

CLAIMANT INFORMATION

LAST NAME Victorio	FIRST NAME John	MIDDLE INITIAL E
INMATE OR PATIENT IDENTIFICATION NUMBER (if applicable) CDCR # [REDACTED]	BUSINESS NAME (if applicable) N/A	
TELEPHONE NUMBER [REDACTED]	EMAIL ADDRESS [REDACTED]	
MAILING ADDRESS [REDACTED]	CITY [REDACTED]	STATE CA
		ZIP [REDACTED]
IS THE CLAIMANT UNDER 18 YEARS OF AGE? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	INSURED NAME (Insurance Company Subrogation) N/A	
IS THIS AN AMENDMENT TO A PREVIOUSLY EXISTING CLAIM? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	EXISTING CLAIM NUMBER (if applicable) N/A	EXISTING CLAIMANT NAME (if applicable) N/A

ATTORNEY OR REPRESENTATIVE INFORMATION

LAST NAME Zhao	FIRST NAME Jenny	MIDDLE INITIAL
TELEPHONE NUMBER (415) 848-7710	EMAIL ADDRESS jennyz@advancingjustice-alc.org	
MAILING ADDRESS 55 Columbus Ave	CITY San Francisco	STATE CA
		ZIP 94111

CLAIM INFORMATION

STATE AGENCIES OR EMPLOYEES AGAINST WHOM THE CLAIM IS FILED See attachment	DATE OF INCIDENT See attachment
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LATE CLAIM EXPLANATION (Required, if incident was more than six months ago)

N/A

DOLLAR AMOUNT OF CLAIM See attachment	CIVIL CASE TYPE (Required, if amount is more than \$10,000) <input type="checkbox"/> Limited (\$25,000 or less) <input checked="" type="checkbox"/> Non-Limited (over \$25,000)
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DOLLAR AMOUNT EXPLANATION
See attachment

INCIDENT LOCATION
See attachment

SPECIFIC DAMAGE OR INJURY DESCRIPTION
See attachment

CIRCUMSTANCES THAT LED TO DAMAGE OR INJURY
See attachment

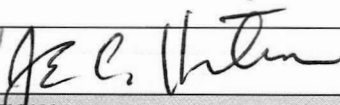
EXPLAIN WHY YOU BELIEVE THE STATE IS RESPONSIBLE FOR THE DAMAGE OR INJURY

See attachment

AUTOMOBILE CLAIM INFORMATION		
DOES THE CLAIM INVOLVE A STATE VEHICLE? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	VEHICLE LICENSE NUMBER (if known) N/A	STATE DRIVER NAME (if known) N/A
HAS A CLAIM BEEN FILED WITH YOUR INSURANCE CARRIER? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	INSURANCE CARRIER NAME N/A	INSURANCE CLAIM NUMBER N/A
HAVE YOU RECEIVED AN INSURANCE PAYMENT FOR THIS DAMAGE OR INJURY? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	AMOUNT RECEIVED (if any) N/A	AMOUNT OF DEDUCTIBLE (if any) N/A

NOTICE AND SIGNATURE

I declare under penalty of perjury under the laws of the State of California that all the information I have provided is true and correct to the best of my information and belief. I further understand that if I have provided information that is false, intentionally incomplete, or misleading I may be charged with a felony punishable by up to four years in state prison and/or a fine of up to \$10,000 (Penal Code section 72).

SIGNATURE 	PRINTED NAME John Emmanuel Victorio	DATE 11/3/20
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INSTRUCTIONS

- Include a check or money order for \$25, payable to the State of California.
 - \$25 filing fee is not required for amendments to existing claims.
- Confirm all sections relating to this claim are complete and the form is signed.
- Attach copies of any documentation that supports your claim. Do not submit originals.

