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10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

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|----|---|---|-----------------------------------|
| 12 | UELIAN DE ABADIA-PEIXOTO, <i>et al.</i> , |) | Case No. 11-cv-4001 |
| 13 | Plaintiffs, |) | DEFENDANTS' ANSWER |
| 14 | v. |) | PURSUANT TO FED. R. CIV. P. 26(a) |
| 15 | U.S. DEPARTMENT OF |) | |
| 16 | HOMELAND SECURITY, <i>et al.</i> , |) | |
| 17 | Defendants. |) | |

18 Pursuant to Rule 12 of the Federal Rules of Civil Procedure, Defendants answer the Complaint
19 by admitting, denying, and averring as follows:

20 **Introduction**

21 1. Defendants admit that thousands of individuals in the custody of Immigration and Customs
 22 Enforcement (“ICE”) appear annually before immigration court in San Francisco, and that a number of
 23 such individuals are temporarily restrained to prevent flight and for the safety and protection of court
 24 personnel, the public, and other individuals in immigration court. However, Defendants deny the
 25 allegation of the first sentence of paragraph 1 of the Complaint that such individuals are temporarily
 26 restrained without regard to whether such individuals pose a risk of flight or danger. Defendants deny
 27 the allegation of the second sentence of paragraph 2 of the Complaint that all such individuals who
 28

1 appear in immigration court are restrained, and specifically deny that those who are temporarily
2 restrained suffer physical pain or humiliation, and deny the allegation that the temporary restraint of
3 individuals undermines the dignity of immigration court proceedings. Defendants further deny the
4 allegations of the third sentence of paragraph 1 of the Complaint that the use of temporary restraints in
5 immigration court impairs detainees' mental capacity or undermines their ability to communicate with
6 counsel. The fourth sentence of paragraph 1 of the Complaint characterizes the present action and
7 therefore requires no response. Defendants specifically and categorically deny any implication of
8 paragraph 1 of the Complaint that the use of temporary restraints in immigration court to prevent flight
9 and to protect the safety of those present constitutes a violation of the United States Constitution or any
10 provision of law.

11 2. The first three sentences of paragraph 2 of the Complaint present Plaintiffs' characterization of
12 the law to which no response is required. Defendants nevertheless dispute the accuracy of Plaintiffs'
13 characterization of the law. Defendants deny the allegation of the final sentence of paragraph 2 of the
14 Complaint.

15 3. Defendants admit that immigration detainees are housed at locations outside of the San Francisco
16 immigration court - which is not a detention facility - and admit that a number of detainees are placed
17 in temporary restraints during transportation to immigration court in San Francisco. Defendants deny
18 the remaining allegations of paragraph 3 of the Complaint, and specifically deny any implication of
19 paragraph 3 of the Complaint that the use of temporary restraints during the transportation of detainees
20 constitutes a violation of the United States Constitution or any provision of law.

21 4. Defendants specifically deny the allegations of paragraph 4 of the Complaint, that ICE's practice
22 is to shackle all adult immigration detainees in its custody without conducting an individualized review
23 of the need for restraints, and deny any implication of paragraph 4 of the Complaint that the use of
24 temporary restraints constitutes a violation of the United States Constitution or any provision of law.

25 5. Defendants deny the allegations of paragraph 5 of the Complaint and deny any implication of
26 paragraph 5 of the Complaint that any Defendant is acting in violation of the United States Constitution
27 or any provision of law.

28 6. Defendants deny the allegations of paragraph 6 of the Complaint.

1 7. Defendants admit that the named Plaintiffs have appeared in immigration court in San Francisco,
2 but lack knowledge or information sufficient to know whether and to what extent any named Plaintiff
3 was temporarily restrained during any appearance. Defendants deny the remaining allegations of
4 paragraph 7 of the Complaint and deny any implication of paragraph 7 of the Complaint that the use of
5 temporary restraints in their cases constituted a violation of the United States Constitution or any
6 provision of law.

7 8. Defendants admit that detainees other than the four named Plaintiffs have been temporarily
8 restrained during some portion of their appearance before immigration court in San Francisco, but deny
9 the remaining allegations of paragraph 8 of the Complaint and deny any implication of paragraph 8 of
10 the Complaint that the use of temporary restraints constitutes a violation of the United States
11 Constitution or any provision of law.

