

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 11-cv-00784-CMA-KMT

CESAR ANTONIO SALAS, and
JUANA SALAS DURON,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

ORDER ON REMAND

This matter is before the Court on remand from the Tenth Circuit Court of Appeals. (See Doc. ## 78; 79.) In accordance with the Tenth Circuit's Opinion (Doc. # 78), it is HEREBY ORDERED that:

Plaintiff Juana Salas Duron's claim for negligent infliction of emotional distress ("NIED") is DISMISSED IN PART for lack of jurisdiction and DISMISSED IN PART for failure to state a claim, as follows:

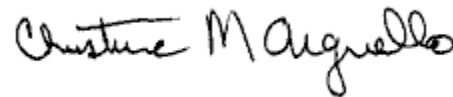
1. To the extent Ms. Duron's NIED claim is based on alleged emotional distress she suffered as a result of the United States Bureau of Immigration and Customs Enforcement's March 31, 2008 release of her son, and co-Plaintiff, Cesar Antonio Salas, the Court lacks jurisdiction because Ms. Duron did not present that basis of her claim to the Department of Homeland Security ("DHS") in her March 26, 2010 claim to that agency;

2. Ms. Duron's March 26, 2010 DHS claim was untimely as to her NIED claims that accrued in 2001 and 2007 and, thus, the Court lacks jurisdiction over them; and
3. The NIED claim arising from Mr. Salas's March 2008 detention (as opposed to his release from detention) fails to state a claim upon which relief can be granted because Texas law does not recognize a NIED cause of action.

As such, all claims are now DISMISSED in accordance with the Tenth Circuit's Opinion.

DATED: September 24, 2013

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge