

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RAVIDATH LAWRENCE RAGBIR;)
)
NEW SANCTUARY COALITION OF)
NEW YORK CITY;)
)
CASA;)
)
DETENTION WATCH NETWORK;)
)
NATIONAL IMMIGRATION PROJECT)
OF THE NATIONAL LAWYERS GUILD;)
)
and)
)
NEW YORK IMMIGRATION)
COALITION,)

Plaintiffs,)

v.)

RONALD D. VITIELLO, in his official)
capacity as Deputy Director and Senior)
Official Performing the Duties of the)
Director of U.S. Immigration and Customs)
Enforcement;)
)
THOMAS R. DECKER, in his official)
capacity as New York Field Office Director)
for U.S. Immigration and Customs)
Enforcement;)
)
SCOTT MECHKOWSKI, in his official)
capacity as Assistant New York Field Office)
Director for U.S. Immigration and Customs)
Enforcement;)
)
U.S. IMMIGRATION AND CUSTOMS)
ENFORCEMENT;)
)

Civil Action No. 18-1159 (PKC)

KIRSTJEN M. NIELSEN, in her official)
 capacity as Secretary of Homeland Security;)
)
 U.S. DEPARTMENT OF)
 HOMELAND SECURITY;)
)
 JEFFERSON B. SESSIONS III, in his)
 official capacity as Attorney General of the)
 United States;)
)
 and)
)
 U.S. DEPARTMENT OF JUSTICE,)
)
)
 Defendants.)
 _____)

**AMENDED COMPLAINT FOR DECLARATORY,
 INJUNCTIVE, AND HABEAS RELIEF**

NATURE OF ACTION

1. This case is about who we are as a nation. Whether it remains true that “[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.” *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943). Whether ours is a nation where the privilege and responsibility of prosecutorial power are nothing more than a thin veil for persecution of disfavored political views. The nation’s immigration laws provide for the removal of some non-citizens from the United States. These laws both authorize and govern the process by which removal decisions are made and how such orders are executed. These laws also provide for discretion. In years past, to determine whom to remove and when, the Executive Branch has considered factors such as whether the individual poses a danger to the community, the impact of removal on international relations, and the “human concerns” of whether the

individual “has children born in the United States, long ties to the community, or a record of distinguished military service.” *Arizona v. United States*, 567 U.S. 387, 396 (2012).

2. But with the new Administration, something has changed. Federal immigration authorities have specifically targeted prominent and outspoken immigrant-rights activists across the country on the basis of their speech and political advocacy on behalf of immigrants’ rights and social justice. These activists have been surveilled, intimidated, harassed, and detained, their homes have been raided, many have been plucked off the street in broad daylight, and some have even been deported. Laws and agency regulations have been violated, and the “broad discretion exercised by immigration officials,” *id.*, has been abused in a cynical effort to punish those who disagree with the Administration. To sweep away all opposition. The Government’s targeting of activists on the basis of their core political speech is unfair, discriminatory, and un-American. And it violates the First Amendment.

3. Cities that protect noncitizen immigrants are called “sanctuaries” for a reason. Many immigrants live in the shadows for fear of possible deportation. Many of the rights that birthright American citizens take for granted—the right to speak, to worship, to work, and to live as one pleases—are exercised only with caution by immigrants. Yet courageously, some immigrants speak out. They boldly educate other immigrants about their rights. They bravely advocate for changes to our immigration laws and enforcement policies. They fearlessly call out the injustices they see in our nation’s immigration system. They do this because the Constitution not only allows but encourages it, because of our “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

4. Plaintiff Ravidath “Ravi” Lawrence Ragbir, a father, husband, and nationally-recognized immigration rights activist, is one such immigrant who has freely exercised his right to speak out against the injustices and inhumanity of our current immigration system and has been targeted for surveillance, detention, and removal by federal immigration authorities because of his outspoken advocacy. Plaintiff New Sanctuary Coalition of New York City depends on Mr. Ragbir as its Executive Director. He is the lifeblood of the organization and a central figure in the broader community of immigration advocates. He has devoted his life to the dignity and well-being of others, working tirelessly at the intersection of faith and immigrant communities, and gathering support from faith leaders, elected officials at all levels of government, immigrant-rights activists, and hundreds of community members.

5. Mr. Ragbir has lived in the United States for over 25 years, but for the last 10 years he has been subject to a final order of removal. Yet, because of his special contributions to his community, federal immigration authorities until recently authorized his presence in the United States with his beloved U.S. citizen wife and daughter, granting him an order of supervision and four administrative stays of removal. But on January 11, 2018, with his most recent administrative stay of removal still in place, U.S. Immigration and Customs Enforcement (ICE) officials suddenly and inexplicably detained him at a routine check-in.

6. On January 29, 2018, in response to the cruel and unconstitutional actions of federal immigration officials, this Court granted Mr. Ragbir a writ of habeas corpus, requiring ICE to release him from custody. The Court wrote that “[i]t ought not to be—and it has never before been—that those who have lived without incident in this country for years are subjected to treatment we associate with regimes we revile as unjust.” *Ragbir v. Sessions*, No. 18-cv-236 (KBF), 2018 WL 623557, at *1 (S.D.N.Y. Jan. 29, 2018) (Forrest, J.).

7. Mr. Ragbir is not alone. Plaintiff immigrant-rights organizations have joined this lawsuit because they too have seen their leading advocates targeted because of their advocacy.

8. The Government cannot silence critics of its immigration laws and policies by surveilling, detaining, and deporting them. The First Amendment does not allow it. It is a matter of “grave concern” indeed that Mr. Ragbir and other likeminded activists “ha[ve] been targeted as a result of [their] speech and political advocacy on behalf of immigrants’ rights and social justice.” *Id.* at *1 n.1. All persons within the United States, citizens and non-citizens alike, enjoy the protections of the First Amendment. *See United States v. Verdugo-Urquidez*, 494 U.S. 259, 271 (1990) (citing *Bridges v. Wixon*, 326 U.S. 135, 148 (1945)). “[A]s a general matter, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.” *United States v. Alvarez*, 167 U.S. 709, 716 (2012) (alteration in original) (quoting *Ashcroft v. Am. Civil Liberties Union*, 535 U.S. 564, 573 (2002)).

9. This Court should prevent Defendants from doing just that. The Court should declare that targeting immigrant-rights activists on the basis of their protected political speech violates the First Amendment, and enjoin Defendants from taking any further retaliatory actions. And the Court should restrain Defendants from taking any action to surveil, detain, remove, or otherwise take adverse action against Mr. Ragbir unless Defendants demonstrate to the Court’s satisfaction that such action is untainted by unlawful retaliation or viewpoint discrimination.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction under 28 U.S.C. § 1331; 28 U.S.C. § 2241; and the Suspension Clause of the United States Constitution. Plaintiffs’ causes of action arise under the laws and Constitution of the United States, including the First Amendment.

In addition, Plaintiff Ragbir is subject to a final order of removal, which “is sufficient, by itself, to establish the requisite custody” for purposes of habeas jurisdiction. *Simmonds v. I.N.S.*, 326 F.3d 351, 354 (2d Cir. 2003); *see also Jones v. Cunningham*, 371 U.S. 236, 239-40 (1963).

11. Nothing in the Immigration and Nationality Act (INA) strips this Court of jurisdiction over Plaintiffs’ claims. *See* 8 U.S.C. § 1252 (specifying provisions governing judicial review of orders of removal). Plaintiffs here do not challenge underlying orders of removal or actions committed to unreviewable agency discretion. They challenge, rather, Defendants’ pattern and practice of targeting immigrant-rights activists for immigration enforcement on the basis of their core protected political speech. This includes Defendants’ actions targeting Mr. Ragbir, which arose long after his removal order became final. No other forum exists to address these claims. Applying any statutory provision to curb jurisdiction in this case therefore would deprive Plaintiffs of any effective judicial review of their claims, and a “serious constitutional question . . . would arise if a federal statute were construed to deny any judicial forum for a colorable constitutional claim.” *Webster v. Doe*, 486 U.S. 592, 603 (1988) (quotation marks omitted). And, with respect to Mr. Ragbir, the Suspension Clause guarantees review of his claims. *See INS v. St. Cyr*, 533 U.S. 289 (2001); *Simmonds*, 326 F.3d 351.

12. Venue is proper in this district under 28 U.S.C. § 1391. A substantial part of the events giving rise to this action occurred in this judicial district.

13. An actual and justiciable controversy exists between the parties under 28 U.S.C. § 2201, and this Court has authority to grant declaratory and injunctive relief. *Id.* §§ 1351, 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651.

PARTIES

14. Plaintiff Ravidath Lawrence Ragbir is a resident of Brooklyn, New York. He is a prominent immigrant-rights activist and Executive Director of the New Sanctuary Coalition of New York City. Mr. Ragbir became a Lawful Permanent Resident of the United States in 1994. He received a final order of removal in 2007, but has continued to live and work in the United States with authorization from ICE since his release from an initial period of immigration detention in 2008.

15. Plaintiff New Sanctuary Coalition of New York City (the Coalition) is an interfaith network of congregations, organizations, and individuals, standing publicly in solidarity with families and communities resisting detention and deportation in order to stay together. Since its inception in 2007, the Coalition has grown from a half-dozen congregations to a city-wide movement, working in coalition with New York City's major immigrant organizations to reform immigration enforcement practices and policies, both locally and nationally. The Coalition is based in New York.

16. Plaintiff CASA is a non-profit 501(c)(3) membership organization headquartered in Langley Park, Maryland, with offices in Maryland, Virginia, and Pennsylvania. Founded in 1979, CASA is the largest membership-based immigrant-rights organization in the mid-Atlantic region, with more than 90,000 members. CASA's mission is to create a more just society by building power and improving the quality of life in low-income immigrant communities. In furtherance of this mission, CASA offers a wide variety of social, health, job training, employment, and legal services to immigrant communities in Maryland, as well as the greater Washington, DC metropolitan area, Virginia, and Pennsylvania.

