

CLOSED,STAYED

U.S. District Court
United States District Court for the Western District of Washington (Tacoma)
CIVIL DOCKET FOR CASE #: 3:12-cv-05378-BHS

Sanchez et al v. United States Office of Border Patrol et al
Assigned to: Judge Benjamin H. Settle
Cause: 28:1331 Federal Question: Other Civil Rights

Date Filed: 04/26/2012
Date Terminated: 09/27/2013
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Jose Sanchez

represented by **Brendan Peters**
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Plaintiff

Ismael Ramos Contreras

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Sarah A Dunne
(See above for address)
ATTORNEY TO BE NOTICED

Steven Douglas Merriman
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ATTORNEY TO BE NOTICED

Plaintiff

Ernest Grimes
*on behalf of themselves and all others
similarly situated*

represented by **Brendan Peters**
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Javier Garcia
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V.

Defendant

United States Office of Border Patrol

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Defendant

**United States Customs and Border
Protection**

represented by **Rebecca Shapiro Cohen**
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ATTORNEY TO BE NOTICED

Timothy Michael Belsan
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Department of Homeland Security

represented by **Rebecca Shapiro Cohen**
(See above for address)
ATTORNEY TO BE NOTICED

Timothy Michael Belsan
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

John C Bates
*Chief Patrol Agent, Blaine Sector of the
United States Border Patrol, in his
official capacity*

represented by **Rebecca Shapiro Cohen**
(See above for address)
ATTORNEY TO BE NOTICED

Timothy Michael Belsan
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Secretary Janet Napolitano
Secretary, Department of Homeland Security, in her official capacity

represented by **Rebecca Shapiro Cohen**
 (See above for address)
ATTORNEY TO BE NOTICED

Timothy Michael Belsan
 (See above for address)
ATTORNEY TO BE NOTICED

Defendant

David Aguilar
Acting Commissioner, United States Customs and Border Protection, in his official capacity

represented by **Rebecca Shapiro Cohen**
 (See above for address)
ATTORNEY TO BE NOTICED

Timothy Michael Belsan
 (See above for address)
ATTORNEY TO BE NOTICED

Defendant

Michael J Fisher
Chief of the United States Border Patrol, in his official capacity

represented by **Rebecca Shapiro Cohen**
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ATTORNEY TO BE NOTICED

Timothy Michael Belsan
 (See above for address)
ATTORNEY TO BE NOTICED

Defendant

Jay Cumbow
Agent in Charge for the Port Angeles Office of the Olympic Peninsula of the United States Border Patrol, in his official capacity

represented by **Rebecca Shapiro Cohen**
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ATTORNEY TO BE NOTICED

Timothy Michael Belsan
 (See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/26/2012	<u>1</u>	COMPLAINT against defendant(s) David V Aguilar, John C Bates, Jay Cumbow, Department of Homeland Security, Michael J Fisher, Janet Napolitano, United States Customs & Border Protection, United States Office of Border Patrol (Receipt # 0981-2794885), filed by Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez.(Merriman, Steven) (Entered: 04/26/2012)
04/26/2012	<u>2</u>	PRAECIPE to attach document (Civil Cover Sheet) re <u>1</u> Complaint, by Plaintiff(s) Ismael Ramos Contreras, Jose Sanchez, Ernest Grimes. (Merriman, Steven) Modified on 4/27/2012 (DJ). (Entered: 04/26/2012)
04/26/2012	<u>3</u>	PRAECIPE TO ISSUE SUMMONS re <u>1</u> Complaint, by Plaintiffs Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez. (Attachments: # <u>1</u> Summons DHS, # <u>2</u> Summons Eric Holder, # <u>3</u> Summons Janet Napolitano, # <u>4</u> Summons Jay Cumbow, # <u>5</u> Summons Jenny Durkan, # <u>6</u> Summons John Bates, # <u>7</u> Summons Michael Fisher, # <u>8</u> Summons United States Border Patrol, # <u>9</u> Summons United States Customs and Border Protection)(Merriman, Steven) (Entered: 04/26/2012)
04/27/2012		NOTICE to Filer: Incorrect Divisional Office -- The incorrect divisional office was selected by the filer upon case opening. This case is now assigned a Tacoma case number and judge. All future documents shall reflect the new case number and judge.(DJ) (Entered: 04/27/2012)
04/27/2012	<u>4</u>	Summons(es) electronically issued as to defendant(s) David Aguilar, John C. Bates, Jay Cumbow, Department of Homeland Security, Michael J. Fisher, Janet Napolitano, United States Customs and Border Protection, United States Office of Border Patrol. (Attachments: # <u>1</u> Summons, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u>