Mail the claim form and all attachments to:

Office of Risk and Insurance Management
 Government Claims Program
 P.O. Box 989052, MS414
 West Sacramento, CA 95798-9052

Claim forms can also be delivered to:

Office of Risk and Insurance Management
 Government Claims Program
 707 3rd Street, 1st Floor
 West Sacramento, CA 95605
 1-800-955-0045

Department of General Services Privacy Notice on Information Collection

This notice is provided pursuant to the Information Practices Act of 1977, California Civil Code Sections 1798.17 & 1798.24 and the Federal Privacy Act (Public Law 93-579).

The Department of General Services (DGS), Office of Risk and Insurance Management (ORIM), is requesting the information specified on this form pursuant to Government Code Section 905.2(c).

The principal purpose for requesting this data is to process claims against the state. The information provided will/may be disclosed to a person, or to another agency where the transfer is necessary for the transferee-agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected and the use or transfer is accounted for in accordance with California Civil Code Section 1798.25.

Individuals should not provide personal information that is not requested.

The submission of all information requested is mandatory unless otherwise noted. If you fail to provide the information requested to DGS, or if the information provided is deemed incomplete or unreadable, this may result in a delay in processing.

Department Privacy Policy
 The information collected by DGS is subject to the limitations in the Information Practices Act of 1977 and state policy (see [State Administrative Manual 5310-5310.7](#)). For more information on how we care for your personal information, please read the [DGS Privacy Policy](#).

Access to Your Information
 ORIM is responsible for maintaining collected records and retaining them for 5 years. You have a right to access records containing personal information maintained by the state entity. To request access, contact:

DGSORIM
Public Records Officer
 707 3rd St., West Sacramento, CA 95605
 (916) 376-5300

Attachment to State of California Government Claim (Form DGS ORIM 006)

Claimant: John Emmanuel Carvajal Victorio, on behalf of himself as an individual and on behalf of a class of similarly-situated individuals.

Claim Information

State Agencies or Employees Against Whom Claim is Filed:

John Emmanuel Carvajal Victorio, the Claimant, files this claim on his behalf and on behalf of a class of similarly-situated individuals against the California Department of Corrections and Rehabilitation (“CDCR”); Gavin Newsom, Governor of the State of California; Kathleen Allison, Secretary of CDCR (and any predecessor or successor Secretary of CDCR); Paul Lozano, Warden of the Shafter Modified Community Correctional Facility (and any predecessor or successor Warden of the Shafter Modified Community Correctional Facility); Doe individual employees of CDCR who are responsible for implementing CDCR policies and practices related to the transfer of individuals from CDCR custody to the custody of U.S. Immigration and Customs Enforcement (“ICE”), including Mr. Victorio and the class of individuals who are similarly-situated; and Doe individual employees who are employees of CDCR and engaged in actual notification of ICE of Mr. Victorio’s presence in CDCR custody, transmitted any information about Mr. Victorio to ICE, facilitated in any way Mr. Victorio’s transfer to ICE custody.

Date of Incident:

Mr. Victorio was transferred by CDCR and Doe employees to the custody of ICE on July 23, 2020. Prior to July 23, 2020, and after and up to the date of this claim, CDCR, Governor Newsom, the CDCR Secretary, and CDCR employees transferred similarly-situated individuals from CDCR custody to ICE custody. This claim uses the term “transfer” to include the range of actions, policies, and procedures adopted and implemented by the state and its employees to facilitate ICE’s ability to take custody of an individual from CDCR custody. These actions, policies, and procedures include, but are not limited to, notifying ICE of an individual’s presence in CDCR custody; providing information to ICE about an individual in CDCR custody, including name, date and place of birth, and scheduled release date; granting detainer requests from ICE, including those in which probable cause of removability is founded upon biometrics-based checks of databases; placing “ICE holds” in an individual’s Central File and other CDCR records; permitting ICE to interview individuals in CDCR custody, and facilitating those interviews by transferring individuals among CDCR facilities; coordinating with ICE to release individuals from CDCR custody to ICE custody up to several days in advance of their scheduled release date; transferring individuals among CDCR facilities to permit ICE or its private contractor G4S to take custody of them; processing an individual for release to ICE or G4S; holding an individual in a secure area on CDCR premises until ICE or G4S arrives to take custody of the individual; and physically assisting ICE or G4S to take custody of the individual. These actions facilitate the “transfer” of custody whether or not CDCR or ICE uses the term “transfer.”