12 9. Paragraph 9 of the Complaint constitutes a characterization of this action to which no
13 response is required.

14 **Jurisdiction**

15 10. The jurisdictional allegations of paragraph 10 of the Complaint state a legal conclusion to which
16 no response is required. To the extent a response is required, Defendants admit that this Court has
17 subject-matter jurisdiction over this action under 28 U.S.C. § 1331. Defendants deny that the
18 Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, provide this Court with subject-matter
19 jurisdiction over this action. Defendants deny that the Administrative Procedure Act, 5 U.S.C. § 706,
20 provides this Court with subject-matter jurisdiction over this action.

21 11. The jurisdictional allegations of paragraph 11 of the Complaint state a legal conclusion to which
22 no response is required. To the extent a response is required, Defendants admit that this Court has
23 personal jurisdiction over the named Plaintiffs in this action.

24 **Venue**

25 12. The venue allegations of paragraph 12 of the Complaint state a legal conclusion to which no
26 response is required. To the extent a response is required, Defendants admit that this district is an
27 appropriate venue for this action.

28

Intradistrict Assignment

1
2 13. The intradistrict assignment allegations of paragraph 13 of the Complaint state a legal conclusion
3 to which no response is required. To the extent a response is required, Defendants admit that
4 assignment to this Court is proper under Local Rule 3-2(d).

5 **The Parties**

6 **Plaintiffs**

7 14. Defendants admit that Plaintiffs Uelian De Abadia-Peixoto, Esmar Cifuentes, and Mi Lian Wei
8 are presently in ICE custody. Defendants deny that Plaintiff Pedro Nolasco is presently in ICE custody.

9 15. Paragraph 15 of the Complaint presents a definition of terms used in the Complaint to which
10 no response is required.

11 16. Defendants deny the first sentence of paragraph 16 of the Complaint, and aver that Plaintiff
12 Uelian De Abadia-Peixoto has been in custody at the Sacramento County Jail since October 28, 2011.
13 Defendants admit that Plaintiff Uelian De Abadia-Peixoto is in removal proceedings before the San
14 Francisco immigration court. Defendants are prohibited by law from disclosing information related to
15 the identification of certain forms of relief from removal an individual may have applied for, and
16 therefore decline to respond to the remainder of the second sentence of paragraph 16 of the Complaint,
17 or to the third sentence of paragraph 16 of the Complaint. Defendants admit that Plaintiff Uelian De
18 Abadia-Peixoto has appeared in immigration court at least five times since January 2011, but lack
19 knowledge or information sufficient to know whether and to what extent she was temporarily restrained
20 during any appearance, and therefore deny the same. Defendants deny that Plaintiff was injured by
21 Defendants, and deny any remaining allegations of the fourth sentence of paragraph 16 of the
22 Complaint. Defendants deny the allegations of the fifth sentence of paragraph 16 of the Complaint.
23 Defendants deny that Plaintiff Uelian De Abadia-Peixoto had a hearing before an immigration court in
24 September 2011.

25 17. Defendants admit the allegations of the first sentence of paragraph 17 of the Complaint.
26 Defendants deny that that Plaintiff Esmar Cifuentes is currently in removal proceedings before the San
27 Francisco immigration court. Defendants admit that Plaintiff Esmar Cifuentes has appeared in
28 immigration court at least three times since May 2011, but lack knowledge or information sufficient to

1 know whether and to what extent he was temporarily restrained during any appearance, except to deny
2 that he was restrained during a December 2011 hearing, and therefore deny the same. Defendants
3 further deny that he was injured by Defendants, and deny any remaining allegations of the third sentence
4 of paragraph 17 of the Complaint. Defendants deny the allegations of the fourth sentence of paragraph
5 17 of the Complaint. Defendants admit that Plaintiff Esmar Cifuentes had a hearing before an
6 immigration court in August 2011.

