputies or Maricopa County Corrections Officers, to be identified in the
28 course of discovery, who, *inter alia*, shackled Ms. Mendiola-Martinez while she was in
29

1 labor and as she recovered from a Cesarean-section, forced her to walk (shackled) to
2 and from a transport van with no assistance, and/or refused to give her adequate pain
3 medication as she recovered from her surgery.
4

5 10. John Doe Doctors 1-5, Jane Doe Doctors 1-5, John Doe Nurses 1-5, Jane Doe
6 Nurses 1-5 are Maricopa Medical Center physicians or nurses, to be identified in the
7 course of discovery, who, *inter alia*, treated Ms. Mendiola-Martinez between December
8 20, 2009 and December 23, 2009 and allowed the shackling Ms. Mendiola-Martinez
9 while she was in labor and as she recovered from a Cesarean-section.
10

11 JURISDICTION AND VENUE

12 11. This Court has original jurisdiction over this matter pursuant to 42 USC §§ 1331,
13 1343, and/or 1367. This action arises under the Constitutions of the United States and
14 the State of Arizona, under federal and state law, and under 42 U.S.C. §§ 1981 and
15 1983. Ms. Mendiola-Martinez seeks declaratory and/or injunctive relief, compensatory
16 and punitive damages, attorney fees and costs, and such other relief that may be
17 available to her.
18
19

20 12. Venue in this district is proper under 42 U.S.C. 1391. This Court has personal
21 jurisdiction over the Defendants in this matter, the underlying acts of this complaint
22 took place in the District of Arizona, and the Plaintiff resides in this District.
23

24 STATEMENT OF FACTS

25 I. The Arrest and Detention

26 13. On October 23, 2009, Ms. Mendiola-Martinez was arrested by the City of
27 Scottsdale Police Department.
28
29

1 14. That same day, Ms. Mendiola-Martinez was booked into the Estrella Jail in
2 Maricopa County, Arizona on charges of identity theft.

3
4 15. Pursuant to the Arizona Bailable Offenses Act, Ms. Mendiola-Martinez was held
5 without bond.

6 16. But for the requirements of the Arizona Bailable Offenses Act, Ms. Mendiola-
7 Martinez would have been able to be released either on her own recognizance or upon
8 the posting of a bond while her case was pending.

9
10 17. At the time of her arrest, Ms. Mendiola-Martinez was in her sixth month of
11 pregnancy.

12
13 18. Upon information and belief, at the time of her arrest, Ms. Mendiola-Martinez
14 had developed gestational diabetes and gestational hypertension.

15 19. Upon information and belief, MCSO officers never made a determination that
16 Ms. Mendiola-Martinez presented a substantial flight risk or a security threat to the
17 safety and security of MCSO staff.

18
19 20. Ms. Mendiola-Martinez could not reasonably be considered a security risk. She
20 was held on a charge that involved no violence, no narcotics, and no gang allegations.

21
22 21. On December 10, 2009, pursuant to a plea agreement with the State of Arizona,
23 Ms. Mendiola-Martinez pled guilty to solicitation to commit forgery.

24 22. Ms. Mendiola-Martinez' case was set for sentencing on December 24, 2011.

25
26 **II. Ms. Mendiola-Martinez' Prenatal Diet While Incarcerated**

27 23. Ms. Mendiola-Martinez was told by jail staff that she would receive a "special"
28 pregnancy diet.

1 24. On information and belief, this “special” pregnancy diet meals consisted of
2 items such as two slices of cheese or ham, two slices of bread, indistinguishable cooked
3 vegetables, and occasionally a piece of fruit. She was also given two, small cartons of
4 milk each day.

5
6 25. On information and belief, this “special” pregnancy diet also entailed a pill that
7 was represented to be a vitamin.
8

9 26. When Ms. Mendiola-Martinez was transported to court, she was given no food
10 during the day.

