

APPEAL,CLOSED,NON-COMPLIANCE

**U.S. District Court  
Southern District of California (San Diego)  
CIVIL DOCKET FOR CASE #: 3:12-cv-02600-W-BLM**

Askins et al v. United States Department of Homeland Security  
et al

Assigned to: Judge Thomas J. Whelan  
Referred to: Magistrate Judge Barbara Lynn Major  
Case in other court: USCA, 16-55719

Cause: 05:0702 Administrative Procedure Act – Right of  
Review

**Plaintiff**

**Ray Askins**

Date Filed: 10/24/2012  
Date Terminated: 03/23/2016  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: U.S. Government Defendant

represented by **Jonathan Paul Markovitz**  
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**Plaintiff**

**Christian Ramirez**

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**Sean Connor Riordan**  
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*TERMINATED: 12/30/2014*  
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V.

**Defendant**

**United States Department of Homeland Security**

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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**David V. Aguilar**  
*Deputy Commissioner of United States  
Customs and Border Protection*  
*TERMINATED: 11/05/2015*

represented by **U S Attorney CV**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Patrick George Nemeroff**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Stephen J. Buckingham**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Billy Whitford**  
*Director, Calexico Port of Entry*

represented by **Nathan Michael Swinton**  
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*ATTORNEY TO BE NOTICED*

**Patrick George Nemeroff**  
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**Stephen J. Buckingham**  
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**Defendant**

**Frank Jaramillo**  
*San Ysidro Port Director*  
*TERMINATED: 11/05/2015*

represented by **Patrick George Nemeroff**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Stephen J. Buckingham**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**United States Customs and Border  
Protection Officers**  
*DOES 1 through 15*  
*TERMINATED: 11/05/2015*

represented by **Nathan Michael Swinton**  
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**Stephen J. Buckingham**  
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**Defendant**

**DOES 16 through 50**  
*TERMINATED: 11/05/2015*

**Defendant**

**Sidney K Aki**  
*Director, San Ysidro & Otay Mesa Ports  
of Entry*

represented by **Nathan Michael Swinton**  
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**Stephen J. Buckingham**  
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**Defendant**