17. Plaintiff National Immigration Project of the National Lawyers Guild (NIPNLG) is a national non-profit 501(c)(3) membership organization headquartered in Boston, Massachusetts. Formed in 1971 as a committee of the National Lawyers Guild, NIPNLG became a freestanding organization in 1981. Today, it is one of the few national legal support groups that specialize in defending the rights of immigrants facing incarceration and deportation. It provides technical assistance and support to community-based immigrant organizations, legal practitioners, and advocates seeking and working to advance the rights of noncitizens. NIPNLG works independently and collaboratively with immigration advocacy organizations across the United States to educate and strengthen the capacity of immigration professionals and immigrant organizations to defend immigrant rights, and promotes public policy change through litigation, advocacy, and support for community organizing on the ground.

18. Plaintiff New York Immigration Coalition (NYIC) is an umbrella policy and advocacy organization for more than 200 groups in New York State. NYIC envisions a New York State that is stronger because all people are welcome, treated fairly, and given the chance to pursue their dreams. Its mission is to unite immigrants, members, and allies so all New Yorkers can thrive. NYIC represents the collective interests of New York's diverse immigrant communities and organizations and devises solutions to advance them; advocates for laws, policies, and programs that lead to justice and opportunity for all immigrant groups; and builds the power of immigrants and the organizations that serve them to ensure their sustainability, to improve people's lives, and to strengthen the State.

19. Plaintiff Detention Watch Network (DWN) is a national coalition of approximately 200 organizations and individuals headquartered in Washington, DC. Founded in 1997 in response to the explosive growth of the U.S. immigration detention and deportation

systems, DWN works against the injustices of those systems and for profound change that promotes the rights of dignity of all persons. DWN is the only national network that focuses exclusively on immigration detention and deportation issues, is a go-to resource on detention issues, and is known as a critical national advocate for just policies that promote an eventual end to immigration detention. DWN unites diverse constituencies to advance the civil and human rights of those affected by the immigration detention and deportation systems. DWN members, many of whom are directly affected by detention and deportation policies, are community organizers, advocates, social workers, lawyers, doctors, clergy, students, and formerly detained immigrants and their families. They are engaged in individual case and impact litigation, documenting conditions violations, local and national administrative and legislative advocacy, community organizing and mobilizing, teaching, and social service.

20. Defendant Ronald D. Vitiello is the Deputy Director and Acting Director of ICE. He replaces former Deputy Director Thomas D. Homan. He is named in his official capacity. He is responsible for the enforcement of the immigration laws, including against Mr. Ragbir. He supervises Defendants Decker and Mechkowski. His address is U.S. Immigration and Customs Enforcement, 500 12th Street, SW, Washington, DC, 20536.

21. Defendant Thomas R. Decker is the New York Field Office Director for ICE. He is named in his official capacity. He is responsible for the enforcement of the immigration laws in New York City and surrounding counties within New York, including against Mr. Ragbir. He supervises Defendant Scott Mechkowski. His address is New York Field Office, 26 Federal Plaza, 11th Floor, New York, New York, 10278.

22. Defendant Scott Mechkowski is the New York Field Office Deputy Director for ICE. He is named in his official capacity. He is responsible for the enforcement of the

immigration laws in New York City and surrounding counties within New York, including against Mr. Ragbir. His address is New York Field Office, 26 Federal Plaza, 11th Floor, New York, New York, 10278.

23. Defendant Department of Homeland Security (DHS) is an executive department of the United States Government. DHS is headquartered in Washington, DC.

24. Defendant ICE is a component of DHS headquartered in Washington, DC.

25. Defendant Kirstjen M. Nielsen is the Secretary of Homeland Security. She is named in her official capacity. She is responsible for the administration and enforcement of the immigration laws, including against Mr. Ragbir. She supervises Defendants Vitiello, Decker, and Mechkowski. She supervised former Deputy Director Homan. Her address is U.S. Department of Homeland Security, 800 K Street, NW #1000, Washington, DC, 20528.

26. Defendant Jefferson B. Sessions III is the Attorney General of the United States. He is named in his official capacity. He is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review. 8 U.S.C. § 1103(g). He is responsible for Mr. Ragbir's removal proceedings, and supervises immigration judges and the Board of Immigration Appeals. His address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC, 20530.

27. Defendant Department of Justice (DOJ) is an executive department of the United States Government. DOJ is headquartered in Washington, DC.

FACTUAL ALLEGATIONS

A. Defendants Have Engaged in a Pattern and Practice of Targeting Immigrant-Rights Activists on the Basis of their Core Protected Political Speech

28. Since January 2017, federal immigration authorities across the country have engaged in a pattern and practice of targeting outspoken immigrant-rights activists who publicly criticize U.S. immigration law, policy, and enforcement.

29. Defendants have investigated, surveilled, harassed, raided, arrested, detained, and even deported these activists in order to silence them. They have arrested activists immediately following press appearances and news conferences. They have detained spokespeople and directors of immigration advocacy organizations. They have surveilled the organizations' headquarters and targeted their members. They have identified prominent immigrants as enforcement priorities even before a final order of removal is in place. They have instructed activists that their immigrant rights organizations may be detrimental to them. And they have targeted communities identified by the federal government as "sanctuary cities" to punish those communities for taking legislative, municipal, and political action to limit official cooperation with federal immigration enforcement.

30. This sharp spike in immigration enforcement specifically targeting the most vocal immigration activists is intended to stifle dissent. According to U.S. Representative Jerry Nadler: "These are well-known activists who've been here for decades, and [ICE is] saying to them: Don't raise your head."¹ Similarly, U.S. Representative Luis Gutierrez has stated: "I have long suspected that very vocal advocates were harshly targeted after they spoke out. ... I would

¹ Maria Sacchetti and David Weigel, *Ice has Detained or Deported Prominent Immigrant Rights Activists*, Washington Post (Jan. 19, 2018), https://www.washingtonpost.com/powerpost/ice-has-detained-or-deported-foreigners-who-are-also-immigration-activists/2018/01/19/377af23a-fc95-11e7-a46b-a3614530bd87_story.html?utm_term=.5be0c8e2393b.

go to ... an immigration hearing, and the person who made the biggest impression? I'd find out that they'd been detained. And that started last year.”²

31. Since 2017, media organizations have reported on many immigrants, including Plaintiff Ravidath Ragbir and others, whom ICE has detained or taken other adverse action against based on their speech or other protected activities.

B. Defendants Surveilled, Detained, and Seek To Deport Mr. Ragbir in Retaliation for his Outspoken Criticism of U.S. Immigration Law and Policy

1. Mr. Ragbir's Activism and Political Speech

32. Plaintiff Ravidath Ragbir, Executive Director of the Coalition, is a father, husband, and nationally recognized immigrant-rights leader.

33. Since his release from immigration detention with a final order of removal over a decade ago, Mr. Ragbir has dedicated his professional and personal life to speaking out against immigration policies that he considers unjust. He has been a vocal critic of ICE and other components of DHS. His work and his views about immigration policy and enforcement are frequently profiled in local and national media.

34. As Executive Director of the Coalition, Mr. Ragbir has maintained a regular presence outside ICE offices and DOJ immigration courts in New York, located at 26 Federal Plaza, which also houses the United States Citizenship and Immigration Services (USCIS) and other DHS and DOJ offices, and outside 201 Varick Street, which houses the detained immigration court and serves as a processing center for immigrants who ICE intends to detain. At both locations, Mr. Ragbir organizes weekly prayerful vigils called “Jericho Walks” that are led by Coalition faith leaders.

² *Id.*

35. In his capacity as the Coalition's Executive Director, Mr. Ragbir has also had extensive contact with ICE's offices and the immigration courts through the Coalition's Accompaniment Program. This program ensures that immigrants who have immigration court dates and check-in appointments do not face these experiences alone. As part of this program, the Coalition has trained hundreds of volunteers on how to accompany immigrants to court and to check-ins (which occur at 26 Federal Plaza, 201 Varick Street, and other locations), whereby immigrants who are subject to some form of supervised release routinely meet with ICE officers. These volunteers provide critical support to those who would like to comply with the immigration laws and rules, but are scared to go to court and check-ins alone. In many cases, legal services providers now reach out to Mr. Ragbir directly to ask the Coalition to provide accompaniment for their clients. The Coalition provides an average of 30 accompaniments per week to immigrants in enforcement proceedings.

36. Second, Mr. Ragbir created a program in which volunteers help immigrants find attorneys to assist them in immigration proceedings, in navigating interactions with ICE, and, where possible, in speaking out about the injustices they experience.

37. In addition to this work, Mr. Ragbir has been a vocal advocate for immigrant rights across the United States and a frequent critic of current immigration policies. For example, Mr. Ragbir testified before the New York City Council on detention and deportation policies, met with President Obama's transition team to discuss his perspective and experiences on immigration policy, and has spoken at countless conferences, media events, and places of worship. He coordinates workshops with attorneys and other experts to help immigrants fleeing violence in their home countries to learn about their right to apply for asylum. And he trains advocates and elected officials on immigration issues and how to reform the deportation system.

38. In the last few months, Mr. Ragbir has continued to work as an organizer and advocate. He has convened a coalition of volunteers to work on reuniting children who were separated from their parents at the border and are now being detained in New York City.

39. Over the years, Mr. Ragbir has received numerous accolades for his zealous advocacy. For example, he was awarded the 2017 Immigrant Excellence Award by the New York State Association of Black and Puerto Rican Legislators for his “deep commitment to the enhancement of their community.” He also won the 2017 ChangeMaker Award by South Asian Americans Leading Together (SAALT) for his “tremendous sacrifice, fierce advocacy, and fearless leadership” on behalf of immigrants. He was recently awarded the Bishop’s Cross from the Episcopal Diocese of Long Island for his “exceptional service to the church and to the community it serves.”

2. Mr. Ragbir’s Immigration History

40. Mr. Ragbir’s work is informed by his personal experience of being detained and facing deportation.

41. Mr. Ragbir received Lawful Permanent Resident status in the United States in 1994. His daughter was born in the United States the next year.