11 27. In one instance, a MCSO deputy or corrections officer taunted Ms. Mendiola-
12 Martinez and other inmates with his food, after telling them there was no food for
13 them.
14

15 **II. Ms. Mendiola-Martinez’ Labor and Delivery**

16 28. On December 20, 2009, two weeks before her expected delivery date, Ms.
17 Mendiola-Martinez began to have labor contractions.
18

19 29. Ms. Mendiola-Martinez was transported to the Maricopa Medical Center,
20 shackled at her ankles.
21

22 30. The staff at Maricopa Medical Center then returned her to the jail, saying she
23 was not in “active labor.”

24 31. Ms. Mendiola-Martinez was shackled while being transported back to the jail.
25

26 32. By December 21, 2009, Ms. Mendiola-Martinez’ pain increased through the
27 night.

28 33. Ms. Mendiola-Martinez had been left in the jail visitation room, in extreme pain.
29

1 34. Because guards had previously ignored her attempts to speak to them in
2 Spanish, Ms. Mendiola-Martinez asked an English-speaking person in the visitation
3 room to tell the guards that she needed assistance.
4

5 35. Ms. Mendiola-Martinez was again transported to the Maricopa Medical Center,
6 this time, unshackled.

7 36. Ms. Mendiola-Martinez gave birth to her son *via* Cesarean section.

8 37. Ms. Mendiola-Martinez was not allowed to nurse or even hold her son after he
9 was delivered.
10

11 38. Ms. Mendiola-Martinez was shackled before and after the surgery.

12 39. While recovering from her surgery, Ms. Mendiola-Martinez was guarded by a
13 male Sheriff's Office deputy or correctional officer, whose identity will be determined
14 in the course of discovery, who insisted that she be shackled to the hospital bed.
15

16 40. Ms. Mendiola-Martinez was in a great deal of pain after the surgery.

17 41. The shackles on Ms. Mendiola-Martinez' feet were very painful.

18 42. On December 23, 2011, Ms. Mendiola-Martinez was discharged from the
19 hospital.
20

21 43. Ms. Mendiola-Martinez was not given a wheelchair to assist her from the
22 hospital.
23

24 44. Wearing only a hospital gown, Ms. Mendiola-Martinez was forced to walk
25 through the hospital, with her hands and feet shackled.
26

27 45. Ms. Mendiola-Martinez began to bleed and could do nothing about it.
28
29

1 46. Ms. Mendiola was not provided with a breast pump to safely and hygienically
2 remove the breast milk she produced while she was separated from her infant son.

3
4 47. Once she was outside and entering the Sheriff's Office car, a nurse ran up from
5 the hospital and scolded the Sheriff's Office deputy or correctional officer, whose
6 identity will be determined in the course of discovery, for taking Ms. Mendiola-
7 Martinez so quickly and without Ms. Mendiola-Martinez receiving her pain
8 medication and discharge paperwork.
9

10 48. The John Doe deputy or correctional officer then chained Ms. Mendiola-
11 Martinez again and forced Ms. Mendiola-Martinez to walk back to the nurse's station.
12

13 49. Ms. Mendiola-Martinez was in so much pain she could hardly walk.

14 50. Shackled at her hands and ankles, with a bleeding surgery wound, Ms.
15 Mendiola-Martinez was returned to the Estrella Jail.
16

17 51. Ms. Mendiola-Martinez spent her nights in the jail following her hospital
18 discharge in pain and crying.

19 52. When asked about the shackling of MCSO inmates in labor at Maricopa Medical
20 Center, Michael Murphy, spokesman for the Maricopa Medical Center, stated that the
21 Maricopa Medical Center doctors and staff, "defer to law enforcement."
22

23 53. International standards stipulate that jails and prisons should use restraints
24 only when they are required as a precaution against escape or to prevent an inmate
25 from injuring him/herself or other people or damaging property. In every case, due
26 regard must be given to an inmate's individual history.
27
28
29

1 54. Established international standards provide that the routine use of restraints on
2 pregnant women is cruel, in humane, and degrading treatment, and given medical and
3 other factors impeding pregnant or birthing women from attempting escape or
4 becoming violent, the presumption must be that no restraints should be applied. A
5 woman's privacy and dignity must be respected during labor and birth.
6

7 55. International standards further provide:
8

- 9 • Leg irons, shackles, belly chains or handcuffs behind the body may not be
10 used at any time during pregnancy.
- 11 • For pregnant women in the third trimester no restraints may be applied,
12 including during transportation.
- 13 • Under no circumstances may restraints of any kind be used on a woman in
14 labor or while she is giving birth.
- 15 • A female correctional officer should accompany the woman during transport
16 to the hospital for prenatal checkups, as well as for the delivery itself, and
17 should remain immediately outside the room during checkups, and a woman's
18 labor and delivery, unless the woman wishes otherwise. The officer should be
19 trained to be sensitive to the medical emotional and medical issues of pregnancy
20 and childbirth.
- 21 • No restraints should be applied while a woman remains in the hospital during
22 recovery, and all efforts should be made to afford the mother reasonable access
23 to the baby without impeding her movements by restraints. Restraints should
24 not be applied during transportation back to the detention facility.

25 56. The American College of Obstetricians and Gynecologists opposes the shackling
26 of female prisoners during and immediately after labor.

27 57. The American Medical Association opposes the shackling of women in labor or
28 recuperating from delivery:
29

unless there are compelling grounds to believe that the inmate presents: An
immediate and serious threat of harm to herself, staff or others; or a substantial
flight risk and cannot be reasonably contained by other means. If an inmate who

1 is in labor or who is delivering her baby is restrained, only the least restrictive
2 restraints necessary to ensure safety and security shall be used.

3 American Medical Association Resolution 203, adopted 2010.¹

4 59. The Arizona Department of Corrections eliminated the practice of shackling
5 women in labor or in postpartum recovery in 2003.

6
7 60. In 2007, the United States Marshal's Service eliminated the practice of shackling
8 women in labor.

9
10 61. In 2008, the Federal Bureau of Prisons eliminated the practice of shackling
11 women in labor.

12 **III. Jail Conditions**

13 62. In or about September 2008, the Maricopa County jails lost their accreditation
14 from the National Commission on Correctional Health Care.

15
16 63. On October 22, 2008, the Honorable Neil V. Wake found that the food given to
17 inmates in the Maricopa County Jails constituted "current and ongoing violation of
18 pretrial detainees' federal right to adequate nutrition." (*Graves v. Arpaio*, Arizona
19 District Court Number 77CV479, ECF Doc. 1634 at 71, ECF Doc. 1635 at 13)

20
21 64. Regarding jail nutrition, Judge Wake ordered that the Maricopa County Jails
22 provide food to inmates that meets or exceeds the dietary allowances established by
23 the United States Department of Agriculture. (77CV479 ECF Doc. 1634 at 65)

24
25 65. Judge Wake further ordered that the Maricopa County jails provide to inmates
26 medically necessary diets. (77CV479 ECF Doc. 1635)

27
28
29

¹ Available at <http://www.ama-assn.org/assets/meeting/2010a/a10-annotated-b.pdf>.

1 66. Regarding medical care in Maricopa County jails, Judge Wake found “ongoing
2 violation[s] of the federal right to adequate medical care.” (*Id.* at 43, 50)

3
4 67. Judge Wake ordered that the Maricopa County jails provide all prescription
5 medications to inmates without interruption. (77CV479 ECF Doc. 1635 at 3)

6 **IV. The United States Department of Justice Findings**

7
8 68. On December 15, 2011, the United States Department of Justice issued the
9 findings of the investigation it began in June 2008 in a letter addressed to Maricopa
10 County Attorney William Montgomery.¹

11 70. In that, letter, the Justice Department stated, *inter alia*:

12 MCSO operates its jails in a manner that discriminates against its limited
13 English proficient ("LEP") Latino inmates. Specifically, we find that MCSO,
14 through the actions of its deputies, detention officers, supervisory staff, and
15 command staff, routinely punishes Latino LEP inmates for failing to understand
16 commands given in English and denies them critical services provided to the
other inmates, all in violation of Title VI and its implementing regulations.

