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 2 FOUNDATION OF NORTHERN CALIFORNIA
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12 **UNITED STATES DISTRICT COURT**
 13 **NORTHERN DISTRICT OF CALIFORNIA**
 14 **SAN FRANCISCO-OAKLAND DIVISION**

15 Case. No. ____

16 PANGEA LEGAL SERVICES,
 17
 18 Plaintiff-Petitioner,

19 v.

20 KEVIN MCALEENAN, Acting Secretary of
 21 Homeland Security; MARK MORGAN,
 Acting Director of U.S. Immigration and
 22 Customs Enforcement; DAVID JENNINGS,
 Field Office Director, San Francisco Field
 23 Office, U.S. Immigration and Customs
 Enforcement,
 24

25 Defendant.

26 **COMPLAINT FOR DECLARATORY**
AND INJUNCTIVE RELIEF AND
PETITION FOR A WRIT OF HABEAS
CORPUS

1 Plaintiff-Petitioner Pangea Legal Services brings this complaint and petition for a writ of
2 habeas against officials from the Department of Homeland Security who are detaining or will
3 imminently detain its clients and prospective clients in violation of various rights secured by the
4 immigration laws and U.S. Constitution.

5 **INTRODUCTION**

6 1. This case arises out of the sweeping immigration enforcement actions that the
7 government has announced will begin on Sunday, July 14, 2019. As a part of those actions,
8 agents of U.S. Immigration and Customs Enforcement (“ICE”) and other components of the
9 Department of Homeland Security (“DHS”) plan to arrest noncitizens and process them for
10 immediate expulsion from the United States. For noncitizens arrested within the jurisdiction of
11 ICE’s San Francisco field office, ICE will initially detain and process noncitizens at its offices in
12 San Francisco and Stockton.

13 2. ICE has informed Pangea Legal Services and other local providers of immigration legal
14 services that it will not allow them to access clients and prospective clients on Sunday, July 14.
15 Despite refusing to allow access to counsel, ICE concurrently informed Pangea and other service
16 providers that it will process those noncitizens on July 14.

17 3. ICE’s actions reflect longstanding practices that violate the immigration laws and the
18 U.S. Constitution. For decades, DHS’s component and predecessor agencies – including ICE –
19 have arrested non-citizens, prevented them from meeting with their attorneys during an initial
20 processing period, and pressured them into signing documents that effectively waive their rights.
21 The results have been catastrophic, resulting in people being summarily torn apart from their
22 families without any judicial process.

23 **THE PARTIES**

24 1. Plaintiff-Petitioner Pangea Legal Services is a non-profit corporation incorporated
25 in San Francisco, California. Pangea was created to help fill the critical need for the
26 representation of detained and non-detained individuals in the San Francisco immigration court
27 system. The need arises from the complexity of immigration law, the negative consequences of
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1 deportation, and the fact that many immigrants in removal proceedings are eligible for relief or
2 protection under existing laws.

3 4. Defendant Kevin McAleenan is the acting Secretary of DHS, has ultimate authority over
4 the manner in which Plaintiff-Petitioner’s clients and prospective clients are being detained, and
5 is a custodian of those clients and prospective clients. He is sued solely in his official capacity.

6 5. Defendant Mark Morgan is the acting Acting Director of ICE, has authority over the
7 manner in which Plaintiff-Petitioner’s clients and prospective clients are being detained, and is a
8 custodian of those clients and prospective clients. He is sued solely in his official capacity.

9 6. Defendant David Jennings is the Director of ICE’s San Francisco Field Office, has direct
10 authority over the manner in which Plaintiff-Petitioner’s clients and prospective clients are being
11 detained, and is a custodian of those clients and prospective clients. He maintains his office in
12 the City and County of San Francisco, within this judicial district. He is sued solely in his
13 official capacity.