Around the first week of August 2020, Mr. Victorio started to present with the COVID-19 symptoms of headaches, body aches, chills and a fever. When Mr. Victorio requested to see a doctor, he was told that he could not see a doctor until the following week. When he did see a doctor the next week on August 10, he received a COVID-19 test and tested positive. Mr. Victorio's symptoms have included chills, a fever, difficulty breathing, shortness of breath, chest pain, lost sense of taste and smell, and diarrhea. About one week after receiving his positive COVID-19 result, a nurse referred Mr. Victorio to a physician after observing that he was presenting with pneumonia-like symptoms during a daily temperature check. The next day, a medical provider took a chest x-ray of Mr. Victorio and diagnosed him with pneumonia, bronchitis, and asthma. Mr. Victorio was prescribed an antibiotic, azithromycin, for five days to treat his symptoms. For approximately the first week that Mr. Victorio suffered from COVID-19, he was not given any medication other than the ibuprofen he already had in his possession for another medical condition. Around one week after testing positive, Mr. Victorio was given some multivitamins. It was not until August 20, around ten days after he tested positive, that Mr. Victorio was finally given an asthma inhaler. Mr. Victorio continued to suffer from diarrhea until around September 20, 2020. As of November 9, 2020, Mr. Victorio continues to suffer from symptom of shortness of breath and struggles to breathe at night. Despite continuing to suffer from COVID-19 symptoms, Mr. Victorio has not been retested.

Dollar Amount of Claim: Over \$25,000.

Dollar Amount Explanation:

Mr. Victorio seeks damages in an amount over \$25,000 that consists of actual and compensatory damages, nominal damages, punitive and exemplary damages, and treble damages for the specific damages and injuries described in further detail below.

The class of individuals that are similarly situated to Mr. Victorio seek actual and compensatory damages, nominal damages, punitive and exemplary damages, and treble damages for the specific damages and injuries described in further detail below.

Mr. Victorio seeks actual and compensatory damages, nominal damages, and punitive and exemplary damages for the specific damages and injuries associated with contracting COVID-19, described in further detail below.

Incident Location:

Mr. Victorio was transferred from CDCR to ICE custody at the Shafter Modified Community Correctional Facility ("Shafter"), located at 150 E Ash Ave, Shafter, CA 93263, and the events forming the basis of his claim occurred at Shafter and/or CDCR offices in Sacramento, California.

The class of individuals that are similarly-situated to Mr. Victorio were incarcerated in CDCR custody throughout California, were transferred from CDCR custody throughout

California to ICE custody, and suffered injuries as a result of CDCR policies and practices formulated in Sacramento, California and implemented there and across California.

Mr. Victorio contracted COVID-19 while in ICE custody at the Mesa Verde Detention Facility (“Mesa Verde”), located at 425 Golden State Ave, Bakersfield, CA 93301.

Specific Damage or Injury Description:

As a direct and proximate result of the actions of the state and its employees described below, Mr. Victorio suffered a deprivation of his liberty and detention by ICE and G4S for 138 days as of December 8, 2020; physical pain; mental suffering; loss of enjoyment of life; inconvenience; grief; anxiety; humiliation; and emotional distress.

As a direct and proximate result of the actions of the state and its employees described below, a class of similarly-situated individuals suffered a deprivation of their liberty; detention by ICE and G4S; physical pain; mental suffering; loss of enjoyment of life; inconvenience; grief; anxiety; humiliation; and emotional distress.

