ERIN E. MEYER - # 274244
emeyer@keker.com
JULIA L. ALLEN - # 286097
jallen@keker.com
CLAIRE C. BONELLI - #317735
cbonelli@keker.com
ELLEN WATLINGTON - # 336422
ewatlington@keker.com
JACQUIE P. ANDREANO - # 338354
jandreano@keker.com
KAYLA CROWELL - # 349061
kcrowell@keker.com
KEKER, VAN NEST & PETERS LLP
633 Battery Street
San Francisco, CA 94111
Telephone: (415) 391-5400

Attorneys for Plaintiffs-Petitioners

[ADDITIONAL COUNSEL ON NEXT PAGE]

BREE BERNWANGER - # 331731
bbernwanger@aclunc.org
MICHELLE (MINJU) Y. CHO - # 321939
mcho@aclunc.org
NEIL K. SAWHNEY - # 300130
nsawhney@aclunc.org
LAUREN M. DAVIS - # 357292
ldavis@aclunc.org
AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF NORTHERN CALIFORNIA
39 Drumm Street
San Francisco, CA 94111
Telephone: (415) 621-2493

ABBY SULLIVAN ENGEN- # 270698
asullivanengen@centrolegal.org
JESSE NEWMARK - # 247488
jessenewmark@centrolegal.org
NIKOLAS DE BREMAEKER (pro hac vice forthcoming)
ndebremaeker@centrolegal.org
CENTRO LEGAL DE LA RAZA
3400 E. 12th Street
Oakland, CA 94601
Telephone: (510) 437-1863

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FRESCIA GARRO PINCHI, JUANY GALO SANTOS, and JOSE TELETOR SENTE, on behalf of themselves and others similarly situated,

Plaintiffs-Petitioners,

v.

SERGIO ALBARRAN, Field Office Director of the San Francisco Immigration and Customs Enforcement Office; KRISTI NOEM, Secretary of the United States Department of Homeland Security; TODD LYONS, Acting Director of United States Immigration and Customs Enforcement; PAMELA BONDI, Attorney General of the United States; SIRCE OWEN, Acting Director of Executive Office of Immigration Review, acting in their official capacities,

Defendants-Respondents.

Case No. 5:25-cv-5632-PCP

CLASS ACTION COMPLAINT AND AMENDED PETITION FOR WRIT OF HABEAS CORPUS

JUDY RABINOVITZ (pro hac vice forthcoming)
jrabinovitz@aclu.org
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
Telephone: (212) 549-2660

Attorneys for Plaintiffs-Petitioners

INTRODUCTION

1. This case challenges the Trump Administration's sweeping and unprecedented campaign to re-arrest and re-detain noncitizens living in the community—many for years—without any individualized determination that they now pose a flight risk or danger.

2. Federal immigration officials have the authority to release apprehended noncitizens pending ongoing removal proceedings. Any decision to release a noncitizen—whether on parole, bond, other supervision conditions, or their own recognizance—necessitates a finding that the specific individual poses no flight risk or danger to the community that warrants detention. For decades, federal immigration officials have adhered to a policy of not re-arresting and re-detaining noncitizens previously released from federal custody, absent an individualized determination that there had been a material change in their circumstances that rendered them a danger or flight risk. This longstanding policy reflects a fundamental due process principle: When the government conditionally releases an individual, it makes "an implicit promise" that their liberty will not be revoked unless they fail to satisfy their conditions of release. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). It also conforms with the Fourth Amendment's prohibition on repeated seizures based on the same probable cause without a material change in circumstances.

3. Countless noncitizens have relied on this implicit promise to build their lives. While their removal proceedings remain ongoing, they have pursued relief from removal, grown their families, paid taxes, invested in their education, and developed extensive community and family ties. The government's policy assured these individuals that they would retain their liberty while they litigated their claims for immigration relief, so long as they continued to pose no danger or flight risk, i.e., avoided criminal activity and complied with their obligations under the immigration laws.

4. This all changed around May 2025, when Defendants initiated an aggressive new campaign targeting noncitizens living in the community for re-arrest and re-detention. Most visibly, Defendants have sent Immigration and Customs Enforcement ("ICE") officers to immigration courts, including San Francisco, Concord, and Sacramento Immigration Courts, to arrest and detain people after they exit their immigration hearings. In addition, ICE has been re-

arresting noncitizens when they attend required check-ins with ICE, its co-agencies within DHS, and its contractors. In other words, this campaign specifically targets noncitizens who are doing exactly what the government told them to do.

5. These arrests and detentions continue to occur at immigration courts as well as at required check-ins with ICE (including check-ins through the Intensive Supervision Appearance Program, or ISAP) notwithstanding the current lapse in government appropriations.

6. These enforcement actions arise from a new policy (the "Re-Detention Policy"), which has drastically overturned longstanding federal policies and practices by authorizing re-arrest and re-detention of noncitizens untethered from any basis in—or individualized assessment of—their flight risk or danger to the community.

7. Defendants' implementation of this policy in ICE's San Francisco Area of Responsibility has torn apart families, interfered with people's ability to access counsel and to pursue eligible claims for relief, caused trepidation and reluctance in noncitizens who otherwise want to comply with their legal obligations to appear for court hearings and supervision check-ins, and sown fear in immigrant communities throughout Northern and Central California.

8. The Re-Detention Policy is unlawful. It radically upends longstanding federal policy and practice without any reasoned explanation or consideration of the relevant factors—including the reliance interests of those who have been released, fundamental due process principles requiring an individualized determination of flight risk and danger to the community prior to re-detention, and the Fourth Amendment's prohibition on unreasonable seizures. The policy also cannot be reconciled with Defendants' statutory authority to arrest and detain noncitizens under the Immigration and Nationality Act. The policy is therefore contrary to law and arbitrary and capricious in violation of the Administrative Procedure Act.

9. Plaintiffs/Petitioners now seek to represent a class of noncitizens, and one subclass, who have been or will be harmed by this agency policy and practice. The class includes all noncitizens in the jurisdiction of the San Francisco ICE Field Office who (1) entered or will enter the United States without inspection; (2) have been or will be charged with inadmissibility under 8 U.S.C. § 1182 and have been or will be released from DHS custody; and who (3) are in

removal proceedings under 8 U.S.C § 1229a, including any § 1229a proceedings that have been dismissed where the dismissal is not administratively final; and (4) are not subject to detention under 8 U.S.C. §1226(c) (the "Class"). The subclass includes all members of the Class whose release from DHS custody was or will be on bond, conditional parole, or on their own recognizance under 8 U.S.C. § 1226(a) and/or 8 C.F.R. § 236.1(c)(8) (the "Bond/RoR Subclass").

10. Plaintiffs/Petitioners, the Class and Bond/RoR Subclass ask the Court to vacate the Re-Detention Policy because it violates the Administrative Procedure Act.

11. Plaintiffs/Petitioners further ask the Court to exercise its habeas authority and enjoin Defendants from re-detaining them in violation of the Due Process Clause and Fourth Amendment.

JURISDICTION AND VENUE

12. This Court has jurisdiction under 28 U.S.C. § 2241 (writ of habeas corpus) and 28 U.S.C. § 1331 (federal question) because this action arises under the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 *et seq.*, and the United States Constitution. Because this suit seeks relief other than money damages and challenges Defendants' unlawful actions, the United States has waived sovereign immunity from this suit under the APA. 5 U.S.C. § 702.

13. Venue is proper in the Northern District of California under 28 U.S.C. § 1391(e)(1) because at least one Plaintiff resides in this judicial district; each Defendant is an agency of the United States or an officer of the United States sued in their official capacity; and a substantial part of the events giving rise to the claims in this action took place in this District.

PARTIES

Plaintiffs/Petitioners

14. Plaintiff/Petitioner Frescia Anthuane Garro Pinchi is a 27-year-old woman who is a resident of Hayward, California. After entering the country without inspection in 2023, she was placed in removal proceedings under 8 U.S.C. § 1229a and charged with inadmissibility under 8 U.S.C. § 1182. Thereafter, DHS released her on her own recognizance pursuant to 8 U.S.C. § 1226(a) and 8 C.F.R. § 236.1(c)(8). Since that time, she has been working in the gig economy, studying English, and caring for her household as well as sending money to her mother and

daughter in Peru. She has fully complied with the conditions of her release. She has no criminal history and is pursuing asylum based on her fear of persecution in Peru. If her application for asylum is granted, she will continue on the path to permanent residency and, eventually, U.S. citizenship.

15. Plaintiff/Petitioner Juany Galo Santos is a 42-year-old woman who resides in San Mateo, California. After entering the country without inspection in December 2023, she was placed in removal proceedings under 8 U.S.C. § 1229a and charged with inadmissibility under 8 U.S.C. § 1182. Thereafter, DHS released her on her own recognizance pursuant to 8 U.S.C. § 1226(a) and 8 C.F.R. § 236.1(c)(8). Since that time, she has built a life in the United States for herself and two of her daughters. Ms. Galo Santos is the sole caregiver and provider for her daughters, one of whom has complex medical needs that require significant ongoing care. She has fully complied with the conditions of her release and has no criminal history. Ms. Galo Santos is currently pursuing asylum based on her fear of violence and persecution in Honduras. If her application for asylum is granted, she will continue on the path to permanent residency and, eventually, U.S. citizenship.