		Summons, # <u>5</u> Summons, # <u>6</u> Summons, # <u>7</u> Summons, # <u>8</u> Summons)(DJ) (Entered: 04/27/2012)
04/27/2012	<u>5</u>	ORDER REGARDING DISCOVERY AND DEPOSITIONS. Authorized by Judge Robert J. Bryan. (JL) (Entered: 04/27/2012)
04/27/2012	<u>6</u>	ORDER REGARDING INITIAL DISCLOSURES, JOINT STATUS REPORT AND EARLY SETTLEMENT. FRCP 26f Conference Deadline is 7/12/2012; Initial Disclosure Deadline is 7/19/2012; Joint Status Report due by 7/26/2012. Authorized by Judge Robert J. Bryan. (JL) (Entered: 04/27/2012)
04/27/2012		JSR due 7/26/2012. (JL) (Entered: 04/27/2012)
04/27/2012	<u>7</u>	Summons electronically issued as to defendant(s) David Aguilar. (DJ) (Entered: 04/27/2012)
05/01/2012	<u>8</u>	AFFIDAVIT of Service of Summons and Complaint on Sandra Bowers, Receptionist at USDC Seattle on 4/30/2012, filed by Plaintiffs Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez. (Merriman, Steven) (Entered: 05/01/2012)
05/14/2012	<u>9</u>	NOTICE of Appearance by attorney Timothy Michael Belsan on behalf of Defendants David Aguilar, John C Bates, Jay Cumbow, Department of Homeland Security, Michael J Fisher, Janet Napolitano, United States Customs and Border Protection, United States Office of Border Patrol. (Belsan, Timothy) (Entered: 05/14/2012)
05/14/2012	<u>10</u>	NOTICE of Appearance by attorney Rebecca Shapiro Cohen on behalf of Defendants David Aguilar, John C Bates, Jay Cumbow, Department of Homeland Security, Michael J Fisher, Janet Napolitano, United States Customs and Border Protection, United States Office of Border Patrol. (Cohen, Rebecca) (Entered: 05/14/2012)
05/23/2012	<u>11</u>	AFFIDAVIT of Mailing of Summons and Complaint to on 4/30/2012, filed by Plaintiffs Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez. (Attachments: # <u>1</u> Exhibit A-I)(Merriman, Steven) (Entered: 05/23/2012)
06/19/2012	<u>12</u>	STIPULATION AND PROPOSED ORDER <i>Extending Defendants' Deadline to Respond to Plaintiffs' Complaint</i> by parties. (Cohen, Rebecca) (Entered: 06/19/2012)
06/20/2012	<u>13</u>	STIPULATION AND ORDER EXTENDING DEFENDANTS' DEADLINE TO RESPOND TO PLAINTIFFS' COMPLAINT, signed by Judge Robert J. Bryan. (DK) (Entered: 06/20/2012)
07/11/2012	<u>14</u>	JOINT STATUS REPORT signed by all parties estimated Trial Days: 5.. (Merriman, Steven) (Entered: 07/11/2012)
07/12/2012	<u>15</u>	MOTION to Dismiss <i>for lack of jurisdiction</i> by Defendants David Aguilar, John C Bates, Jay Cumbow, Department of Homeland Security, Michael J Fisher, Janet Napolitano, United States Customs and Border Protection, United States Office of Border Patrol. (Attachments: # <u>1</u> Proposed Order) Noting Date 8/3/2012, (Cohen, Rebecca) (Entered: 07/12/2012)
07/12/2012	<u>16</u>	MOTION to Stay <i>discovery pending resolution of motion to dismiss</i> by Defendants David Aguilar, John C Bates, Jay Cumbow, Department of Homeland Security, Michael J Fisher, Janet Napolitano, United States Customs and Border Protection, United States Office of Border Patrol. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Exhibit A-C, # <u>3</u> Exhibit D-F, # <u>4</u> Exhibit G-I) Noting Date 7/27/2012, (Cohen, Rebecca) (Entered: 07/12/2012)
07/23/2012	<u>17</u>	RESPONSE, by Plaintiffs Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez, to <u>16</u> MOTION to Stay <i>discovery pending resolution of motion to dismiss</i> . (Merriman, Steven) (Entered: 07/23/2012)
07/23/2012	<u>18</u>	DECLARATION of Nicholas P. Gellert filed by Plaintiffs Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez re <u>16</u> MOTION to Stay <i>discovery pending resolution of motion to dismiss</i> (Merriman, Steven) (Entered: 07/23/2012)