42. In May 2006, ICE detained Mr. Ragbir after he was convicted of criminal wire fraud—a conviction for which Mr. Ragbir served his time.³

43. On August 4, 2006, an Immigration Judge entered an order of deportation in Mr. Ragbir’s case, which became final when the Board of Immigration Appeals rejected his appeal in March 2007.

³ Mr. Ragbir continues to dispute the basis of his conviction. Further, as this Court recently noted in ordering his release from detention, “[i]t is uncontested that since his release from custody, [Mr. Ragbir] has lived the life of a redeemed man.” *Ragbir v. Sessions*, No. 18-cv-236 (KBF), 2018 WL 623557, at *3 n.11 (S.D.N.Y. Jan. 29, 2018) (Forrest, J.).

44. Throughout his immigration court proceedings and after issuance of an order of deportation, Mr. Ragbir remained in detention, despite two Post Order Custody Reviews.

45. ICE finally released Mr. Ragbir from custody following a third Post Order Custody Review in February 2008. ICE reported in the Post Order Custody Review that led to his release that Mr. Ragbir “did not commit a crime of violence and does not appear to be a flight risk and he is fully aware that he will have to report to ICE custody when required.” The notice further explained, once removal was commenced, “[y]ou will, at that time, be given an opportunity to prepare for an orderly departure.”

46. Mr. Ragbir has always contested his removability, most recently with the assistance of pro bono counsel. As of today, Mr. Ragbir has three pending legal applications—a petition in the U.S. District Court for the District of New Jersey for a writ of *coram nobis*, a petition for a presidential pardon, and a motion with the Board of Immigration Appeals to reconsider, reopen, and remand his removal proceedings based on new evidence undermining the deportability ground in his case—as well as his petition for adjustment of status on the basis of his eight years of marriage to Amy Gottlieb, a U.S. citizen and attorney. Like Mr. Ragbir, Ms. Gottlieb is a prominent immigrant-rights advocate who has dedicated her career to the pursuit of a just immigration policy.

47. Meanwhile, for approximately a decade, Mr. Ragbir has dutifully checked in with ICE and complied with all conditions of his release. Orders of supervision authorize individuals like Mr. Ragbir to live and work in the United States in compliance with the conditions of the order. If an order of supervision is revoked on grounds unrelated to flight risk or dangerousness, the individual will be given the opportunity for an “orderly departure,” including time (generally two to three months) to get his affairs in order, purchase a ticket, and provide proof of departure.

48. Following his order of removal, Mr. Ragbir has also applied for and received work permits that allowed him to work in the United States. It is pursuant to this work authorization that he has been able to work full-time for the Coalition.

49. For several years, Mr. Ragbir has also received and renewed an administrative stay of removal (Form I-246). This stay assured Mr. Ragbir that ICE would not seek his deportation for the period covered by the administrative stay. Mr. Ragbir's first stay of removal was granted by the ICE Field Office in New York City in December 2011, and was renewed three times, in February 2013, March 2014 and January 2016.

50. In January 2017, Defendant Thomas Decker became the Field Office Director for New York Enforcement and Removal Operations. According to a declaration filed by Defendant Decker on March 7, 2018, he learned of Mr. Ragbir's case shortly thereafter, when his staff informed him of the "noteworthy" cases of Mr. Ragbir and Mr. Montrevil. Defendant Decker conceded on March 7, 2018 that these "cases were noteworthy [at that time] because their removal potentially could garner media attention." Dkt. No. 51 ¶ 13. Defendant Decker later retracted this statement in his amended declaration, filed on March 14, 2018. Dkt. No. 58. Defendant Decker's amended declaration states that he learned of Mr. Ragbir's case on March 6, 2017.

51. In November 2017, Mr. Ragbir filed for renewal of his administrative stay.

3. Mr. Ragbir's March 9, 2017 Check-In

52. On March 9, 2017, Mr. Ragbir was due to check in with ICE officers at 26 Federal Plaza. In the tradition of the Accompaniment Program he designed, Mr. Ragbir was accompanied by his family, lawyers and clergy.

53. In addition, Mr. Ragbir brought with him several New York elected officials, including New York State Senator Gustavo Rivera, New York City Council Members Daniel

Dromm, Ydanis Rodriguez, and Jumaane Williams, and then-New York City Council Speaker Melissa Mark-Viverito. Several hundred additional community members gathered outside in support of Mr. Ragbir.

54. During the March 9, 2017 check-in, several of the elected officials accompanying Mr. Ragbir encountered then-Assistant Field Office Director Defendant Scott Mechkowski in the hallway outside the check-in room on the 9th Floor. Defendant Mechkowski demanded that the elected officials leave the hallway.

55. Media reports described a tense confrontation between ICE officers and the elected officials who accompanied Mr. Ragbir. “The conference was cut short when a man ... ordered the group to clear the hallway immediately. City Councilmember Jumaane Williams observed that the group wasn’t blocking the hallway and asked the man to identify himself. The man refused, but insisted that Mr. Ragbir, his friends, and the elected officials leave the hallway. For a moment the two men squared off, eye to eye. The unnamed federal official eventually stepped away, and Mr. Ragbir’s entourage boarded elevators to descend.”⁴

56. Due in part to the high-profile detentions of other immigrant activists, there was a significant media presence at 26 Federal Plaza the morning of March 9, 2017, prior to and following Mr. Ragbir’s check-in.

57. After the check-in, several media outlets worldwide reported on Mr. Ragbir’s struggle to remain in the United States and his confrontational March 9 check-in with ICE.⁵

⁴ Nick Pinto, *Behind ICE’s Closed Doors, “The Most Un-American Thing I’ve Seen,”* Village Voice (Mar. 10, 2017), <https://www.villagevoice.com/2017/03/10/behind-ices-closed-doors-the-most-un-american-thing-ive-seen/>.

⁵ See, e.g., Liz Robbins, *Once Routine, Immigration Check-Ins Are Now High Stakes*, N.Y. Times (Apr. 11, 2017), <https://www.nytimes.com/2017/04/11/nyregion/ice-immigration-check-in-deportation.html>; *Apoyado por cientos, defensor de inmigrantes evade deportación en Nueva York*, La Nación Costa Rica (Mar. 9, 2017), <https://www.nacion.com/el-mundo/politica/apoyado->

58. Those reports also included the comments of elected officials who were present at the check-in and critical of ICE's enforcement policies. In the resulting press coverage, Mr. Ragbir spoke publicly regarding the emotional toll taken by the ICE check-in: "When I speak about how I feel, I cannot breathe."⁶

59. Mr. Ragbir also criticized federal immigration policy, commenting on the profit motive fueling current ICE detention policies: "So, you know how much it costs to feed—when I was locked in detention, do you know how much it cost to feed me for one day? Seventy-five cents. They were spending to feed one immigrant 75 cents. And you know how we knew that? Because they felt they were spending too much, and they wanted to bring that cost under 45 cents, so the numbers were thrown out, and we were hearing and seeing this happen. So, the profits—the cost is low, but the profits are high, because they're being paid \$120, right?"⁷

60. In a panel discussion alongside Councilmember Mark-Viverito, Mr. Ragbir rallied community members to become involved in the sanctuary-city movement. He insisted that "sanctuary cities can only work if everyone becomes part of the movement," saying, "we want to see sanctuary in the schools, the restaurants as well as churches." He encouraged community members to protest ICE actions.

por-cientos-defensor-de-inmigrantes-evade-deportacion-en-nueva-york/NQTJGKHIWJAYREVGOWMLAWJCE/story/; *New York: malgré un casier judiciaire, un immigré évite l'expulsion*, Le Parisien (Mar. 10, 2017), <http://www.leparisien.fr/flash-actualite-monde/new-york-malgre-un-casier-judiciaire-un-immigre-evite-l-expulsion-10-03-2017-6751086.php>.

⁶ Tiziana Rinaldi, *It's Good News and Bad News for an Immigrant Advocate Facing Deportation*, PRI (March 10, 2017), <https://www.pri.org/stories/2017-03-10/its-good-news-and-bad-news-immigrant-advocate-facing-deportation>.

⁷ Amy Goodman, *Exclusive: Facing Possible Deportation, Immigrant Activist Ravi Ragbir Speaks Out Before ICE Check-in*, Democracy Now! (Mar. 9, 2017), https://www.democracynow.org/2017/3/9/exclusive_facing_likely_deportation_immigrant_activist.

4. ICE Officials' Reaction to the March 9, 2017 Check-In

61. In the months that followed, ICE began changing its policies towards the Accompaniment Program that Mr. Ragbir and the Coalition had operated at 26 Federal Plaza. Coalition volunteers previously had been given access to the check-in room at 26 Federal Plaza to accompany immigrants who were required to check in with ICE. In the summer of 2017, ICE began to limit the Coalition's access and posted a security guard outside the check-in room to turn away clergy and other volunteers.

62. On information and belief, ICE also began to surveil Coalition activities. On or about April 9, 2017, St. Peter's, a Lutheran church that is part of the Coalition, carried out a procession in support of Mr. Ragbir. An ICE vehicle followed the procession briefly, showed participants an ICE badge, and then left. Church members reported this incident to the press.⁸ Plaintiffs require discovery to reveal the full extent of ICE surveillance of Plaintiffs.

63. On information and belief, on January 3, 2018, days before Mr. Ragbir's next scheduled check-in, one of the co-founders of the Coalition, Jean Montrevil, was arrested by ICE agents outside his home during his lunch break from work. Mr. Montrevil, a Haitian national, immigrant rights activist, and green-card holder who was placed into removal proceedings as a teenager due to a drug charge, was in the midst of a motion to reopen his order of removal. Nonetheless, on January 3, 2018, Mr. Montrevil was transferred to detention in ICE's Krome

⁸ “On Palm Sunday last year we did a procession in support of Ravi, who back then had an appointment in Federal Plaza. Our members observed that a vehicle was slowly following us. At one moment, the window is rolled down, an agent shows an ICE badge, and then they leave,” said Arias. ‘This kind of harassment is part of a malignant plan to instill fear in the community.’” Zaira Cortes, “NYC Sanctuary Churches: ICE is Ramping Up Harassment,” *Voices of NY*, (Jan. 12, 2018) <https://voicesofny.org/2018/01/nyc-sanctuary-churches-ice-is-ramping-up-harassment/>.