16. Plaintiff/Petitioner Jose Waldemar Teletor Sente is a 37-year-old man who resides in San Francisco, California. After entering the country without inspection in 2019, Mr. Teletor Sente was placed in removal proceedings under 8 U.S.C. § 1229a and charged with inadmissibility under 8 U.S.C. § 1182. Thereafter, DHS released him on his own recognizance pursuant to 8 U.S.C. § 1226(a) and 8 C.F.R. § 236.1(c)(8). Since 2019, Mr. Teletor Sente has built a life in the United States with his son. Mr. Teletor Sente received a work permit and began working in construction to support his son and the members of his family who remained in Guatemala. Mr. Teletor Sente has fully complied with the conditions of his release. He has no criminal history and has filed an application for asylum based on his fear of violence in Guatemala. If his application for asylum is granted, he will continue on the path to permanent residency, and eventually U.S. citizenship.

Defendants

17. Defendant Sergio Albarran, sued in his official capacity, is the Field Office

Director of the San Francisco ICE Field Office. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's San Francisco Area of Responsibility, including the previous re-arrest and re-detention of Plaintiff/Petitioner Garro Pinchi. Defendant Albarran maintains an office and regularly conducts business in this District.

18. Defendant Kristi Noem, sued in her official capacity, is the Secretary of Homeland Security. As the highest-ranking officer for DHS, Defendant Noem has ultimate statutory authority over all of the policies challenged in this action. *See* 6 U.S.C. § 557 (transferring functions from the Attorney General).

19. Defendant U.S. Department of Homeland Security is a cabinet-level department of the Executive Branch of the federal government and is an "agency" within the meaning of 5 U.S.C. § 551(1). DHS includes various component agencies, including Immigration and Customs Enforcement and Customs and Border Patrol. DHS, together with all of its component agencies, is responsible for administering and enforcing all of the policies challenged in this action.

20. Defendant Todd M. Lyons, sued in his official capacity, is the Acting Director of U.S. Immigration and Customs Enforcement. As the highest-ranking officer for ICE, Defendant Lyons has authority over all of the policies challenged in this action.

21. Defendant U.S. Immigration and Customs Enforcement is a component agency of DHS. ICE is an "agency" within the meaning of 5 U.S.C. § 551(1). ICE's mission includes the enforcement of civil laws related to immigration. Among other things, ICE is responsible for arrest and detention related to civil immigration charges in the interior of the United States and is responsible for administering and enforcing the policies challenged in this action.

LEGAL BACKGROUND

22. Two mutually exclusive provisions of the Immigration and Nationality Act ("INA") govern ICE's authority to detain noncitizens who do not have administratively final orders of removal.

23. 8 U.S.C. § 1225(b) sets forth DHS's detention authority related to the "inspection" process. The first subsection, § 1225(b)(1), governs the detention of noncitizens placed in

"expedited removal" proceedings, a fast-track form of removal that historically has applied only at the border and ports of entry. The second subsection, 8 U.S.C. § 1225(b)(2), governs the detention of noncitizens who are "applicant[s] for admission," are actively "seeking admission," and are "not clearly and beyond a doubt entitled to be admitted," but who are placed in removal proceedings before an immigration judge (also known as "Section 240 proceedings" or proceedings under 8 U.S.C. § 1229a rather than expedited removal).

24. In contrast, 8 U.S.C. § 1226 governs the detention of noncitizens "already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). When Congress enacted § 1226, it issued an interim regulation making clear that the statute applies to the subset of "applicants for admission" not covered by § 1225(b)(2): those "who are present without having been admitted or paroled." In other words, § 1226 applies to noncitizens who "entered [the U.S.] without inspection" between ports of entry. 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Section 1226(a) creates a "default rule," which authorizes, but does not require, DHS to detain noncitizens in Section 240 proceedings. A narrower subsection, § 1226(c), mandates detention for certain noncitizens based on criminal conduct or terrorist activity that subjects them to removability or inadmissibility. This year, Congress amended § 1226(c) to also mandate the detention of noncitizens who are inadmissible not only because they entered without inspection, but who also have been arrested for or convicted of certain property crimes. *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c)(1)(E).

25. The source of DHS's authority to release noncitizens from custody depends on which detention statute applies. Section 1226(c) is the most restrictive provision and authorizes release only when necessary under federal witness protection statutes. *See* 8 U.S.C. § 1226(c)(4). On its face, § 1225 also offers few paths to release. Noncitizens subject to either subsection of § 1225 are not statutorily eligible for bond—whether by DHS or an immigration judge—or release on their own recognizance. However, DHS can release them on humanitarian parole under 8 U.S.C. § 1182(d)(5)(A). Section 1226(a) is broader in scope. Under § 1226(a), DHS can release noncitizens on bond, on their own recognizance (formally called "conditional parole"), or on humanitarian parole. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 236.1(8). Noncitizens who are subject

to § 1226(a) are also entitled to a bond hearing before an immigration judge.

26. Regardless of the statutory vehicle for release, a DHS officer may not release a noncitizen unless the individual does not pose a risk of flight or danger to the community. *See* 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8) (noncitizen must "demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding"); *see also* 8 C.F.R. § 212.5 (humanitarian parole available only when "the [noncitizens] present neither a security risk nor a risk of absconding").

27. Similarly, in deciding whether to release a noncitizen on bond or their own recognizance, immigration judges consider whether the individual poses a danger to the community and whether they are likely to appear for future proceedings. 8 C.F.R. § 1003.19(h)(3); *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006).

28. As a result, any "[r]elease" of a noncitizen "reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

29. Statutory and regulatory provisions governing re-arrest also depend on the manner of release. Under the text of the INA and federal regulations, certain DHS officials "at any time may revoke a bond or [conditional] parole authorized under [§ 1226(a)], rearrest the [noncitizen] under the original warrant, and detain the [noncitizen]." 8 U.S.C. § 1226(b); *see* 8 C.F.R. § 236.1(c)(9). Certain DHS officials may terminate humanitarian parole upon written notice when they determine that the purpose for parole has been "accomplish[ed]" or when "neither humanitarian reasons nor public benefit warrants the [noncitizen's] continued presence . . . in the United States[.]" 8 C.F.R. § 212.5(e)(2)(i). For decades, however, DHS has had a consistent policy and practice of re-detaining noncitizens in removal proceedings only when the individual circumstances related to their flight risk or danger to the community had materially changed.

30. DHS has placed explicit limits on re-detention under 8 U.S.C. § 1226(b) by requiring authorization from a high-level official within the field office. By regulation, such revocations of release from custody may only be carried out in the "discretion of the district

director, acting district director, deputy director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign)." 8 C.F.R. § 236.1(c)(9).

31. Additionally, despite "the breadth of [the] statutory language" in 8 U.S.C. § 1226(b), the federal government's authority is subject to "an important implicit limitation": It cannot lawfully re-arrest or re-detain someone without "a material change in circumstances." *Saravia*, 280 F. Supp. 3d at 1197; *see also, e.g.*, *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (B.I.A. 1981).

32. In the immigration context, this limitation means that a person who immigration authorities released from initial custody cannot be re-arrested "solely on the ground that he is subject to removal proceedings[,]" without some new, intervening cause. *Saravia*, 280 F. Supp. at 1196. Indeed, the Fourth Amendment, which applies to seizures by immigration authorities, prohibits such re-arrests, which courts have long held could result in "harassment by continual rearrests." *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971) (Stevens, J.) (prohibiting re-arrest without change in circumstances in criminal context); *see also U.S. v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975) (applying Fourth Amendment principles from criminal context to "limit" scope of immigration agents' seizure authority); *Gonzalez v. United States Immigr. & Customs Enf't*, 975 F.3d 788, 817 (9th Cir. 2020) (Fourth Amendment limits apply equally to seizures in criminal and civil immigration context). The same applies here.

33. This prohibition also derives from fundamental constitutional principles enshrined in the Due Process Clause of the Fifth Amendment. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). And those due process protections extend to "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533 U.S. at 693).

34. "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including "the exercise of

power without any reasonable justification in the service of a legitimate government objective," *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). Due process requires that all forms of civil detention—including immigration detention—bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

35. The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings (or, in the case of a removal order, at removal); and preventing danger to the community. *Zadvydas*, 533 U.S. at 690-92; *see Demore v. Kim*, 538 U.S. 510, 519-20, 527–28, 531 (2003). It has also held that, in general, these purposes may not be assessed on a blanket or categorical basis. Instead, immigration custody decisions generally must be based on an "individualized determination" of flight risk and danger to the community. *See INS v. Nat'l Ctr. for Immigrants' Rts., Inc.*, 502 U.S. 183, 194 (1991); *see also Zadvydas*, 533 U.S. at 690; *R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 188 (D.D.C. 2015).