**R Gil Kerlikowske**  
*Commissioner of United States Customs  
and Border Protection*

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*LEAD ATTORNEY  
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Date Filed	#	Docket Text
10/24/2012	<u>1</u>	COMPLAINT with Jury Demand against All Defendants ( Filing fee \$ 350 receipt number 0974-5278217.), filed by Christian Ramirez, Ray Askins. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Civil Cover Sheet)  The new case number is 3:12-cv-2600-W-BLM. Judge Thomas J. Whelan and Magistrate Judge Barbara Lynn Major are assigned to the case. (Woodmansee, Mark)(vam) (cap). (Entered: 10/25/2012)
10/24/2012	<u>2</u>	NOTICE of Party With Financial Interest by Ray Askins, Christian Ramirez. (vam) (cap). (Entered: 10/25/2012)
10/25/2012	<u>3</u>	Summons Issued. <b>Counsel receiving this notice electronically should print this summons and serve it in accordance with Rule 4, Fed.R.Civ.P and LR 4.1.</b> (vam) (cap). (Entered: 10/25/2012)
12/06/2012	<u>4</u>	NOTICE of Appearance by Patrick George Nemeroff on behalf of David V. Aguilar, Frank Jaramillo, United States Customs and Border Protection Officers, United States Department of Homeland Security, Billy Whitford (Nemeroff, Patrick)(srm). (Entered: 12/06/2012)
12/07/2012	<u>5</u>	NOTICE of Appearance by Mary Prendergast on behalf of Ray Askins, Christian Ramirez (Prendergast, Mary) (srm). (Entered: 12/07/2012)
12/07/2012	<u>6</u>	NOTICE of Appearance by Kimberly Rhea Gosling on behalf of Ray Askins, Christian Ramirez (Gosling, Kimberly) (srm). (Entered: 12/07/2012)
12/07/2012	<u>7</u>	SUMMONS Returned Executed by Christian Ramirez, Ray Askins. Billy Whitford served. (Woodmansee, Mark Andrew) (srm). (Entered: 12/07/2012)
12/07/2012	<u>8</u>	SUMMONS Returned Executed by Christian Ramirez, Ray Askins. David V. Aguilar served. (Woodmansee, Mark Andrew) (srm). (Entered: 12/07/2012)
12/07/2012	<u>9</u>	SUMMONS Returned Executed by Christian Ramirez, Ray Askins. Frank Jaramillo served. (Woodmansee, Mark Andrew) (srm). (Entered: 12/07/2012)
12/07/2012	<u>10</u>	SUMMONS Returned Executed by Christian Ramirez, Ray Askins. United States Customs and Border Protection Officers served. (Woodmansee, Mark Andrew) (srm). (Entered: 12/07/2012)
12/07/2012	<u>11</u>	SUMMONS Returned Executed by Christian Ramirez, Ray Askins. United States Department of Homeland Security served. (Woodmansee, Mark Andrew) (srm). (Entered: 12/07/2012)
12/07/2012	<u>12</u>	SUMMONS Returned Executed by Christian Ramirez, Ray Askins. David V. Aguilar, Frank Jaramillo, United States Customs and Border Protection Officers, United States Department of Homeland Security, Billy Whitford served. (Woodmansee, Mark Andrew) (srm). (Entered: 12/07/2012)
12/07/2012	<u>13</u>	NOTICE of Appearance by John David Loy on behalf of Ray Askins, Christian Ramirez (Attachments: # <u>1</u> Proof of Service)(Loy, John) (srm). (Entered: 12/07/2012)
12/07/2012	<u>14</u>	NOTICE of Appearance by Sean Connor Riordan on behalf of Ray Askins, Christian Ramirez (Attachments: # <u>1</u> Proof of Service)(Riordan, Sean) (srm). (Entered: 12/07/2012)
12/11/2012	<u>15</u>	Joint MOTION for Extension of Time to File Response/Reply to <i>Complaint</i> by David V. Aguilar, Ray Askins, Frank Jaramillo, Christian Ramirez, United States Department of Homeland Security, Billy Whitford. (Nemeroff, Patrick) (srm). (Entered: 12/11/2012)
12/11/2012	<u>16</u>	ORDER Granting <u>15</u> Joint Motion for Extension of Time to File Response. Defendants are directed to respond to <u>1</u> Complaint no later than January 30, 2013. Signed by Judge