As a direct and proximate result of the actions of the state and its employees described below, Mr. Victorio suffered physical ailments and mental anguish from contracting COVID-19. After contracting COVID-19, Mr. Victorio experienced pain and suffering from an array of adverse symptoms, including chills, fever, difficulty breathing, shortness of breath, chest pain, lost sense of smell and taste, and diarrhea. He continues to suffer from COVID-19 symptoms until today. As a result of contracting the virus, Mr. Victorio is at risk for suffering long-term injuries associated with COVID-19, which can include: brain, heart, and lung damage; fatigue, cough, and headache; joint pain, shortness of breath, and blood clotting, and; depression, anxiety, and post-traumatic stress disorder.¹ In fact, he continues to suffer from some of these long-term effects already, including shortness of breath and loss of stamina. These long-term ailments will likely incur future medical expenses for Mr. Victorio. Furthermore, given Mr. Victorio’s aspirations to work in the restaurant industry upon release, continued suffering from the long-term effects of COVID-19 will likely result in future lost earnings as well as a loss in earning capacity for Mr. Victorio.

Circumstances that Led to Damage or Injury:

During the COVID-19 pandemic, people incarcerated in California’s state prisons count the days to their release from custody. Release means not just the reunion with family and with their lives on the outside. It means safety from the scourge of COVID-19 coursing through California’s prisons, jails, and detention centers. At the time of this filing, over 20,000 people in

¹ Mayo Clinic, *COVID-19 (coronavirus): Long-term effects* (Oct. 7, 2020), available at <https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/coronavirus-long-term-effects/art-20490351#:~:text=The%20most%20common%20signs%20and,%E2%80%A2%20Headache%E2%80%A2%20Joint%20pain.>

CDCR custody have tested positive for COVID-19, with dozens of people dying and dozens more being infected each day.

As the COVID-19 pandemic rages on, carceral settings are among the most dangerous places in the country. For that reason, the Centers for Disease Control (“CDC”) and medical and public health experts have admonished that carceral agencies should avoid transfers. CDCR, Governor Newsom, the CDCR Secretary, and CDCR employees are well-aware that transferring individuals among prisons and detention facilities exposes people in custody to a greater risk of contracting COVID-19. Transfers among and into CDCR facilities have led to outbreaks of COVID-19 in many facilities, sickening thousands of people and killing dozens. To address these outbreaks and mitigate against further exposure of individuals in their custody to COVID-19, CDCR itself suspended intake and transfers into CDCR facilities in March and again in June 2020.

Yet, CDCR and state employees continued to transfer individuals to ICE custody, including from CDCR facilities with active COVID-19 outbreaks. They have used force or threat of force to put people into ICE custody, where they know many will contract infection and die. They transferred people to ICE even though they were aware that ICE detention centers have proven themselves to be among the most dangerous carceral settings because of ICE’s abject failure take meaningful steps to prevent the virus’s spread and provide medical care to those who need it. As one court recently observed, detention centers are closed environments that amplify the virus and pose a grave threat of harm to individuals residing and working in them. *Fraihat v. ICE*, Case No. 5:19-cv-1546-JGB-SHK, Dkt. No. 240 at 5-6 (C.D. Cal. Oct 7, 2020). In ICE detention facilities in particular, where people cycle through the facilities as they are arrested, detained, transferred, deported, or released, COVID-19 outbreaks are especially acute because of the high turnover and transfers. *Id.* Thousands of individuals have tested positive for COVID-19 across ICE facilities nationwide, while ICE continues to transfer dozens of people weekly. *Id.* at 7.

In April 2020, the virus began spreading rapidly in the Otay Mesa Detention Center in San Diego, California after a staff member tested positive. In April and May 2020, over 150 individuals detained at Otay Mesa contracted COVID-19 and one person tragically died from COVID-19 complications.

In July and August 2020, dozens of individuals detained at the Mesa Verde Detention Facility, an ICE detention center in Bakersfield, California, contracted COVID-19. The first detained person to test positive did so upon arrival at Mesa Verde after being transferred from CDCR custody. Not only did CDCR’s reckless and negligent decisions cause the spread of COVID-19 from one of its facilities to ICE detention centers, CDCR continued to place people in danger by transferring them to ICE after the first positive diagnosis on July 1, 2020. Only in August 2020 did a court order halt the transfer of people into Mesa Verde. In recent weeks, over a dozen staff members have tested positive for COVID-19, including one staff member who previously contracted and recovered from COVID-19. Only a few days ago, a court

characterized ICE's conduct in overseeing conditions at Mesa Verde as "appalling" and "abominable." *Zepeda Rivas v. Jennings*, Case No. 3:20-cv-02731-VC, Dkt. No. 867 at 2-3 (N.D. Cal. Dec. 3, 2020). Nine months into the pandemic, and despite judicial intervention, no detailed plan to mitigate the risk of a COVID-19 outbreak or contain one that may yet recur exists for Mesa Verde. *Id.* at 2.