Detention Center in Florida, and deported to Haiti just six days later, on January 9, 2018.⁹ He was forced to leave behind his four U.S. citizen children, and an active community of organizers who worked with him to advance immigrant rights, including Mr. Ragbir.¹⁰

64. On information and belief, Mr. Montrevil's lawyer asked Defendant Scott Mechkowski, ICE's Deputy Field Office Director for New York, why the agency had sent a team to apprehend Mr. Montrevil at home months before his scheduled check-in. Mechkowski responded that "We [ICE] war-gamed this over and over," adding, "[t]his was the best time and place to take him."

65. Defendant Decker and Defendant Mechkowski have conceded that during this same period, ICE officials surveilled members of the Coalition, including Mr. Ragbir and Mr. Montrevil.¹¹

66. Mr. Ragbir himself and several Coalition members observed unmarked cars around Judson Memorial Church, which houses the Coalition's office, on January 3, 2018, for several hours. Coalition member Will Coley was leaving the office when a man in a vehicle with tinted windows called out to him and asked where the church's entrance was. The man said he was there to meet "Tom Boland," but there was no such person at the church. Mr. Coley and other Coalition members identified at least three vehicles with tinted windows idling on the same block as the church, all with New York license plates. When Mr. Coley and his partner

⁹ Nick Pinto, *No Sanctuary*, Intercept (Jan. 19, 2018), <https://theintercept.com/2018/01/19/ice-new-sanctuary-movement-ravi-ragbir-deportation/>

¹⁰ Lydia McMullen-Laird, *Life After Deportation: Their Father was Returned to Haiti. Now What?*, The Independent (Feb. 2, 2018), <https://independent.org/2018/02/life-after-deportation/>

¹¹ Pinto, *supra* note 9.

approached one of the cars, the driver rolled down the window to speak with them, and Mr. Coley saw a white DHS license plate on the floor in the front passenger seat.¹²

67. On information and belief, on January 5, 2018, Rev. Juan Carlos Ruiz, one of the co-founders of the Coalition, and an immigrant-rights organizer, went with three other faith leaders to discuss Mr. Montrevil's situation with ICE Director Defendant Thomas Decker at 26 Federal Plaza. The clergy were told that Defendant Decker was not available and instead met with Deputy Director Defendant Scott Mechkowski to discuss Mr. Montrevil's case. Without prompting, Mechkowski brought up Mr. Ragbir's case and his remarks to the media after his last check-in. In addition:

- a. Mechkowski stated that Mr. Ragbir and Mr. Montrevil's cases were the two "highest profile" cases in his office.
- b. Mechkowski made negative remarks about the elected officials who spoke out about ICE practices after Mr. Ragbir's last check-in.
- c. Mechkowski stated that he would not permit the clergy members to accompany Mr. Ragbir to this check-in, as they had in the past, and described the upcoming check-in as "D-Day."
- d. Mechkowski stated that the manner of Mr. Montrevil's detention was intended to avoid the sort of noisy protest that had accompanied Mr. Ragbir's previous check-in, and stated that ICE "didn't want the display of wailing kids and wailing clergy." Clergy members reported that he added: "That can't happen this time around."¹³

¹² *Id.*

¹³ *Id.*

e. Lastly, although Mechkowski denied that ICE was surveilling Mr. Ragbir, he stated: “I know where Mr. Ragbir lives, and I have seen him walking around, and I could have taken him myself.”

68. On information and belief, on January 8, 2018, Mr. Ragbir’s counsel spoke with Mechkowski. Speaking of Mr. Ragbir, Mechkowski stated that things were “different” now than they were in the past, referring to changes in leadership. Significantly, Mechkowski stated that he felt “resentment” about the March 9, 2017 check-in.

69. In addition, Mechkowski stated that:

a. Mechkowski heard Mr. Ragbir’s statements to the press, and that he continued to see him at vigils at 26 Federal Plaza; and

b. Mechkowski was angry about the presence of the elected officials in 26 Federal Plaza, specifically naming Melissa Mark-Viverito and “that guy from Brooklyn” (presumably Councilmember Jumaane Williams).

c. Mechkowski stated that no decision had been made in Mr. Ragbir’s case and his I-246 application to renew his stay of removal was still pending.

70. Defendant Decker and Defendant Mechkowski have conceded that a decision had been made to deny the stay application and remove Mr. Ragbir prior to his check-in, contrary to what Mechkowski told Mr. Ragbir’s counsel during their meeting.

5. Defendants’ Unnecessarily Cruel Detention of Mr. Ragbir

71. As noted above, Mr. Ragbir’s counsel applied for renewal of his administrative stay in November 2017. At that time Mr. Ragbir’s current administrative stay was due to expire on January 19, 2018. His counsel received an e-mail from Mechkowski on January 10, 2018 reiterating that Mr. Ragbir’s request for renewal of his administrative stay was pending, and that no decision had been reached, despite Mechkowski’s later sworn statements to the contrary.

72. Mr. Ragbir's January 11, 2018 check-in was atypical in several respects:
- a. First, in advance of Mr. Ragbir's scheduled January 11, 2018 check-in, Mechkowski suggested that—rather than following the normal protocol by which Mr. Ragbir would check-in with the Deportation Officer assigned to his case—Mr. Ragbir should report directly to him on January 11, 2018.
 - b. Second, upon meeting Mechkowski as instructed on January 11, 2018, the group was told that only one of Mr. Ragbir's legal representatives and his wife would be allowed to enter. The undisputed fact that another attorney and two law students had entered G-28 Notices of Appearance on behalf of Mr. Ragbir was disregarded.

73. In the ensuing meeting, Mechkowski reported that ICE would no longer await a pending decision from the Office of Chief Counsel on Mr. Ragbir's motion to reopen his removal proceedings. He stated that he was not willing to wait longer and would be "enforcing the order." He said that a decision was made that morning to deny Mr. Ragbir's application for a renewed stay of removal, and handed his counsel a letter from Director Decker stating that his request for the renewed stay was denied. He then said he would be taking Mr. Ragbir into custody. Upon hearing the news, Mr. Ragbir briefly lost consciousness. At the end of the meeting, Mr. Ragbir was handcuffed and taken into physical custody. However, at the time of Mr. Ragbir's arrest:

- a. Mr. Ragbir's representatives were not given any arrest warrant authorizing Mr. Ragbir's arrest.

b. Mr. Ragbir's representatives were not given any notice or explanation regarding the revocation of Mr. Ragbir's then-current stay of removal, which was not set to expire until January 18, 2018.

c. Mr. Ragbir's representatives were not given any notice or explanation authorizing the revocation of Mr. Ragbir's order of supervision and deprivation of an orderly departure. Indeed, at no time was Mr. Ragbir ever provided with an opportunity to be heard on the reasons for the revocation of his supervision order, as required by federal regulations.

74. Further, ICE officers engaged in evasive maneuvers to separate Mr. Ragbir from his wife and transfer him to a Florida detention center, rather than one of the many detention centers typically used by ICE in New York and New Jersey.

a. Mr. Ragbir's counsel was not told what detention facility he would be taken to; ICE officers simply stated that they did not know.

b. The ambulance that took Mr. Ragbir, his wife, and ICE officers to a local hospital dropped his wife off at one hospital, where his wife believed Mr. Ragbir would be "medically cleared," and then took Mr. Ragbir to a second hospital.

c. At the hospital, ICE officers attempted to rush the process of medical clearance.

d. Although several detention centers are typically used by ICE in the New York-New Jersey area, ICE officers took Mr. Ragbir in a van to Newark Airport, and then to a plane to Miami, Florida to be booked at a facility there. ICE later disclosed that they had purchased the tickets to Miami the day before and intended to remove Mr. Ragbir the following morning, notwithstanding

regulations providing that a noncitizen “shall not” be deported within the first 72 hours after being “taken into custody.”

e. ICE initially refused to return Mr. Ragbir to the New York area despite this Court’s January 11 order enjoining the Government from transferring him outside the jurisdiction of the New York field office. Mr. Ragbir was returned only after filing a motion to enforce the Court’s order.

75. Mr. Ragbir was “processed” curbside at Newark Airport, had his fingerprint placed on various papers but not given copies of any documents other than the letter denying his stay application.

76. Mr. Ragbir spent more than two weeks in detention. His movements were restricted and monitored. Contact with his wife and his counsel was extremely limited, particularly while detained in Florida. He was unable to receive calls at all, nor could he make outgoing calls unless funds were placed in his phone account. In-person visits were strictly limited in Florida, and family could only visit for a one-hour period, through plexiglass. During Mr. Ragbir’s detention, ICE officers indicated that they were aware of his activism.

77. Mr. Ragbir’s counsel filed a petition for writ of habeas corpus on January 11, 2018 in this Court, challenging ICE’s detention of Mr. Ragbir as unlawful.

78. On January 29, 2018, this Court granted that petition, ordering his immediate release from detention. The Court noted ICE’s abrupt detention was both cruel and unusual.

[W]hen this country allowed petitioner to become a part of our community fabric, allowed him to build a life with and among us and to enjoy the liberties and freedom that come with that, it committed itself to avoidance of unnecessary cruelty when the time came. By denying petitioner these rights, the Government has acted wrongly.

Ragbir, 2018 WL 623557, at *2.

79. This Court also indicated that ICE’s motivation for Mr. Ragbir’s detention merited further scrutiny:

The Court also notes with grave concern the argument that petitioner has been targeted as a result of his speech and political advocacy on behalf of immigrants’ rights and social justice. “[A]s a general matter, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.”

Id. at *1 n.1 (emphasis added) (quoting *Alvarez*, 567 U.S. at 716).