7 18. Defendants deny the allegations of the first sentence of paragraph 18 of the Complaint.
8 Defendants deny that Plaintiff Pedro Nolasco Jose is in removal proceedings before the San Francisco
9 immigration court, but because Defendants are prohibited by law from disclosing information related
10 to the identification of certain forms of relief from removal an individual may have applied for,
11 Defendants decline to respond to the remainder of the second sentence of paragraph 18 of the
12 Complaint. Plaintiffs lack knowledge or information sufficient to either admit or deny the allegations
13 of the first or second sentences of footnote number 1 of the Complaint and therefore deny the same. The
14 third sentence of footnote number 1 of the Complaint presents a definition of terms used in the
15 Complaint to which no response is required. Defendants admit that Plaintiff Pedro Nolasco Jose has
16 appeared about five times since June 2011 before the San Francisco immigration court, but lack
17 knowledge or information sufficient to know whether and to what extent she was temporarily restrained
18 during any appearance and therefore deny the same. Defendants further deny that she was injured by
19 Defendants, and deny any remaining allegations of the third sentence of paragraph 18 of the Complaint.

20 Defendants admit that Plaintiff Pedro Nolasco Jose had a hearing before the immigration court in
21 September 2011.

22 19. Defendants admit the allegations of the first sentence of paragraph 19 of the Complaint.
23 Defendants admit that Plaintiff Mi Lian Wei is in removal proceedings before the San Francisco
24 immigration court, but because Defendants are prohibited by law from disclosing information related
25 to the identification of certain forms of relief from removal an individual may have applied for,
26 Defendants decline to respond to the remainder of the second sentence of paragraph 19 of the
27 Complaint. Defendants admit that Plaintiff Mi Lian Wei has appeared in immigration court at least three
28 times since June 2011, but lack knowledge or information sufficient to know whether and to what extent

1 she was temporarily restrained during any appearance and therefore deny the same. Defendants further
2 deny that she was injured by Defendants, and deny any remaining allegations of the third sentence of
3 paragraph 19 of the Complaint. Defendants deny the allegations of the fourth sentence of paragraph 19
4 of the Complaint. Defendants deny that Plaintiff Mi Lian Wei had a hearing before the immigration
5 court in September 2011.

6 **Defendants**

7 20. Defendants admit that Immigration and Customs Enforcement is an agency with responsibility
8 for the enforcement of immigration laws, but deny the allegation of the first sentence of paragraph 20
9 of the Complaint that ICE is the sole arm of the federal government responsible for the enforcement of
10 immigration laws. Defendants deny the second sentence of paragraph 20 of the Complaint, with the
11 exception that the Immigration and Naturalization Service no longer exists, but aver that with the
12 enactment of the Homeland Security Act of 2002 ICE assumed responsibility over the detention and
13 removal of aliens under the Immigration and Nationality Act, responsibilities that previously were
14 within the area of responsibility of the legacy Immigration and Naturalization Service.

15 21. Defendants admit the allegations of the first and second sentences of paragraph 21 of the
16 Complaint. The third sentence of paragraph 21 of the Complaint states a characterization of this action
17 to which no response is required.

18 22. Defendants admit the allegations of paragraph 22 of the Complaint.

19 23. Defendants admit the allegations of the first two sentences of paragraph 23 of the Complaint.
20 The third sentence of paragraph 23 of the Complaint states a characterization of this action to which no
21 response is required.

22 24. Defendants admit the allegations of the first two sentences of paragraph 24 of the Complaint.
23 The third sentence of paragraph 24 of the Complaint states a characterization of this action to which no
24 response is required.

25 25. Defendants admit the allegations of the first two sentences of paragraph 25 of the Complaint.
26 The third sentence of paragraph 25 of the Complaint states a characterization of this action to which no
27 response is required.

28 26. Defendants admit the allegations of paragraph 26 of the Complaint.

1 27. Defendants admit the allegations of the first two sentences of paragraph 27 of the Complaint.
2 The third sentence of paragraph 27 of the Complaint states a characterization of this action to which no
3 response is required.

4 28. Paragraph 28 of the Complaint presents a definition of a term used in the Complaint to which
5 no response is required.

6 Class Allegations

7 29. Paragraph 29 of the Complaint states a legal conclusion or otherwise presents a characterization
8 of this action to which no response is required.

9 30. Paragraph 30 of the Complaint states a legal conclusion or otherwise presents a
10 characterization of this action to which no response is required.