		Thomas J. Whelan on 12/11/2012. (srm) (jcj). (Entered: 12/12/2012)
01/25/2013	<u>17</u>	Joint MOTION for Extension of Time to File Response/Reply to <i>Complaint</i> by David V. Aguilar, Ray Askins, Frank Jaramillo, Christian Ramirez, United States Department of Homeland Security, Billy Whitford. (Nemeroff, Patrick) (srm). (Entered: 01/25/2013)
01/29/2013	<u>18</u>	ORDER Granting <u>17</u> Joint Motion for Extension of Time to File Response/Reply. Defendants' answer/response due 2/13/2013. Signed by Judge M. James Lorenz on 1/28/2013. (srm) (jcj). (Entered: 01/29/2013)
01/29/2013	<u>19</u>	MOTION for Preliminary Injunction by Ray Askins, Christian Ramirez. (Attachments: # <u>1</u> Memo of Points and Authorities, # <u>2</u> Declaration Askins, # <u>3</u> Declaration Ramirez, # <u>4</u> Declaration Young, # <u>5</u> Declaration Woodmansee, # <u>6</u> Exhibit A to Woodmansee Dec, # <u>7</u> Exhibit B to Woodmansee Dec, # <u>8</u> Exhibit C to Woodmansee Dec, # <u>9</u> Exhibit D to Woodmansee Dec, # <u>10</u> Exhibit E to Woodmansee Dec)(Woodmansee, Mark Andrew) (srm). (Entered: 01/29/2013)
02/05/2013	<u>20</u>	NOTICE of Appearance by Jeffrey M. David on behalf of Ray Askins, Christian Ramirez (David, Jeffrey) (srm). (Entered: 02/05/2013)
02/06/2013	<u>21</u>	ORDER Resetting Hearing Date and Setting Briefing Schedule on <u>19</u> Plaintiff's Motion for Preliminary Injunction. The hearing date for the motion is rescheduled to March 27, 2013 at 10:00 a.m. Defendants' opposition due February 22, 2013. Plaintiff's reply due March 1, 2013. Signed by Judge Thomas J. Whelan on 2/6/2013. (srm) (Entered: 02/06/2013)
02/13/2013	<u>22</u>	MOTION to Dismiss for Failure to State a Claim by David V. Aguilar, Frank Jaramillo, United States Department of Homeland Security, Billy Whitford. (Attachments: # <u>1</u> Memo of Points and Authorities, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E)(Nemeroff, Patrick) Modified on 2/14/2013, notice of non-compliance prepared (srm). (Entered: 02/13/2013)