14 **JURISDICTION AND VENUE**

15 7. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. §§ 2241 *et seq.*, as
16 protected under Art. I § 9, cl. 2 of the United States Constitution (the “Suspension Clause”), and
17 federal question jurisdiction under 28 U.S.C. § 1331. This case arises under the United States
18 Constitution; the Immigration and Nationality Act (“INA”), 8 U.S.C. §§ 1101 *et seq.*; the
19 Administrative Procedure Act (“APA”), 5 U.S.C §§ 701 *et seq.*; the First Amendment; and the
20 Due Process Clause of the Fifth Amendment.

21 8. This Court has jurisdiction to grant declaratory and injunctive relief pursuant to 28 U.S.C.
22 § 2201-02, Federal Rule of Civil Procedure 65, and its inherent equitable power. Further, this
23 Court has jurisdiction pursuant to 28 U.S.C. 2241(c)(1) to grant a writ of habeas corpus for
24 “custody in violation of the Constitution or laws or treaties of the United States.”

25 9. Venue in this district is proper under 28 U.S.C. § 1391(b) and (e). The defendants-
26 respondents are officers or employees of the United States acting in their official capacities and
27 at least one of the defendants-respondents, Mr. Jennings, who is the legal custodian of Plaintiff-
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1 Petitioner’s clients and prospective clients, resides in this District. In addition, a substantial part
2 of the events giving rise to the claims in this action took place in this District, since ultimate
3 decisions regarding Plaintiff-Petitioner’s clients and prospective clients are the responsibility of
4 Defendant-Respondent Bonner in his capacity as Director of ICE’s San Francisco Field Office.

5 **LEGAL BACKGROUND**

6 10. The immigration laws provide noncitizens a number of possible ways to pursue lawful
7 status in the United States through proceedings before U.S. Citizenship and Immigration
8 Services and/or an immigration judge. For people who have no lawful immigration status, the
9 possible immigration benefits include, but are not limited to, asylum, withholding of removal,
10 withholding under the U.N. Convention Against Torture (“CAT”), non-lawful permanent
11 resident cancellation of removal, adjustment of status, and various visas for victims of crimes.
12 People with an administratively final order of removal that has not been executed may seek to
13 reopen their removal proceedings. And even people who have been formally removed from the
14 United States previously and are subject to reinstatement of their prior removal orders are still
15 eligible for certain relief, including withholding of removal and withholding under CAT. If a
16 noncitizen seeks such benefits and is denied, administrative appeals and judicial review are
17 available.

18 11. When ICE arrests a noncitizen, there are various ways it may seek to expel that person
19 from the United States without a hearing. For example, ICE may be able to quickly expel
20 someone who has no prior immigration history if that person signs for what is known as
21 “voluntary return.” ICE may similarly be able to quickly expel someone with a reinstated prior
22 removal order if that person declines to seek any potential relief against removal. At times, ICE
23 is able to expel a person – or at least initiate a formal expulsion by transferring them to a location
24 closer to the U.S.-Mexico border or an airport from which they can be flown to their home
25 country – within hours of taking them into custody. The initial hours and days following an ICE
26 arrest are accordingly critical to whether a person will be able to remain here in the United States
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1 or will instead be on a fast track to expulsion – which often carries the “loss of all that makes life
2 worth living,” *Bridges v. Wixon*, 326 U.S. 135, 147 (1945), including family and livelihood.

3 12. Given these high stakes, the immigration laws and the U.S. Constitution protect the right
4 of people in ICE custody to obtain and communicate with counsel and require ICE to ensure that
5 any waiver of rights is voluntary and knowing.

6 13. Immigrants’ right to “obtain counsel” is “guaranteed by 8 U.S.C. § 1362 and the due
7 process clause.” *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 551 (9th Cir. 1990)
8 (affirming injunction prohibiting, inter alia, immigration officers from interfering with
9 communication between detainees and attorneys). This necessarily includes the right to consult
10 with an attorney before deciding whether to engage in a full attorney-client relationship or to
11 pursue or abandon certain legal claims. *See Am. Civil Liberties Union Fund of Michigan v.*
12 *Livingston Cty.*, 796 F.3d 636, 645 (6th Cir. 2015) (“An attorney must be able to communicate
13 with an inmate in confidence before litigation and before establishment of a formal attorney-
14 client privilege in order to offer legal advice or determine whether an actionable claim exists.”).