11 31. The first sentence of paragraph 31 of the Complaint states a legal conclusion to which no
12 response is required. With respect to the second sentence of paragraph 31 of the Complaint, Defendants
13 admit that thousands individuals annually before immigration court in San Francisco, and that a number
14 of such individuals are temporarily restrained to prevent flight and for the safety and protection of court
15 personnel, the public, and other individuals in immigration court. With respect to the third sentence of
16 paragraph 31 of the Complaint, Defendants aver that the FY 2010 Statistical Yearbook contains
17 information related to information proceedings and speaks for itself, admit that the FY 2010 Statistical
18 Yearbook indicates that in 2010 the San Francisco immigration court had 3,281 immigration court
19 completions for detained cases in 2010, but deny that the information is located in the table identified
20 by Plaintiffs. Defendants deny the allegations of the fourth sentence of paragraph 31 of the Complaint.
21 Defendants deny the allegations of the fifth sentence of paragraph 31 of the Complaint. The final
22 sentence of paragraph 31 of the Complaint states a legal conclusion to which no response is required.

23 32. Paragraph 32 of the Complaint states a legal conclusion or otherwise presents a characterization
24 of this action to which no response is required.

25 33. Paragraph 33 of the Complaint states a legal conclusion or otherwise presents a characterization
26 of this action to which no response is required, except that Defendants deny that Plaintiffs have been
27 denied an individualized hearing and deny that any Plaintiff has been injured by Defendants.

28 34. Paragraph 34 of the Complaint states a legal conclusion or otherwise presents a characterization

1 of this action to which no response is required.

2 35. Paragraph 35 of the Complaint states a legal conclusion or otherwise presents a characterization
3 of this action to which no response is required, except that Defendants deny the allegation of the second
4 sentence of paragraph 35 of the Complaint that Defendants have acted in violation of the United States
5 Constitution or any other provision of law, or that Plaintiffs have suffered any injury, and deny all other
6 factual allegations of the second sentence of paragraph 35 of the Complaint.

7 **Statement of Facts**

8 36. Defendants deny the allegations of paragraph 36 of the Complaint.

9 37. Defendants admit that some individuals are temporarily restrained in immigration court in San
10 Francisco and elsewhere. Defendants deny the remaining allegations of paragraph 37 of the Complaint.

11 38. Defendants deny the allegations of the first and second sentences of paragraph 38 of the
12 Complaint. Defendants lack knowledge or information sufficient to either admit or deny the remaining
13 allegations of paragraph 38 of the Complaint and therefore deny the same.

14 39. Defendants admit that a number of aliens in removal proceedings seek asylum under federal
15 immigration law, but deny the remaining allegations of paragraph 39 of the Complaint.

16 40. Defendants deny the allegations of paragraph 40 of the Complaint.

17 41. Defendants deny the allegations of paragraph 41 of the Complaint and specifically deny that the
18 use of temporary restraints is mandatory with respect to the appearance of any individual in removal
19 proceedings in San Francisco immigration court.

20 42. Defendants admit that there are over 30,000 individuals in immigration detention, but lack
21 knowledge or information sufficient to admit or deny that ICE runs the largest civil detention and
22 supervised release programs in the country, and deny that ICE operates and maintains over 300
23 detention facilities in the United States.

24 43. Defendants admit the allegations of the first sentence of paragraph 43 of the Complaint.
25 Defendants admit that ICE receives fingerprints of aliens booked at a county jail, but deny that IE
26 receives fingerprints in all such circumstances. Defendants admit the allegations of the third sentence
27 of paragraph 43 of the Complaint. Defendants admit that aliens may be denied bond by ICE because
28 they are subject to mandatory detention, and admit that immigration judges may redetermine bond

1 amounts set by ICE, but otherwise deny Plaintiffs' allegation and characterization of detention decisions
2 found in the fourth sentence of paragraph 43 of the Complaint.

3 44. Defendants admit that non-detained aliens are not typically placed in temporary restraints during
4 proceedings in San Francisco immigration court, but deny the remaining allegations of paragraph 44 of
5 the Complaint.

6 45. Defendants admit the allegations of the first two sentences of paragraph 45 of the Complaint.
7 Defendants deny the allegations of the third sentence of paragraph 45 of the Complaint, and specifically
8 deny Plaintiffs' characterization of the report entitled Immigration Detention Overview and
9 Recommendations referenced in paragraph 45 of the Complaint, and aver that the document speaks for
10 itself. Defendants admit the allegations of the fifth sentence of paragraph 45 of the Complaint, but deny
11 that aliens applying for such benefits are routinely or typically detained, or detained without bond. The
12 sixth and seventh sentences of paragraph 45 of the Complaint states a legal conclusion to which no
13 response is required.