Despite full knowledge of the outbreaks at Mesa Verde and Otay Mesa, CDCR and state employees refused to acknowledge the demonstrable risks of transferring people to ICE custody. Throughout August and September, CDCR and state employees transferred individuals to ICE who were then detained at the Adelanto Detention Center. In September 2020, a COVID-19 outbreak gripped the facility. Dozens of individuals and employees at Adelanto were infected with the virus. Again, emergency intervention by a court forced ICE to stop transfers of people into Adelanto and to release hundreds of people from the facility in order to address the outbreak. In doing so, the court noted serious concerns with the veracity of the agency's representations and its ability to protect individuals from COVID-19. In the first week of December 2020, the beginning of another COVID-19 outbreak appears to be underway: over a dozen detained people have tested positive and one person is hospitalized, while sixteen staff members are infected with COVID-19.

Unfathomably, even after outbreaks at Adelanto, Mesa Verde, and Otay Mesa have sickened and subjected hundreds of people to a painful and life-threatening illness, CDCR and state employees persist in transferring people to the custody of ICE. Those people are detained in a newly-opened ICE detention center in McFarland, California, at Imperial or Otay Mesa, or flown across the country to other ICE facilities. In McFarland, ICE is rapidly filling the Golden State Annex with detained people. Upon arrival at Golden State, people are not consistently given verbal screenings for symptoms of COVID-19. While they are tested upon arrival, it is unclear what kind of tests are being used. Nor is it clear whether test results are immediate, accurate, or taken at a time when an individual's viral load can be detected. People are not placed in a quarantine or isolation and instead are sent directly to a dormitory to be housed alongside people who have arrived previously and those who arrive subsequently. There is no ability to engage in social distancing while eating, in the dayroom, using telephones, or using the toilets, sinks, and showers. Golden State has already housed people with COVID-19, and threatens to be the site of the next COVID-19 outbreak.

No law requires California to comply with ICE's requests for transfer—they are voluntary—and California has otherwise disavowed any interest in the existing civil immigration detention system in California, in which private prison companies warehouse individuals, often without the right to bail, for extended periods of time and are routinely cited for medical neglect. Further, the state and its employees are aware that transfers to ICE are unlawful for other reasons. Transfers to ICE's private contractor G4S violate federal law that prohibits anyone other than specified federal government employees from conducting immigration arrests. In addition, ICE detainers are issued by agents without any judicial review or judicial determination (either before or promptly after the ICE arrest) of whether there is probable cause of the individual's

removability from the United States. And some of these detainees are issued solely on the basis of biometrics-based checks of databases that are so unreliable, outdated, and inaccurate they cannot provide probable cause for an immigration arrest. Indeed, the state and its employees have transferred U.S. citizens to ICE custody because they have chosen to honor and transfer people pursuant to biometrics-based detainees. Their unabated practice of transferring individuals to ICE custody has unreasonably endangered their lives and caused them injury without justification.

John Emmanuel Carvajal Victorio

Mr. Victorio is a 41-year-old immigrant who has lived in the United States since he was fourteen years old. Mr. Victorio has two U.S. citizen sons, one of whom is approximately two years old. His sons, parents, siblings, and extended family all live in the United States and are U.S. citizens, and Mr. Victorio has no family in the Philippines. Prior to entering CDCR custody, Mr. Victorio lived Palm Springs, California.

Mr. Victorio suffers from numerous medical issues. As a child, he was diagnosed with bronchitis that would cause him to experience episodes on a yearly basis. His bronchitis still flares up regularly and causes chest pain. Mr. Victorio was also diagnosed with asthma, and smoked cigarettes on and off for around a decade. Finally, Mr. Victorio has had tuberculosis, Hepatitis B, and sciatica.