6. ICE’s Ongoing Efforts To Deport Mr. Ragbir

80. Mr. Ragbir was released from detention on January 29, 2018, as a result of the Court’s decision. ICE’s treatment of Mr. Ragbir was unusual even in the final moments of his detention. Before he was released, ICE officers shackled him once more for the duration of his return from Orange County Correctional Facility in Goshen, New York, to New York City.¹⁴ He was then processed for release and personally served a notice to report for deportation on Saturday, February 10, 2018 by Mechkowski at 26 Federal Plaza.

81. Nonetheless, Mr. Ragbir has continued his activism since his release.¹⁵ On January 31, 2018, Mr. Ragbir returned to 26 Federal Plaza, the site of his detention, and led a Jericho walk in protest.¹⁶ Speaking to a crowd, he stated, “There is a psychological warfare out there and they want us to be weak They want us to cave . . . so our spirits are broken.” *Id.*

¹⁴ *Exclusive: Ravi Ragbir Speaks Out After Being Freed from “Unnecessarily Cruel” ICE Detention*, Democracy Now! (Jan. 30, 2018), https://www.democracynow.org/2018/1/30/exclusive_immigrant_leader_ravi_ragbir_freed.

¹⁵ Kristin Toussaint, *Immigrant rights leader Ravi Ragbir released from ICE detention*, Metro (Jan. 30, 2018), <https://www.metro.us/news/local-news/new-york/immigrant-rights-leader-ravi-ragbir-released-ice>.

¹⁶ Molly Crane-Newman, *Immigrant activist Ravi Ragbir returns to site of his arrest for Manhattan protest march: “They want us to cave,”* Daily News (Feb. 1 2018), <http://www.nydailynews.com/new-york/manhattan/ravi-ragbir-returns-site-arrest-nyc-protest-march-article-1.3793363>.

82. Meanwhile, Defendants continue to employ extraordinary tactics to remove Mr. Ragbir as quickly as possible and without regard to this Court's order holding that Mr. Ragbir was entitled to an orderly departure. ICE initially ordered Mr. Ragbir to check in again on Saturday, February 10, 2018, less than two weeks after the date of this Court's Order, with "one piece of luggage not to exceed 44 pounds."¹⁷

83. ICE's check-in date, February 10, 2018, is notable. It would have offered Mr. Ragbir less than two weeks to prepare himself to leave the country where he has lived for over two decades, and where he will leave a U.S. citizen wife and daughter. In addition, it was scheduled for the day after a scheduled hearing on Mr. Ragbir's motion for a stay of his removal pending adjudication of his *coram nobis* petition in the District Court of the District of New Jersey.

84. On information and belief, it is highly unusual to require an individual to check in or report to ICE on a Saturday, when ICE offices—and courts—are typically closed. Counsel for Mr. Ragbir noted that the Saturday reporting date would have impeded his access to the courts, and asked for a weekday report date, but this request was rejected.

85. On March 23, 2018, the U.S. District Court for the District of New Jersey imposed a temporary stay in connection with Mr. Ragbir's *coram nobis* petition. Although the Government has filed a notice of appeal of this decision, on information and belief, ICE is aware that the New Jersey district court has ordered that Mr. Ragbir shall not be removed until it has reached a decision in that case.

86. On May 4, 2018, the New Jersey district court held an evidentiary hearing on Mr. Ragbir's *coram nobis* petition, and the court reserved decision. The petition remains pending.

¹⁷ Letter of Thomas Decker to Alina Das (Feb. 5, 2018).

C. Defendants Have Targeted Numerous Other Immigrant-Rights Activists on the Basis of Their Core Protected Political Speech on Immigration Issues

87. The detention, arrests, and other enforcement actions taken against Mr. Ragbir and Jean Montrevil are not unique. Rather, under the current Administration, ICE has engaged in a pattern and practice of targeting immigrants who exercised their fundamental First Amendment rights to criticize immigration policy and immigration enforcement.

1. Daniela Vargas

88. On information and belief, on March 1, 2017, in Jackson, Mississippi, ICE agents detained Daniela Vargas, a 22-year-old activist and DACA recipient, as she left a news conference where she had spoken alongside other immigration advocacy groups.¹⁸ Vargas had witnessed ICE's arrest of her family the previous month, and was not detained at that time because she explained to the officers that she had DACA status. That status had expired, but Vargas was in the process of applying for renewal. At the conference, she asked President Trump to protect her.

89. ICE agents arrested Vargas about five minutes after she spoke to reporters outside Jackson City Hall. A person present at the arrest reported that ICE agents opened the car door saying "you know who we are and you know why we're here." Although she had a pending DACA case, ICE agents claimed that she was listed as a "visa overstay" and would have to be detained.¹⁹ When asked to comment about Ms. Vargas' arrest, ICE provided a statement indicating that it was a "targeted" enforcement operation. On March 9, 2017, days after ICE

¹⁸ Phil Helsel, *'Dreamer' Applicant Arrested After Calling for Immigrant Protection*, NBC News (Mar. 2, 2017), <https://www.nbcnews.com/news/us-news/dreamer-applicant-arrested-after-calling-immigrant-protections-n727961>.

¹⁹ *ICE Intimidates Latino Community With Arrest of DACA Recipient Practicing Free Speech*, HuffPost (Mar. 3, 2017), https://www.huffingtonpost.com/entry/ice-intimidates-latino-community-with-arrest-of-daca_us_58b9dd6de4b02b8b584dfb6d

arrested Ms. Vargas, a Dreamer with an active DACA application, it tweeted that “active DACA recipients are typically a lower level of enforcement priority.” ICE has not provided any explanation for its failure to follow its own policy in Ms. Vargas’s case.²⁰

2. Migrant Justice

90. On information and belief, ICE has targeted multiple members of Migrant Justice, a community based non-profit organization of Vermont dairy farmworkers and their families. A majority of Vermont dairy workers are immigrants, and Migrant Justice has engaged in campaigns to defend the rights of their members as workers and as immigrants. In particular, Migrant Justice has sought to hold immigration enforcement agencies, including ICE, accountable for rights violations.

91. On April 21, 2016, ICE arrested Jose Victor Garcia Diaz outside a Mexican cultural event in Stowe, Vermont.²¹ Mr. Garcia Diaz is a public spokesperson for Migrant Justice’s Milk with Dignity campaign. The day before his arrest, he had returned from a gathering of the Food Chain Workers Alliance in Los Angeles, California. Mr. Garcia Diaz represented Vermont farmworkers at the meeting in an effort to build a unified movement for respect for human rights in food supply chains. His immigration removal proceedings are ongoing.

92. On March 17, 2017, the day after Migrant Justice announced an escalation of its Milk with Dignity campaign with respect to Ben & Jerry’s, ICE arrested Jose Enrique Balcazar Sanchez shortly after he left a meeting at Migrant Justice’s office. ICE had previously identified

²⁰ Ray Sanchez, “DREAMer Daniela Vargas released, immigration group says,” *CNN* (Mar. 10, 2017) <https://www.cnn.com/2017/03/10/us/dreamer-daniela-vargas-ordered-released/index.html>.

²¹ Compl. ¶ 16, *Migrant Justice v. U.S. Dep’t of Homeland Sec.*, No. 17-cv-197 (D. Vt. Oct. 11, 2017).

Balcazar as a target for enforcement.²² He has been a very visible representative of Migrant Justice and publicly promoted policies to limit ICE's entanglement with local law enforcement. Over the past few years, Balcazar Sanchez has served as one of Migrant Justice's primary spokespeople in its campaigns for driver's licenses and for a fair and impartial policing policy. He served on a task force established to advise the Vermont Attorney General on immigration issues, which resulted in guidance for Vermont cities and towns to limit their role in immigration law enforcement.

93. On March 17, 2017, ICE also arrested Zully Victoria Palacios Rodriguez, who was a passenger in Balcazar Sanchez's car. Palacios Rodriguez is a key Migrant Justice organizer. Just prior to her arrest, she had also just left Migrant Justice's office. Notably, Palacios was arrested on the grounds that she had overstayed her visa—a civil violation—by approximately eight months. She was held without bail, which is extremely atypical treatment for an immigrant who has merely overstayed a visa.²³

94. On June 17, 2017, two more Migrant Justice activists were arrested for immigration violations as they returned home from a march for better work conditions. Esau Peche and Yesenia Hernandez participated in the march with approximately 200 others walking from Montpelier Vermont, to a Ben & Jerry's factory in Waterbury. After the March, they drove home to East Franklin, which is north of Waterbury. They were stopped by Border Patrol, arrested and turned over to ICE. A Border Patrol spokesperson stated that the two Mexican

²² On September 22, 2016, ICE arrested Miguel Alfredo Alcudia Gamas, another Migrant Justice member. Mr. Alcudia Gamas is also a public spokesperson for Migrant Justice's Milk with Dignity campaign. When ICE arrested Mr. Alcudia Gamas, ICE officers made statements implying that they were targeting a fellow Migrant Justice leader, Jose Enrique Balcazar Sanchez. *Id.* ¶ 18.

²³ Milton J. Valencia, *Hundreds in Boston Will Protest Vermont ICE Arrests*, The Boston Globe (Mar. 26, 2017), <https://www.bostonglobe.com/metro/2017/03/26/hundreds-protest-vermont-ice-arrests-boston-monday/MdxOtwc9TP6sVHsgEjEAY/story.html>

nationals “appeared to the agent to have come across the border” and were stopped as part of routine operations.²⁴

95. Migrant Justice is currently engaged in litigation to confirm through a Freedom of Information Act request whether its members have been targeted by ICE because of their advocacy on behalf of migrant workers.²⁵

3. Emilio Gutiérrez Soto and Oscar Gutiérrez Soto

96. On information and belief, Emilio Gutiérrez Soto is an award-winning Mexican journalist who fled Mexico in 2008 as a persecuted journalist, only to find that in the United States, he would also be targeted by authorities as a result of his public statements on immigration policy.

