



January 10, 2020

**VIA FEDEX & EMAIL**

Clerk of the Orange County Board of Supervisors  
333 W. Santa Ana Blvd., Suite 465  
Santa Ana, CA 92701  
response@ocgov.com

**Re: Claim Against the County of Orange on Behalf of Kelvin Estiven Hernandez Román**

Dear Clerk of the Board of Supervisors:

The ACLU Foundation of Southern California, a non-profit civil rights organization, is filing the enclosed claim pursuant to Cal. Gov't Code § 910 on behalf of Mr. Kelvin Estiven Hernandez Román. We are representing Mr Hernandez Román in this matter. Please direct any correspondence to us at:

Jessica Karp Bansal  
ACLU of Southern California  
1313 W 8th Street  
Los Angeles, CA 90017  
[jbansal@aclusocal.org](mailto:jbansal@aclusocal.org)  
909-380-7501

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to be "JKB", written over a horizontal line.

Jessica Karp Bansal  
Senior Staff Attorney  
ACLU of Southern California

ENCLOSURES

CC: Leon Page, County Counsel (via email: [leon.page@coco.ocgov.com](mailto:leon.page@coco.ocgov.com))



**CLAIM FOR MONEY OR DAMAGES  
AGAINST THE COUNTY OF ORANGE**  
(Pursuant to Govt. Code section 910 et seq.)

Received by \_\_\_\_\_ via:

- Mail
- Over the Counter
- Pony Mail
- Other \*\*\* COB USE ONLY\*\*\*

**Completed and signed forms must be mailed or delivered to: Clerk of the Board of Supervisors  
(Unsigned claim forms cannot be processed) 333 W. Santa Ana Blvd., Suite 465  
Santa Ana, CA 92701**

**CLAIMANT INFORMATION**

1. **Claimant's Name:** Kelvin Estiven Hernandez Román    2. **Date of Birth:** ████████ 1987
3. **Claimant's Address:** Adelanto ICE Processing Center, 10250 Rancho Rd. Adelanto CA 92301  

Street (or P.O. Box)
City
State
Zip Code
4. **Phone Number:** Home: NA    Work: NA    Other:
5. **Name and address where correspondence should be sent (if different from above):**  
Jessica Karp Bansal, ACLU of Southern California, 1313 W. Eighth St, Los Angeles, CA 90017  

Name
Street (or P.O. Box)
City
State
Zip Code

**CLAIM INFORMATION**

6. **Exact date (including year) of the occurrence or transaction which gave rise to the claim asserted:** July 16-17, 2019
7. **Exact location of the occurrence or transaction which gave rise to the claim asserted:**  
Theo Lacy Jail, 501 The City Dr. S., Orange, CA 92868
8. **Describe the circumstances of the occurrence or transaction which you claim caused the damage/injury/loss:** See attached
9. **Jail Booking Number:**        **Police Agency/Report Number:**
10. **Provide a description of the damage/injury/loss incurred so far as is known as of the time of this claim:** See attached
11. **Name(s) of County employee(s) causing damage/injury/loss, if known:**
12. **License number of County vehicle (if applicable):**

13. Name, address and phone number of any and all witnesses known: \_\_\_\_\_

14. Any additional information that may assist us in evaluating your claim See attached.

**DAMAGES CLAIMED**

15. a. If the amount claimed is less than \$10,000:

Amount claimed to present: \$ \_\_\_\_\_

Estimated amount of any prospective damage/injury/loss: \$ \_\_\_\_\_

TOTAL AMOUNT CLAIMED: \$ \_\_\_\_\_

b. If the amount claimed exceeds \$10,000, would the case be a limited civil case (\$25,000 or less)?

Yes  No

c. Basis of computation of the amount of damages (Please attach any estimates and/or receipts): See attached.

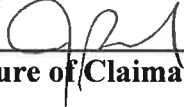
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**WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE CLAIM**

Section 72 of the Penal Code states: "Every person who, with intent to defraud, presents for allowance or for payment to any state board or officer, or to any county, city, or district board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher, or writing, is punishable either by imprisonment in the county jail for a period of not more than one year, by a fine of not exceeding one thousand dollars (\$1,000), or by both such imprisonment or fine, or by imprisonment in the state prison, by a fine of not exceeding ten thousand dollars (\$10,000), or by both such imprisonment and fine."

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 10 day of January 2020 at San Bernardino CA

  
\_\_\_\_\_  
Signature of Claimant or Claimant's Representative

**You Must Present Your Claim Within The Time Prescribed By Govt. Code Section 911.2**

**Addendum to Claim Against County of Orange on Behalf of**  
**Kelvin Estiven Hernandez Román**

**Describe the circumstances of the occurrence or transaction which you claim caused the damage/injury/loss:**

Kelvin Estiven Hernandez Román is a 32-year-old father of two. Until July of this year, he resided in Garden Grove. On or around July 14, 2019, following an arrest by the Tustin Police Department, he was transferred to Theo Lacy.

Early in the morning of Tuesday, July 16, 2019, Mr. Hernandez Román was taken to court, where he was placed in a holding cell with other people who were awaiting their court dates. While he was in the holding cell, an official came to notify other individuals in the holding cell that they were subject to an immigration hold (also known as an ICE hold). The official did not inform Mr. Hernandez Román that he was subject to any hold. Mr. Hernandez Román's criminal defense attorney also told him affirmatively that there had been no immigration hold placed on him. Subsequently, a deputy came to the holding cell and informed Mr. Hernandez Román that he would not be brought before the judge, because no charges had been filed against him. He was then transferred to a different holding cell, where he remained until approximately 5pm that evening, at which time he was brought back to Theo Lacy.