02/14/2013	<u>23</u>	NOTICE of Non-Compliance with Local Rule 5.1(a) Legibility, re <u>22</u> MOTION to Dismiss for Failure to State a Claim filed by Billy Whitford, Frank Jaramillo, David V. Aguilar, United States Department of Homeland Security. (srm) (Entered: 02/14/2013)
02/19/2013	<u>24</u>	Joint MOTION for Leave to File Excess Pages by David V. Aguilar, Ray Askins, Frank Jaramillo, Christian Ramirez, United States Department of Homeland Security, Billy Whitford. (Nemeroff, Patrick) (srm). (Entered: 02/19/2013)
02/20/2013	<u>25</u>	Joint MOTION for Extension of Time to File <i>Briefs for Plaintiffs' Motion for Preliminary Injunction and Defendants' Motion to Dismiss</i> by Ray Askins, Christian Ramirez. (Woodmansee, Mark Andrew) (srm). (Entered: 02/20/2013)
02/20/2013	<u>26</u>	ORDER Granting <u>24</u> Motion for Leave to File Excess Pages. Signed by Judge Thomas J. Whelan on 2/20/2013. (srm) (jcj). (Entered: 02/20/2013)
02/22/2013	<u>27</u>	RESPONSE in Opposition re <u>19</u> MOTION for Preliminary Injunction filed by David V. Aguilar, Frank Jaramillo, United States Department of Homeland Security, Billy Whitford. (Attachments: # <u>1</u> Declaration of Billy Whitford)(Nemeroff, Patrick) (srm). (Entered: 02/22/2013)
02/27/2013	<u>28</u>	ORDER Resetting Hearing Date and Setting Briefing Schedule. The hearing date for Plaintiff's Motion For Preliminary Injunction is rescheduled for 4/15/2013 10:30 AM before Judge Thomas J. Whelan. Hearing on Defendants' Motion to Dismiss reschedule for 4/15/2013. The Court will decided motion on the papers and without oral argument. Replies to Motion for Preliminary Injunction due 3/8/2013. Replies to Motion to Dismiss due by 3/27/2013. Signed by Judge Janis L. Sammartino on 2/27/2013. (srm) (jcj). (Entered: 02/27/2013)
03/07/2013	<u>29</u>	Joint MOTION for Leave to File Excess Pages for <i>Plaintiffs Reply in Support of Motion for Preliminary Injunction and Defendants Reply in Support of Motion to Dismiss</i> by Ray Askins, Christian Ramirez. (Woodmansee, Mark Andrew) (srm). (Entered: 03/07/2013)
03/08/2013	<u>30</u>	REPLY to Response to Motion re <u>19</u> MOTION for Preliminary Injunction filed by Ray Askins, Christian Ramirez. (Attachments: # <u>1</u> Declaration Askins, # <u>2</u> Declaration