36. Moreover, individuals who are released from government custody have a protected liberty interest in remaining out of custody. The government's decision to release an individual from custody creates "an implicit promise" that their liberty "will be revoked only if [they] fail[ ] to live up to the . . . conditions [of release]." *Morrissey*, 408 U.S. at 482.

37. Accordingly, in the criminal context, the Supreme Court has repeatedly recognized that re-detention after some form of conditional release requires a pre-deprivation hearing. *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

38. These principles apply with at least equal force to people released from civil immigration detention. After all, noncitizens living in the United States have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. And, "[g]iven the civil context [of immigration detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

39. Thus, if 8 U.S.C. § 1226(b) were construed as allowing ICE to re-arrest and re-detain noncitizens for any reason—or no reason at all—it would raise serious constitutional questions under both the Fourth Amendment and the Due Process Clause.

40. Until around May 2025, Defendants' policy and practice was consistent with this construction.

FACTUAL ALLEGATIONS

I. For decades, Defendants required a material change in circumstances before invoking 1226(b)'s re-detention authority.

41. For decades, federal immigration officials have adhered to a policy of not re-arresting and re-detaining noncitizens who have been released pending removal proceedings, absent an individualized determination that there has been a material change with respect to whether a particular person poses a flight risk or danger to the community.

42. As far back as 1981, the Board of Immigration Appeals made clear that the government could not re-arrest and re-detain a noncitizen released by an immigration judge on bond "absent a change of circumstance" warranting detention. *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981); *see also Panosyan v. Mayorkas*, 854 F. App'x 787, 788 (9th Cir. 2021).

43. Federal immigration officials reiterated this policy on numerous occasions. For example, the head of the Immigration and Naturalization Service (ICE's predecessor agency) stated in a 1995 memorandum that: "[w]hen a[] [noncitizen] has been released from INS custody under bond, such bond can be revoked by the district director . . . but only based upon 'a change of circumstances.' . . . As such, INS must be able to justify any revocation decision, future detention or release condition." *Demore v. Kim*, 2002 WL 34705774 (U.S. Aug. 29, 2002), (No. 01-1491), Joint Appendix at 57.

44. As a matter of policy and longstanding practice, DHS and its predecessor agencies applied the same rule to release decisions made by federal immigration officers, including ICE officers. As DHS previously represented to a court in this District, the government historically re-arrested previously released noncitizens only after "a material change in circumstances" as to whether they are a flight risk or dangerous. *Saravia*, 280 F. Supp. 3d at 1197; Federal Defendants' Supplemental Brief at 1, *Saravia v. Sessions*, No. 3:17-cv-03615-VC, (N.D. Cal. Nov. 3, 2017),

Dkt. No. 90. Since then, courts in this District and nationwide have repeatedly acknowledged the existence of DHS's prior policy and practice. *See, e.g.*, *U.S. v. Cisneros*, No. 19-CR-00280-RS-5, 2021 WL 5908407, at *3-4 (N.D. Cal. Dec. 14, 2021); *Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2337099, (D. Ariz. Aug. 11, 2025); *Dos Santos v. Noem*, No. 1:25-CV-12052-JEK, 2025 WL 2370988, at *9 (D. Mass. Aug. 14, 2025).

45. Under DHS's prior policy and practice, and across presidential administrations, ICE officers in the San Francisco Area of Responsibility generally would not re-arrest or re-detain a non-detained noncitizen in removal proceedings without conducting an individualized assessment and determining that their flight risk or danger to the community had materially changed since their release or their last check-in appointment. This policy and practice applied regardless of whether a noncitizen had previously been released on bond, conditional parole, or humanitarian parole.

46. For example, if a noncitizen became involved with the criminal justice system, violated a condition of ICE supervision, or violated a condition of the Intensive Supervision Appearance Program (ISAP), which is run by a private contractor, ICE generally would set an appointment and interview the non-citizen about the changed circumstance before making an individualized decision as to whether re-detention was warranted. If the noncitizen affirmatively sought to remedy the violation or returned to compliance, ICE often would not re-detain the noncitizen.

47. Countless noncitizens released pending removal proceedings have relied on the government's policy against indiscriminate re-arrest and re-detention to plan their lives. So long as they complied with their legal obligations to attend immigration proceedings and avoid criminal activity, noncitizens could confidently assume they would be able to litigate their right to remain in the United States while living in the community and with their families, rather than from detention. This meant they could access and consult with legal representatives, enter into leases for residential housing, seek work authorization and lawful employment, invest in their education, develop community ties, participate in religious life, and grow and take care of their families (including U.S. citizen family members).

II. Around May 2025, Defendants adopted and implemented the Re-Detention Policy, which abandoned their longstanding policy and practice.

48. In or around May 2025, Defendants reversed this longstanding policy and adopted the Re-Detention Policy, which authorizes re-arrest and re-detention of previously released noncitizens without any individualized assessment of a person's flight risk or danger—indeed, without any individualized justification at all.

49. The Re-Detention Policy does away with the previous policy's requirement that, *before* a person previously released from immigration custody on recognizance, parole, or bond can be re-arrested and re-detained, DHS must conduct an individualized determination of materially changed circumstances (*e.g.*, danger to the community and/or flight risk) to justify the re-arrest and re-detention. In fact, the government has admitted in some cases that there was *no* change in circumstance justifying re-detention. *See, e.g.*, *Maklad v. Murray*, No. 1:25-cv-00946, 2025 WL 2299376, at *3 (E.D. Cal. Aug. 8, 2025) ("[T]he government conceded that [prior to her re-detention] there were no changes in circumstances since the original determination that Ms. Maklad does not pose a flight risk or a danger to the community[.]").

50. ICE has implemented its new policy in an unprecedented campaign of re-arrests at immigration courthouses, ICE offices, and myriad other locations within this District, the broader region, and nationwide. These re-arrests have targeted individuals who have not had any material change in circumstances with respect to whether they posed a flight risk or danger to the community since their release from DHS custody. On the contrary, these individuals complied with the requirements that the government imposed on them, including attending immigration court hearings and ICE supervision check-ins.

51. This campaign substantially materialized in the form of aggressive enforcement actions at immigration courts, including the San Francisco, Concord, and Sacramento Immigration Courts. Since May 2025, ICE has arrested noncitizens who are in removal proceedings as they leave routine immigration court hearings. Generally, DHS attorneys make an oral motion to dismiss the proceedings—without any notice to the affected individual—in advance of a re-arrest. Although DHS regulations do not permit such motions to dismiss absent a showing that the "[c]ircumstances of the case have changed," 8 C.F.R. § 239.2(a)(7), (c), DHS attorneys do not

conduct any case-specific analysis of changed circumstances before filing these motions to dismiss or offer case-specific reasons for dismissal. ICE agents then re-arrest noncitizens, often as they leave the courtroom, regardless of whether the immigration judge grants the motion.

52. This "coordinated operation" is "aimed at dramatically accelerating deportations" by re-arresting people, many of whom have pending applications for asylum or other relief, while they are attending immigration court hearings in their cases.[1] In addition, Defendants' sweeping re-arrest and re-detention campaign has expanded past its initial targeting of people at or near immigration courthouses to sweep up people at numerous other locations. For example, many noncitizens have regularly attended "check-in" appointments with ICE or its contractor ISAP for months or years while they pursue their immigration cases. Like immigration court hearings, these previously routine appointments have become hotbeds for re-arrest and re-detention. When noncitizens arrive at their local ICE Field Office or ISAP office, rather than conducting the regular "check-in," Defendants instead have begun to re-arrest and re-detain them. Like the re-arrests at immigration courthouses, Defendants conduct arrests at these check-in appointments without requiring or considering any change in the individualized circumstances of the noncitizen.

53. Additionally, on information and belief, the Re-Detention Policy allows the re-arrest and re-detention of non-citizens released pursuant to 8 U.S.C. § 1226(a) without the authorization of "the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge," as is required by 8 C.F.R. § 236.1(c)(9).

54. Defendants adopted and implemented the Re-Detention Policy amid a nationwide push to dramatically increase immigration arrests and detention, regardless of the individual circumstances of the people arrested and detained.

[1] Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in Trump's Deportation Push*, Wash. Post, May 23, 2025, https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/; *see also* Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE is Seeking to Ramp Up Deportations Through Courthouse Arrests*, N.Y. Times, May 30, 2025, https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html; Dani Anguiano, *Mother Arrested at LA Court Alongside Six-Year-Old Son with Cancer Sues ICE*, Guardian, June 27, 2025, https://www.theguardian.com/us-news/2025/jun/27/honduras-mother-ice-arrest-lawsuit.

