

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Manuel de Jesus Ortega Melendres, et al.

v.

Case No.: CV-07-2513-PHX-GMS

Paul Penzone, et al.

NOTICE

MCSO IMMIGRATION STOPS AND DETENTION COMPENSATION FUND

A federal court authorized this Notice. This is not a solicitation from a lawyer.

The Plaintiffs in the federal court case *Ortega Melendres v. Penzone* (previously *Arpaio*), Maricopa County Sheriff's Office (MCSO), and Maricopa County will participate in a program to compensate individuals stopped or held by MCSO in violation of a court order.

Benefits under this program (the "Compensation Fund") will be available to individuals, regardless of immigration status, stopped or held by MCSO between December 23, 2011, and May 24, 2013 in violation of a Preliminary Injunction issued by a federal court in the *Ortega Melendres v. Penzone* litigation. The Preliminary Injunction prohibited MCSO deputies from detaining a person solely on the basis that MCSO personnel believed the person was in the U.S. without authorization. A detention occurs whenever an individual is not free to leave law enforcement custody. Detention for the purposes of the Compensation Fund may include being transported in a motor vehicle by an MCSO deputy or other law enforcement officer, held at the side of the road by an MCSO deputy, or placed in a cell.

The Compensation Fund will provide eligible claimants with:

- (1) Baseline monetary awards of \$500 for a detention lasting up to one hour, if the claimant was detained longer than 20 minutes.
- (2) Claimants will be awarded an additional \$35 for every 20 minutes of detention (or any portion thereof) beyond the first hour.
- (3) A claimant may not receive more than \$10,000 as compensation for the length of the detention.
- (4) Claimants may be eligible for additional compensation for:
 - (a) Physical harm and emotional distress that was proximately caused by the detention
 - (b) Confiscated property, including but not limited to money, a car, a form of identification
 - (c) Detention by Immigration and Customs Enforcement (ICE)/Customs and Border Patrol (CBP)
 - (d) Lost wages
 - (e) Other injuries

Potential claimants must submit a Claim Form to the Claims Administrator to receive benefits. If you choose to participate, you will be bound by the terms and releases contained in the program. Claimants may sign up at www.maricopasheriffcompensationfund.org or

**More questions? Call toll free at 1-844-500-6327 or
Visit www.maricopasheriffcompensationfund.org or
www.fondodecompensaciondelsheriffdemaricopa.org**

www.fondodecompensaciondelsheriffdemaricopa.org

or call 1-844-500-6327 for additional information about the Compensation Fund and additional information on the application process. A neutral non-governmental entity will be responsible for evaluating claims and facilitating any monetary compensation awarded.

A limited number of applicants may be preapproved to receive the base amount for their detention. To see if you are preapproved, please call the telephone number listed above.

All personally identifying information, including, but not limited to, a person's name, telephone number, street address, Social Security number, individual taxpayer identification number ("ITIN"), date of birth, doctor/medical providers' names, employers/businesses' names, included in the Claim Form or disclosed through the application process will remain confidential pursuant to a Protective Order.

These rights and options—and the deadlines to exercise them—are explained in this Notice.

This Notice is only a summary of the Compensation Fund and your rights. You are encouraged to review carefully the complete court order, which is available at

www.maricopasheriffcompensationfund.org or

www.fondodecompensaciondelsheriffdemaricopa.org

The court order governing this program is on file with the Clerk of the Court for the U.S. District Court for the District of Arizona. You can also get this information by 1-844-500-6327.

**More questions? Call toll free at 1-844-500-6327 or
Visit www.maricopasheriffcompensationfund.org or
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**More questions? Call toll free at 1-844-500-6327 or
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I. INTRODUCTION

A. BASIC INFORMATION.

1. Why is this Notice being provided?

The federal court in charge of this case authorized this Notice because you have a right to know about the court ordered Compensation Fund in *Ortega Melendres v. Penzone*. This Notice summarizes the Compensation Fund and explains your legal rights and options.

The case giving rise to this court ordered Compensation Fund is being heard in the U.S. District Court for the District of Arizona (federal court). The case is known as *Ortega Melendres v. Penzone (previously Arpaio)*. The people who sued are called the “Plaintiffs.” Plaintiffs are a group of Hispanic/Latino individuals whose constitutional rights were violated by MCSO when they were unlawfully stopped or held solely on the basis of their immigration status.

2. What is the litigation about?

In 2007, the Plaintiffs brought this lawsuit, *Ortega Melendres v. Penzone*, and challenged MCSO’s practice of stopping or holding Hispanic/Latino individuals in violation of the U.S. Constitution.