15 14. There is also a universal prohibition against holding a person incommunicado. “There is a
16 well established tradition against holding prisoners incommunicado in the United States. It
17 would be hard to find an American who thought people could be picked up by a policeman and
18 held incommunicado, without the opportunity to let anyone know where they were, and without
19 the opportunity for anyone on the outside looking for them to confirm where they were.”
20 *Halvorsen v. Baird*, 146 F.3d 680, 688–89 (9th Cir. 1998). This right applies to civil detainees
21 such as those detained by ICE as well as those in criminal custody. *Id.* (“That a person is
22 committed civilly . . . cannot diminish his right not to be held incommunicado.”)

23 15. The courts have thus universally condemned recent attempts by the government to hold
24 immigration detainees without access to counsel. *See Rodriguez-Castillo v. Nielsen*, 18-cv-
25 01317-ODW, ECF No. 10 (C.D. Cal. June 21, 2018) (temporary restraining order ensuring
26 access to counsel for immigrants imprisoned at FCI Victorville); *Innovation Law Lab v. Nielsen*,
27 342 F. Supp. 3d 1067 (D. Or. 2018) (injunction ensuring access to counsel for immigrants
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1 imprisoned at FCI Sheridan); *see also Lyon v. ICE*, 171 F.Supp.3d 961, 981 (N.D. Cal. 2016)
2 (denying in part government’s motion for summary judgement in case concerning telephonic
3 access to counsel for long-term ICE detainees in part because “detainees have a Fifth
4 Amendment guarantee to a full and fair hearing, and this includes access to counsel (of their own
5 choosing)”).

6 16. DHS’s own regulations and other applicable law also clearly provide noncitizens the right
7 to access counsel after being arrested by ICE. *See* 8 C.F.R. § 292.5(b) (providing that during any
8 examination by a DHS officer, a noncitizen has the right to be represented by an attorney); 8
9 C.F.R. § 287.3(a) (providing that ICE will examine arrested noncitizens); *see also* 5 U.S.C. §
10 555(b) (providing the right to counsel whenever an individual is compelled to appear before an
11 agency).

12 17. Under the Due Process Clause of the Fifth Amendment, noncitizens are also protected
13 against undue governmental pressure to surrender their rights to seek immigration benefits.
14 Courts have broadly recognized that immigration enforcement agencies may not use coercion
15 and misinformation to obtain such waivers. *See Lopez-Venegas v. Johnson*, 13-cv-3972 JAK,
16 ECF No. 53 (C.D. Cal.) (noting that “an individual cannot make a knowing choice to accept
17 voluntary departure unless there has been full disclosure of the material consequences of that
18 decision”); *United States v. Ramos*, 623 F.3d 672, 682-82 (9th Cir. 2010) (waiver of a right to
19 appeal stipulated deportation order is not intelligent if necessary translation has not been
20 provided); *Ibarra-Flores v. Gonzales*, 439 F.3d 614, 620 (9th Cir. 2006) (remanding to
21 determine whether petitioner knowingly and voluntarily signed voluntary departure form);
22 *Orantes-Hernandez*, 919 F.2d at 559 (affirming injunction “based mainly upon the district
23 court’s findings of a pattern and practice of interference and coercion on the part of INS agents
24 which prevented Salvadoran aliens who feared return to their country from exercising their right
25 to apply for asylum”).

26 18. The First Amendment guarantees attorneys the right to consult with and advise clients
27 and prospective clients. *See generally Legal Services Corp. v. Velazquez*, 531 U.S. 533 (2001);
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1 *In re Primus*, 436 U.S. 412 (1978); *Nat'l Ass'n for Advancement of Colored People v. Button*,
2 371 U.S. 415, 429 (1963). An attorney's effectiveness in pursuing litigation "often depends on
3 the ability to make legal assistance available to suitable litigants." *In re Primus*, 436 U.S. at 431.
4 Thus, the First Amendment "require[s] a measure of protection for advocating lawful means of
5 vindicating legal rights," that allows an attorney to advise a client or refer her to another attorney
6 or legal organization. *Id.* at 432 (internal quotations omitted).