55. For example, in late May 2025, the White House and the Department of Homeland Security imposed a "goal" on federal immigration agencies of 3,000 immigration-related arrests per day—with "consequences for not hitting arrest targets."[2]

56. In order to reach these targets, White House Deputy Chief of Staff Stephen Miller directed high-level officials to change their approach to stops and arrests in the field. Agents and officers, according to him, should no longer conduct targeted operations based on investigations. Instead, they should "just go out there and arrest [unauthorized noncitizens]" by rounding up people in public spaces like "Home Depot" and "7-Eleven" convenience stores.[3] Agents received instructions that arrests were "all about the numbers, not the level of criminality."[4]

57. In a May 28, 2025 interview with Fox News, Mr. Miller stated that "Under President Trump's leadership, we are looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President Trump is going to keep pushing to get that number up higher each and every single day."[5]

58. Re-arrests and re-detentions without any individualized assessment of changed circumstances related to flight risk or danger have skyrocketed because of these enforcement operations. Since May 2025, dozens of people, including Plaintiff/Petitioner Garro Pinchi, have been detained at the San Francisco Immigration Court following their routine immigration hearings and without any assertion that an individualized material change in circumstances

[2] Elizabeth Findell, et al., *The White House Marching Orders That Sparked the L.A. Migrant Crackdown*, The Wall Street Journal (June 9, 2025), https://www.wsj.com/us-news/protests-los-angeles-immigrants-trump-f5089877.

[3] *Id.*

[4] Ted Hesson & Kristina Cooke, *ICE's Tactics Draw Criticism as it Triples Daily Arrest Targets,* Reuters, June 10, 2025, https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/; Alayna Alvarez & Brittany Gibson, *ICE Ramps Up Immigration Arrests in Courthouses Across the U.S.*, Axios, June 12, 2025, https://www.axios.com/2025/06/12/ice-courthouse-arrests-trump

[5] *See, e.g., Vasquez Perdomo v. Noem*, 148 F. 4th 656, 665 n. 2 (9th Cir. Aug. 1, 2025).

justified their detention.[6] In addition to these courthouse arrests, dozens more have been detained since May 2025 at ICE and ISAP check-ins without any assertion of materially changed circumstances. These arrests have extended to other Northern California immigration courthouses too, including at least several dozen arrests at the Sacramento Immigration Court[7] and, at minimum, four more arrests within a single day at the Concord Immigration Court.[8] On information and belief, ICE arrests at these immigration courts and at ICE and ISAP check-ins in the San Francisco Area of Responsibility have increased by more than 500% since May 2025. These re-arrests and re-detentions would not have been permissible under DHS's prior policy.

59. These same trends have materialized nationwide. In New York City, for example, "ICE agents [] apprehended so many people showing up for routine appointments . . . that the facilities" were "overcrowded[,]" with "[h]undreds of migrants . . . sle[eping] on the floor or sitting upright, sometimes for days[.]"[9]

60. Indeed, in part because of these operations, ICE's arrests nationwide of noncitizens

---

[6] Sarah Ravani, *ICE Arrests Two More at S.F. Immigration Court, Advocates Say*, S.F. Chron., June 12, 2025, https://www.sfchronicle.com/bayarea/article/sf-immigration-court-arrests-20374755.php; Margaret Kadifa & Gustavo Hernandez, *Immigrants fearful as ICE Nabs at least 15 in S.F., Including Toddler*, Mission Local, June 5, 2025, https://missionlocal.org/2025/06/ice-arrest-san-francisco-toddler/; Tomoki Chien, *Undercover ICE Agents Begin Making Arrests at SF Immigration Court*, S.F. Standard, May 27, 2025, https://sfstandard.com/2025/05/27/undercover-ice-agents-make-arrests-san-francisco-court/; Mariana Garcia, *ICE Makes Largest Single-Court Arrest in S.F., Detaining 8*, MISSION LOCAL, Sept. 12, 2025, https://missionlocal.org/2025/09/ice-arrests-8-asylum-seekers-at-s-f-immigration-court-most-ever-in-single-morning/.

[7] Sharon Bernstein, *Sacramento Courthouse Immigration Stops, Some Violent, Detailed in Legal Filing*, Sept. 29, 2025, https://www.sacbee.com/news/local/article312274458.html.

[8] Megan Cassidy & Jessica Flores, *S.F. East Bay Immigration Courts Abruptly Shut Down After ICE Arrests*, June 10, 2025, https://www.sfchronicle.com/sf/article/ice-arrest-courthouse-immigration-trump-20370459.php.

[9] Luis Ferré-Sadurní, *Inside a Courthouse, Chaos and Tears as Trump Accelerates Deportations*, N.Y. Times, June 12, 2025, https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html; Jasmine Garsd, *In Recorded Calls, Reports of Overcrowding and Lack of Food at ICE Detention Centers*, NPR, June 6, 2025, https://www.npr.org/2025/06/05/nx-s1-5413364/concerns-over-conditions-in-u-s-immigration-detention-were-hearing-the-word-starving (estimating ICE is at 125% capacity and reporting nation-wide "overcrowding, illness and hunger in detention facilities"); Luis Ferré-Sadurní, *Deportation of 6-Year-Old Puts Spotlight on ICE's Detention of Families*, N.Y. Times, Aug. 20, 2025, https://www.nytimes.com/2025/08/20/nyregion/ice-6-year-old-nyc.html (reporting that immigration authorities have detained about 50 children and deported at least 38 in the New York City area since January).

with no criminal record have increased more than 1,100% since before January.[10] 79% of ICE's weekly non-custodial arrests involved people with no criminal convictions, up 23 percentage points from January.[11] ICE arrests in total have increased 123 percent since 2024.[12]

61. At the same time as it has increased immigration arrests, the Administration has moved forward with radically increasing immigration detention capacity nationwide.

62. On July 4, 2025, President Trump signed the "Big Beautiful Bill" into law. The legislation makes U.S Immigration and Customs and Enforcement the largest federal law enforcement agency, giving it $45 billion for building new detention centers in addition to $14 billion for deportation operations. In addition, the legislation includes $3.5 billion for reimbursements to state and local governments for costs related to immigration-related enforcement and detention.[13]

63. In explaining the need for the legislation, "border czar" Tom Homan told reporters that the bill needed to pass so the federal government could buy more detention beds because "the more beds we have, the more bad guys we arrest."[14] The Trump administration has already opened new immigration detention facilities, such as the South Florida Detention Facility—nicknamed Alligator Alcatraz.[15] In California, the administration has repurposed a former state prison in

---

[10] David J. Bier, *ICE Is Arresting 1,100 Percent More Noncriminals on the Streets Than in 2017*, Cato at Liberty Blog, June 24, 2025, https://www.cato.org/blog/ice-arresting-1100-percent-more-noncriminals-streets-2017.

[11] *Id.*

[12] Albert Sun, *Immigration Arrests Are Up Sharply in Every State. Here Are the Numbers*., N.Y. TIMES, June 27, 2025, https://www.nytimes.com/interactive/2025/06/27/us/ice-arrests-trump.html.

[13] Lauren-Brooke Eisen, *Budget Bill Massively Increases Funding for Immigration Detention*, Brennan Center for Justice, July 3, 2025, https://www.brennancenter.org/our-work/analysis-opinion/budget-bill-massively-increases-funding-immigration-detention.

[14] Juliana Kim, *How Trump's tax cut and policy bill aims to 'supercharge' immigration enforcement*, NPR, July 3, 2025, https://www.npr.org/2025/07/03/g-s1-75609/big-beautiful-bill-ice-funding-immigration.

[15] *Florida's Secretive Immigration Detention Center, Explained*, August 15, 2025, https://www.aclu.org/news/immigrants-rights/floridas-secretive-immigration-detention-center-explained.

California City as an ICE detention center.[16] California City Detention Facility is now the largest immigration detention center in the state, with over 2,500 beds.[17]

64. Government officials have also suggested their motivation in their massive detention efforts is to pressure individuals to give up their right to contest removal and agree to deportation, rather than either of the two constitutionally permissible bases for detention: preventing flight risk or danger to the community. For instance, Secretary Noem in discussing how the administration has opened detention facilities in seemingly treacherous locations, indicated the administration's goal of ensuring that people know "if they are detained, they [wi]ll be removed" and offered that detention is an effective strategy to encourage people, including those with meritorious claims for immigration relief, to deport themselves "voluntarily."[18]

III. Plaintiffs/Petitioners and members of the proposed class who pose no flight risk or danger to the community now face re-detention under Defendants' unlawful Re-Detention Policy.

65. The Re-Detention Policy has resulted in the sudden, no-notice re-detention of countless noncitizens whom the government has already determined are neither dangerous nor flight risks, without any individualized consideration of whether any new facts exist to justify a different determination. Indeed, the facts show that the people caught up in the new policy overwhelmingly lack any criminal history and have a proven record of compliance with immigration check-ins and court appearances. Through their conduct, they have shown that the government's initial assessment of them was accurate—they are neither dangerous nor flight risks. Nevertheless, they now face arbitrary re-arrest and indefinite re-detention. Plaintiffs'/Petitioners' cases illustrate these very concerns.