In 2011, a federal judge in this case issued a Preliminary Injunction that prohibited MCSO from stopping people on the basis of their immigration status or continuing to hold or transfer them to immigration officials on that basis.

In 2015, the Plaintiffs claimed MCSO violated this court order, and in 2016, the Court agreed with the Plaintiffs and found MCSO in civil contempt.

3. Why is there a Compensation Fund?

After the Court found MCSO in civil contempt, the Court issued an order authorizing this fund as a way to compensate victims who were stopped or held in violation of the Preliminary Injunction.

4. What are the benefits of the Compensation Fund?

Under the Compensation Fund, eligible claimants will receive:

- (1) Baseline monetary awards of \$500 for a detention lasting up to one hour, if the claimant was stopped and held longer than 20 minutes.
- (2) Claimants will be awarded an additional \$35 for every 20 minutes of detention (or any portion thereof) beyond the first hour.
- (3) A claimant may not receive more than \$10,000 as compensation for the length of the detention.

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- (4) Claimants may be eligible for additional compensation for:
- (a) Physical harm and emotional distress that was proximately caused by the detention
 - (b) Confiscated property
 - (c) Detention by ICE/CBP
 - (d) Lost wages
 - (e) Other injuries

B. THE COMPENSATION FUND.

1. Who can participate in the Compensation Fund?

Participation in the program is open to people, regardless of immigration status, asserting that their constitutional rights were violated as a result of their detention by MCSO in violation of the Court's Preliminary Injunction, which prohibited MCSO from detaining a person solely on the basis that the person was believed to be in the U.S. without authorization. The detention must have started between December 23, 2011 and May 24, 2013.

A detention occurs whenever an individual is not free to leave law enforcement custody. Detention for the purposes of the Compensation Fund may include being transported in a motor vehicle by an MCSO deputy or other law enforcement officer, held at the side of the road by an MCSO deputy, or placed in a cell.

2. What if I am not sure whether I am eligible to participate in the Compensation Fund?

If you are not sure whether you are eligible to participate in the Compensation Fund you may call 1-844-500-6327 with questions or visit www.maricopasheriffcompensationfund.org or www.fondodecompensaciondelsheriffdemaricopa.org. You may also contact an attorney or call 602-773-6122 to ask about attorneys who may be able to help you for free.

**More questions? Call toll free at 1-844-500-6327 or
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www.fondodecompensaciondelsheriffdemaricopa.org**

II. COMPENSATION FUND BENEFITS

MONETARY AWARDS.

1. What Qualifies for Base Monetary Awards?

Claimants will be awarded a base amount of \$500 if they were stopped and held by MCSO in violation of the Preliminary Injunction for longer than 20 minutes. Claimants will be awarded \$35 for each additional 20 minutes of detention (or any portion thereof) after the first hour. Without affecting a claimant's ability to receive compensation for other damages arising from his or her detention, a claimant may not receive more than \$10,000 as compensation for the length of the detention.

2. What other awards can I apply for?

Claimants may be eligible for additional compensation on the following bases:

- (1) Physical harm and emotional distress that was proximately caused by the detention:
 - (a) Ongoing physical harm that occurred as a result of detention and pain and suffering, if any, arising directly out of the physical injury sustained by the claimant.
 - (b) Medical bills paid or other out of pocket costs that arose because of physical/emotional harm caused by detention.
 - (c) Severe emotional distress that occurred because of the detention and associated costs, if the claimant can establish, by credible and competent evidence, physical manifestation of the emotional distress and the need for treatment.
- (2) Confiscated property:
 - (a) Car impoundment including loss of time/money in getting a car back.
 - (b) Money.
 - (c) Credit/debit cards.
 - (d) Identification—loss of time/money in getting legitimate and lawful identification returned or replaced (not including a driver's license seized because it was suspended).
- (3) Detention by ICE/CBP:

Under the program, detention by MCSO, ICE, and CBP is eligible for compensation up to a maximum total of \$10,000. For instance, if MCSO detained a person for 1.5 hours and then transferred that person to the custody of ICE, which held the person for an additional 24.5 hours, the entire duration of detention would qualify for compensation. In this scenario, compensation would be based on the total 26 hours of detention. The claimant would be eligible for \$500 for the first hour plus \$35 for every additional 20 minutes (or portion thereof) held, for a total of \$3,125.00.

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(4) Lost wages:

- (a) Dollar amount of wages lost because of detention (documentation such as stubs from pre-detention employment is required to prove this loss).
- (b) Other costs associated with a lost job (for instance, time spent trying to find a new job for which claimant can show they were legally eligible).

(5) Other injuries:

For instance, if claimant personally incurred and paid legal fees, or lost housing and had to spend time or money finding a new residence, because of their detention.