7 19. The First Amendment also guarantees noncitizens in detention the right to communicate
8 with the outside world. *Valdez v. Rosenbaum*, 302 F.3d 1039 (9th Cir. 2002). This includes the
9 right to make telephone calls and receive in-person visitors. *See id.*; *Strandberg v. City of*
10 *Helena*, 791 F.2d 744, 747 (9th Cir. 1986) ("Courts have recognized detainees' and prisoners'
11 first amendment right to telephone access."). The First Amendment further protects the right to
12 hire and consult with an attorney. *Mothershed v. Justices of Supreme Court*, 410 F.3d 602, 611
13 (2005), *as amended on denial of reh'g* (9th Cir. July 21, 2005). The state may not unreasonably
14 restrict this right. *Id.*

15 **FACTUAL ALLEGATIONS**

16 **Imminent Immigration Raids and ICE's Refusal to Grant Access to Counsel**

17 20. On July 11, 2019, major news outlets reported that U.S. Immigration and Customs
18 Enforcement ("ICE") planned to begin raids on Sunday, July 14 to arrested thousands of
19 noncitizens in major U.S. cities for purposes of deporting them. See Caitlin Dickerson and Zolan
20 Kanno-Youngs, *Thousands are Targeted as ICE Prepares to Raid Undocumented Migrant*
21 *Families*, N.Y. Times (July 11, 2019), available at
22 <https://www.nytimes.com/2019/07/11/us/politics/ice-families-deport.html>. San Francisco is
23 reported to be one of the target cities. *Id.*

24 21. On July 11, 2019, organizations who routinely represent noncitizens who have been
25 detained by ICE dispatched two delegations of attorneys to ICE's San Francisco Field Office and
26 ICE's Stockton office. The two delegations requested access to newly arrested community
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1 members. The delegations also submitted a letter to ICE leadership at both offices underscoring
2 the availability of pro bono legal assistance for newly arrested noncitizens.

3 22. The San Francisco delegation met with Assistant Field Office Director (“AFOD”)
4 Richard Chang. AFOD Chang confirmed that the San Francisco Field Office is closed on
5 Sundays and stated that attorneys would have to follow up with newly detained noncitizens once
6 they are processed and placed in detention, if they are not deported the same day.

7 23. ICE Supervisor Brian Farias from the Stockton Field Office confirmed that the Stockton
8 office is and would be closed to attorneys on Sunday. In effect, Pangea and other legal service
9 providers would not be allowed to provide legal advice or to otherwise consult with people ICE
10 plans to arrest and process on Sunday, July 14.

11 **The Government’s Longstanding Practice of Denying Access to Counsel and Using**
12 **Misinformation and Coercion to Pressure Noncitizens to Surrender Their Rights**

13 24. DHS’s component agencies and their predecessor enforcement agencies have as a matter
14 of routine practice prevented noncitizens from having access to their attorneys in the period
15 directly after their arrest.

16 25. During sweeping enforcement actions directed out of the San Francisco Field Office in
17 February 2018, ICE refused to permit noncitizens whom it detained for processing to access their
18 attorneys, and refused to permit those attorneys access to their clients. ICE also refused to
19 provide attorneys information about specific people it had detained there. ICE rapidly deported
20 several people arrested during those enforcement actions, preventing their attorneys or families
21 from communicating with them. At the same time, ICE pressured detainees who had not been
22 permitted access to attorneys into waiving their rights and signing documents that resulted in
23 their expulsion from the United States. For example, a man arrested in Merced County was told
24 he could not speak with his family unless he first agreed to sign a “voluntary return” document.

25 26. In November and December 2018, during enforcement actions directed out of the San
26 Francisco Field Office, ICE regularly moved people between vans and its offices in Morgan Hill.
27 During these incidents, officers intermittently pressured people to sign various documents that
28 would result in their summary expulsion. Attorneys responded to the enforcement actions and

1 came to the site to represent those in ICE custody. But ICE denied the attorneys access to the
2 recent arrestees.