66. Plaintiff/Petitioner Garro Pinchi, for example, is an asylum seeker who fled Peru

[16] U.S. Immigration and Customs Enforcement, California, Detention Facilities, California City Detention Facility, https://www.ice.gov/detain/detention-facilities/california-city-detention-facility (Last Updated Sep. 5, 2025).

[17] Tyche Hendricks, *California's Newest Immigration Facility Is Also Its Biggest. Is It Operating Legally?*, Sep. 4, 2025, https://www.kqed.org/news/12054544/californias-newest-immigration-facility-is-also-its-biggest-is-it-operating-legally.

[18] Nicole Sganga, *Kristi Noem says "Alligator Alcatraz" to be model for ICE state-run detention centers*, CBS News, Aug. 4, 2025, https://www.cbsnews.com/news/alligator-alcatraz-model-kristi-noem-homeland-security/.

and entered the United States without inspection on or around April 14, 2023. After entering the country, she encountered federal agents and turned herself in. The agents briefly detained her, determined that she was subject to discretionary detention under 8 U.S.C. § 1226(a) and that she was not a flight risk or danger to the community, and released her on her own recognizance pursuant to 8 C.F.R. § 236.1(c)(8), with a notice to appear for removal proceedings in the San Francisco immigration court. On the Notice to Appear, DHS classified her as "an alien present in the United States who has not been admitted or paroled" and did not classify her as an "arriving alien." DHS charged her as inadmissible only under 8 U.S.C. § 1182(a)(6)(A)(i), which applies to noncitizens physically present in the country without admission or parole.

67. DHS agents issued Ms. Garro Pinchi an "Order of Release on Recognizance" using a standard DHS form, setting forth the conditions of Ms. Garro Pinchi's conditional parole. Among other requirements, the form stated that Ms. Garro Pinchi must attend "any hearing or interview" required by DHS or the immigration court, comply with state and federal laws, and report to supervision appointments. The order also states that Ms. Garro Pinchi would remain released on her own recognizance as long as she "compl[ied]" with the listed conditions. The order states that "[f]ailure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by [DHS]," but includes no other possible reasons for which Ms. Garro Pinchi could have been re-detained.

68. Ms. Garro Pinchi relocated to Hayward, California and built her life there. After her initial release from custody, she did everything immigration authorities required her to do—all without the assistance of counsel. She updated her address with the immigration court as required, and in April 2024, she filed an application for asylum, withholding of removal, and protection under the Convention Against Torture with the immigration court, which remains pending. She has no criminal history.

69. On July 3, 2025, Ms. Garro Pinchi attended a master calendar hearing at the San Francisco Immigration Court. Without any warning, the DHS attorney orally moved to dismiss her case.

70. The immigration judge gave Ms. Garro Pinchi time to file a response and

continued the hearing until July 31, 2025. Although the immigration judge had continued the hearing, he told Ms. Garro Pinchi "I probably won't see you then"—suggesting that he expected that she would be arrested pursuant to DHS's new policy.

71. ICE officers arrested her minutes after she exited the courtroom. The government then detained her without any individualized basis or claim that her re-detention was justified to prevent flight risk or danger to the community. Absent this Court's orders mandating her release, she would have remained in detention, and she remains at risk of re-detention absent final court intervention. Dkt. Nos. 6, 33.

72. In connection with her re-arrest, ICE issued a Form I-200 "Warrant for Arrest of Alien" purporting to authorize her arrest under 8 U.S.C. § 1226 and 8 U.S.C. § 1357. The document is dated July 3, 2025. The sole basis for arrest identified on the warrant is "the pendency of ongoing removal proceedings" against Ms. Garro Pinchi. In the space for a signature from an "Authorized Immigration Officer," the warrant bears the signature of "S 3602 RILI – SDDO." "SDDO" stands for "Supervisory Detention and Deportation Officer."

73. Following her release from custody pursuant to this Court's Order, ICE agents required Ms. Garro Pinchi to attend a check-in the next day. ICE imposed conditions of release, including an annual check-in with ICE and in-person check-ins with ISAP, a private contractor. Ms. Garro Pinchi has complied with all conditions of release. Soon after her initial check-in, ICE de-escalated her supervision from in-person check-ins to weekly monitoring by phone. She has continued to comply with every requirement. After her release from custody, Ms. Garro Pinchi secured counsel for her removal proceedings and filed a written opposition to the government's motion to dismiss. The immigration judge denied the motion to dismiss, and her removal proceedings are ongoing.

74. Defendants detained Ms. Garro Pinchi pursuant to the unlawful Re-Detention Policy despite her posing no danger or flight risk – the two principal justifications for immigration detention recognized by the Supreme Court. *See Zadvydas*, 533 U.S. at 690-92*; Demore*, 538 U.S. at 519-20, 527-28, 531. The government previously released Ms. Garro Pinchi on her own recognizance because she did not pose sufficient risk of flight or danger to the community to

warrant detention.

75. None of that has changed. Ms. Garro Pinchi has no criminal record, and there is no basis to believe that she poses any public-safety risk. Nor is Ms. Garro Pinchi, *who was arrested while appearing in court for her immigration case*, conceivably a flight risk. Ms. Garro Pinchi's detention is not related to any permissible purpose under these circumstances and deprived her of a protected interest in her ongoing liberty without sufficient procedural protections.

76. Plaintiff/Petitioner Juany Galo Santos is an asylum seeker who fled Honduras in 2023. Immigration agents apprehended Ms. Galo Santos and her two young daughters after they crossed the border and detained them overnight. The next day, after determining that Ms. Santos was not a flight risk or a danger to the community, agents released her on her own recognizance under 8 C.F.R. § 236.1(c)(8). The agents also fitted her with an ankle monitor.

77. Ms. Galo Santos attended her first check-in with ICE in January 2024, at which time her ankle monitor was removed. Since that time, Ms. Galo Santos has complied with all reporting, supervision, and immigration court requirements, including in-person check-ins and updating ICE and the immigration court with her correct address. She has no criminal history. Since settling in San Mateo, California, Ms. Galo Santos has built a life for herself and her two daughters. She has an upcoming ICE check-in on January 16, 2026, and a master calendar hearing at the San Francisco Immigration Court on February 19, 2026. Under Defendants' prior policy, Ms. Galo Santos could attend her hearing and future supervision appointments confident that she would not be re-detained, based on her compliance with her terms of release and lack of any criminal history. But under Defendants' Re-Detention Policy, she now risks being ripped from her daughters, leaving them with no one to care for them or provide for them, for no reason.

78. The government previously released Ms. Galo Santos after finding that she did not pose a flight risk or danger to the community. Her conduct since she was released has only reinforced the accuracy of that determination. Her re-detention under Defendants' unlawful Re-Detention Policy would deprive her of her protected interest in her ongoing liberty without any procedural protections.

79. Plaintiff/Petitioner Jose Waldemar Teletor Sente is an asylum seeker who fled

Guatemala in 2019 and entered the United States without inspection in 2019. Mr. Teletor Sente and his then-nine-year-old son were apprehended by border patrol agents and were briefly detained before being released on their own recognizance under 8 C.F.R. § 236.1(c)(8).

80. Mr. Teletor Sente moved to San Francisco, California and built a life there for himself and his son. After receiving his work permit, he began working in construction, rented an apartment, and enrolled his son in school. At first, Mr. Teletor Sente was required to report to the ICE office in person once a month. He has since been enrolled in a remote monitoring program that requires him to check-in through the SmartLink application weekly. Mr. Teletor Sente has complied with all reporting, supervision, and immigration court requirements, both in person and remote. Mr. Teletor Sente has no criminal history.

81. Mr. Teletor Sente has an upcoming master calendar hearing at the San Francisco Immigration Court in November 2025. Concerned that he might be re-detained at his hearing under Defendants' Re-Detention Policy, Mr. Teletor Sente requested to appear via video instead of in person. Judge Ila Deiss granted Mr. Teletor Sente's request. However, Mr. Teletor Sente was subsequently notified that his hearing date had moved by several weeks to November 18, 2025, in front of a different immigration judge (Judge Elisa Brasil), and that he would need to appear in person. This in-person requirement may be due to the fact that Judge Brasil was recently fired, and, on information and belief, an attorney from the Armed Forces' Judge Advocate General's (JAG) Corps will be replacing her.

82. Under Defendants' prior policy, Mr. Teletor Sente could attend his upcoming hearing without worrying that he would be re-detained, based on his compliance with his terms of release and lack of any criminal history. But under Defendants' Re-Detention Policy, he now risks re-detention, which would upend the life he has built here, leaving his son with no one to care for him, and losing his apartment, car, and the ability to support his family in Guatemala.

