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20 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

21 **IN AND FOR THE COUNTY OF MARICOPA**

22 **STATE OF ARIZONA, *ex rel.***

23 **MARK BRNOVICH, Attorney General**

Case No.: _____

24 **Plaintiff,**

25 **vs.**

COMPLAINT

26 **MARCO "TONY" ESTRADA**

27 **AND JANE DOE ESTRADA,**

28 **Individually and as Part of or on Behalf of
any Marital or Other Community; RUBEN**

FUENTES AND JANE DOE FUENTES,

**Individually and as Part of or on Behalf of
Any Marital or Other Community,**

Defendants.

INTRODUCTION

An Auditor General's investigation discovered that Santa Cruz County Sheriff Marco "Tony" Estrada and Captain Ruben Fuentes directed Sheriff's Department employees to claim overtime hours on time sheets for hours those employees had not actually worked. First, Estrada and Fuentes had employees report unworked overtime as compensation for certain job assignments to include: field training officers; communications training officers; lead officer/officer in charge/corporal duty; and administrative duties/interim operations commanders. These falsified time sheets were signed by employees who swore that the time sheets were accurate, and the time sheets were later approved by supervisors. Estrada admitted creating this practice in approximately 2000. Fuentes admitted knowing that this practice existed before he became a captain in 2007. Second, Estrada and Fuentes promoted two employees to lieutenant without prior approval from the Santa Cruz County Board of Supervisors, which was required for all supervisory positions. Estrada and Fuentes directed the promoted lieutenants to report unworked overtime as compensation for their promotions. Between fiscal year 2014 and fiscal year 2019, the years reviewed by the Auditor General, \$196,842 was paid to Santa Cruz County Sheriff's department employees for unworked overtime.

Plaintiff State of Arizona, *ex rel.* Mark Brnovich, Attorney General for its complaint specifically alleges as follows:

PARTIES

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2 1. The party bringing this action is the State of Arizona *ex rel.* MARK
3 BRNOVICH, the Attorney General (“State” or “Plaintiff”).

4 2. The Defendants named herein are Marco “Tony” Estrada, and Jane Doe
5 Estrada, Individually and as part of or on behalf of any Marital, Business, Corporate,
6 Trust, or Other Community; and Ruben Fuentes, and Jane Doe Fuentes, Individually and
7 as part of or on behalf of any Marital, Business, Corporate, Trust, or Other Community.
8 Defendants are residents of the State of Arizona and engaged in the conduct giving rise to
9 this Complaint in whole or in part within the State of Arizona and are liable for the
10 conduct.

11 3. At all times material hereto, with reference to the acts complained of herein,
12 the known and named Defendants herein are named to determine their liability and the
13 liability of their marital, business, corporate, trust and other communities, such liability
14 being joint and several, for the conduct alleged herein. The known and John/Jane Doe
15 spouses named herein are named to determine their liability and the liability of their
16 marital, business, corporate, trust and other communities, such liability being joint and
17 several, for the conduct alleged herein. Any married Defendants were acting individually
18 and on behalf of or in a manner that benefited themselves and/or their marital
19 communities. Any Defendants were acting individually or on behalf of or in a manner
20 that benefited themselves and/or their marital communities.
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22 4. Whenever in this Complaint reference is made to any act of a defendant,
23 such allegations shall be deemed to mean that each defendant or their agents, associates,
24 co-conspirators, or accomplices, acting individually, jointly and severally, or in concert,
25 did such act or is responsible for such act or is liable for such act.

26 5. Defendant Marco “Tony” Estrada was the duly elected Santa Cruz County
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1 Sheriff who approved the unworked overtime payment scheme for employees of the Santa
2 Cruz County Sheriff's Department ("SCCSD) Defendant Ruben Fuentes was employed by
3 the SCCSD as a Captain and assisted Defendant Estrada with implementing the unworked
4 overtime payment schemes.