		Woodmansee, # <u>3</u> Exhibit A to Woodmansee Decl, # <u>4</u> Exhibit B to Woodmansee Decl, # <u>5</u> Exhibit C to Woodmansee Decl)(Woodmansee, Mark Andrew) (srm). (Entered: 03/08/2013)
03/11/2013	<u>31</u>	ORDER Granting <u>29</u> Joint Motion for Leave to File Excess Pages, Extending Page Limit For Multiple Reply Briefs. Signed by Judge Thomas J. Whelan on 3/11/2013. (srm) (jcj). (Entered: 03/12/2013)
03/13/2013	<u>32</u>	RESPONSE in Opposition re <u>22</u> MOTION to Dismiss for Failure to State a Claim filed by Ray Askins, Christian Ramirez. (Woodmansee, Mark Andrew) (srm). (Entered: 03/13/2013)
03/27/2013	<u>33</u>	REPLY to Response to Motion re <u>22</u> MOTION to Dismiss for Failure to State a Claim filed by David V. Aguilar, Frank Jaramillo, United States Department of Homeland Security, Billy Whitford. (Nemeroff, Patrick) (leh). (Entered: 03/27/2013)
04/12/2013	<u>34</u>	ORDER Vacating Preliminary Injunction Hearing. The Court VACATES the April 15, 2013 hearing date on (Doc. <u>19</u> ) Plaintiff's motion for preliminary injunction. There shall be no oral argument on this matter. Signed by Judge Thomas J. Whelan on 4/12/2013. (srm) (jcj). (Entered: 04/12/2013)
04/12/2013	<u>35</u>	ORDER Denying <u>19</u> Motion for Preliminary Injunction. Signed by Judge Thomas J. Whelan on 4/12/2013. (srm) (Entered: 04/12/2013)
08/09/2013	<u>36</u>	ORDER TO SHOW CAUSE. Plaintiffs and Defendants are directed to submit briefs to this Court addressing the questions no later than 5:00 PM on August 23, 2013. Signed by Judge Thomas J. Whelan on 8/9/2013.(vam) (Entered: 08/09/2013)
08/14/2013	<u>37</u>	Joint MOTION for Extension of Time to File <i>Response to Order to Show Cause</i> by David V. Aguilar, Frank Jaramillo, United States Department of Homeland Security, Billy Whitford. (Nemeroff, Patrick) Modi (vam). (Entered: 08/14/2013)
08/15/2013	<u>38</u>	ORDER Extending Deadline to File Supplementary Briefing in Response to Order to Show Cause <u>37</u> . The Court grants the joint motion, and extends the deadline to file simultaneous supplemental briefing in response to the Court's Order to Show Cause to September 20, 2013 at 5:00 p.m. Signed by Judge Thomas J. Whelan on 8/15/2013. (vam) (Entered: 08/15/2013)
09/20/2013	<u>39</u>	SUPPLEMENTAL BRIEFING by Defendants David V. Aguilar, Frank Jaramillo, United States Department of Homeland Security, Billy Whitford re <u>36</u> Order to Show Cause . (Nemeroff, Patrick) (vam). (Entered: 09/20/2013)
09/20/2013	<u>40</u>	SUPPLEMENTAL BRIEFING by Plaintiffs Ray Askins, Christian Ramirez re <u>36</u> Order to Show Cause <i>Regarding Motion to Dismiss</i> . (Woodmansee, Mark Andrew) (vam). (Entered: 09/20/2013)
09/23/2013	<u>41</u>	AMENDED DOCUMENT by David V. Aguilar, Frank Jaramillo, United States Department of Homeland Security, Billy Whitford. Amendment to <u>39</u> Supplemental Briefing . (Nemeroff, Patrick) (vam). (Entered: 09/23/2013)
09/30/2013	<u>42</u>	ORDER Granting in Part and Denying in Part <u>22</u> Motion to Dismiss for Failure to State a Claim. For the reasons stated herein, the Court Grants in Part and Denies in Part Defendants' motion to dismiss. The Court Further Orders that the Defendants' motion to dismiss with respect to Plaintiffs' First Amendment claims is Granted With Leave to Amend. This dismissal applies only to Plaintiffs' claims that the Defendants' photography policy is unconstitutional under the First Amendment. To the extent Defendants move to dismiss Plaintiffs' First Amendment claims because they do not establish a pattern or practice the motion is Denied. Defendants did not move to dismiss the remaining First Amendment claims. Defendants' motion to dismiss Plaintiffs' Fourth Amendment claims, to the extent that Plaintiffs claim that Defendants photography policy explicitly condones deletion of photographs, is Granted. Because Plaintiffs cannot show that Defendants' written policy condones deletion of pictures, leave to amend would be futile, and this claim is thus Dismissed with Prejudice. Defendants motion to dismiss the remainder of Plaintiffs' Fourth Amendment claims is Denied. Signed by Judge Thomas J. Whelan on 9/30/2013. (leh) (Entered: 09/30/2013)