14 46. Defendants admit that the decision to place someone into detention follows a decision to place
15 them in removal proceedings, but deny the remaining allegations of the first sentence of paragraph 46
16 of the Complaint. Defendants admit that the initial custody determination is generally made by ICE,
17 but deny the remaining allegations of the second sentence of paragraph 46 of the Complaint. Defendants
18 lack knowledge or information sufficient to either admit or deny the allegations of the third sentence
19 of paragraph 46 of the Complaint, and therefore deny the same. Defendants further specifically deny
20 the implication in paragraph 45 of the Complaint that the process and procedures by which ICE makes
21 its initial custody determination in any case is constitutionally or legally inadequate.

22 47. Defendants admit that adult immigrants who are denied bond or unable to post bond are
23 generally housed at either a federal immigration facility or a facility with which immigration authorities
24 contract to house ICE detainees, but deny the allegation that is the case in every circumstance.
25 Defendants admit the allegations of the second sentence of paragraph 47 of the Complaint. Defendants
26 admit that immigration detainees with removal proceedings in the Northern District of California may
27 be housed in facilities that also include prisoners incarcerated for criminal offenses, but deny the
28 implication that every immigration detainee is so detained.

1 48. Defendants admit that many detainees appear at master calendar hearings, but deny the
2 remaining allegations of the first sentence of paragraph 48 of the Complaint. Defendants admit the
3 allegations of the second and third sentences of paragraph 48 of the Complaint. Defendants admit that
4 some aliens ordered removed may be entitled to a bond hearing under certain limited circumstances in
5 the Ninth Circuit, but deny that post-order bond hearings are typical, and deny any remaining allegations
6 of the last sentence of paragraph 48 of the Complaint.

7 49. Defendants admit that a number of individuals who appear in immigration court are temporarily
8 restrained by ICE to prevent flight and for the safety and protection of court personnel, the public, and
9 other individuals in immigration court, but deny the remaining allegations of paragraph 49 of the
10 Complaint.

11 50. Defendants admit that some detainees are in custody for months, and may have numerous court
12 appearances, and admit that some detainees appear at immigration court proceedings in temporary
13 restraints, but deny the remaining allegations of the first sentence of paragraph 50 of the Complaint.
14 Defendants admit the allegations of the second sentence of paragraph 50 of the Complaint. Defendants
15 admit that the third sentence identifies some ways in which immigration may terminate, but deny the
16 implication that the third sentence of paragraph 50 is exhaustive in that respect.

17 51. Defendants admit that some detainees who appear in immigration court in San Francisco are
18 transported to court from outside San Francisco, but deny the remaining allegations of the first sentence
19 of paragraph 51 of the Complaint. Defendants admit the allegations of the second sentence of paragraph
20 51 of the Complaint, but deny the implication that the alleged circumstances are typical. Defendants
21 lack knowledge or information sufficient to either admit or deny the allegations of the third sentence
22 of the Complaint and therefore deny the same. Defendants admit that some detainees are temporarily
23 restrained during transportation to immigration court, but deny the remaining allegations of the fourth
24 sentence of paragraph 51 of the Complaint. Defendants admit that some detainees are released from
25 temporary restraints while awaiting their hearings at the immigration court in San Francisco, are placed
26 back into temporarily restraints for the duration of their court appearances, and are placed into
27 temporary restraints during the duration of their transportation back to a detention facility, but deny the
28 implication that the remaining allegations of the fifth and sixth sentences of paragraph 51 of the

1 Complaint are typical as to all detainees.

2 52. Defendants admit that some detainees are temporarily restrained together to prevent flight and
3 for the safety and security of those present in immigration court, but deny the remaining allegations of
4 paragraph 52 of the Complaint.

5 53. Defendants deny the allegations of paragraph 53 of the Complaint.

6 54. Defendants deny the allegations of paragraph 54 of the Complaint.

7 55. Defendants lack knowledge or information sufficient to either admit or deny the allegations of
8 the first sentence of paragraph 55 of the Complaint. Defendants admit that ICE officials may be armed
9 during immigration court proceedings, but deny the remaining allegations of paragraph 55 of the
10 Complaint.

11 56. Defendants admit that some detainees are temporarily restrained during bond and individual
12 merits hearings, and admit that ICE officials may be armed during immigration court proceedings, and
13 admit that detainees are typically not restrained to other detainees during bond or individual merits
14 hearings. Defendants deny the remaining allegations of paragraph 56 of the Complaint.