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6 **JURISDICTION AND VENUE**

7 3. This action is brought on behalf of the State of Arizona pursuant to the
8 Arizona Racketeering Act, A.R.S. §§ 13-2301, *et seq.* ("AZRAC"), particularly § 13-
9 2314; and for the recovery of public monies illegally paid pursuant to A.R.S. §§ 35-211, *et*
10 *seq.*, particularly § 35-212.

11 4. The Attorney General is empowered to bring a civil action on behalf of the
12 State to enforce the provisions of AZRAC and the Recovery of State Monies Illegally
13 Paid; and to obtain civil judgments, including monetary judgments, on behalf of the State
14 and its departments and agencies and other persons injured by racketeering. Injury to the
15 state is defined in A.R.S. § 13-2318.

16 5. The superior court in and for this county has jurisdiction to enter appropriate
17 orders prior to a determination of liability and following a determination of liability,
18 including monetary judgments, award of treble damages, award of the costs and expenses
19 of investigation and prosecution (civilly and criminal), award of reasonable attorney fees,
20 and other injunctive, declaratory, or other remedial orders, pursuant to AZRAC, including
21 A.R.S. § 13-2314, and Recovery of State Monies Illegally Paid, including A.R.S. § 35-
22 212.

23 6. During the relevant time period, Estrada was the elected Santa Cruz County
24 Sheriff. Fuentes was a Captain employed by the Santa Cruz County Sheriff. Both
25 Defendants reside in Arizona, engage in substantial business activities in Arizona, and
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1 purposefully directed their actions and conducted the conduct alleged herein towards a
2 department or agency of the State and residents of the State. The conduct described in this
3 complaint was intended to benefit and did benefit the Defendants, and was intended to
4 benefit others in order to accomplish the purposes of the Defendants' acts.

5 7. This Court has jurisdiction over claims brought pursuant to A.R.S. § 35-212
6 under Article VI, Section 14 of the Arizona Constitution. This Court has jurisdiction over
7 claims brought pursuant to AZRAC pursuant to A.R.S. §§ 13-2314 and over claims
8 brought pursuant the Recovery of State Monies Illegally Paid, A.R.S. §§ 35-211, *et seq.*,
9 particularly § 35-212.

10 8. Pursuant to A.R.S. §§ 12-401(17), venue is proper in Maricopa County.

11 **FACTUAL BACKGROUND**

12 9. Around 2000, Estrada created a practice to compensate SCCSD employees
13 for performing certain job assignments, hereinafter called the "Overtime Compensation
14 Scheme."

15 10. Under the Overtime Compensation Scheme, Estrada directed hourly
16 employees to enter between 0.5 and one hours of overtime on their timesheets for each
17 day that those employees performed certain job functions.

18 11. The following positions were eligible for additional compensation under the
19 Overtime Compensation Policy:
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- 21 a. "Field Training Officer (FTO)" was entitled to 1 hour of overtime each
22 day an SCCSD employee was training a SCCSD officer during a shift.
- 23 b. "Communications Training Officer (CTO)" was entitled to 1 hour of
24 overtime each day a SCCSD dispatch employee was training a SCCSD
25 dispatch employee during a shift.
- 26 c. "Lead Officer/Lead Officer in Charge/Officer in Charge/Corporal
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1 Duties” was entitled to either 0.5 or one hours of overtime each day an
2 SCSSD employee was assigned to be the lead officer in charge, in
3 absence of a commanding officer such as a Lieutenant.

4 d. “Admin duties” was entitled to 1 hour of overtime each day an SCCSD
5 employee was assigned as Interim Operations Commander.

6 12. SCCSD employees who are eligible for overtime payments receive
7 additional financial compensation beyond their base pay for overtime hours actually
8 worked.

9 13. Under the Overtime Compensation Scheme, employees were not required to
10 work overtime to receive overtime compensation.

11 14. SCCSD employees must report hours worked, including overtime hours
12 worked, on weekly team sheets.

13 15. Before submitting a timesheet for approval, each SCCSD employee had to
14 sign their timesheet, with a certification statement preprinted on the timesheet that stated,
15 “I verify that this summary and overtime claim is accurate.”