97. Mr. Gutiérrez Soto and his son, Oscar, presented themselves at the United States border and applied for admission on June 16, 2008. They were interviewed by an asylum officer who found that they had a credible fear of persecution. From 2008 through 2017, Mr. Gutiérrez Soto and his son were paroled into the United States as arriving aliens with a credible fear of persecution.

98. On information and belief, in February 2017, internal ICE emails show that Mr. Gutiérrez Soto was placed on a list as a “candidate for arrest” in an email string titled “Non-Detained Target List,” despite the fact that Mr. Gutiérrez Soto and his son had been paroled into the United States legally and were awaiting a decision from the immigration judge regarding his asylum claim. On information and belief, ICE has not stated whether it maintains other “Non-

²⁴ Elizabeth Murray, *Protesters decry farmworkers’ arrest after Ben & Jerry’s march* (June 19, 2017), <http://www.burlingtonfreepress.com/story/news/local/vermont/2017/06/19/border-patrol-arrests-2-immigrants-east-franklin/408333001/>.

²⁵ Compl., *Migrant Justice, et. al v. United States Dep’t of Homeland Security, et. al*, No. 17-cv-197 (D. Vt. Oct. 11, 2017).

Detained Target” lists, and how it determines whether an immigrant will be targeted (whether or not a final order of removal is in place).

99. In July 2017, an immigration judge denied Mr. Gutiérrez Soto’s and his son’s asylum claims. The decision became final in August 2017.

100. In the following months, Mr. Gutiérrez Soto was publicly critical of the United States government and its immigration policy. For example, on October 4, 2017 the National Press Club awarded Mr. Gutiérrez Soto the John Aubuchon Award for Press Freedom on behalf of Mexican journalists. During his acceptance speech, Mr. Gutiérrez Soto criticized the United States’ policy on asylum and, *inter alia*, stated that United States immigration authorities were “bartering away international law” with regard to asylum seekers.

101. On November 20, 2017, Mr. Gutiérrez Soto and his son moved to reopen their cases with the BIA.

102. On December 7, 2017, Mr. Gutiérrez Soto and his son appeared for a previously scheduled check-in with ICE, and were immediately arrested and detained. ICE tried to deport both of them that very day. However, before they could be deported, the BIA granted them a stay of removal pending consideration of their motion to reopen. In light of this stay, Mr. Gutiérrez Soto and his son were not deported, but sent to a detention center 90 miles away from El Paso, far from their communities and attorneys.

103. On December 22, the BIA granted Mr. Gutiérrez Soto’s and his son’s motion to reopen and reinstated their appeal. But Mr. Gutiérrez Soto and his son remained in detention.

104. In the meantime, activists continued to protest publicly for the release of Mr. Gutiérrez Soto and his son. ICE officials complained of this negative publicity to William McCarren, the Executive Director of the National Press Club, who stated under oath that an ICE

official told him to “tone it down” during a meeting regarding Mr. Gutiérrez Soto. McCarren interpreted the comment in the context of the conversation to mean that the media should stop attracting attention to the Gutiérrez Sotos’ cause.

105. On March 6, 2018, Mr. Gutiérrez Soto and his son sought habeas relief in the U.S. District Court for the Western District of Texas. They asserted, among other things, that ICE violated their First Amendment rights by arresting and detaining them unnecessarily on the basis of Mr. Gutiérrez Soto’s public criticism of immigration enforcement officials. That case, *Gutierrez-Soto v. Sessions*, is pending. The court has held that “taking all . . . evidence into account, Petitioners have offered enough evidence to create a genuine issue of material fact regarding whether Respondents [ICE] violated their First Amendment rights.” *Gutierrez-Soto v. Sessions*, No. EP-18-CV-00071-DCG, 2018 WL 3384317, at *10 (W.D. Tex. July 10, 2018).

4. Maru Mora-Villalpando

106. Ms. Maru Mora-Villalpando is a longtime member and leader of plaintiff DWN, specifically through her leadership of the Northwest Detention Center Resistance (“NWDC Resistance”). For years, she has educated other DWN members on some of the innovative practices used by NWDC Resistance, and has regularly spoken at other DWN conferences and conventions. She has lived in the United States for 22 years.

107. On information and belief, in 2017, she organized and carried out several Resistance Workshops across the state of Washington to educate the immigrant community on ICE and DHS’s February 2017 memos on enforcement implementation.

108. In December 2017, ICE served Ms. Mora Villalpando with a Notice to Appear (“NTA”) for removal proceedings.²⁶ ICE noted on its December 2017 I-213 Form—an official ICE document that sets forth the basis to support a person’s alleged alienage and removability—that Ms. Mora-Villalpando has “extensive involvement with anti-ICE protest and Latino advocacy programs” and that she “has become a public figure.” The only purported evidence of Ms. Mora-Villalpando’s immigration status or removability was an interview she gave to “Whatcom Watch” six months earlier, in June 2017.

109. On information and belief, Ms. Mora-Villalpando has resided in the United States for over 25 years. She raised a daughter in the United States: Josefina Alanis Mora, who is now a university student. She has no criminal history.

110. On information and belief, Ms. Mora-Villalpando was well-known to federal officials for many years before she was issued an NTA. She met with federal officials during the Obama administration, when she helped publicize detainees’ hunger strikes and other protests in Washington State. She acted as a spokeswoman for immigrants held at the Northwest Detention Center in Tacoma, Washington. There is no explanation for ICE’s sudden issuance of a NTA other than as a retaliatory response to Ms. Mora-Villalpando’s “extensive involvement with anti-ICE protest and Latino advocacy programs.”²⁷ She explained to the *Washington Post* that “[t]here’s no way for them to know about me except for the work that I do.”²⁸

²⁶ Maria Sacchetti & David Weigel, *ICE Has Detained or Deported Prominent Immigration Activists*, *Washington Post* (Jan. 19, 2018), https://www.washingtonpost.com/powerpost/ice-has-detained-or-deported-foreigners-who-are-also-immigration-activists/2018/01/19/377af23a-fc95-11e7-a46b-a3614530bd87_story.html?utm_term=.64d28708d652.

²⁷ *Supra* ¶ 108.

²⁸ *Id.*

111. On information and belief, in February 2018, Ms. Mora-Villalpando requested documents from ICE and other agencies under the Freedom of Information Act. *Inter alia*, she sought documents reflecting ICE guidance regarding enforcement actions against individuals who make public statements to the media or are involved in “anti-ICE” and/or ‘immigrant rights’ activism. ICE has not substantively responded to this request, forcing Ms. Mora-Villalpando to file a complaint in the U.S. District Court for the Western District of Washington to seek the release of these documents. On information and belief, ICE is required to release these documents under the Freedom of Information Act. Plaintiff NIPNLG represents Ms. Mora-Villalpando in this action.

5. Baltazar Aburto Gutierrez

112. On information and belief, in early December 2017, Baltazar “Rosas” Aburto Gutierrez was detained by an ICE agent who explicitly referenced the fact that he had spoken to a newspapers in November 2017.²⁹ Though his comments were made anonymously in a *Seattle Times* article, a second article in the *Chinook Observer* referenced his nick-name (“Rosas”).³⁰ In addition, his partner’s full name and details of the ICE action to arrest and deport her were reported in both articles. Neither article detailed Mr. Gutierrez’s immigration status.

113. On information and belief, Mr. Gutierrez had commented to the press about the wrenching circumstances of his partner’s arrest by ICE and her deportation to Mexico in November 2017. ICE at that time declined to arrest Mr. Gutierrez as well, stating that while his partner had a prior deportation order, he did not.

²⁹ Nina Shapiro, *ICE Tracks Down Immigrants Who Spoke to Media in SW Washington: “You Are the One from the Newspaper,”* Seattle Times (Dec. 3, 2017), <https://www.seattletimes.com/seattle-news/ice-tracks-down-immigrant-who-spoke-to-media-in-sw-washington-you-are-the-one-from-the-newspaper>.

³⁰ *Id.*

114. On information and belief, the next month, the agent who arrested Mr. Gutierrez approached him again stating, “You are Rosas,” and “You are the one from the newspaper.”³¹ Mr. Gutierrez also stated that the agent told him “My supervisor asked me to come find you because of what appeared in the newspaper.”³² ICE did not explain why the rationale that prevented Mr. Gutierrez’s arrest the month before had changed.

6. Eliseo Jurado

115. On information and belief, Eliseo Jurado was born in Mexico and came to the United States as a teenager. His father is a United States citizen; his mother is a green card holder. He is married to Encalada Latorre, a Peruvian woman who has taken sanctuary in churches in Boulder Colorado since December 2016. The couple has two U.S. citizen children. Jurado’s wife, Latorre has been the subject of extensive news coverage since she moved into a local church to avoid deportation.

116. On information and belief, although local ICE Field Office Director Jeffrey Lynch denied that Mr. Jurado’s arrest was related to his wife’s decision to take sanctuary, he confirmed in a statement that Mr. Jurado came to the agency’s attention during an investigation into Encalada Latorre.³³

7. Amer Othman Adi

117. Amer Othman Adi, a 57-year-old businessman, husband and father, arrived in the United States at 19 years old. He was placed into removal proceedings decades ago, accused of

³¹ *Id.*

³² *Id.*

³³ John Bear & Jenn Fields, *Husband of Peruvian Woman Taking Sanctuary at Boulder Church Detained by ICE*, The Denver Post (Jan. 11, 2018), <https://www.denverpost.com/2018/01/11/ingrid-encalada-latorre-husband-detained-immigration-boulder-sanctuary>.

entering into a “sham” marriage to secure Lawful Permanent Resident status. Adi was told that he would be deported in 2016, and prepared himself and his United States citizen second-wife for a scheduled departure on January 7 departure. Then, ICE granted a temporary stay that prevented his January 7 deportation.

118. On January 16, 2018, ICE arrested Mr. Adi and placed him in detention. To protest his deportation, Mr. Adi began a hunger strike. Ohio Democratic congressman Tim Ryan introduced a private bill to grant Mr. Adi lawful permanent resident status, which would allow him to remain in the United States. The House Judiciary Subcommittee on Immigration and Border Security approved the private bill, asking ICE to grant Adi a six-month stay of deportation. In an extraordinary move, described as “highly irregular” by Representative Tim Ryan of Ohio, ICE reversed its prior stay and rejected the congressional request to stay Adi’s deportation. Mr. Adi was deported to Jordan on January 29, 2018.