15 57. Defendants deny the allegations of paragraph 57 of the Complaint.

16 58. Defendants deny the allegations of paragraph 58 of the Complaint.

17 59. Defendants deny the allegations of paragraph 59 of the Complaint.

18 60. Defendants admit that some detainees are temporarily restrained during the duration of their
19 appearance in immigration court, but deny the remaining allegations of paragraph 60 of the Complaint.

20 61. Defendants admit that some aliens may be removed to countries they have not lived in since
21 infancy, but deny the implication of paragraph 61 that such removals are typical. Defendants deny the
22 remaining allegations of paragraph 61 of the Complaint.

23 62. Defendants admit that ICE is responsible for security in immigration courts where detained
24 aliens appear. Defendants aver that the memorandum referenced in the first sentence of paragraph 62
25 speaks for itself, and denies Plaintiffs' characterization of the memorandum as complete.

26 63. Defendants deny the allegations of paragraph 63 of the Complaint.

27 64. The first sentence of paragraph 64 contains a legal conclusion to which no response is required.
28 Defendants deny any factual allegations of the first sentence of paragraph 64 of the Complaint, and deny

1 the remaining allegations of paragraph 64 of the Complaint.

2 65. Defendants deny the allegations of paragraph 65 of the Complaint, and specifically deny the
3 implication of paragraph 65 of the Complaint that Defendants have acted in violation of the United
4 States Constitution or any provision of law.

5 **Allegations of Named Plaintiffs**

6 66. Defendants admit the allegations of the first two sentences of paragraph 66 of the Complaint,
7 except to deny that Plaintiff Urelia De Abadia-Peixoto is in custody at Yuba County.

8 Defendants lack knowledge or information sufficient to admit or deny the remaining allegations of
9 paragraph 66 of the Complaint.

10 67. Defendants admit the allegations of paragraph 67 of the Complaint.

11 68. Defendants admit the allegations of the first sentence of paragraph 68 of the Complaint.
12 Defendants deny that Plaintiff Uelian De Abadia-Peixoto had a hearing in immigration court in
13 September 2011.

14 69. Defendants admit the allegations of the first sentence of paragraph 69 of the Complaint.
15 Defendants deny that Plaintiff Uelian De Abadia-Peixoto was not given a bond hearing by an
16 immigration judge, aver that she was given such a hearing and bond was granted, and admit that she is
17 now in custody under 8 U.S.C. § 1226(c) for a subsequent criminal offense.

18 70. Defendants admit that Plaintiff Uelian De Abadia-Peixoto is in removal proceedings before the
19 San Francisco immigration court, that she has appeared in immigration court at least five times since
20 January 2011, but lack knowledge or information sufficient to know whether and to what extent she was
21 temporarily restrained during any appearance and therefore deny the same. Defendants lack knowledge
22 or information sufficient to either admit or deny the allegations of the second sentence of paragraph 70
23 of the Complaint and therefore deny the same.

24 71. Defendants lack knowledge or information sufficient to either admit or deny the allegations of
25 the first sentence of paragraph 71 of the Complaint and therefore deny the same. Defendants deny the
26 remaining allegations of paragraph 71 of the Complaint.

27 72. Defendants lack knowledge or information sufficient to either admit or deny the allegations of
28 paragraph 72 of the Complaint and therefore deny the same. Defendants deny the implication of

1 paragraph 72 that Defendants injured Plaintiff Uelian De Abadia-Peixoto.

2 73. Defendants lack knowledge or information sufficient to either admit or deny the allegations of
3 paragraph 73 of the Complaint and therefore deny the same. Defendants deny the implication of
4 paragraph 73 that Defendants injured Plaintiff Uelian De Abadia-Peixoto.

5 74. Defendants lack knowledge or information sufficient to either admit or deny the allegations of
6 paragraph 74 of the Complaint and therefore deny the same.

7 75. Defendants lack knowledge or information sufficient to either admit or deny the allegations of
8 paragraph 75 of the Complaint and therefore deny the same.

9 76. Defendants admit the allegations of the first two sentences of paragraph 76 of the Complaint.
10 Defendants lack knowledge or information sufficient to admit or deny the remaining allegations of
11 paragraph 76 of the Complaint.