07/26/2012	<u>19</u>	NOTICE that the following is RE-NOTED: <u>15</u> MOTION to Dismiss <i>for lack of jurisdiction</i> . Filed by Defendants David Aguilar, John C Bates, Jay Cumbow, Department of Homeland Security, Michael J Fisher, Janet Napolitano, United States Customs and Border Protection, United States Office of Border Patrol. Noting Date 8/10/2012, (Cohen, Rebecca) (Entered: 07/26/2012)
07/27/2012	<u>20</u>	REPLY, filed by Defendants David Aguilar, John C Bates, Jay Cumbow, Department of Homeland Security, Michael J Fisher, Janet Napolitano, United States Customs and Border Protection, United States Office of Border Patrol, TO RESPONSE to <u>16</u> MOTION to Stay <i>discovery pending resolution of motion to dismiss</i> (Cohen, Rebecca) (Entered: 07/27/2012)
07/30/2012	<u>21</u>	ORDER ON MOTION TO STAY DISCOVERY PENDING RESOLUTION OF MOTION TO DISMISS, denying <u>16</u> Motion to Stay. Signed by Judge Robert J. Bryan. (JL) (Entered: 07/30/2012)
08/06/2012	<u>22</u>	RESPONSE, by Plaintiffs Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez, to <u>15</u> MOTION to Dismiss <i>for lack of jurisdiction</i> . (Merriman, Steven) (Entered: 08/06/2012)
08/08/2012	<u>23</u>	MINUTE ORDER SETTING TRIAL, PRETRIAL DATES AND ORDERING MEDIATION; Length of Trial: *FIVE DAYS*. Bench Trial is set for 5/13/2013 at 09:30 AM in Courtroom A before Judge Robert J. Bryan. Joinder of Parties due by 9/14/2012, Class certification motion due by 10/23/12, Expert Witness Disclosure/Reports under FRCP 26(a)(2) due by 11/14/2012, Motions due by 12/24/2012, Discovery completed by 12/21/2012, Dispositive motions due by 1/21/2013, Settlement conference to be held by 3/14/2013, 39.1 mediation to be completed by 4/13/2013, 39.1 Settlement Report due by 4/20/2013, Motions in Limine due by 4/26/2013, Pretrial Order due by 4/26/2013, Pretrial Conference set for 5/3/2013 at 08:30 AMn. Trial briefs to be submitted by 5/3/2013, Authorized by Judge Robert J. Bryan. (DK) (Entered: 08/08/2012)
08/10/2012	<u>24</u>	REPLY, filed by Defendants David Aguilar, John C Bates, Jay Cumbow, Department of Homeland Security, Michael J Fisher, Janet Napolitano, United States Customs and Border Protection, United States Office of Border Patrol, TO RESPONSE to <u>15</u> MOTION to Dismiss <i>for lack of jurisdiction</i> (Cohen, Rebecca) (Entered: 08/10/2012)
08/22/2012	<u>25</u>	STIPULATION AND PROPOSED ORDER <i>for a Protective Order</i> by parties. (Cohen, Rebecca) (Entered: 08/22/2012)
08/22/2012	26	MINUTE ORDER REASSIGNING CASE. Judge Robert J. Bryan RECUSES himself from the above-entitled cause of action. This case is REASSIGNED in rotation to Judge Benjamin H Settle for all further proceedings. Counsel are requested to modify their pleadings to reflect this change. Entered as directed by Judge Robert J. Bryan. (DK) (Entered: 08/22/2012)
08/22/2012		Noting Date Set/Reset re <u>15</u> MOTION to Dismiss <i>for lack of jurisdiction</i> : Noting Date 8/22/2012, to reflect transfer of case to Judge Settle. (TG) (Entered: 08/22/2012)
08/23/2012		MOTION(S) REFERRED: re <u>15</u> MOTION to Dismiss <i>for lack of jurisdiction</i> referred to Judge Benjamin H. Settle. (JL) (Entered: 08/23/2012)
08/24/2012	<u>27</u>	Revised MINUTE ORDER SETTING TRIAL AND PRETRIAL DATES – *FIVE DAY* Bench Trial is set for 5/14/2013 at 9:00 AM in Courtroom E before Judge Benjamin H. Settle. Joinder of Parties due by 9/24/2012, Amended Pleadings due by 10/4/2012, Expert Witness Disclosure/Reports under FRCP 26(a)(2) due by 11/5/2012, Rebuttal Expert Disclosure/Reports due by 12/5/2012, Motions due by 12/17/2012, Discovery completed by 1/14/2013, Dispositive motions due by 2/13/2013, Settlement conference to be held by 3/15/2013, 39.1 mediation to be completed by 4/4/2013, Motions in Limine due by 4/8/2013, 39.1 Settlement Report due by 4/15/2013, Pretrial Order due by 4/22/2013, Trial briefs to be submitted by 4/23/2013, Pretrial Conference set for 4/29/2013 at 11:00 AM in Courtroom E before Judge Benjamin H. Settle. (MGC) (Entered: 08/24/2012)
08/24/2012	<u>28</u>	ORDER by Judge Benjamin H Settle re <u>25</u> Stipulation filed by Jay Cumbow, United States Customs and Border Protection, John C Bates, Michael J Fisher,