3 27. On May 21, 2019, Pangea Legal Services sought to provide legal services to a client
4 whom ICE had recently arrested and taken to its Stockton office, which is overseen by the San
5 Francisco Field Office. A Pangea attorney sought to speak with the client by phone after
6 submitting a form (G-28) that is used by DHS to track detainee representation. The attorney
7 made three calls to the Stockton office and spoke to someone there during each call, but was told
8 he could not speak with his client and instead was forced to leave a voice message for ICE
9 Officer Reyes. The attorney did not receive a call back from ICE until the next day, by which
10 time his client had already been processed.

11 28. On July 9, 2019, the same attorney sought to provide legal services to two other clients
12 whom ICE had recently arrested and taken to the Stockton office. The attorney immediately
13 submitted a G-28 form and then called the office. Officer Heinz (who may work for ICE or for
14 ICE contractor G4S) transferred his call to the voicemail of ICE Officer Miller, and the attorney
15 left a message. The attorney then called ICE four times over the next approximately 40 minutes,
16 attempting to speak to his client. Each time, ICE personnel told him that they could do nothing
17 more than look for ICE Officer Miller or allow him to leave a voicemail for ICE Officer Miller.
18 ICE personnel refused to connect the attorney with the clients or even tell him whether the
19 clients were still being processed in the Stockton office.

20 29. Only the following day did ICE connect the attorney with his clients. By that time, the
21 client were at an ICE office in San Bernardino, on their way to being physically expelled from
22 the United States.

23 30. DHS and its predecessors have engaged in similar conduct for decades. In the early
24 1980s, a class of Salvadoran asylum seekers sued Border Patrol to stop the agency from
25 impeding access to counsel and from pressuring them to abandon their claims. As a result of that
26 litigation, a district court ordered the agency to cease “employ[ing] threats, misrepresentation,
27 subterfuge or other forms of coercion, or in any other way attempt to persuade or dissuade”
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1 Salvadoran nationals from pursuing asylum. *Orantes-Hernandez v. Smith*, 541 F. Supp. 351, 386
2 (C.D. Cal. 1982), *perm. injunction entered by Orantes-Hernandez v. Meese*, 685 F. Supp. 1488
3 (C.D. Cal. 1988), *aff'd sub nom Orantes-Hernandez v. Thornburgh*, 919 F.2d 549 (9th Cir.
4 1990). Also in the 1980s, a class of unaccompanied minor immigrants similarly challenged the
5 Immigration and Naturalization Service's (INS) practice of "coerc[ing] class members into
6 unknowingly and involuntarily ... waiving their rights to a deportation hearing or any other form
7 of relief." *Perez-Funez v. District Director*, 619 F. Supp. 656, 656–57 (C.D. Cal. 1985). In that
8 case, the district court found the INS's procedures unconstitutional and entered permanent
9 injunctive relief in favor of the class. *Id.* at 669–70. More recently, ICE detained and processed
10 people without access to counsel in a facility in Los Angeles known as B-18. The lawsuit
11 resulted in a settlement that provided meaningful access to counsel for people there.¹

12 31. Beyond these cases, DHS's reliance on omissions, misinformation, pressure, coercion
13 and threats against recent arrestees is well documented. The group No More Deaths has
14 documented numerous incidents of migrants being "[c]oerc[ed] into signing voluntary
15 repatriation documents under threat of violence, criminal charges, or lengthy detentions" by
16 Border Patrol officers.² Similarly, a report on "stipulated removals"—a summary process
17 through which immigration detainees give up the right to contest removal by signing a form that
18 is then reviewed by an immigration judge—noted that "immigrants have reported being coerced
19 to sign stipulated orders of removal or being pressured to accept stipulated orders of removal as a
20 way to get out of immigration detention."³ And the American Civil Liberties Union has
21 documented the ways that DHS couples "reinstatement of removal, voluntary return,
22 administrative removal, and stipulated removal ... with intimidation, misinformation, and
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24 ¹ See <https://www.aclu.org/press-releases/intolerable-conditions-downtown-immigration-facility-will-end-under-terms-lawsuit> (last accessed July 10, 2019)

25 ² No More Deaths, *A CULTURE OF CRUELTY* 32 (2011), available at
26 <http://forms.nomoredeaths.org/wp-content/uploads/2014/10/CultureOfCruelty-full.compressed.pdf> (last accessed July 9, 2019).