17 December 15, 2011 Letter at 2.

18 71. With regard to jail practices, the Justice Department found:

19 MCSO fosters and perpetuates discriminatory police and jail practices by failing
20 to operate in accordance with basic policing and correctional practices and by
21 failing to develop and implement policing and correctional safeguards against
22 discrimination in such areas as training, supervision, and accountability
systems.

23 *Id.* at 4.

24
25
26
27
28

¹ Available at http://www.justice.gov/crt/about/spl/documents/mcso_findletter_12-15-11.pdf .
29

1 72. The Justice Department also found, “The pervasive nature of MCSO’s
2 discriminatory treatment of Latinos reflects a general culture of bias within MCSO.”

3 *Id.*

4
5 73. The Justice Department found that the “pervasive culture of discriminatory bias
6 against Latinos at MCSO. . . reaches the highest levels of the Agency.” *Id.* at 10-11.

7
8 74. The Justice Department found this culture has been “nurtured” by Sheriff
9 Arpaio. *Id.*

10 **PLAINTIFF’S CAUSE OF ACTION AGAINST DEFENDANTS FOR INTERFERING**
11 **WITH PLAINTIFF’S RIGHTS UNDER 42 USC §§ 1981 and 1983**

12 **COUNT ONE**
13 **VIOLATIONS OF THE EIGHTH AMENDMENT**
14 **(Deliberate Indifference to Serious Medical Needs)**

15 75. Ms. Mendiola-Martinez realleges Paragraphs 1 through 74 above as if fully
16 realleged herein.

17 76. As applied to Ms. Mendiola-Martinez, MCSO's practice and policy of requiring
18 mechanical restraints on pregnant women during transport to the hospital and while in
19 labor and on new mothers during post-partum recovery, in the absence of a specific
20 and individualized assessment that a laboring or post-partum woman presents a
21 substantial flight risk or extraordinary threat to the safety of staff or other detainees,
22 constituted a policy of deliberate indifference to Ms. Mendiola-Martinez’ serious
23 medical needs.

24
25
26 77. As applied to Ms. Mendiola-Martinez, MCSO’s practice and policy of denying
27 her proper pregnancy nutrition, a violation of Judge Wake’s order, constituted a policy
28 of deliberate indifference to Ms. Mendiola-Martinez’ serious medical needs.
29

1 78. To the extent the actions alleged above were not customary or in compliance
2 with MCSO practice and policy, then John Doe Officers 1-5 and Jane Doe Officers 1-5
3 are liable in their individual capacities, because a reasonable officer in their positions
4 would have known that shackling a laboring and post-partum woman and denying
5 her medical supplies and post-operative pain medications, all contrary to medical
6 orders and/or standards, constitute deliberate indifference to serious medical needs.
7

8 79. To the extent the actions alleged above were not customary or in compliance
9 with Maricopa Medical Center practice and policy, then John Doe Doctors 1-5, Jane
10 Doe Doctors 1-5, John Doe Nurses 1-5, Jane Doe Nurses 1-5, are liable in their
11 individual capacities, because a reasonable medical professional in their positions
12 would have known that shackling a laboring and post-partum woman, thereby
13 constituting deliberate indifference to Ms. Mendiola-Martinez' serious medical needs.
14

15 80. As applied to Ms. Mendiola-Martinez, MCSO 's practice and policy of shackling
16 women in labor and post-delivery, prohibiting post-partum mothers from using a
17 medically recommended and related supplies, and denying a post-partum her
18 prescribed pain medication constitutes a policy of deliberate indifference to Ms.
19 Mendiola-Martinez' serious medical needs.
20
21

22 81. As applied to Ms. Mendiola-Martinez, the Maricopa Medical Center's practice
23 and policy of "deferring to law enforcement" regarding the MCSO policy of shackling
24 women in labor and post-delivery, demonstrates an ongoing policy of deliberate
25 indifference to Ms. Mendiola-Martinez' serious medical needs.
26
27
28
29

COUNT TWO
VIOLATIONS OF THE FOURTEENTH AMENDMENT
(Deliberate Indifference to Serious Medical Needs)

1
2
3
4 82. Ms. Mendiola-Martinez realleges Paragraphs 1 through 74 above as if fully
5 realleged herein.