		United States Office of Border Patrol, Janet Napolitano, Department of Homeland Security, David Aguilar. (TG) (Entered: 08/24/2012)
08/27/2012	<u>29</u>	ORDER by Judge Benjamin H Settle denying <u>15</u> Motion to Dismiss.(TG) (Entered: 08/27/2012)
09/05/2012	<u>30</u>	Agreed MOTION Enforcement of Confidentiality Agreement by Defendants David Aguilar, John C Bates, Jay Cumbow, Department of Homeland Security, Michael J Fisher, Janet Napolitano, United States Customs and Border Protection, United States Office of Border Patrol. Noting Date 9/5/2012, (Cohen, Rebecca) (Entered: 09/05/2012)
09/10/2012	<u>31</u>	ANSWER to <u>1</u> Complaint, by David Aguilar, John C Bates, Jay Cumbow, Department of Homeland Security, Michael J Fisher, Janet Napolitano, United States Customs and Border Protection, United States Office of Border Patrol.(Cohen, Rebecca) (Entered: 09/10/2012)
09/21/2012	<u>32</u>	MOTION CR 37 Submission Regarding Plaintiffs' Request for Production Nos. 20-24 by Plaintiffs Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez. (Attachments: # <u>1</u> Proposed Order) Noting Date 9/21/2012, (Gellert, Nicholas) (Entered: 09/21/2012)
09/21/2012	<u>33</u>	DECLARATION of Nicholas P. Gellert filed by Plaintiffs Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez re <u>32</u> MOTION CR 37 Submission Regarding Plaintiffs' Request for Production Nos. 20-24 (Attachments: # <u>1</u> Exhibit 1)(Gellert, Nicholas) (Entered: 09/21/2012)
09/25/2012	<u>34</u>	ORDER by Judge Benjamin H Settle granting <u>30</u> Motion Regarding Enforcement of Confidentiality Agreement.(TG) (Entered: 09/25/2012)
10/04/2012	<u>35</u>	ORDER by Judge Benjamin H Settle denying <u>32</u> Motion to Compel Request for Production.(TG) (Entered: 10/04/2012)
10/11/2012	<u>36</u>	STIPULATION AND PROPOSED ORDER <i>Re Amended Scheduling Order</i> by parties. (Gellert, Nicholas) (Entered: 10/11/2012)
10/15/2012	<u>37</u>	STIPULATION AND ORDER by Judge Benjamin H Settle re <u>36</u> Stipulation filed by Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez: 39.1 mediation to be completed by 9/27/2013, 39.1 Settlement Report due by 10/11/2013, Discovery completed by 7/15/2013, Dispositive motions due by 8/15/2013, Expert Witness Disclosure/Reports under FRCP 26(a)(2) due by 5/6/2013, Motions due by 6/17/2013, Motions in Limine due by 10/4/2013, Proposed pretrial order due by 10/17/2013, Proposed Findings of Fact and Conclusions of Law to be submitted by 10/18/2013, Rebuttal Expert Disclosure/Reports due by 6/5/2013, Settlement conference to be held by 9/13/2013, Trial briefs to be submitted by 10/18/2013, Bench Trial is set for 11/5/2013 at 09:00 AM before Judge Benjamin H Settle. Final Pretrial Conference set for 10/21/2013 at 01:30 PM before Judge Benjamin H Settle. (TG) (Entered: 10/15/2012)
11/07/2012	<u>38</u>	STIPULATION AND PROPOSED ORDER <i>regarding Privacy Act</i> by parties. (Attachments: # <u>1</u> Exhibit 1)(Cohen, Rebecca) (Entered: 11/07/2012)
11/07/2012	<u>39</u>	STIPULATION AND PRIVACY ACT PROTECTIVE ORDER signed by Judge Benjamin H. Settle. (MGC) (Entered: 11/07/2012)
01/02/2013	<u>40</u>	STIPULATION AND PROPOSED ORDER <i>for Privacy Act Protective Order</i> by parties. (Cohen, Rebecca) (Entered: 01/02/2013)
01/03/2013	<u>41</u>	STIPULATION AND PRIVACY ACT PROTECTIVE ORDER by Judge Benjamin H Settle re <u>40</u> Stipulation filed by Jay Cumbow, United States Customs and Border Protection, John C Bates, Michael J Fisher, United States Office of Border Patrol, Janet Napolitano, Department of Homeland Security, David Aguilar. (TG) (Entered: 01/03/2013)
01/04/2013	<u>42</u>	Stipulated MOTION <i>and Proposed Order Regarding Deadline to File Motion for Class Certification</i> by Plaintiffs Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez. Noting Date 1/4/2013, (Gellert, Nicholas) (Entered: 01/04/2013)