8. Jesus Chavez Flores

119. On information and belief, in February 2018, ICE placed Jesus Chavez Flores into solitary confinement as punishment for leading a hunger strike. The hunger strike, in protest of conditions at the detention facility, began on February 7, 2018 and involved approximately 120 immigrants housed in the detention center.

120. Mr. Chavez remained in solitary confinement for 20 days, while attorneys filed a lawsuit to enjoin the detention center and ICE from continuing to retaliate against Mr. Chavez. Mr. Chavez was subsequently released from solitary confinement, only to be transferred to a

higher security detention facility, without reason. He has stated that he continues to fear further retaliation for his protest.³⁴

9. Alejandra Pablos

121. On information and belief, on March 7, 2018, ICE detained Alejandra Pablos. On information and belief, Ms. Pablos is a member of Plaintiff DWN, and an activist well known for her anti-ICE protests. Ms. Pablos is a legal permanent resident who came to the United States as an infant. Her detention appears to be related to a January 2018 incident in which she was arrested by ICE officers during a protest, while speaking in front of an ICE building. No other person was arrested, and observers later stated that Pablos was singled out by the ICE officer without justification.³⁵

122. On information and belief, when Pablos arrived for the March 7 ICE check-in at which she was detained, an officer informed her that after the January arrest, ICE officials in Virginia notified their Arizona counterparts to make sure they knew she'd been arrested again. Ms. Pablos was detained for 43 days.

10. Manuel Duran Ortega

123. On information and belief, in April 2018, ICE unnecessarily detained Manuel Duran Ortega. Mr. Duran Ortega is a 42-year-old journalist from El Salvador who fled to the United States in 2006 after his life was threatened. Mr. Ortega has lived in Memphis Tennessee since 2006, and is a well-known member of the local press.

³⁴ See ACLU-WA, "ACLU-WA Lawsuit Seeks to Uphold Free Speech Rights of Hunger Striker at Northwest Detention Center" (Feb. 23, 2018), <https://www.aclu-wa.org/news/aclu-wa-lawsuit-seeks-uphold-free-speech-rights-hunger-striker-northwest-detention-center>; Pl.'s Mot. for Leave to File Second Am. Compl., *Chavez Flores v. United States Immigration and Customs Enforcement*, No. 18-cv-05139 (W.D. Wash. May 21, 2018) (Dkt. No. 45).

³⁵ Ray Stern, "Latina Activist Alejandra Pablos Jailed by ICE; 'Retaliation' for Protest, Group Claims," *Phoenix New Times* (Mar. 7, 2018), <http://www.phoenixnewtimes.com/news/latina-activist-alejandra-pablos-jailed-in-tucson-by-ice-10210545>.

124. In 2018, Mr. Duran Ortega published numerous articles criticizing DHS, including an article in *Memphis Noticias* regarding unjust conditions at DHS detention facilities and an article on the devastating impact of family separation caused by immigration enforcement. He also published several stories regarding the Memphis Police Department's collaboration with ICE, which collaboration the Memphis Police Department had publicly denied.

125. On April 3, 2018, Mr. Duran Ortega was arrested by local police at a protest against the Memphis Police Department's collaborations with ICE. At the time, Mr. Duran Ortega was wearing his press credentials, a bright yellow badge labeled "Press," around his neck, spoke into the camera he carried, observed and described the activities, and did not join the protestors in their chants. When instructed by police to move aside, he attempted to do so, but officers nonetheless arrested him. He was the only member of the press arrested that day. Despite attempts by Mr. Duran Ortega's partner to pay a bond for his release, and the subsequent dismissal of charges against him, Mr. Duran Ortega remained detained until he was transferred to ICE custody.

126. On information and belief, ordinarily, detainees at the Shelby County jail where Mr. Duran Ortega was held are transferred into DHS custody through a processing facility in Memphis. Those detainees then typically spend several days at a small short-term detention center in Mason, Tennessee, before being transferred to a longer-term ICE detention facility such as LaSalle Detention Center in Louisiana.

127. ICE departed from this usual practice in Mr. Duran Ortega's case. On April 5, 2018, ICE shackled Mr. Duran Ortega's wrists, ankles, and waist and forced to him to endure an

eight-hour ride directly to LaSalle Detention Center in Jena, Louisiana. without access to a bathroom.

11. Coalition for Human Immigrant Rights (“CHIRLA”)

128. CHIRLA was founded in 1986 in response to passage of the Immigration Reform and Control Act, which made hiring undocumented workers illegal. CHIRLA seeks to ensure that immigrant communities are fully integrated into their communities, with full rights and access to resources, by promoting civic engagement, providing legal services to immigrants, and through community organizing.

129. On information and belief, over the past year and a half, CHIRLA and its members have been severely affected by immigration enforcement actions against its active members, who participate in marches and speaking events to educate the public regarding the real impact of immigration reform. These instances of retaliation have had a chilling effect on other CHIRLA members’ participation in protests and other actions.

(a) “Jose”

130. “Jose,” an active CHIRLA member, came to the United States as an unaccompanied minor. He shared his experience as an unaccompanied minor as part of a press conference CHIRLA organized to bring attention to the plight of immigrants like “Jose.” That press conference took place just outside ICE headquarters in Los Angeles, California. Shortly after “Jose” spoke, ICE arrived at his house, arrested him, and transferred him three hours away to the Adelanto detention center.

(b) “Maria”

131. In the aftermath of Jose’s arrest and detention, many of CHIRLA’s members have decided that they can no longer share their experiences publicly as immigration activists. For example, CHIRLA member “Maria,” who had been an active public speaker, has decided to stop

speaking out publicly regarding her experience. She has also changed her social media profile for fear that ICE will use information posted through her account, including political speech, against her.

12. CASA

132. Plaintiff CASA is an organization that, *inter alia*, mobilizes demonstrations in support of immigrants to protest unjust immigration policies.

133. CASA's members have been targeted by immigration enforcement authorities as a result of their membership and active roles in CASA. For example, over the past year, ICE has deported several CASA leaders, including Liliana Cruz, Catia Paz, and two young brothers, Diego and Lizandro Claros. In addition, ICE has taken adverse immigration enforcement actions against Karen Julissa Fiallos Ramos, Florinda Faviola Lorenzo, and Roxana Elizabeth Orellana Santos. All had received extensive media coverage for their advocacy and engagement with elected officials. During supervisory check-ins, ICE officers have regularly noted each person's CASA membership. Further, in some cases, the ICE officers have implied that CASA's marches and press work on behalf of individuals may be detrimental to their immigration case.

(a) Karen Julissa Fiallos Ramos

134. Ms. Fiallos Ramos is an active leader with CASA, helping to lead her committee outside of Baltimore and mobilizing her fellow parishioners to speak out on behalf of immigrant rights. She routinely speaks at pro-immigrant rallies and actions, and has testified in Annapolis on multiple occasions on behalf of pro-immigrant legislation. She always identifies as a member of CASA.

135. Ms. Ramos entered the United States in 2001. She received an in absentia order of removal in July of 2002, while she was pregnant and unable to obtain a lawyer to represent her. In October 2002, she gave birth to her daughter, Katherine Nicole Euseda Fiallos. In 2010,

Ms. Ramos was provided an order of supervision. She has dutifully complied with that Order of Supervision for the last 8 years. Meanwhile, she has raised her U.S. citizen daughter, and is currently engaged in an effort to gain sole custody over her daughter.

136. During Ms. Fiallos Ramos's last ICE check-in on June 5, 2018, Acting Supervising Detention and Deportation Officer ("SDDO") Derrick Watson told her that she would be detained and deported at her next check-in on January 8, 2019. Acting SDDO Watson specifically mentioned CASA's activism and implied that CASA's marches and press work on Ms. Fiallos Ramos's behalf may be detrimental to her case. CASA believes that ICE officials were monitoring Ms. Fiallos Ramos's case in large part because of CASA's role in supporting and representing her, as well as because of her own activism.

(b) Florinda Faviola Lorenzo

137. Ms. Florinda Faviola Lorenzo is a member and leader within CASA. She is an outspoken advocate for immigrant rights and has told her story to numerous media outlets, including NBC, FOX and The Washington Post. ICE officers familiar with her case are aware of her role in CASA.

138. Ms. Lorenzo entered the United States in 2003, and overstayed her visa. She has been living in the United States since that time, and is the primary caretaker of her two U.S. citizen children. Approximately seven years ago, in August 2011, Ms. Lorenzo was placed on an order of supervision by immigration officials after Prince George's County police arrested her for selling a \$2 phone card. For seven years, Ms. Lorenzo has dutifully reported to each of her check-ins, often accompanied by CASA members.

139. On May 8, 2018, Ms. Lorenzo was inexplicably given two months to report back to ICE with a plane ticket or be deported. Her next check-in is scheduled for July 25, 2018.

CASA believes that ICE officials have made this decision because of CASA's role in supporting and representing her, as well as because of her own activism.

(c) Roxana Elizabeth Orellana Santos

140. Ms. Orellana Santos is an active CASA member who is frequently accompanied by other CASA members at ICE check-ins. Her SDDO, Katie Reisner, has on multiple occasions expressed her awareness of CASA and has stated that CASA's clients are not benefitted by the group's advocacy.

141. Ms. Orellana Santos has been in the United States since 2006. On October 7, 2008, local police officers arrested, handcuffed, and detained Ms. Orellana Santos for a suspected civil immigration violation. The officers had no probable cause to arrest Ms. Orellana Santos. Ms. Orellana Santos was subsequently transferred to ICE and detained for over a month. Once released, Ms. Orellana Santos brought suit against the local police and ICE officers. That suit has since led to a precedential decision from the U.S. Court of Appeals for the Fourth Circuit, which held that the local officers' conduct violated Ms. Orellana Santos' civil rights. *See Santos v. Frederick Cty. Bd. of Comm'rs*, 725 F.3d 451 (4th Cir. 2013). The case was remanded back to district court where proceedings are ongoing.