6 83. MCSO John Doe Officers 1-5 and MCSO Jane Doe Officers 1-5 were aware that
7 Ms. Mendiola-Martinez had a serious medical need and knew that placing shackles on
8 Ms. Mendiola-Martinez during transport to and from the hospital, while in labor, and
9 during post-partum recovery posed a substantial risk of serious harm to her safety and
10 health. MCSO John Doe Officers 1-5 and Jane Doe Officers 1-5 evinced deliberate
11 indifference to Ms. Mendiola-Martinez' serious medical needs when they placed her in
12 restraints during labor and recovery.
13
14

15 84. To the extent the actions alleged above were not customary or in compliance
16 with Maricopa Medical Center practice and policy, then John Doe Doctors 1-5, Jane
17 Doe Doctors 1-5, John Doe Nurses 1-5, Jane Doe Nurses 1-5 were aware that Ms.
18 Mendiola-Martinez had a serious medical need and knew that placing shackles on Ms.
19 Mendiola-Martinez during transport to and from the hospital, while in labor, and
20 during post-partum recovery posed a substantial risk of serious harm to her safety and
21 health. MCSO John Doe Officers 1-5 and Jane Doe Officers 1-5 evinced deliberate
22 indifference to Ms. Mendiola-Martinez' serious medical needs when they placed her in
23 restraints during labor and recovery.
24
25
26

27 85. As applied to Ms. Mendiola-Martinez, Sheriff Arpaio's and MCSO 's practice
28 and policy of shackling women in labor and post-delivery, prohibiting post-partum
29

1 mothers from using a medically recommended and related supplies, and denying a
2 post-partum mother her prescribed pain medication constitutes a policy of deliberate
3 indifference to Ms. Mendiola-Martinez' serious medical needs.
4

5 86. As applied to Ms. Mendiola-Martinez, the Maricopa Medical Center's practice
6 and policy of "deferring to law enforcement" regarding the MCSO policy of shackling
7 women in labor and post-delivery, a policy of deliberate indifference to Ms. Mendiola-
8 Martinez' serious medical needs.
9

10 **COUNT THREE**
11 **VIOLATIONS OF THE EIGHTH AND FOURTEENTH AMENDMENTS**
12 **(Cruel and Unusual Punishment)**

13 87. Ms. Mendiola-Martinez realleges Paragraphs 1 through 74 above as if fully
14 realleged herein.

15 88. The wholly unnecessary shackling of Ms. Mendiola-Martinez during and after
16 her labor constituted cruel and unusual punishment, in violation of the Eighth and
17 Fourteenth Amendments.
18

19 89. To the extent the actions alleged above were not customary or in compliance
20 with MCSO practice and policy, then John Doe Officers 1-5 and Jane Doe Officers 1-5
21 are liable in their individual capacities, because a reasonable officer in their positions
22 would have known that shackling a laboring and post-partum woman and denying
23 her medical supplies and post-operative pain medications, all contrary to medical
24 orders and/or standards, constitute deliberate indifference to serious medical needs.
25

26 90. As applied to Ms. Mendiola-Martinez, Sheriff Arpaio's and MCSO's practice
27 and policy of shackling women in labor and post-delivery, prohibiting post-partum
28
29

1 mothers from using a medically recommended and related supplies, and denying a
2 post-partum mother her prescribed pain medication constitutes cruel and unusual
3 punishment.
4

5 **COUNT FOUR**
6 **VIOLATIONS OF THE FIFTH, FOURTEENTH, AND FIFTEENTH AMENDMENTS**
7 **(Equal Protection - Disparate Treatment)**

8 91. Ms. Mendiola-Martinez realleges Paragraphs 1 through 74 above as if fully
9 realleged herein.