83. The government previously released Mr. Teletor Sente after finding that he did not pose a flight risk or danger to the community. Since that time, he has complied with all his immigration requirements and given the government no reason to question that determination. His re-detention under Defendants' unlawful Re-Detention Policy would deprive him of his protected

interest in his ongoing liberty without any procedural protections.

84. On information and belief, more than 100 other noncitizens in the San Francisco Area of Responsibility with similar facts and circumstances have had the same experience as Plaintiffs/Petitioners.

85. For example, Salam Maklad is a 28-year-old asylum seeker who entered the United States without inspection in 2022. Ms. Maklad was briefly detained, during which time immigration officials interviewed her before releasing her in September 2022 under humanitarian parole. For the next three years, Ms. Maklad remained out of custody. She obtained a valid work permit and enrolled in school to improve her employment opportunities. Ms. Maklad met her now husband in the United States, and she is actively involved in her community, including attending church regularly. Despite no change in circumstances that would warrant taking her into custody, in July 2025, Ms. Maklad was arrested by ICE while appearing for her scheduled check-in at the San Francisco ICE Office. Ms. Maklad was kept in a holding cell for the entire day before being transported, in chains and handcuffs, to a detention center in Bakersfield, California. Ms. Maklad remained in the detention center for almost a month, during which time she lived with nearly one hundred women in a dormitory. For the majority of her detention, Ms. Maklad did not receive her medication, which exacerbated her chronic medical conditions. Like Ms. Garro Pinchi, Ms. Maklad was released only after filing a habeas petition to challenge her arbitrary re-detention.

86. As another example, Gabriela Vargas Plasencia is a 21-year-old asylum seeker who entered the U.S. without inspection in 2024. In her home country of Peru, she had been an engineering student. Ms. Vargas Plasencia also was briefly detained before immigration officials released her on her own recognizance, with conditions including that she attend her immigration court hearings and avoid criminal conduct. As Ms. Vargas Plasencia understood it, she could be re-detained while her immigration case was pending if she violated those conditions, but not if she complied. Ms. Vargas Plasencia settled in Oakland, California and has built her life there. She took English classes at Berkeley Adult School. She filed an asylum application within her first year in the United States, received employment authorization, and secured two jobs, often working over 50 hours a week. Ms. Vargas Plasencia attended her first immigration court hearing in San

Francisco on April 3, 2025, without incident. She attended her second hearing on September 4, 2025. The immigration judge continued her case to October. Although Ms. Vargas Plasencia did not violate her conditions of release, had no change in circumstances, and had ongoing removal proceedings, immigration agents re-arrested her as she was leaving the courtroom. Agents shackled her, briefly detained her in San Francisco, and transported her to a detention center in Bakersfield, California. After a few days there, Ms. Vargas Plasencia, too, was released only because of a federal court order. When she returned to San Francisco, she had to pay tow fees and parking fines for her car, which had been parked at the immigration court. She had also missed work, and despite previously having consistent attendance, received a warning from one of her employers that future absences could result in termination.

IV. DHS has offered no reasoned explanation for its dramatic change in policy.

87. When it adopted the Re-Detention Policy, DHS provided no explanation for why it reversed course from decades of not re-arresting and re-detaining people absent an individualized assessment of flight risk or danger, and certainly not one that considered the reliance, due process, and Fourth Amendment interests at stake.

88. Instead, the government merely asserted in opposition to numerous individual habeas cases challenging arbitrary re-detentions that it has the categorical authority under the INA to re-arrest and re-detain any individual in pending removal proceedings because of its general policy preferences and available bed space in detention facilities, without consideration of any facts specific to the individual being re-detained. *See, e.g.*, *Singh v. Andrews*, No. 1:25-cv-00801-KES-SKO (HC), 2025 WL 1918679, at *7 (E.D. Cal. July 11, 2025) (summarizing the government's position that it has the authority to re-detain noncitizens without any procedural protections or evaluation of a noncitizen's individual circumstances). These arguments generally failed, and courts repeatedly ordered the release of the noncitizens DHS had detained. *See*, *e.g.*, Dkt. 33; *Valdez v. Joyce,* No. 25 Civ. 4627 (GBD), 2025 WL 1707737, at *3 n.6 (S.D.N.Y. June 18, 2025); *Singh*, 2025 WL 1918679, at *7.

89. DHS attorneys then spent much of the summer attempting to persuade district courts to adopt various explanations for DHS's onslaught of re-arrests of people in Section 240

proceedings, despite often appearing unsure of the explanation themselves. *See, e.g.*, *Singh*, 2025 WL 1918679 at *4 (noting "uncertain basis" for petitioner's detention); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *1 (D. Mass. July 24, 2025) (describing government's inability to identify documents substantiating detention where authority was "plainly uncertain"); *Hernandez v. Wofford*, No. 1:25-cv-00986-KES-CDB, 2025 WL 2420390, at *4 (E.D. Cal. Aug. 21, 2025) (arguing that re-detention was justified under § 1225(b)(1) although dismissal of removal proceedings was not yet final).

90. Starting in late July or early August, DHS attorneys began providing a new post hoc explanation: that—contrary to 30 years of statutory interpretation—§ 1225(b)(2), and not § 1226(a)—applies to noncitizens in removal proceedings who entered without inspection, even those whom DHS itself had previously released from custody under the release mechanisms exclusive to § 1226(a). DHS attorneys have gone on to argue that § 1225(b)(2) has always required the mandatory detention of noncitizens within the scope of this subsection.

91. DHS's new interpretation of § 1225(b)(2) appears to stem from two pronouncements. *First*, in arguing for this new rationale, DHS attorneys have urged courts to adopt and extend *Matter of Q. Li*, a May 2025 BIA decision holding that a noncitizen who entered the country without inspection, was issued humanitarian parole after a brief initial detention, and whose parole was terminated when she was placed in removal proceedings years later, was subject to mandatory detention under § 1225(b)(2). *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025). Although the reasoning in *Matter of Q. Li* applies only to noncitizens released on humanitarian parole, DHS has relied on the case to argue that all noncitizens apprehended near the United States border have always been subject to § 1225(b)(2)—regardless of their manner of entry, the basis for their release from custody, how long they have been at liberty in the United States, and whether they are in removal proceedings.

92. *Second*, on July 8, 2025, DHS adopted and promulgated its own even more expansive interpretation of § 1225(b)(2). In an internal document emailed to ICE employees called *Interim Guidance Regarding Detention Authority for Applicants for Admission* (the "July 8 Memo"), DHS took the position that § 1225(b)(2), and not § 1226(a), applies to all noncitizens

present in the United States without admission or parole, including all noncitizens who have ever entered without inspection. The July 8 Memo stated that "[t]his change in legal interpretation may … warrant re-detention of a previously released [noncitizen] in a given case."

93. Throughout the late summer and fall, DHS has offered its new interpretation of § 1225(b)(2)—and relegation of § 1226(a)—as its justification for re-detaining any noncitizen who entered the country without inspection, generally conceding that the agency did not consider an individual's changed circumstances before deciding to re-detain them. DHS has made this argument even in cases where its agents had—only days or weeks before—issued an administrative arrest warrant under § 1226. *See*, *e.g.*, *Artiga v. Genalo*, No. 25-CV-5208 (OEM), 2025 WL 2829434, at *6 (E.D.N.Y. Oct. 5, 2025) (administrative warrant for re-arrest issued on September 15, 2025 under § 1226(a)); *Oliveros v. Kaiser*, No. 25-CV-07117-BLF, 2025 WL 2677125, at *2 (N.D. Cal. Sept. 18, 2025) (warrant for re-arrest in 2025 issued pursuant to § 1226(a)); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263, at *4 (N.D. Cal. Aug. 21, 2025) (administrative warrant for re-arrest issued July 24, 2025 under § 1226(a)).

94. In the nearly 30 years in which § 1226(a) and § 1225(b)(2) have co-existed in the INA's statutory scheme, DHS has consistently deemed noncitizens who entered the country without inspection and were placed in Section 240 proceedings to be subject to § 1226(a). When the agency released someone who entered without inspection, it generally did so under § 1226(a)(2) and 8 C.F.R. § 236.1(b)(8). By definition, DHS released the members of the Bond/RoR subclass—which includes Ms. Garro Pinchi, Ms. Galo Santos, and Mr. Teletor Sente—pursuant to its authority under § 1226(a) and its accompanying regulations. The documents DHS issued them during their initial detention repeatedly cite § 1226(a) as the statute governing their detention and classify them as already "present" in the country, rather than "arriving." They were at liberty in the interior of the country and in removal proceedings with DHS's explicit permission.

95. DHS has also never revisited the interim regulation it issued in 1997 under § 1226(a), which clarified that the statute applied to the subset of "applicants for admission" who entered the U.S. without inspection. *See* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). That subset of

applicants for admission is categorically different from those covered by § 1225(b)(2), who are "seeking" admission—*i.e.*, actively attempting to effect a lawful entry into the country. Indeed, when Congress amended § 1226(a)'s companion provision, § 1226(c), this year, it included noncitizens who entered without inspection as subject to the new mandatory detention provisions—which would not have been necessary if they were already covered by § 1225(b)(2), as DHS now contends. *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c)(1)(E).