16 16. Each employee’s supervisor also countersigned that employee’s timesheet,
17 with a certification statement preprinted on the timesheet that stated, “concurrence
18 verification that this overtime claim is accurate.” The supervisor also signed or initial
19 (with a badge number) in a column next to overtime hour descriptions noting that they had
20 given “prior approving auth. (authorization).”

21 17. The below figure is an example of a timesheet.
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Figure 1: Timesheet example with unworked overtime descriptions

DATE	UNSCHEDULED OT WORKHOURS	O.T. CODE	T & A CODE	EXPLANATION FOR UNSCHEDULED SCHEDULED WORK HOURS CLAIMED	PRIOR APPROVING AUTH. Employee Name & Badge #
4/17/2016	1		55	Corporal Duty Supervision	<i>[Signature]</i> 132
UNSCHEDULED WORK TIME TOTAL HOURS:		OVERTIME ACCOUNTING			Approved Overtime Hours:
1		COMPENSATORY HOURS REQUESTED BY EMPLOYEE:		Paid overtime hours requested by employee:	1
VEHICLE REPORT		Time & Activity Codes			
VEHICLE NUMBER	REG. UNIT	SWING UNIT	10 = Admin. Duties 21 = Canine (kennel maint.) 32 = Follow-up Investigation 43 = Radio Comms. Maint. 54 = STAR Team Trng. 11 = Agency assist (Local) 22 = Canine (training) 33 = Homeland Security Detail 44 = Reports/Documents 55 = Supervision 12 = Agency assist (Metro) 23 = Comm. Oriented Policing 34 = Instructor Duty 45 = SEADHS Transport 56 = Traffic Control 13 = Agency assist (Other) 24 = Court appearance 35 = Motorist assist 46 = Search & Rescue OPS. 57 = Training 14 = Agency assist (USBI*) 25 = Criminal Investig./assist 36 = On Call Investigator 47 = Search & Rescue Trng. 58 = Vehicle Maint. 15 = Arrest (and/or assist) 26 = DUI Enftmt. Detail 37 = Other 48 = Security Detail 59 = Warrant Detail 16 = Arrest & medical elr. 27 = Elections Detail 38 = Outbound Detail (CBP) 49 = Special Events Detail 60 = 17 = Assist to Detention Ctr. 28 = Emergency Mngmt. 39 = Patrol/Shift Coverage 50 = Special OPS. 61 = 18 = Bad Check Detail 29 = Enforcement Action 40 = Prisoner Transport 51 = Specialized Trng. 62 = 19 = Burglary Detail 30 = Field Training Officer 41 = POE Security Detail 52 = Staff Assignment 63 = 20 = C.A.'s interview 31 = Firearms Training/Quals. 42 = Public Relations 53 = STAR Team OPS. 64 =		
STARTING MILEAGE	45452				
ENDING MILEAGE	96137				
TOTAL MILEAGE		0			
I VERIFY THAT THIS SUMMARY AND OVERTIME CLAIM IS ACCURATE.					
EMPLOYEE'S SIGNATURE		BADGE NUMBER	DATE		
<i>[Signature]</i>		132	4/20/16		
CONCURRENCE and VERIFICATION THAT THIS OVERTIME CLAIM IS ACCURATE.		CONCURRENCE and VERIFICATION THAT THIS OVERTIME CLAIM IS ACCURATE.			
<i>[Signature]</i>		BADGE NO.	DATE		
132		4/20/16			

18. SCCSD retained the signed timesheets, and an SCCSD employee entered data from the timesheets into Santa Cruz County's payroll system.

19. Santa Cruz County administration did not retain or review SCCSD's signed timecards.

20. On a biweekly basis, the Santa Cruz County Finance Department would process payroll based on this information and approve payments made to SCCSD employees.