10/24/2013	<u>43</u>	Joint MOTION for Extension of Time to File <i>Motion for Clarification or Reconsideration</i> by David V. Aguilar, Frank Jaramillo, United States Department of Homeland Security, Billy Whitford. (Nemeroff, Patrick) (leh). (Entered: 10/24/2013)
10/24/2013	<u>44</u>	ORDER Granting <u>43</u> Joint Motion for Extension of Time to File Motion for Clarification or Reconsideration. It is hereby ordered that Defendant's shall file any such motion by 11/27/2013. Signed by Judge Thomas J. Whelan on 10/24/2013. (leh) (Entered: 10/25/2013)
11/22/2013	<u>45</u>	NOTICE by David V. Aguilar, Frank Jaramillo, United States Customs and Border Protection Officers, United States Department of Homeland Security, Billy Whitford <i>of Substitution of Counsel</i> (Buckingham, Stephen)Attorney Stephen J. Buckingham added to party David V. Aguilar(pty:dft), Attorney Stephen J. Buckingham added to party Frank Jaramillo(pty:dft), Attorney Stephen J. Buckingham added to party United States Customs and Border Protection Officers(pty:dft), Attorney Stephen J. Buckingham added to party United States Department of Homeland Security(pty:dft), Attorney Stephen J. Buckingham added to party Billy Whitford(pty:dft) (srm). (Entered: 11/22/2013)
11/27/2013	<u>46</u>	MOTION for Reconsideration re <u>42</u> Order on Motion to Dismiss for Failure to State a Claim, by David V. Aguilar, Frank Jaramillo, United States Customs and Border Protection Officers, United States Department of Homeland Security, Billy Whitford. (Attachments: # <u>1</u> Memo of Points and Authorities)(Buckingham, Stephen) (ag). (Entered: 11/27/2013)
12/11/2013	<u>47</u>	RESPONSE in Opposition re <u>46</u> MOTION for Reconsideration re <u>42</u> Order on Motion to Dismiss for Failure to State a Claim, filed by Ray Askins, Christian Ramirez. (Woodmansee, Mark Andrew) (srm). (Entered: 12/11/2013)
12/23/2013	<u>48</u>	REPLY to Response to Motion re <u>46</u> MOTION for Reconsideration re <u>42</u> Order on Motion to Dismiss for Failure to State a Claim, filed by David V. Aguilar, Frank Jaramillo, United States Customs and Border Protection Officers, United States Department of Homeland Security, Billy Whitford. (Buckingham, Stephen) (knb). (Entered: 12/23/2013)
04/17/2014	<u>49</u>	ORDER granting in part and denying in part Defendants' <u>46</u> Motion for Reconsideration re <u>42</u> Order on Motion to Dismiss for Failure to State a Claim. Court denies Dfts' motion insofar as Plaintiffs' First Amendment claims as to a pattern or practice, and Plaintiffs' being given leave to amend. Court grants Dfts' motion insofar as Dfts' Fourth Amendment probable-cause analysis and the incorporation of the premise that the CBP policy violated the First Amendment. Court orders further briefing on the issue of the statutory authority for the federal policy property regulations that Dfts argue grounds for the officers' probable cause. Plaintiffs shall file response by 4/24/2014, not exceed 10 pages in length. Dfts shall file reply by 5/1/2014, not to exceed 10 pages in length. Signed by Judge Thomas J. Whelan on 4/17/2014. (jah) (Entered: 04/18/2014)
04/24/2014	<u>50</u>	SUPPLEMENTAL BRIEFING on Statutory Authority by Plaintiffs Ray Askins, Christian Ramirez. (Woodmansee, Mark Andrew). Modified on 4/25/2014 – Edited text to match pleading (jah). (Entered: 04/24/2014)
05/01/2014	<u>51</u>	SUPPLEMENTAL REPLY re <u>46</u> MOTION for Reconsideration re <u>42</u> Order on Motion to Dismiss for Failure to State a Claim, filed by David V. Aguilar, Frank Jaramillo, United States Customs and Border Protection Officers, United States Department of Homeland Security, Billy Whitford. (Buckingham, Stephen). Modified on 5/2/2014 – Edited to remove duplicative text (jah). (Entered: 05/01/2014)
07/03/2014	<u>52</u>	MOTION for Extension of Time to File <i>FTCA Claims (Unopposed Motion)</i> by Ray Askins, Christian Ramirez. (David, Jeffrey) (av1). (Entered: 07/03/2014)
07/03/2014	<u>53</u>	ORDER Granting Joint Motion for an Extension of Time to Amend the Complaint to Add FTCA Claims <u>52</u> . Signed by Judge Thomas J. Whelan on 7/3/2014. (vam) (Entered: 07/03/2014)
07/07/2014	<u>54</u>	NOTICE of Appearance by Mitra Ebadolahi on behalf of Ray Askins, Christian Ramirez (Ebadolahi, Mitra)Attorney Mitra Ebadolahi added to party Ray Askins(pty:pla), Attorney Mitra Ebadolahi added to party Christian Ramirez(pty:pla) (av1). (Entered: 07/07/2014)