27 ³ Jennifer Lee Koh, Jayashri Srikantiah & Karen C. Tumlin, *DEPORTATION WITHOUT DUE*
28 *PROCESS* 2 (2011), available at <https://www.nilc.org/wp-content/uploads/2016/02/Deportation-Without-Due-Process-2011-09.pdf> (last accessed July 9, 2019).

1 coercion” in a way that “boost[s] the number of people deported” but without “guarantee[ing] a
2 fair process or to deliver justice.”⁴

3 32. These practices regularly result in the expulsion of U.S. citizens and exceptionally
4 vulnerable people from the United States. For example, ICE expelled Peter Guzman, a mentally-
5 disabled U.S. citizen, to Mexico after pressuring him into signing for voluntary return.⁵ *See*
6 *Guzman, et al. v. Chertoff, et al.*, No. 08-cv-01327 (C.D. Cal., filed Feb. 27, 2008). Last year,
7 the New Yorker profiled the case of a woman, Laura S., who was pressured into signing
8 summary expulsion documents by DHS officers and then killed by a former domestic partner in
9 Mexico shortly thereafter.⁶

10 **Pangea’s Activities in Serving Non-Citizens**

11 33. Pangea is a comprehensive immigration legal services agency serving over 400 clients
12 annually and focused on protecting and expanding the rights of low-income people and asylum
13 seekers. Pangea provides legal consultations, limited-scope services, and full representation,
14 especially in the area of deportation defense. Pangea represents detained immigrants in bond
15 proceedings, removal hearings, and in encounters with ICE. Pangea offers pro-bono and low-
16 cost services for individuals in removal proceedings and those currently being held in
17 immigration detention. Approximately 80 per cent of Pangea’s clients are in deportation
18 proceedings.

19 34. Since the announcement that attorneys would not have access on Sunday, Pangea has had
20 to divert resources away from its core program to address the attorney access issues. In just the

21 ⁴ ACLU, AMERICAN EXILE: RAPID DEPORTATIONS THAT BYPASS THE COURTROOM 14 (2014),
22 available at https://www.aclu.org/files/assets/120214-expeditedremoval_0.pdf#page=4 (last
accessed July 9, 2019).

23 ⁵ Other U.S. citizens have also been subjected to “voluntary return” by DHS officers. For
24 example, agents expelled Luis Alberto Delgado, a U.S. citizen born in Texas, under color of
“voluntary return” in June 2010, and only allowed him to return to the United States after
25 protracted advocacy by his attorney. *See* Kari Huus, *Wrongfully Deported American Home after*
3 Month Fight, NBCNews.com (September 16, 2010), available at
26 [http://www.nbcnews.com/id/39180275/ns/us_news-](http://www.nbcnews.com/id/39180275/ns/us_news-immigration_a_nation_divided/t/wrongfully-deported-american-home-after-month-fight/)
[immigration_a_nation_divided/t/wrongfully-deported-american-home-after-month-](http://www.nbcnews.com/id/39180275/ns/us_news-immigration_a_nation_divided/t/wrongfully-deported-american-home-after-month-fight/)
27 [fight/](http://www.nbcnews.com/id/39180275/ns/us_news-immigration_a_nation_divided/t/wrongfully-deported-american-home-after-month-fight/) (last
visited July 10, 2019).