21. The accounting software automatically calculated the pay-rate for overtime hours, which varied by based on the hours an employee had worked during the week, and whether the employee had used vacation leave or other paid time off. In some situations, the software paid the overtime hours at the employee's normal hourly rate. If the employee had worked 40 hours, the software paid the overtime hours at the employee's

1 overtime rate, which was usually 1.5 times the normal hourly rate.

2 22. The Overtime Compensation Scheme existed from approximately 2000 until
3 October 2018.

4 23. In 2018 a SCCSD employee filed a complaint about the Overtime
5 Compensation Scheme with the Santa Cruz County Human Resources Manager, who was
6 Sonia Jones.

7 24. The Chief Civil Deputy County Attorney, who was Charlene LaPlante,
8 began reviewing SCCSD employee timesheets to identify overtime payments for
9 unworked hours.

10 25. Around October 2018, Jennifer St. John who was the Santa Cruz County
11 Manager discovered the Overtime Compensation Scheme.

12 26. The Overtime Compensation Scheme was not authorized by Santa Cruz
13 County, and it violated Santa Cruz County personnel policies.

14 27. On October 4, 2018, St. John emailed Estrada after discovering the
15 Overtime Compensation Scheme. In her email, St. John wrote, "overtime hours not
16 actually worked are being utilized as employee compensation. This form of compensation
17 was not approved by the Board of Supervisors and is not permissible. Employees cannot
18 be compensated for hours not actually worked. Effective immediately, please discontinue
19 this practice."

20 28. On October 5, 2018, Fuentes emailed Estrada and Aida Rodriguez, Raul
21 Rodriguez, and Santiago Gonzales forwarding the October 4, 2018 email from Jennifer St.
22 John. In Fuentes' email, he wrote, "In speaking with the Sheriff as to how he would like
23 us to proceed in reimbursing our staff for their added duties. The Sheriff is asking that we
24 proceed as usual until he gives us other instructions."

25 29. SCCSD employees submitted timesheets claiming payment for unworked
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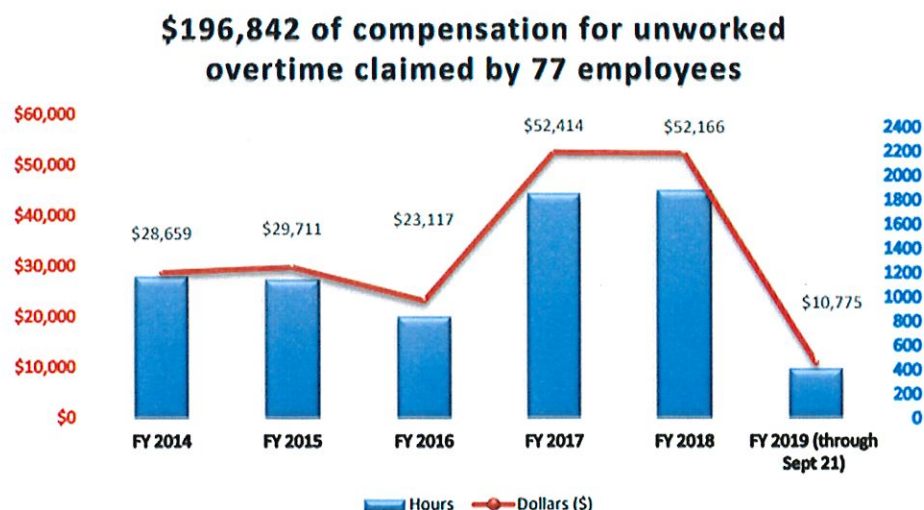
overtime through the pay period ending October 5, 2018, but Santa Cruz County denied unworked overtime for the October 5, 2018 pay period.

30. On October 10, 2018, St. John reported the Overtime Compensation Scheme to George Graham, Director of the Division of Financial Investigations at the Arizona Auditor General's Office.

31. The Auditor General's Office initiated an investigation into the Overtime Compensation Scheme in October 2018.

32. Under the direction of Estrada and Fuentes, as part of the Overtime Compensation Scheme, 77 SCCSD employees recorded unworked overtime hours on their timesheets between June 28, 2013, and September 21, 2018.