12 77. Defendants admit that Plaintiff Esmar Cifuentes was issued a Notice to Appear, but deny that
13 it was issued on the date alleged. Defendants admit the allegations of the second sentences of paragraph
14 77 of the Complaint. Defendants admit that Plaintiff Esmar Cifuentes was denied bond, and aver that
15 the immigration judge's bond decision speaks for itself. Defendants deny the remaining allegations of
16 paragraph 77 of the Complaint.

17 78. Defendants admit that Plaintiff Esmar Cifuentes has appeared in immigration court at least three
18 times since May 2011, but lack knowledge or information sufficient to know whether and to what extent
19 he was temporarily restrained during any appearance, except to deny that he was restrained during a
20 December 2011 court appearance, and therefore deny the same. Defendants lack knowledge or
21 information sufficient to admit or deny the remaining allegations of paragraph 78 of the Complaint.

22 79. Defendants deny the allegations of paragraph 79 of the Complaint.

23 80. Defendants lack knowledge or information sufficient to either admit or deny the allegations of
24 paragraph 80 of the Complaint and therefore deny the same. Defendants deny the implication of
25 paragraph 80 that Defendants injured Plaintiff Esmar Cifuentes.

26 81. Defendants lack knowledge or information sufficient to either admit or deny the allegations of
27 paragraph 81 of the Complaint and therefore deny the same.

28 82. Defendants lack knowledge or information sufficient to either admit or deny the allegations of

1 paragraph 82 of the Complaint and therefore deny the same.

2 83. Defendants deny the implication of the first sentence of paragraph 81 that Defendants injured
3 Plaintiff Esmar Cifuentes. Defendants lack knowledge or information sufficient to either admit or deny
4 the allegations of the remaining allegations of paragraph 83 of the Complaint and therefore deny the
5 same.

6 84. Defendants admit that in August 2011 Plaintiff Esmar Cifuentes had a merits hearing. The
7 remainder of paragraph 84 states either Plaintiff Esmar Cifuentes' intentions, which Defendants lack
8 knowledge or information sufficient to either admit or deny, and therefore deny the same, or constitute
9 a legal conclusion to which no response is required.

10 85. Defendants deny the allegations of the first sentence of paragraph 85 of the Complaint.
11 Defendants admit the allegations of the second sentence of paragraph 85 of the Complaint.
12 Defendants lack knowledge or information sufficient to admit or deny the remaining allegations of
13 paragraph 85 of the Complaint.

14 86. Defendants admit the allegations of paragraph 86 of the Complaint.

15 87. Defendants admit that Plaintiff Pedro Nolasco was denied bond, and aver that the immigration
16 judge's bond decision speaks for itself. Defendants admit that Plaintiff Pedro Nolasco had an
17 immigration hearing in September 2011. The remainder of paragraph 87 states either Plaintiff Pedro
18 Nolasco's intentions, which Defendants lack knowledge or information sufficient to either admit or
19 deny, and therefore deny the same, or constitute a legal conclusion to which no response is required.

20 88. Defendants admit that Plaintiff Pedro Nolasco Jose has appeared about five times since June
21 2011 before the San Francisco immigration court, but lack knowledge or information sufficient to know
22 whether and to what extent she was temporarily restrained during any appearance and therefore deny
23 the same.

24 89. Defendants lack knowledge or information sufficient to either admit or deny the allegations of
25 paragraph 89 of the Complaint and therefore deny the same. Defendants deny the implication of
26 paragraph 89 that Defendants injured Plaintiff Pedro Nolasco.

27 90. Defendants lack knowledge or information sufficient to either admit or deny the allegations of
28 paragraph 90 of the Complaint and therefore deny the same. Defendants deny the implication of

1 paragraph 90 that Defendants injured Plaintiff Pedro Nolasco.

2 91. Defendants lack knowledge or information sufficient to either admit or deny the allegations of
3 paragraph 91 of the Complaint and therefore deny the same.

4 92. Defendants admit the allegations of the first two sentences of paragraph 92 of the Complaint.
5 Defendants lack knowledge or information sufficient to admit or deny the remaining allegations of
6 paragraph 92 of the Complaint and therefore deny the same.

7 93. Defendants admit the allegations of paragraph 93 of the Complaint.