12/30/2014	<u>55</u>	NOTICE by Ray Askins, Christian Ramirez <i>Notice of Withdrawal of Attorney, Sean Riordan</i> (Loy, John) (jpp). (Entered: 12/30/2014)
01/29/2015	<u>56</u>	ORDER granting-in-part <u>46</u> Defendants' motion for reconsideration. The Court grants-in-part Defendants motion for reconsideration and dismisses-in part Plaintiffs Fourth Amendment claims, but only to the extent that Plaintiffs claim Defendants photography policy to be violative of the Fourth Amendment. Moreover, given that the Courts finding is one of law, leave to amend would be futile, and thus the dismissal is with prejudice. Signed by Judge Thomas J. Whelan on 01/29/2015.(jpp) (Entered: 01/29/2015)
03/10/2015	<u>57</u>	NOTICE by Ray Askins, Christian Ramirez <i>of Withdrawal of Attorney Jeffrey M. David</i> (Woodmansee, Mark Andrew) (jpp). (Entered: 03/10/2015)
09/28/2015	<u>58</u>	Joint MOTION for Order <i>to Set Deadlines for First Amended Complaint and Response</i> by Ray Askins, Christian Ramirez. (Gosling, Kimberly) (jpp). (Entered: 09/28/2015)
10/06/2015	<u>59</u>	ORDER granting <u>58</u> Joint Motion to set deadlines for First Amended Complaint and response. Plaintiffs must file the FAC, if at all, on or before November 5, 2015. Defendants must respond to the FAC on or before December 7, 2015.Signed by Judge Thomas J. Whelan on 10/06/2015. (jpp) (Entered: 10/06/2015)
11/05/2015	<u>60</u>	AMENDED COMPLAINT against United States Department of Homeland Security, Billy Whitford, SIDNEY K. AKI, R. GIL KERLIKOWSKE, filed by Christian Ramirez, Ray Askins. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Proof of Service)New Summons Requested. (Ebadolahi, Mitra) (jpp). (Entered: 11/05/2015)
11/06/2015	<u>61</u>	Summons Issued. <b>Counsel receiving this notice electronically should print this summons and serve it in accordance with Rule 4, Fed.R.Civ.P and LR 4.1.</b> (jpp) (Entered: 11/06/2015)
12/03/2015	<u>62</u>	NOTICE of Appearance by Nathan Michael Swinton on behalf of David V. Aguilar, Sidney K Aki, DOES 16 through 50, Frank Jaramillo, R Gil Kerlikowske, United States Customs and Border Protection Officers, United States Department of Homeland Security, Billy Whitford (Swinton, Nathan)Attorney Nathan Michael Swinton added to party Sidney K Aki(pty:dft), Attorney Nathan Michael Swinton added to party R Gil Kerlikowske(pty:dft), Attorney Nathan Michael Swinton added to party United States Customs and Border Protection Officers(pty:dft), Attorney Nathan Michael Swinton added to party United States Department of Homeland Security(pty:dft), Attorney Nathan Michael Swinton added to party Billy Whitford(pty:dft) (jpp). (Entered: 12/03/2015)
12/03/2015	<u>63</u>	Joint MOTION for Extension of Time to File Response/Reply <i>to First Amended Complaint</i> by Sidney K Aki, R Gil Kerlikowske, United States Customs and Border Protection Officers, United States Department of Homeland Security, Billy Whitford. (Swinton, Nathan) (jpp). (Entered: 12/03/2015)
12/04/2015	<u>64</u>	ORDER granting <u>63</u> Joint Motion for Extension of Time to respond to the First Amended complaint. Defendant must respond to the FAC on or before December 18, 2015. Signed by Judge Thomas J. Whelan on 12/04/2015. (jpp) (Entered: 12/04/2015)
12/18/2015	<u>65</u>	MOTION to Dismiss for Failure to State a Claim , MOTION to Dismiss for Lack of Jurisdiction by Sidney K Aki, R Gil Kerlikowske, United States Department of Homeland Security, Billy Whitford. (Attachments: # <u>1</u> Memo of Points and Authorities)(Buckingham, Stephen)Attorney Stephen J. Buckingham added to party Sidney K Aki(pty:dft), Attorney Stephen J. Buckingham added to party R Gil Kerlikowske(pty:dft) (jpp). (Entered: 12/18/2015)
01/07/2016	<u>66</u>	Joint MOTION for Extension of Time to File Response/Reply <i>on Motion to Dismiss</i> by Ray Askins, Christian Ramirez. (Attachments: # <u>1</u> Proof of Service)(Loy, John)(jao). (Entered: 01/07/2016)
01/08/2016	<u>67</u>	ORDER Granting <u>66</u> Joint Motion for Extension of Time to File Response/Reply re <u>65</u> MOTION to Dismiss for Failure to State a Claim MOTION to Dismiss for Lack of Jurisdiction . In accordance with the dates appearing in the pending joint motion, Plaintiffs must file any opposition to the pending motion to dismiss on or before February 1, 2016. Defendants must file any reply by February 16, 2016. The motion to dismiss is presently noticed for January 25, 2016. [Doc. 65.] The hearing date is