96. The results of DHS's about-face have been chaotic, cruel, and untethered from DHS's prior consideration of an individual's flight risk or danger to the community to justify re-detention. This government conduct has dismantled decades of settled expectations. On information and belief, Defendants' Re-Detention Policy has resulted in the arbitrary re-detention of more than 100 non-citizens in the San Francisco Area of Responsibility, including Plaintiff/Petitioner Garro Pinchi. Plaintiff/Petitioner Galo Santos and Plaintiff/Petitioner Teletor Sente fear the same will happen to them at their upcoming immigration court hearings. These individuals have done everything the law requires of them: They have attended immigration court hearings and supervision check-ins and complied with various immigration administrative requirements. Yet they were re-arrested and re-detained, or face imminent re-arrest or re-detention.

V. Defendants' Re-Detention Policy will impose extraordinary and irreparable harm on Plaintiffs/Petitioners and the proposed class members.

97. Plaintiffs/Petitioners and proposed class members face the immediate threat of being re-arrested and re-detained indefinitely the next time they appear for a scheduled immigration court hearing or arrive at an ICE or ISAP office for a scheduled appointment. They face the terror of losing their liberty, of potentially being locked up for weeks, months, or even years in detention facilities thousands of miles away from their loved ones, homes, and immigration attorneys, and the witnesses and documents that are key to their immigration cases.

98. Plaintiffs/Petitioners and proposed class members risk separation from their homes and faith communities if and when they are re-detained. They risk losing gainful employment and having their schooling interrupted. They may lose their homes as the loss of their income makes it

impossible for them or their loved ones to pay rent or mortgage payments. Indeed, proposed class members who have already been re-detained under the Re-Detention Policy have lost employment, housing, and healthcare.

99. Plaintiffs/Petitioners and proposed class members further face the trauma of being indefinitely separated from their loved ones, including minor children. The lasting effects of the trauma of family separation on detained noncitizens, as well as their free loved ones, are well documented, as are the effects of the trauma of family detention. Plaintiffs/Petitioners and proposed class members, fearing detention and/or family separation, are experiencing deep emotional and psychological harm because of Defendants' new policy. They are experiencing extreme anxiety, insomnia, fear, and depression as they face the prospect of being ripped away from their families and losing their liberty as a consequence of attending an immigration court hearing, going to a scheduled ICE or ISAP appointment, and otherwise complying with their conditions of release or parole.

100. For example, detention caused Ms. Garro Pinchi significant harm. She suffers from serious medical conditions for which she requires frequent medication. When she was re-detained, she did not have access to her medication and experienced withdrawal symptoms, including shakes and shortness of breath. Before she was re-detained, she underwent an operation, which continues to be monitored and requires medication to prevent recurrence. She also has a medical condition that requires her to follow a strict dietary regimen prescribed by a doctor, and had an appendectomy last year. All of these serious conditions require care and monitoring that were unavailable to her while detained.

101. The risk that Defendants will again re-detain Ms. Garro Pinchi under the Re-Detention Policy causes her extreme mental distress. She remains afraid to leave the house because she fears being arrested by ICE again. She experiences intrusive memories of being detained and feels flooded with terror, making it hard to sleep or concentrate. She feels panicked when she has to check in with ICE and ISAP.

102. Likewise, the risk that Defendants will re-detain Ms. Galo Santos at her upcoming ICE check-in and immigration court hearing causes her extreme anxiety and fear. Ms. Galo Santos

fears that if she is re-detained, she will be ripped away from her young daughters, for whom she is the sole caregiver and provider. Ms. Galo Santos fears that any separation from her daughters would cause them significant trauma. In particular, one of Ms. Galo Santos' daughters suffers from severe cerebral palsy. As a result of her medical condition, she is almost totally paralyzed, is confined to a wheelchair, cannot speak, and requires assistance with critical daily tasks. Because Ms. Galo Santos is the sole caregiver for her daughter, she fears that any separation from her daughter would lead to a lapse in her medical care and cause her health to suffer.

103. Similarly, Mr. Teletor Sente is experiencing extreme anxiety and fear at the risk that he will be re-detained at his upcoming in-person hearing in November. Mr. Teletor Sente fears that if he is re-detained, his minor son would be left with no one to care for him or provide for him. If Mr. Teletor Sente is re-detained, he will lose his apartment, which means that his minor son will be left with nowhere to live and will be forced to drop out of school and work in order to survive. Mr. Teletor Sente also fears that his son could be re-detained with him, subjecting him to the traumas of detention and disrupting his education.

CLASS ACTION ALLEGATIONS

104. Plaintiffs/Petitioners bring this class action under Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure.

105. Plaintiffs/Petitioners seek certification of the following proposed Class and Subclass:

> **Class:** All noncitizens in the jurisdiction of the San Francisco ICE Field Office who (1) entered or will enter the United States without inspection; (2) have been or will be charged with inadmissibility under 8 U.S.C. § 1182 and have been or will be released from DHS custody; and who (3) are in removal proceedings under 8 U.S.C. § 1229a, including any § 1229a proceedings that have been dismissed where the dismissal is not administratively final; and (4) are not subject to detention under 8 U.S.C. § 1226(c).
>
> **Bond/RoR Subclass:** All members of the Class whose release from DHS custody was or will be on bond, conditional parole, or their own recognizance under 8 U.S.C. § 1226(a) and/or 8 C.F.R. § 236.1(c)(8).

106. The proposed Class and Subclass satisfy Rule 23(a)(1) because they are so numerous that joinder of all members is impracticable. On information and belief, Defendants have subjected more than 100 people within the San Francisco Area of Responsibility to unlawful re-arrests and re-detentions under the Re-Detention Policy and will continue to do so on a

widescale basis until and unless a court order prevents them from doing so.

107. The proposed Class and Subclass satisfy Rule 23(a)(2) because there are multiple questions of law and fact common to all members of the proposed classes. Those common questions include, but are not limited to:

a. Whether the Re-Detention Policy is arbitrary and capricious under the APA because Defendants failed to provide a reasoned explanation for the reversal of longstanding agency policy against re-arresting and re-detaining noncitizens absent an individualized and material change of circumstances, and failed to adequately consider important factors relevant to this decision, such as the reliance interest of individuals released from detention and the due process and Fourth Amendment implications of the new policy;

b. Whether the Re-Detention Policy is arbitrary and capricious under the APA because it was adopted and implemented for an improper purpose;

c. Whether the Re-Detention Policy is unlawful under the APA as "contrary to a constitutional right" because it violates the Fourth Amendment's guarantee against unreasonable seizures.

108. In addition to these questions common to the entire class, the Bond/RoR Subclass presents an additional question capable of resolution for all members of that Subclass:

a. Whether Defendants' Re-Detention Policy violates the INA and exceeds their statutory authority under 8 U.S.C. § 1226(b).

109. The proposed Class and Subclass satisfy Rule 23(a)(3) because the Named Plaintiffs'/Petitioners' claims are typical of the claims of the class. Each class member's claims arise from Defendants' adoption of the challenged policy, and each class member has experienced or will experience the same primary injuries.

110. The proposed Class and Subclass satisfy Rule 23(a)(4) because the proposed class representatives are committed to fairly and adequately defending the rights of all proposed class members. Named Plaintiffs/Petitioners seek the same relief as all members of the class, and their interests are not in conflict with the interests of the class. They have obtained counsel from the

ACLU Foundation; ACLU Foundation of Northern California; Centro Legal de la Raza; and Keker, Van Nest & Peters LLP, who have substantial experience litigating class action lawsuits and other complex federal litigation on behalf of noncitizens.

111. The proposed Class and Subclass also satisfy Rule 23(b)(2) because Defendants have acted on grounds that apply generally to the class so that the relief sought is appropriate as to the class as a whole.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A)
The Re-Detention Policy is Arbitrary and Capricious
Plaintiffs/Petitioners, Class, and Bond/RoR Subclass

112. Plaintiffs/Petitioners repeat and re-allege the allegations contained in all preceding paragraphs of this Complaint as if fully set forth herein.

113. The Administrative Procedure Act provides that courts "shall . . . hold unlawful and set aside agency action" that is "arbitrary [and] capricious, . . . or otherwise not in accordance with law[.]" 5 U.S.C. § 706(2)(A).

114. The Re-Detention Policy is a reviewable final agency action because it is neither tentative nor interlocutory, and legal consequences flow from the policy for Plaintiffs/Petitioners and the proposed Class and Subclass, who have been re-detained under the Re-Detention Policy or who live in fear of being re-detained under the policy in the future.

115. The Re-Detention Policy departs from longstanding agency precedent, policy, and practice.

116. In adopting the Re-Detention Policy, Defendants provided no reasoned or adequate explanation for the policy, which is a dramatic shift from recent and longstanding agency policies, and which results in the costly and arbitrary re-detention of individuals who had serious reliance interests in those past policies. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 222 (2016).