28 ⁶ Sarah Stillman, *When Deportation Becomes a Death Sentence*, NEW YORKER (January 15,
2018), available at [https://www.newyorker.com/magazine/2018/01/15/when-deportation-is-a-](https://www.newyorker.com/magazine/2018/01/15/when-deportation-is-a-death-sentence)
death-sentence (last visited July 10, 2019).

1 last few days, Pangea attorneys have spent hours meeting with ICE officials and other
2 stakeholders simply trying to respond to ICE's creation of unlawful impediments to accessing
3 counsel. This has diverted Pangea's staff time away from its work representing other clients.

4 35. Without being able to access clients, Pangea is essentially forced to proceed blindfolded
5 in communicating with ICE about their case and advising their family members. This makes it
6 difficult to provide adequate and ethical representation. The denial of access also negatively
7 impacts Pangea's role as a member of local rapid response networks, preventing those networks
8 from building trust in the community that attorneys will be able to provide consultations when
9 individuals are detained.

10 **FIRST CLAIM FOR RELIEF**

11 Violation of the First Amendment of the United States Constitution
12 (Right to Provide Legal Advice and Right to Counsel)

13 36. Plaintiff-Petitioner realleges and incorporate by this reference each of the foregoing
14 paragraphs, as if fully set forth in this claim for relief.

15 37. Defendants-Respondents' policies, practices, and conduct are denying Plaintiff-Petitioner
16 its right to access clients and prospective clients in order to advise them of their rights and allow
17 them to access the courts, in violation of the First Amendment.

18 38. Defendants-Respondents' policies, practices, and conduct are denying noncitizens their
19 rights to communicate with counsel, in violation of the First Amendment

20 **SECOND CLAIM FOR RELIEF**

21 Violation of the INA, 8 U.S.C. § 1362; immigration regulations, 8 C.F.R. 292.5;
22 and the Due Process Clause of the Fifth Amendment of the U.S. Constitution
(Access to Counsel)

23 39. Plaintiff-Petitioner realleges and incorporate by this reference each of the foregoing
24 paragraphs, as if fully set forth in this claim for relief.

25 40. Defendants-Respondents' policies, practices, and conduct are denying noncitizens access
26 to counsel, in violation of the INA, its associated regulations, and Constitutional guarantees of
27 due process.

THIRD CLAIM FOR RELIEF

1 Violation of the INA, various provisions concerning immigration benefits; immigration
2 regulations, various provisions concerning immigration benefits; and the Due Process Clause of
3 the Fifth Amendment of the U.S. Constitution
(Waiver of Rights)

4 41. Plaintiff-Petitioner realleges and incorporate by this reference each of the foregoing
5 paragraphs, as if fully set forth in this claim for relief

6 42. Defendants-Respondents' policies, practices, and conduct are denying noncitizens their
7 rights to seek available immigration benefits and to avoid an unlawful waiver of those rights, in
8 violation of the INA, its associated regulations, and Constitutional guarantees of due process.

9
10 WHEREFORE, Plaintiff-Petitioner respectfully prays for a judgment as follows:

11 (a) Declaring that Defendants-Respondents have violated the rights of Plaintiff-
12 Petitioner under the INA, its associated regulations, the First Amendment, and the Due Process
13 Clause of the Fifth Amendment;

14 (b) Granting emergency relief prohibiting Defendants-Respondents from processing
15 any noncitizen until they are able to access counsel or, in the alternative requiring Defendants-
16 Respondents to provide counsel access to noncitizens ICE is processing on outside of normal
17 weekday business hours.

18 (c) Granting injunctive relief (including, but not limited to, habeas relief) prohibiting
19 Defendants-Respondents from preventing noncitizens meaningful access to counsel and from
20 relying on misinformation or pressure to attempt to convince noncitizens to surrender their rights
21 to seek immigration benefits;

22 (d) Awarding Plaintiffs their reasonable attorney fees and costs; and

23 (e) Granting any additional relief as may be just and proper.

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Respectfully submitted,

Dated: July 12, 2019

/s/ Sean Riordan

Sean Riordan (SBN 255752)
Angélica Salceda (SBN 296152)
Vasudha Talla (SBN 316219)
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