Later that night, at approximately 10pm, a deputy told Mr. Hernandez Román that it was time to get his clothes and that he would be leaving. He was taken to a processing area where he changed into his street clothes and received some of his property. While there, he overheard one deputy asking another why they had taken him out, since they "had a time to turn him in." Mr. Hernandez Román was then separated from other inmates in the processing area and placed in a holding cell. While he was waiting in the cell in his street clothes, a deputy came and told him that ICE was coming for him. He remained in the cell for approximately 45 minutes to an hour. At that point, two private security guards arrived, placed him in handcuffs, and transported him to an ICE processing center in Los Angeles. From there, Mr. Hernandez Román was taken to the ICE Adelanto Detention Center, where he remains detained to this day.

ICE lodged an immigration hold against Mr. Hernandez Román at some point on July 16, 2019. However, Mr. Hernandez Román never received a copy of the hold, nor was he ever informed that the sheriff intended to inform ICE of his release time and transfer him to ICE.

**Provide a description of the damage/injury/loss incurred so far as is know as of the time of this claim:**

The Orange County Sheriff's Department (OCSD) unlawfully imprisoned Mr. Hernandez Román on an ICE hold. As described below, this violated his rights under the Fourth Amendment of the United States Constitution; Article 1, Section 13 of the California Constitution; the California Values Act (Cal. Gov't Code § 7284.6(a)(1)); and the Bane Act (Cal. Civ. Code § 52.1). It also constituted false imprisonment. The OCSD further violated Mr. Hernandez Román's rights under the TRUTH Act when they failed to provide him with a copy of the ICE hold issued for him, inform him whether they intended to comply with the hold, or

provide him or his attorney with any notification of his release time provided to ICE. Cal. Gov't Code 7283.1(b).

“[T]he continuation of [an individual’s] detention based on [an] ICE detainer” constitutes a “new arrest, and must be analyzed under the Fourth Amendment.” *Miranda-Olivares v. Clackamas County*, 2014 WL 1414305, at \* 9-10 (D. Or. Apr. 11, 2014); *see also Roy v. Cty. of Los Angeles*, No. CV1209012ABFFMX, 2018 WL 914773, at \*23 (C.D. Cal. Feb. 7, 2018). Immigration detainers are issued on the basis of suspected civil immigration violations. They are not signed by a judge and are not based on any judicial finding of probable cause. Local law enforcement agencies, including OCSA, violate the Fourth Amendment when they detain someone based on an immigration detainer, because they lack authority to make arrests for civil immigration violations. *See, e.g., Roy*, 2018 WL 914773, at \*23 (“The LASD officers have no authority to arrest individuals for civil immigration offenses, and thus, detaining individuals beyond their date for release violated the individuals’ Fourth Amendment rights.”). OCSA thus violated the Fourth Amendment when it detained Mr. Hernandez Román on an ICE hold.

In addition, the California Values Act prohibits “detaining an individual on the basis of a[n immigration] hold request,” with no exceptions. Cal. Gov’t Code § 7284.6(a)(1)(B). OCSA thus violated the California Values Act when it detained Mr. Hernandez Román on an ICE hold.

Mr. Hernandez Román’s detention on the ICE hold also violated the Bane Act. The Bane Act prohibits interference “by threat, intimidation, or coercion” with an individual’s rights under federal or state law. *Simmons v. Superior Court*, 7 Cal. App. 5th 1113, 1125, 212 Cal. Rptr. 3d 884, 892 (Ct. App. 2016). The OCSA coercively interfered with Mr. Hernandez Román’s rights under the Fourth Amendment and the California Values Act when it extended his imprisonment in blatant violation of federal and state law. Separately and independently from extending Mr. Hernandez Román’s imprisonment, the OCSA also intentionally violated his rights under the TRUTH Act by failing to notify him about or provide him a copy of his ICE hold. *See id.* at 1127 (reserving question whether plaintiff must establish intentional conduct separate and independent from arrest itself to state Bane Act claim).

Finally, Mr. Hernandez Román’s unlawful detention constituted false imprisonment under California law. His detention was intentional, nonconsensual, without lawful privilege, and for an appreciable period of time. *See Young v. City of Los Angeles*, 655 F.3d 1156, 1169 (9th Cir. 2011) (citing *Easton v. Sutter Coast Hosp.*, 90 Cal. App. 4th 485 (Cal. App. 2000)).

As a result of his unlawful detention, Mr. Hernandez Román suffered injuries and damages including: (1) loss of physical liberty; (2) violation of his constitutional rights; (3) emotional distress, pain, suffering, trauma, worry, anxiety, humiliation, and embarrassment.

**Basis of computation of the amount of damages:**

As compensation for his unlawful detention, Mr. Hernandez Román requests the following:

1. \$100,000 in compensatory, statutory, treble, and punitive damages for violating his right against unlawful seizure; his rights under the California Values Act and the Truth Act; false imprisonment; and negligence;
2. A signed U Visa certification stating that Mr. Hernandez Román was a victim of false imprisonment by the Orange County Sheriff's Department. Cal. Penal Code § 236;
3. An internal investigation into the Orange County Sheriff's Department officers responsible for arresting, detaining, and transferring Mr. Hernandez Román to ICE, including the extent of those officers' interactions with ICE, and the release of findings of that investigation to at least Mr. Hernandez Román and his counsel;
4. Orange County Sheriff's Department's implementation of and compliance with a comprehensive policy consistent with the California Values Act and Truth Act; and
5. A training regarding the California Values Act and Truth Act for all Orange County Sheriff's Department staff to be conducted in consultation with the ACLU of Southern California.