		continued to February 29, 2016. There will be no oral argument pursuant to Civil Local Rule 7.1(d.1). Signed by Judge Thomas J. Whelan on 1/8/2016. (jao) (Entered: 01/08/2016)
01/22/2016	<u>68</u>	MOTION to Withdraw as Attorney by Ray Askins, Christian Ramirez. (Attachments: # <u>1</u> Declaration of M. Andrew Woodmansee)(Woodmansee, Mark Andrew) (jao). (Entered: 01/22/2016)
01/29/2016	<u>69</u>	NOTICE of Appearance by Jonathan Paul Markovitz on behalf of Ray Askins, Christian Ramirez (Attachments: # <u>1</u> Proof of Service)(Markovitz, Jonathan)Attorney Jonathan Paul Markovitz added to party Ray Askins(pty:pla), Attorney Jonathan Paul Markovitz added to party Christian Ramirez(pty:pla) (jao). (Entered: 01/29/2016)
02/01/2016	<u>70</u>	RESPONSE in Opposition re <u>65</u> MOTION to Dismiss for Failure to State a Claim MOTION to Dismiss for Lack of Jurisdiction filed by Ray Askins, Christian Ramirez. (Attachments: # <u>1</u> Proof of Service)(Ebadolahi, Mitra) (jao). (Entered: 02/01/2016)
02/08/2016	<u>71</u>	ORDER Granting <u>68</u> Motion to Withdraw as Attorney. Attorneys Mark Andrew Woodmansee, Kimberly Rhea Gosling, and Mary Prendergast terminated. Signed by Judge Thomas J. Whelan on 2/8/2016. (jao) (Entered: 02/08/2016)
02/16/2016	<u>72</u>	REPLY to Response to Motion re <u>65</u> MOTION to Dismiss for Failure to State a Claim MOTION to Dismiss for Lack of Jurisdiction filed by David V. Aguilar, Sidney K Aki, Frank Jaramillo, R Gil Kerlikowske, United States Customs and Border Protection Officers. (Swinton, Nathan) (jao). (Entered: 02/16/2016)
03/23/2016	<u>73</u>	ORDER Granting <u>65</u> Defendants' Motion to Dismiss. The Court grants Defendants' motion to dismiss without leave to amend. This action is dismissed with prejudice. The Clerk is directed to close the case. Signed by Judge Thomas J. Whelan on 3/23/2016. (jao) (sjt). (Entered: 03/23/2016)
03/23/2016	<u>74</u>	CLERK'S JUDGMENT. IT IS SO ORDERED AND ADJUDGED that the Court grants Defendants' motion to dismiss without leave to amend. This case is dismissed with prejudice.(jao) (Entered: 03/23/2016)
05/17/2016	<u>75</u>	NOTICE OF APPEAL to the 9th Circuit as to <u>74</u> Clerk's Judgment, by Ray Askins, Christian Ramirez. (Filing fee \$ 505 receipt number 0974-9069902.) (Notice of Appeal electronically transmitted to US Court of Appeals.) (Attachments: # <u>1</u> Proof of Service)(Ebadolahi, Mitra). (akr). (Entered: 05/17/2016)
05/17/2016	<u>76</u>	USCA Case Number 16-55719 for <u>75</u> Notice of Appeal to 9th Circuit, filed by Christian Ramirez, Ray Askins. (akr) (Entered: 05/17/2016)
05/17/2016	<u>77</u>	USCA Time Schedule Order as to <u>75</u> Notice of Appeal to 9th Circuit, filed by Christian Ramirez, Ray Askins. (akr) (Entered: 05/17/2016)
02/13/2018	<u>78</u>	ORDER of USCA as to <u>75</u> Notice of Appeal to 9th Circuit, filed by Christian Ramirez, Ray Askins. At oral argument, the parties shall be prepared to address the relevance, if any, of Jacobson v. USDHS, No. 16-17199 (9th Cir. Feb. 13, 2018). (akr) (Entered: 02/13/2018)