10 92. The Arizona Bailable Offenses Act requires that persons whom the State
11 believes are in the country illegally be held without bond, if they are charged with a
12 felony.
13

14 93. The Act, therefore, creates a disparity between women who are born in the
15 United States and those of other national origins, serving no compelling government
16 interest.
17

18 94. Therefore, women who are arrested and charged with felonies in Maricopa
19 County and who are not from another country and unable to prove that they are in the
20 United States legally will be held without bond and at the mercy of the Maricopa
21 County Sheriff's Office for their health care.
22

23 95. Pregnant women, such as Ms. Mendiola-Martinez, who are arrested and
24 charged with felonies and who are from another country and unable to prove that they
25 are in the United States legally, therefore are more likely to be subject to shackling than
26 similarly-situated United States citizens.
27
28
29

1 96. Ms. Mendiola-Martinez was subject to a lower standard of medical care – and a
2 higher degree of danger to her and fetus -- than similarly-situated women who are
3 United States citizens.
4

5 97. As such, the MCSO shackling policy regarding pregnant inmates violated Ms.
6 Mendiola-Martinez' right to be free from discrimination based on her national origin.
7

8 98. This disparate treatment is consistent with the findings of the United States
9 Department of Justice regarding the systemic bias towards Latinos demonstrated by
10 Sheriff Arpaio and the Maricopa County Sheriff's Office.
11

12 **COUNT FIVE**
13 **MONELL LIABILITY**

14 99. Ms. Mendiola-Martinez realleges Paragraphs 1 through 74 above as if fully
15 realleged herein.

16 100. As a proximate result of MCSO and Maricopa Medical Center's unconstitutional
17 policies, practices, acts and omissions, Ms. Mendiola-Martinez suffered immediate and
18 irreparable injury, including physical, psychological and emotional injury and risk of
19 death. See *Monell v. New York City Dept. of Social Svcs.*, 436 U.S. 658 (1978)
20

21 101. The above-described actions of the Defendants occurred as a direct result of a
22 failure on the part of the individual defendants, MCSO, and the Maricopa Medical
23 Center to adequately train, supervise, and discipline its employees.
24

25 102. The above-described inadequate training and supervision constituted an official
26 policy of the individual defendants, MCSO and the Maricopa Medical Center.
27

28 103. Transporting and guarding pregnant inmates is a usual and recurring situation
29 with which MCSO and its employees must deal on a regular basis.

1 104. Treating pregnant MCSO inmates is a usual and recurring situation with which
2 the Maricopa Medical Center must deal on a regular basis.

3
4 105. The above-mentioned failures to adequately train, supervise, and discipline
5 their employees by the MCSO and the Maricopa Medical Center were a direct and
6 proximate cause of a violation of the constitutional and civil rights of the Plaintiff.

7
8 **DAMAGES**

9 WHEREFORE, the Plaintiff prays this court award of judgment against the
10 Defendants for the above-described violations of her constitutional rights.

11 106. In favor of the Plaintiff, and against the above-named Defendants, joint and
12 severally, for compensatory and special damages, in an amount which will fairly and
13 reasonably compensate her for her past and future medical care; for her past and
14 future pain and suffering, and disability; and for the violation of her civil rights, as set
15 forth above, in an amount to be determined at trial in this matter.
16
17

18 107. In favor of the Plaintiff and against each of the above-named Defendants, jointly
19 and severally, for punitive damages for the injuries, damages, and violation of Ms.
20 Mendiola-Martinez' rights, as set forth above, in an amount to be determined at a trial
21 in this matter.
22

23 108. For injunctive and other equitable relief, reforming the Defendants MCSO and
24 Maricopa Medical Center's policies, practices and procedures to prevent like actions
25 and harms in the future.
26

27 109. For all costs, disbursement and attorney fees, pursuant to 42 U.S.C. § 1988 and
28 for other such relief as the Court deems just and reliable.
29