33. These falsified hours resulted in 2,002 falsified timesheets with 7,219.5 unworked overtime hours totaling \$196,842 in compensation from the pay periods ended June 28, 2013 through September 21, 2018. A chart is included below of the compensation for unworked overtime for illustrative purposes:



34. As part of its investigation, the Auditor General's Office reviewed SCCSD timesheets and financial records from Fiscal Year 2014 through Fiscal Year 2019.

1 35. A review of Santa Cruz County Board of Supervisors (“Board”) meeting
2 minutes from 1993 through 2018 revealed no instances of Estrada or Fuentes either
3 presenting to the Board or otherwise discussing the Overtime Compensation Scheme.

4 36. In addition to the use of unworked overtime, the Auditor General’s Office
5 determined that Estrada and Fuentes promoted two employees to lieutenant positions and
6 directed them to enter unworked overtime on their timesheets as compensation for the
7 promotions, hereinafter the “Unauthorized Promotion Scheme.”

8 37. The Board oversees the SCCSD budget and approves personnel positions.

9 38. The Board implemented a policy requiring Board approval for all
10 supervisor-level personnel decisions.

11 39. Under the Board policy, SCCSD could not promote an SCCSD employee to,
12 or otherwise hire, a lieutenant position without Board approval.

13 40. In early 2016, Estrada and Fuentes promoted Sergeant Jose Cota to
14 lieutenant without Board approval.

15 41. On February 19, 2016 Fuentes issued a “Letter of Appointment
16 Memorandum” congratulating Jose Cota on his promotion to lieutenant.

17 42. The “Letter of Appointment Memorandum” to Jose Cota did not include any
18 discussion of salary increases, or list a new pay-rate, despite that information being
19 included on promotion letters for similar positions that had prior Board approval.

20 43. A copy of the Letter of Appointment Memorandum to Jose Cota was sent to
21 Sheriff Estrada.

22 44. A copy of the Letter of Appointment Memorandum to Jose Cota was added
23 to Jose Cota’s personnel file.

24 45. At the Board meeting on March 2, 2016, Estrada requested Board
25 permission to fill the lieutenant position.
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- 1 46. The Board did not grant his request, opting to consider it at a later date.
- 2 47. The Santa Cruz County Board of Supervisors never approved filling the
3 position.
- 4 48. Jose Cota retired in March 2018.
- 5 49. Between Sergeant Jose Cota's appointment in 2016 and his retirement in
6 March 2018, he recorded 4 hours of unworked overtime coded as "Admin Duties" for
7 approximately 95% of his paychecks.
- 8 50. In total, Jose Cota received \$14,840.04 in unworked overtime payments
9 between his appointment in 2016 and his retirement in 2018.
- 10 51. After Jose Cota's retirement, Estrada and Fuentes again filled a lieutenant
11 position without authority, appointing Sargent Santiago Gonzalez to the position of
12 lieutenant.
- 13 52. On June 2, 2018 Captain Fuentes issued a "Letter of Appointment
14 Memorandum" promoting Santiago Gonzalez to the position of lieutenant.
- 15 53. The Letter of Appointment Memorandum to Santiago Gonzalez did not
16 include any discussion of salary increases, or list a new pay-rate, despite that information
17 being included on promotion letters for similar positions that had prior Board approval.
- 18 54. The Letter of Appointment Memorandum to Santiago Gonzalez was copied
19 to Sheriff Estrada.
- 20 55. The letter was added to Santiago Gonzalez's personnel file.
- 21 56. In July 2018, Sheriff Estrada appeared before the Board to request
22 permission to fill the lieutenant position. At that meeting, the Board denied his request and
23 completely removed the position from the SCSSD budget.
- 24 57. For his work as a lieutenant with the department, Santiago Gonzalez
25 received one hour of unworked overtime compensation per day from June 22, 2018
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1 through September 21, 2018.

2 58. In total, Santiago Gonzalez received \$1,821.20 in unworked overtime
3 payments.