Mr. Victorio was incarcerated by CDCR at Shafter and Wasco State Prison. On or about January 2019, Mr. Victorio was given a letter informing him that CDCR had received a detainer request from ICE. Mr. Victorio's counselor in prison, Mr. Nuñez informed him that the ICE detainer made him ineligible for some good conduct credits and that he would need to serve a higher percentage of his sentence as a result.

Mr. Victorio's scheduled release date from Shafter was July 25, 2020. On July 23, 2020, Mr. Victorio was informed by an employee of CDCR that he was being paroled. At around 9 a.m. on July 23, Mr. Victorio was taken to receiving and release ("R&R") to be processed. When Mr. Victorio arrived at R&R, a person wearing a grey uniform was waiting for him. Mr. Victorio's temperature was then taken, but he was not asked if he was experiencing any symptoms or had been in contact with anyone with COVID-19. Although Mr. Victorio had been tested a few days before, a nurse came to R&R to say that his results had not come back yet. The person in the grey uniform took Mr. Victorio's shoelaces and property and shackled his arms, waist, and legs. He was then placed in the back of a van.

Mr. Victorio was driven to an ICE office in Bakersfield, California, where he was placed in a holding tank. After some time, two ICE officers interviewed Mr. Victorio. Neither of the ICE officers wore a mask. The officers also did not socially distance from Mr. Victorio when interviewing him. After a few hours, Mr. Victorio was taken from the ICE office to Mesa Verde. Upon arriving at Mesa Verde, Mr. Victorio had his temperature taken, was asked a few questions, and took a COVID test. After taking the test, he was placed in a holding tank. Before

Mr. Victorio was told his results, he was placed into B pod with other detainees. Social distancing was impossible in the pod. Mr. Victorio and other detainees were told to sleep head to toe on bunk beds to create some distance.

Around one week after Mr. Victorio was moved to B pod, one person started complaining that they weren't feeling well and started showing symptoms of COVID. For six hours, no one responded to the complaint and Mr. Victorio and other detainees were forced to remain in the pod with the ill person. Eventually, Mr. Victorio and other people who had been in the pod were moved to C pod. Around August 3rd, Mr. Victorio started to have chills and a fever. He asked to see a doctor but was told that he could not see a doctor until the next week. Mr. Victorio remained in C pod with other people during this time. When he saw a doctor the next week, he was tested and told that he was positive for COVID. After testing positive, Mr. Victorio was moved back to B pod.

ICE has detained Mr. Victorio at Mesa Verde for 138 days as of December 8, 2020. During that time—from July 23, 2020 to the present—individuals detained at Mesa Verde suffered through an outbreak of COVID-19 in which not only Mr. Victorio, but also dozens of other detained people and staff contracted COVID-19 and suffered serious symptoms. Mr. Victorio has felt deeply anxious, depressed, and frustrated each day that he has been detained, especially after contracting COVID-19. He is also terrified that he will be tortured or killed if he is deported to the Philippines. After being arrested by ICE, Mr. Victorio learned that he had been ordered deported to the Philippines because he missed an immigration court date. Mr. Victorio missed the court date because he was in criminal custody at the time of the hearing. Although Mr. Victorio's father went to the court to tell the judge that he was not there because he had been arrested, he was still ordered deported. It was only after contacting lawyers at non-profits that Mr. Victorio learned that he should not have been ordered deported for not appearing. Mr. Victorio filed a motion to reopen, which was granted on October 14, 2020, and his removal proceedings are currently pending.

Mr. Victorio's experience during his transfer by CDCR to ICE custody and subsequent detention by ICE has caused him to experience severe mental and emotional trauma. Mr. Victorio genuinely and reasonably believes he could be deported in the near future. Mr. Victorio feels distressed that his detention has put an abrupt halt on his plans to rejoin society by reconnecting with his sons and finding work in the restaurant industry. He feels that neither being exposed to COVID nor being executed in the streets of the Philippines was a part of his criminal sentence. Contracting COVID-19 has exacted a substantial toll on Mr. Victorio's mental health, and he continues to fear for his life every day he remains in detention. He is in anguish by the prospect of potentially getting COVID-19 again and perishing.