117. Moreover, in adopting the Re-Detention Policy, Defendants failed to adequately consider important aspects of the problem and all relevant factors, including the constitutional limitations on the government's authority to re-arrest and re-detain, and the reliance interests of

the proposed Class. Defendants instead considered the improper purpose of pressuring noncitizens to abandon their claims for relief and self-deport.

118. The Re-Detention Policy is therefore arbitrary and capricious in violation of the Administrative Procedure Act.

SECOND CLAIM FOR RELIEF

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)
The Re-Detention Policy Violates the INA
Plaintiffs/Petitioners and Bond/RoR Subclass

119. Plaintiffs/Petitioners repeat and re-allege the allegations contained in all preceding paragraphs of this Complaint as if fully set forth herein.

120. The Re-Detention Policy violates 8 U.S.C. § 1226(b) because the statute does not authorize re-detention without a material change in circumstances with respect to a noncitizen's flight risk or danger to the community based on an individualized determination. Further, Defendants' re-interpretation of 8 U.S.C. § 1225(b)(2) and § 1226(a) is contrary to law and is not a valid legal basis for the Re-Detention Policy.

121. The Re-Detention Policy violates the Administrative Procedure Act because it is "not in accordance with law" and "in excess of statutory jurisdiction, authority, or limitations." 5 U.S.C. § 706(2)(A), (C), (D).

THIRD CLAIM FOR RELIEF

Administrative Procedure Act, 5 U.S.C. § 706(2) – *Accardi Doctrine*
Unlawful Failure to Follow/Effective Rescission of 8 C.F.R. § 236.1(c)(8)
Plaintiffs/Petitioners and Bond/RoR Subclass

122. Plaintiffs/Petitioners repeat and re-allege the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

123. The APA provides that courts "shall . . . hold unlawful and set aside agency action" that is "without observance of procedure required by law." 5 U.S.C. § 706(2)(D).

124. The *Accardi* doctrine holds that "government agencies are bound to follow their own rules, even self-imposed procedural rules that limit otherwise discretionary decisions." *See U.S. ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

125. DHS regulations implementing 8 U.S.C. § 1226(b) authorize revocations of release

from custody under the statute only in the "discretion of the district director, acting district director, deputy director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign)." 8 C.F.R. § 1236.1(c)(9).

126. The Re-Detention Policy permits the revocation of prior custody determinations by government officials not authorized by law to make this determination in violation of the APA and in violation of the *Accardi* doctrine's requirement that agencies comply with their own regulations.

FOURTH CLAIM FOR RELIEF

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(B)
The Re-Detention Policy is Contrary to Constitutional Right
Plaintiffs/Petitioners, Class, and Bond/RoR Subclass

127. Plaintiffs/Petitioners repeat and re-allege the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

128. The APA provides that courts "shall . . . hold unlawful and set aside agency action" that is "contrary to constitutional right." 5 U.S.C. § 706(2)(B).

129. The Fourth Amendment protects the right of all persons present in the United States to be free from unreasonable seizures by government officials. Plaintiffs/Petitioners and members of the proposed class therefore have the right to be free from unreasonable seizures.

130. As a corollary to that right, the Fourth Amendment prohibits re-arrest on the same charges/probable cause without a material change in circumstances.

131. The Re-Detention Policy violates the Fourth Amendment because it authorizes immigration agents to undertake unreasonable seizures by re-arresting Plaintiffs/Petitioners and the proposed class members for the same civil immigration charges as their initial arrest without a material change in circumstances.

FIFTH CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution
Plaintiffs'/Petitioners' Detention Violates Substantive Due Process
Plaintiffs/Petitioners Garro Pinchi, Galo Santos, and Teletor Sente

132. Plaintiffs/Petitioners repeat and re-allege the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

133. The Due Process Clause of the Fifth Amendment protects all "person[s]" from

deprivation of liberty "without due process of law." U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] clause protects." *Zadvydas*, 533 U.S. at 690.

134. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring a noncitizen's appearance during removal proceedings and preventing danger to the community.

135. Ms. Garro Pinchi, Ms. Galo Santos, and Mr. Teletor Sente were previously released on their own recognizance ("conditional parole") by Defendants. These previous releases constituted a determination by Defendants that they were neither dangerous to the community nor flight risks.

136. None of Ms. Garro Pinchi, Ms. Galo Santos, or Mr. Teletor Sente have become a danger or flight risk since their release from custody. Their re-detention thus does not serve a legitimate goal. Accordingly, their re-detention would violate the Due Process Clause.

SIXTH CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution
Plaintiffs'/Petitioners' Detention Violates Procedural Due Process
Plaintiffs/Petitioners Garro Pinchi, Galo Santos, and Teletor Sente

137. Plaintiffs/Petitioners repeat and re-allege the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

138. The Fifth Amendment guarantees noncitizens present in the country with due process rights, including the right to not be deprived of a liberty or property interest without notice and a hearing before a neutral decision-maker.

139. Ms. Garro Pinchi, Ms. Galo Santos, and Mr. Teletor Sente have already been determined not to pose a flight risk or danger to the community. They have a protected liberty interest in their continued freedom from detention and are entitled to due process before the government can deprive them of their liberty by re-detaining them. The Due Process Clause prohibits Plaintiffs'/Petitioners' re-detention without a pre-deprivation hearing before a neutral decision-maker in which the government bears the burden of demonstrating that a Plaintiff/Petitioner poses a flight risk or danger to the community.

SEVENTH CLAIM FOR RELIEF

Violation of the Fourth Amendment to the United States Constitution
Plaintiffs'/Petitioners' Re-Arrest Constitutes an Unreasonable Seizure
Plaintiffs/Petitioners Garro Pinchi, Galo Santos, and Teletor Sente

140. Plaintiffs/Petitioners repeat and re-allege the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

141. The Fourth Amendment protects the right of all persons present in the United States to be free from unreasonable seizures by government officials. Plaintiffs/Petitioners therefore have the right to be free from unreasonable seizures.

142. As a corollary to that right, the Fourth Amendment prohibits re-arrest on the same charge without a material change in circumstances.

143. Ms. Garro Pinchi was re-arrested on the same charge without a material change in circumstances. Her re-arrest violated the Fourth Amendment.

144. The circumstances related to Ms. Galo Santos's flight risk or danger to the community have not changed since her prior release from custody. Re-arresting her would violate the Fourth Amendment.

145. The circumstances related to Mr. Teletor Sente's flight risk or danger to the community have not changed since his prior release from custody. Re-arresting him would violate the Fourth Amendment.

PRAYER FOR RELIEF

Plaintiffs/Petitioners, on behalf of themselves and the members of the proposed classes, respectfully request that the Court grant the following relief:

a. Issue an order pursuant to the All Writs Act, 28 U.S.C. § 1651, to protect this Court's jurisdiction over the litigation by barring Defendants from deporting any Plaintiffs/Petitioners or transferring any Plaintiffs/Petitioners to a jurisdiction different from the one in which they are presently detained, pending the duration of these proceedings;

b. Grant class certification of the proposed Class and Subclass;

c. Exercise the Court's authority under 5 U.S.C. § 705 to provide relief pending review

of the Re-Detention Policy;

d. Issue writs of habeas corpus prohibiting Defendants from re-arresting or re-detaining Plaintiffs/Petitioners unless their re-detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear and convincing evidence, that a Plaintiff/Petitioner is a flight risk or danger to the community;

e. Declare that the Re-Detention Policy is arbitrary and capricious, in excess of statutory authority, contrary to law, and contrary to constitutional right;

f. Vacate and set aside the Re-Detention Policy;

g. Award Plaintiffs/Petitioners reasonable attorney's fees and costs; and

h. Grant any other and further relief as the Court deems just and equitable, including individual injunctions when requested as necessary to secure the rights of class members.

Dated: October 10, 2025

KEKER, VAN NEST & PETERS LLP

By: /s/ Erin E. Meyer
ERIN E. MEYER
JULIA L. ALLEN
CLAIRE C. BONELLI
ELLEN WATLINGTON
JACQUIE P. ANDREANO
KAYLA CROWELL

Attorneys for Plaintiffs-Petitioners

Dated: October 10, 2025

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF NORTHERN

/s/ Bree Bernwanger
BREE BERNWANGER
MICHELLE (MINJU) Y. CHO
NEIL K. SAWHNEY
LAUREN M. DAVIS

Attorneys for Plaintiffs-Petitioners

Dated: October 10, 2025

CENTRO LEGAL DE LA RAZA

/s/ Abby Sullivan Engen
ABBY SULLIVAN ENGEN
JESSE NEWMARK
NIKOLAS DE BREMAEKER

Attorneys for Plaintiffs-Petitioners

Dated: October 10, 2025

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

/s/ Judy Rabinovitz
JUDY RABINOVITZ

Attorneys for Plaintiffs-Petitioners