4 59. The Auditor General's Office interviewed Estrada, Fuentes, and 34 SCCSD
5 employees.

6 60. When interviewed by the Auditor General's Office, Estrada made the
7 following admissions:

- 8 a. Estrada created the Overtime Compensation Scheme around 2000.
- 9 b. Estrada believed that his department was stretched so thin, and he did
10 not have anyone to be responsible when Sergeants were gone.
- 11 c. According to Estrada, "We made a concerted effort to assign somebody
12 and give compensation or credit to somebody to assume that
13 responsibility in lieu of the Sergeant not being around and to
14 compensate them accordingly."
- 15 d. Estrada acknowledged seeking Board approval to fill the lieutenant
16 position and that the Board denied his request.
- 17 e. Estrada said that Gonzalez's promotion letter was drafted by Fuentes.

18 61. When interviewed by the Auditor General's Office, Fuentes made the
19 following admissions:

- 20 a. He worked for the Sheriff's Department since 1990.
- 21 b. He was promoted to Captain in 2007
- 22 c. He was aware that timesheets with unworked overtime were being
23 signed by both employees and their managers, but that it was a common
24 practice to compensate employees for performing extra duties.
- 25 d. He believed that the payment of unworked overtime began in 2002 but
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1 it may have been earlier.

2 e. He never told Jennifer St. John specifically that the overtime hours
3 being claimed had not been worked.

4 f. County management approved the SCCSD overtime budget, but was not
5 specifically made aware that the budget was being used to pay
6 unworked over time for performing extra duties.

7 g. He was aware that the Board of Supervisors did not approve the filling
8 of the lieutenant position in 2018.

9 h. Estrada decided to start the lieutenant hiring process despite the lack of
10 board approval because the process takes a while.

11 i. He prepared the letter for Sgt. Gonzalez's lieutenant promotion in 2018.

12 62. Of the thirty-four SCCSD employees interviewed by the Auditor General's
13 Office, all stated they were aware of the Overtime Compensation Scheme or had either
14 received or approved unworked overtime payments between June 2013 and September
15 2018.

16 63. Thirty-three of the thirty-four employees interviewed by the Auditor
17 General's Office acknowledged they had not worked the overtime hours but had recorded
18 them on their timesheets at the direction of supervisors and/or command staff for the
19 responsibilities they had assumed beyond their pay grade during that timesheet period.

20 64. At all times from June 28, 2013 through September 21, 2018, Estrada was a
21 public official, employee or agent of this state, a political subdivision of this state or a
22 budget unit who is charged with collecting, receiving, safekeeping, transferring or
23 disbursing public monies.

24 65. At all times from June 28, 2013 through September 21, 2018, Fuentes was a
25 public official, employee or agent of this state, a political subdivision of this state or a
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1 budget unit who is charged with collecting, receiving, safekeeping, transferring or
2 disbursing public monies.

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4 **FIRST CLAIM FOR RELIEF**

5 **Racketeering**

6 66. Plaintiff incorporates by this reference each of the allegations made above.

7 67. On or about and during the period of fiscal years 2014 through 2019
8 Defendants engaged in the following conduct, by way of example and without limitation,
9 in violation of AZRAC, acts involving: AZRAC, A.R.S. §§ 13-2301 *et seq.*, including
10 A.R.S. § 13-2301(D)(4)(b)(iv) (forgery); 13-2301(D)(4)(b)(v) (theft); and 13-
11 2301(D)(4)(b)(xx) (a scheme or artifice to defraud). The conduct involved a pattern of
12 violations that involved a total of one hundred ninety-six thousand eight hundred forty-
13 two dollars (\$196,842.00) or more in a six year period.

14 68. The conduct complained of constituted acts committed for financial gain,
15 chargeable or indictable under the laws of this State, and punishable by imprisonment for
16 more than one year under the laws of this State, whether charged or not. Defendants are
17 liable for the costs and expenses of the investigation and prosecution of this action, civilly
18 and criminal, and reasonable attorney fees, a monetary judgment, the amount of injury to
19 the state, and for treble damages to persons injured by racketeering. Pursuant to A.R.S. §
20 13-105(30), persons includes a government or governmental authority.

21 69. The State is entitled to the remedial relief, including the costs and expenses
22 of the investigation and prosecution of this action, civil and criminal, and reasonable
23 attorney fees, a monetary judgment, the amount of injury to the state, and for treble
24 damages to persons injured by racketeering provided in A.R.S. § 13-2314. Pursuant to
25 A.R.S. § 13-105(30), persons include a government or governmental authority.

SECOND CLAIM FOR RELIEF
Gain Acquired or Maintained Through Racketeering
A.R.S. § 13-2314(D)(7); A.R.S. § 13-2301(D)(4)

70. Plaintiff incorporates by this reference each of the allegations made above.

71. Based on the acts and omission described herein, Defendants acquired or maintained gain through one or more of the offenses described above, which are included in the definition of racketeering in A.R.S. § 13-2301(D)(4).

72. Defendants are liable for and the State is entitled to the remedial relief for the costs and expenses of the investigation and prosecution of this action, civil and criminal, and reasonable attorney fees, a monetary judgment, the amount of injury to the state, and for treble damages to persons injured by racketeering provided in A.R.S. § 13-2314. Pursuant to A.R.S. § 13-105(30), persons include a government or governmental authority.

THIRD CLAIM FOR RELIEF
Recovery of Public Monies Illegally Paid
A.R.S. §§ 35-211 et seq.

73. Plaintiff incorporates by this reference each of the allegations made above.

74. Pursuant to A.R.S. § 35-212(A), the Attorney General has statutory authority to "Recover illegally paid public monies plus twenty percent of that amount together with interest and costs, including reasonable attorney fees."

75. Pursuant to A.R.S. § 35-212(B)(2), the Attorney General has statutory authority to bring a public monies claim against "[t]he public body or the public officer acting in the officer's official capacity who ordered or caused the illegal payment or has supervisory authority over the person that ordered or caused the illegal payment."

76. Pursuant to A.R.S. § 35-212(B)(3), the Attorney General has statutory

1 authority to bring a public monies claim against “[t]he public official, employee or agent
2 who ordered or caused the illegal payment, including a payment ordered or caused to be
3 made without authorization of law.”

4 77. Pursuant to A.R.S. § 35-212(C), “[a] public official, employee or agent of
5 this state, a political subdivision of this state or a budget unit who is charged with
6 collecting, receiving, safekeeping, transferring or disbursing public monies may be held
7 personally liable for an illegal payment of public monies, including payment made
8 without authorization of law.”

9 78. Based on the conduct described herein, Defendants violated A.R.S. § 35-212
10 by ordering or causing the illegal payment of public monies, including payment ordered or
11 caused to be made without authorization of law.

12 79. Based on Defendants’ violation of A.R.S. § 35-212, the Attorney General is
13 entitled to recover against Defendants, on behalf of the State or county, all illegally paid
14 public monies, in an amount to be determined at trial, plus twenty percent of that amount
15 together with interest.

16 80. Pursuant to A.R.S. § 35-212(A)(2), the Attorney General is entitled to
17 recover, against Defendants, his reasonable attorneys’ fees and costs.

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19 **FOURTH CLAIM FOR RELIEF**

20 **Official Bond**

21 **A.R.S. §§ 38-251 et seq.**

22 81. Plaintiff incorporates by this reference each of the allegations made above.

23 82. As the elected Sheriff for Santa Cruz County, Estrada was required to obtain
24 a bond conditioned on the faithful performance of his duties.

25 83. As a state officer or employee, Fuentes was required to obtain a bond
26 conditioned on the faithful performance of his duties.

1 84. Pursuant to A.R.S. § 38-259, “[w]hen, except in criminal prosecutions, a
2 penalty, forfeiture or liability is imposed on any officer for nonperformance or
3 malperformance of official duty, the liability therefor attaches to the official bond of the
4 officer, and to the principal and sureties thereon.