Explain Why You Believe the State is Responsible for the Damage or Injury:

The injuries suffered by Mr. Victorio and a class of similarly-situated individuals during their time in CDCR custody and arising from their transfer from CDCR custody to ICE custody were directly and proximately caused by CDCR, Governor Newsom, the CDCR Secretary, and

other CDCR employees. CDCR, Governor Newsom, the CDCR Secretary, and other CDCR employees have adopted, implemented, and continue to engage in policies and practices that facilitate the transfer of individuals from CDCR custody to ICE custody upon their release from criminal custody. Those policies and practices include, but are not limited to, notifying ICE of an individual's presence in CDCR custody; providing information to ICE about an individual in CDCR custody, including name, date and place of birth, and scheduled release date; accepting detainer requests from ICE, including those in which probable cause of removability is founded upon biometrics-based checks of databases; placing "ICE holds" in an individual's Central File and other CDCR records; permitting ICE to interview individuals in CDCR custody, and facilitating those interviews by transferring individuals among CDCR facilities; coordinating with ICE to release individuals from CDCR facilities up to several days in advance of their scheduled release date; transferring individuals among CDCR facilities to permit ICE or its private contractor G4S to take custody of them; processing an individual for release to ICE or G4S; holding an individual in a secure area on CDCR premises until ICE or G4S arrives to take custody of the individual; and physically assisting ICE or G4S to take custody of the individual.

CDCR, Governor Newsom, the CDCR Secretary, and CDCR employees continue the policy and practice of transferring individuals from CDCR custody to ICE custody at the time of release even though doing so exposes these individuals to a greater risk of contracting COVID-19 than if they were released from criminal custody. Continuing to transfer these individuals violates their substantive due process rights under the Fifth and Fourteenth Amendments to the Constitution.

The actions of CDCR, Governor Newsom, the CDCR Secretary, and other CDCR employees constitute false imprisonment and a violation of the Bane Act as to Mr. Victorio and similarly-situated individuals because they facilitated an arrest by ICE (through its private contractor G4S) made without lawful privilege. ICE's use of a private contractor G4S to arrest Mr. Victorio and similarly-situated individuals violates the Immigration and Nationality Act and implementing regulations. 8 U.S.C. § 1357(a); 8 C.F.R. § 287.5(c); 8 C.F.R. § 287.5(e)(3).

Governor Newsom, the CDCR Secretary, and other CDCR employees were aware of ICE's unlawful practice of using contractors that do not have lawful authority to take custody of people transferred from CDCR. Legislation the Governor vetoed put them on notice of the unlawfulness of contractors taking custody of people for ICE.

The actions of CDCR, Governor Newsom, the CDCR Secretary, and other CDCR employees violate the rights of Mr. Victorio and similarly-situated individuals under the Equal Protection Clause of the Fourteenth Amendment of the Constitution and Article I Section 7 of the California State Constitution because they constitute national origin-based discrimination.

The actions of CDCR, Governor Newsom, the CDCR Secretary, and other CDCR employees constitute negligence, intentional infliction of emotional distress, and violate the rights of Mr. Victorio and similarly-situated individuals under the Eighth and Fourteenth Amendments of the Constitution and Article I Sections 7 and 17 of the California State Constitution. By transferring individuals to ICE custody and exposing them to a greater risk of

Claimant: John Emmanuel Carvajal VICTORIO

Attachment to State of California Government Claim Form DGS ORIM 006

December 8, 2020

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contracting COVID-19, which resulted in them actually being infected by COVID-19, the state violated its duties and obligations to guarantee the health and safety of individuals in their care, to protect them from harm, and to avoid placing them in danger. The state acted with deliberate indifference to the known risks of contracting COVID-19 while in ICE custody.