01/07/2013	<u>43</u>	ORDER by Judge Benjamin H Settle granting <u>42</u> Stipulated Motion extending deadline to file motion for class certification to March 1, 2013.(TG) (Entered: 01/07/2013)
02/12/2013	<u>44</u>	Stipulated MOTION <i>and Proposed Order to Stay Litigation</i> by Plaintiffs Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez. Noting Date 2/12/2013, (Merriman, Steven) (Entered: 02/12/2013)
02/14/2013	<u>45</u>	STIPULATION AND ORDER TO STAY LITIGATION by Judge Benjamin H Settle re <u>44</u> Stipulated MOTION <i>and Proposed Order to Stay Litigation</i> filed by Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez. (TG) (Entered: 02/14/2013)
02/14/2013		Case Stayed (TG) (Entered: 02/14/2013)
03/14/2013	<u>46</u>	Stipulated MOTION <i>To Extend Litigation Stay and Joint Status Report</i> by Plaintiffs Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez. Noting Date 3/15/2013, (Gellert, Nicholas) (Entered: 03/14/2013)
03/18/2013	<u>47</u>	ORDER by Judge Benjamin H Settle granting <u>46</u> Stipulated Motion to Extend Litigation Stay to 4/29/2013.(TG) (Entered: 03/18/2013)
04/25/2013	<u>48</u>	Stipulated MOTION <i>To Extend Litigation Stay</i> by Plaintiffs Ernest Grimes, Ismael Ramos Contreras, Jose Sanchez. Noting Date 4/25/2013, (Gellert, Nicholas) (Entered: 04/25/2013)
04/29/2013	<u>49</u>	ORDER by Judge Benjamin H Settle granting <u>48</u> Stipulated Motion <i>To Extend Litigation Stay</i> to June 12, 2013.(TG) (Entered: 04/29/2013)
06/12/2013	<u>50</u>	Stipulated MOTION <i>to Extend Litigation Stay and JSR</i> by Defendants David Aguilar, John C Bates, Jay Cumbow, Department of Homeland Security, Michael J Fisher, Janet Napolitano, United States Customs and Border Protection, United States Office of Border Patrol. Noting Date 6/12/2013, (Cohen, Rebecca) (Entered: 06/12/2013)
06/17/2013	<u>51</u>	ORDER granting <u>50</u> Stipulated Motion by Judge Benjamin H Settle. Stay continued until 6/21/2013. (TG) (Entered: 06/17/2013)
06/21/2013	<u>52</u>	STIPULATION AND PROPOSED ORDER <i>to Extend Litigation Stay, and JSR</i> by parties. (Cohen, Rebecca) (Entered: 06/21/2013)
06/24/2013	<u>53</u>	STIPULATION AND ORDER by Judge Benjamin H Settle re <u>52</u> Stipulation filed by Jay Cumbow, United States Customs and Border Protection, John C Bates, Michael J Fisher, United States Office of Border Patrol, Janet Napolitano, Department of Homeland Security, David Aguilar. Parties to file dismissal paperwork or new status report by August 21, 2013. (TG) (Entered: 06/24/2013)
08/21/2013	<u>54</u>	JOINT STATUS REPORT signed by all parties estimated Trial Days: 0. Filed by Defendants David Aguilar, John C Bates, Jay Cumbow, Department of Homeland Security, Michael J Fisher, Janet Napolitano, United States Customs and Border Protection, United States Office of Border Patrol.(Cohen, Rebecca) (Entered: 08/21/2013)
09/24/2013	<u>55</u>	STIPULATION AND PROPOSED ORDER <i>of Dismissal</i> by parties. (Gellert, Nicholas) (Entered: 09/24/2013)
09/27/2013	<u>56</u>	STIPULATION AND ORDER OF DISMISSAL by Judge Benjamin H Settle. (TG) (Entered: 09/27/2013)