5 85. Pursuant to A.R.S. § 38-260, “[e]very official bond executed by any officer
6 pursuant to law, is in force and obligatory upon the principal and sureties therein to and
7 for the state and to and for the use and benefit of all persons who may be injured or
8 aggrieved by the wrongful act or default of the officer in his official capacity. Any person
9 so injured or aggrieved may bring an action on the bond in his own name without an
10 assignment thereof.”

11 86. Based on the allegations described herein, the State has been injured and
12 aggrieved and liability will be imposed upon Estrada and/or Fuentes for nonperformance
13 or malperformance of official duty.

14 87. Based on the allegations described herein, the State is entitled to recover
15 against any bond executed by Estrada and/or Fuentes and to execute any judgment
16 obtained in this action against any such bond.

17 88. The State also intends, under A.R.S. § 38-272, to “file an affidavit stating
18 either positively or on information and belief that the bond was executed by the defendant,
19 and that the defendant has real property, designating the county or counties in which it is
20 located.”

21 89. Upon receipt of such affidavit, the clerk of court “shall certify to the
22 recorder of the county in which the real estate is located the names of the parties to the
23 action, the name of the court in which the action is pending and the amount claimed in the
24 complaint, with the date of the commencement of the action.”

25 90. Under A.R.S. § 38-273, “[u]pon receiving the certificate the county recorder
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1 shall endorse, file and record it in the same manner as notices of the pendency of an action
2 affecting real estate.”

3 91. Thereafter, “[a]ny judgment recovered in such action is a lien upon all real
4 estate belonging to the defendant and located in any county in which the certificate is filed
5 for the amount that the owner thereof is or may be liable upon the judgment, from the time
6 of filing the certificate.”

7
8 **PRAYER FOR RELIEF**

9 WHEREFORE, the State respectfully requests that the Court enter judgment in
10 favor of the State and against Defendants as follows:

11 92. Requiring Defendants to pay, jointly and severally, to the State of Arizona,
12 an amount equal to the gain acquired or maintained by reason of acts of racketeering
13 enumerated in A.R.S. § 13-2301(D)(4).
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15 93. Requiring Defendants to pay, jointly and severally, to the State of Arizona
16 an amount equal to the injury to the State as defined by A.R.S. § 13-2318.

17 94. Requiring Defendant to pay, jointly and severally, treble damages to all
18 persons, including the State and its departments and agencies, injured by reason of
19 Defendants’ acts of racketeering.

20 95. Requiring Defendants to pay all illegally paid public monies, in an amount
21 to be determined at trial, plus twenty percent of that amount.

22 96. Requiring Defendants to pay pre-judgment and post-judgment interest at the
23 maximum rate(s) allowed by law.

24 97. Requiring Defendants to pay the State’s costs and expenses of investigating
25 and prosecuting the matter of complaint herein, civilly or criminally, including reasonable
26 attorneys’ fees, investigative expenses, and court costs, and any ongoing compliance costs
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1 ordered, pursuant to an application for fees, expenses, and costs.

2 98. Allowing the State to recover and/or execute any judgment against any
3 public official bond maintained by Estrada and/or Fuentes or their sureties or against any
4 property lien created in favor of the State pursuant to A.R.S. §§ 38-272, -273.

5 99. The Court enter an order providing that this Court retain jurisdiction of this
6 action in order to implement and carry out the terms of all orders and decrees that may be
7 entered herein, and to entertain any applications or motions by the State for additional
8 relief within the jurisdiction of the Court.

9 100. Awarding the State any other appropriate relief.

10
11 RESPECTFULLY SUBMITTED this 2nd day of June, 2021.

12 **MARK BRNOVICH**

13 Attorney General

14 Joseph A. Kanefield

15 *Chief Deputy & Chief of Staff*

16
17 BY: 

18 Michael S. Catlett

19 *Deputy Solicitor General*

20 Nicholas Klingerman

21 Thomas J. Rankin

22 *Assistant Attorneys General*