8 94. Defendants admit that Plaintiff Mi Lian Wei had an immigration hearing in September 2011, but
9 because Defendants are prohibited by law from disclosing information related to the identification of
10 certain forms of relief from removal an individual may have applied for, Defendants decline to respond
11 to the remainder of paragraph 94 of the Complaint.

12 95. Defendants admit that Plaintiff Mi Lian Wei has appeared in immigration court at least three
13 times since June 2011, but lack knowledge or information sufficient to know whether and to what extent
14 she was temporarily restrained during any appearance and therefore deny the same.
15 Defendants lack knowledge or information sufficient to admit or deny the remaining allegations of
16 paragraph 95 of the Complaint and therefore deny the same.

17 96. Defendants lack knowledge or information sufficient to either admit or deny the allegations of
18 paragraph 96 of the Complaint and therefore deny the same. Defendants deny the implication of
19 paragraph 96 that Defendants injured Plaintiff Mi Lian Wei.

20 97. Defendants lack knowledge or information sufficient to either admit or deny the allegations of
21 paragraph 97 of the Complaint and therefore deny the same.

22 **Claim For Relief**

23 **(Violation of the Fifth Amendment)**

24 98. Paragraph 97 provides a statement of reference to earlier paragraphs of the Complaint, to which
25 no response is required.

26 99. Paragraph 99 states a legal conclusion to which no response is required. Defendants deny any
27 implication in paragraph 99 of the Complaint that Defendants have violated the United States
28 Constitution or other provision of law.

1 100. Defendants deny the allegations of paragraph 100 of the Complaint.

2 101. Defendants deny the allegations of paragraph 101 of the Complaint.

3 **Relief Allegations**

4 102. Paragraph 102 states a legal conclusion and presents a characterization of this action, to
5 which no response is required. Defendants deny any allegation or implication in paragraph 102 of the
6 Complaint that Defendants have violated the United States Constitution or other provision of law, and
7 deny the allegation that Defendants have caused injury to any Plaintiff.

8 103. Paragraph 103 states a legal conclusion to which no response is required. Defendants deny any
9 allegation or implication in paragraph 103 of the Complaint that Defendants have violated the United
10 States Constitution or other provision of law, and deny the allegation that Defendants have caused injury
11 to any Plaintiff.

12 104. The first, sixth, seventh, and eighth sentences of paragraph 104 of the Complaint states a legal
13 conclusion to which no response is required. Defendants admit that each of the named Plaintiffs had
14 hearings before the San Francisco immigration court on all of the dates stated in paragraph 104 of the
15 Complaint, as otherwise denied in this Complaint. Defendants deny that they have acted in violation
16 of the United States Constitution or other provision of law with respect to any Plaintiff, and deny that
17 Defendants have injured any Plaintiff.

18 105. Paragraph 105 states a legal conclusion and presents a characterization of this action, to which
19 no response is required. Defendants deny any allegation or implication in paragraph 105 of the
20 Complaint that Defendants have violated the United States Constitution or other provision of law, and
21 deny the allegation that Defendants have caused injury to any Plaintiff.

22 **Prayer for Relief**

23 The Prayer for Relief of the Complaint constitutes Petitioners' request for relief to which no
24 response is required. To the extent that a response is deemed required, Defendants deny that Plaintiffs
25 are entitled to relief from Defendants.

26 **Affirmative Defenses**

27 In further answer to Plaintiffs' Complaint, and as separate affirmative defenses, Defendants state
28 as follows:

1 1. The relief sought may not be granted where subject matter jurisdiction over the determination
2 of a claim is barred by the Immigration and Nationality Act or other statutory provision.

3 2. Declaratory or other requested relief should be denied as an exercise of judicial discretion to
4 withhold relief.

5 Defendants preserve the right to raise additional affirmative defenses and to supplement those
6 asserted herein upon discovery of further information regarding the claims.

7 * * *

8 WHEREFORE, Defendants, having fully answered Plaintiffs' Complaint, respectfully pray for
9 judgment denying each and every prayer for relief, dismissing the action, granting Defendants costs
10 where permitted, and granting such other and further relief as this Court deems just and proper.

11
12 Dated: January 23, 2012

Respectfully submitted,

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16 DAVID J. KLINE
17 Director
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CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2012, I served the foregoing to counsel for Plaintiffs by filing it through this Court's ECF/CM system.

/s/ Theodore W. Atkinson
THEODORE W. ATKINSON
Senior Litigation Counsel
U.S. Department of Justice

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