3. What do I need to provide to prove that I was detained by MCSO (and if applicable, had other injuries because of that detention)?

In order to establish threshold eligibility for compensation, the claimant must provide the following information under oath:

- (1) Identity information including name, name provided to MCSO (if different), date of birth, and reliable proof of identity.
- (2) Details of the encounter with MCSO including the date the encounter occurred (or 30-day date range if precise date is unknown) and the type of encounter (for instance, traffic stop).
- (3) Approximate location of the encounter with MCSO officer(s) (for instance, “Highway 89, approximately 3 miles north of Fountain Hills”).
- (4) Reason given by MCSO officer(s) for detention (if any).
- (5) Evidence that MCSO suspected unlawful presence (for instance, questioning about immigration status, ICE/CBP inquiry by an MCSO deputy, or the claimant was turned over to ICE/CBP) including details about what happened, such as whether ICE/CBP came to the site of detention or MCSO transferred the claimant to ICE/CBP custody.

The absence of documentation of out of pocket costs will not automatically disqualify an individual from receiving compensation for that injury if there is a reasonable explanation for the absence and alternative corroborating evidence, such as affidavits from individuals other than the claimant with direct personal knowledge about the relevant issue (such as the medical provider who supplied treatment for an injury that occurred during the detention).

Once a claim has been submitted, MCSO will have an opportunity to rebut the claim, by offering its own evidence of the legitimacy of the detention, or that the detention did not occur.

A neutral, non-governmental entity will evaluate the claims and make the ultimate determination of eligibility and amount to be awarded.

**More questions? Call toll free at 1-844-500-6327 or
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III. YOUR RIGHTS

A. PARTICIPATING IN THE COMPENSATION FUND.

What am I giving up if I choose to participate in the Compensation Fund?

If you choose to participate in the Compensation Fund, you cannot sue MCSO or Maricopa County for the same harm giving rise to your eligibility in this Compensation Fund. This means you give up your right to litigate any claims related to events covered by this program at any time.

B. HOW TO GET BENEFITS.

1. How do I get Compensation Fund benefits?

To get benefits, you will need to apply by filling out a Claim Form. This form is available at www.maricopasheriffcompensationfund.org or www.fondodecompensaciondelsheriffdemaricopa.org or by calling 1-844-500-6327.

2. What is the application process?

Once a Claim Form is filled out and submitted, it will be reviewed to determine if a claimant is eligible to participate in the Compensation Fund. Some applicants will be approved based on the information they include in the Form, and others may be asked to provide additional documentation.

3. Is there a time limit to file claims for monetary awards?

Yes. Potential claimants have one year from the start of this program to file a Claim Form. Claims must be filed by 1-844-500-6327.

4. Can I appeal the determination of my monetary award claim?

No. A claimant may request reconsideration of the determination of their monetary award, but otherwise has no right of appeal.

**More questions? Call toll free at 1-844-500-6327 or
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www.fondodecompensaciondelsheriffdemaricopa.org**

C. THE LAWYERS REPRESENTING YOU.

1. Do I need a lawyer to participate in this program?

No. You do not need a lawyer to participate in this program. However, you may hire a lawyer to represent you at your own expense.

You may also call 602-773-6122 to ask about attorneys who may be able to help you for free.

2. How will my lawyer be paid?

If claimant successfully pursues compensation through the use of an attorney on a Track B claim, that attorney will be entitled to fees, not to exceed \$750, and not more than the amount the claim award, so long as an MCSO attorney participated in the claims process. MCSO will be considered to have used an attorney in the claims process if it files an objection or otherwise participates in the claims process and: (1) an attorney representing MCSO makes an appearance before BrownGreer; or (2) indicates on the objection/response form to BrownGreer that it used an attorney.

D. CONFIDENTIALITY OF IDENTIFYING INFORMATION

Will my identifying information be shared?

No. All personally identifying information, including, but not limited to, a person's name, telephone number, street address, Social Security number, individual taxpayer identification number ("ITIN"), date of birth, doctor/medical providers' names, employers/businesses' names, included in the Claim Form or disclosed through the application process will remain confidential pursuant to a Protective Order.

E. GETTING MORE INFORMATION.

How do I get more information?

This Notice summarizes the Compensation Fund. The full Court Order is available at

www.maricopasheriffcompensationfund.org or

www.fondodecompensaciondelsheriffdemaricopa.org and on file with the Clerk of the Court for the District of Arizona. You can also get this information by calling 1-844-500-6327.

If you have questions, you may call the law firms listed in the chart at the end of this Notice for guidance free of charge, or you may talk to your own lawyer.

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