142. Aside from the October 7, 2008 incident, Ms. Orellana Santos has never been arrested or charged with any crime. She has resided in the United States without incident, all while actively advocating for immigrant rights and caring for her three U.S. citizen children.

143. Ms. Orellana Santos has dutifully reported to ICE since being placed on an order of supervision in 2011. At her last check-in, ICE SDDO Reisner informed CASA counsel that Ms. Orellana Santos was required to appear at her next check-in on August 13, 2018 with a filed U-visa application or she would be detained and presumably processed for removal. SDDO Reisner specifically referenced Ms. Orellana Santos' civil rights claim and indicated her

dissatisfaction at having been referenced in the filings. Neither Ms. Reisner nor ICE are currently defendants in that proceeding. CASA believes that ICE officials have focused their attention on Ms. Orellana Santos because of CASA's role in supporting and representing her, as well as her own activism.

13. Immigrant Sanctuaries

144. On information and belief, ICE has also targeted communities that it identifies as “sanctuary cities” to punish those communities for taking legislative, municipal and political action to limit official cooperation with federal immigration enforcement.³⁶ These are communities where activists have successfully lobbied to prevent local government from assisting the federal government in immigration enforcement actions against immigrant residents.

145. In September 2017, ICE announced that it would undertake a series of raids designed to target sanctuary cities, and publically designated the action, “Operation Safe City.” According to ICE, Operation Safe City would target cities and regions “where ICE deportation officers are denied access to jails and prisons to interview suspected immigration violators or jurisdictions where ICE detainers are not honored.”³⁷ Operation Safe City resulted in hundreds

³⁶ These activities align with broader efforts of the current administration. On January 25, 2017, the President issued an Executive Order entitled, “Enhancing Public Safety in the Interior of the United States.” Exec. Order No. 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017). The Executive Order announces that it is the Executive Branch’s policy to withhold federal funds from “sanctuary jurisdictions,” directs the Attorney General and Secretary of Homeland Security to ensure that sanctuary jurisdictions do not receive federal grants, and directs the Attorney General to take enforcement action against any local entity that “hinders the enforcement of Federal law.” *Id.* at 8801. In July 2017, the Department of Justice increased pressure on sanctuary cities by imposing additional requirements for federal grants. Pete Williams, *Attorney General Sessions Raises Stakes for Sanctuary Cities*, NBC News (July 25, 2017), <https://www.nbcnews.com/politics/politics-news/attorney-general-sessions-raises-stakes-sanctuary-cities-n786546>.

³⁷ ICE, *ICE Arrests over 450 on federal immigration charges during Operation ‘Safe City,’* (Sept. 28, 2017), <https://www.ice.gov/news/releases/ice-arrests-over-450-federal-immigration-charges-during-operation-safe-city>.

of arrests in communities that had taken actions to limit local government's cooperation with federal immigration enforcement. These communities included New York, Philadelphia, Los Angeles, Boston, Denver, and Portland, Oregon.³⁸

146. Following the Operation Safe City raids, on October 5, 2017, California Governor Jerry Brown signed SB54 into law, a statute cancelling almost all state and local cooperation with federal deportation officers. On information and belief, the statute was the result of, among other things intense lobbying from immigrant rights organizations. The next day, Former Acting Director Thomas Homan, in direct response to the California legislation, made the following threats in an official statement:

SB54 will negatively impact ICE operations in California by nearly eliminating all cooperation and communication with our law enforcement partners in the state, voiding the delegated authority that the Orange County Sheriff's Office has under the 287g program, and prohibiting local law enforcement from contracting with the federal government to house detainees.

*ICE will have no choice but to conduct at-large arrests in local neighborhoods and at worksites, which will inevitably result in additional collateral arrests, instead of focusing on arrests at jails and prisons where transfers are safer for ICE officers and the community. ICE will also likely have to detain individuals arrested in California in detention facilities outside of the state, far from any family they may have in California.*³⁹

³⁸ Miriam Jordan, *Immigration Agents Arrest Hundreds in Sweep of Sanctuary Cities*, N.Y. Times (Sept. 28, 2017), <https://www.nytimes.com/2017/09/28/us/ice-arrests-sanctuary-cities.html>.

³⁹ ICE, Statement from ICE Acting Director Tom Homan on California Sanctuary Law (Oct. 6, 2017), <https://www.ice.gov/news/releases/statement-ice-acting-director-tom-homan-california-sanctuary-law> (emphasis added).

147. In addition, on information and belief, ICE has increased its presence in sanctuary city communities,⁴⁰ and has warned that communities that choose to cease participation in the “287(g)” program will be subject to increased immigration enforcement.⁴¹

D. ICE’s Retaliatory Enforcement Actions Cause Grave Harm to Plaintiffs

1. Mr. Ragbir

148. Mr. Ragbir’s sudden arrest and detention has inflicted long-lasting and irreparable harm. The stress of his recent unexpected detention and the prospect of imminent deportation has exacerbated symptoms of depression and post-traumatic stress disorder. Mr. Ragbir’s symptoms are also intensified by worry that those who care about him are suffering as well.

149. Nearly all of Mr. Ragbir’s family, including his U.S. citizen wife and daughter, resides in the United States. Mr. Ragbir has not lived in Trinidad in nearly three decades.

150. If Mr. Ragbir is deported to Trinidad, he will be indefinitely separated from his family and community. Mr. Ragbir’s wife and daughter are U.S. citizens and unable to move to Trinidad.

151. Mr. Ragbir’s work is centered in the United States. He supports immigrants who, like him, face deportation from their homes and families. He engages directly with faith communities, schools, civic groups, and other parts of American civil society to speak out against the systems of injustice that harm immigrants and their families. If Mr. Ragbir is further

⁴⁰ An administration official stated that ICE has sent more officers to California to compensate for the “lack of cooperation from local police in turning over undocumented immigrants.” Marisa Schultz, White House Slams California’s Sanctuary City Policy Ahead of Trump Visit, New York Post (Mar. 12, 2018), <https://nypost.com/2018/03/12/white-house-slams-californias-sanctuary-city-policy-ahead-of-trump-visit/> (last visited May 22, 2018).

⁴¹ ICE warned that if a local Sheriff’s Office followed through on a campaign promise to end the county’s participation in the 287(g) program, there could be ramped up activity on the part of ICE. Alex Olgin & Nick de la Canal, ICE Warns if 287(g) Ends, it will Ramp Up Enforcement, WFAE (May 9, 2018), <http://wfae.org/post/ice-warns-if-287g-ends-it-will-ramp-up-enforcement#stream/0>.

detained, surveilled, or deported, his ability to advocate for immigrant rights by directly engaging with those affected and encouraging them to speak out, will be greatly harmed.

152. Mr. Ragbir is continuing to challenge the basis for his removal. But even in the event that Mr. Ragbir prevails on his challenge, there is no indication that ICE would facilitate his return to the United States if he is deported in the interim.

153. The trauma of deportation to Trinidad will further exacerbate Mr. Ragbir's depression and post-traumatic stress disorder, resulting in long-lasting psychological harm.

2. New Sanctuary Coalition of New York City

154. The Coalition has grown rapidly in the past year, with numerous programs throughout the week providing support and services to immigrant communities. However, as a direct result of ICE's targeting of the Coalition's leaders, the organization lost its sole full-time employee and Executive Director, Mr. Ragbir, for several weeks while Mr. Ragbir was in detention, and may lose Mr. Ragbir completely if he is re-detained and/or deported.

155. Mr. Ragbir's re-detention and/or deportation would be devastating to the Coalition. Mr. Ragbir is the face of the Coalition, and was the primary point of contact with funders, elected officials, faith leaders, legal services organizations, and community partners. Mr. Ragbir's re-detention and/or deportation would greatly diminish the Coalition's network. Surveillance of Mr. Ragbir and the Coalition constitutes an ongoing harm that impacts Mr. Ragbir's work with the Coalition.

156. Mr. Ragbir's detention, as well as the sudden execution of his final removal order, has made it extremely difficult to maintain the organization's day-to-day administrative activities. Mr. Ragbir is the organization's sole full-time employee. The Coalition has had to divert immense resources to advocacy and organizing challenging Mr. Ragbir's imminent deportation.

157. ICE's targeting of critics of federal immigrant-rights advocates has also sown fear in the immigrant community, including the community served by the Coalition, impeding the Coalition's pursuit of its mission.

158. In the wake of Mr. Ragbir's and Mr. Montrevil's detentions, both volunteers and recipients of the Coalition's services have expressed fear about attending workshops, clinics, and check-ins and immigration court dates. Coalition staff receive numerous calls from worried immigrants asking whether they should go to their ICE check-ins, and the Coalition has had to create trainings to explain the importance of appearing, despite fears of arrest or detention. Some immigrants feel that if ICE could abruptly arrest and detain Mr. Ragbir without due process, they are susceptible to the same. The Coalition has had to respond to numerous requests for advice and support from these individuals.

159. Immigrants are increasingly reluctant to participate in the Coalition's activities for fear of attracting the attention of ICE authorities. Some noncitizen volunteers who fear being targeted by ICE have quit volunteering.

160. In addition to targeting Mr. Ragbir, ICE's pattern and practice of targeting critics of federal immigration policy against immigrant rights activists has directly impeded the Coalition's ability to carry out its mission. ICE has directly interfered with the Coalition's legal activities in support of immigrants. For example, in the summer of 2017, ICE officers at 26 Federal Plaza began to interfere with the Coalition's accompaniment program by restricting public access to the ICE check-in room at 26 Federal Plaza—thwarting volunteers from the Accompaniment Program who sought to assist immigrants during their check-ins. Even clergy who attempted to accompany people at their check-ins were often turned away.

161. ICE will further hamper the Coalition's accompaniment program by detaining or removing Mr. Ragbir, who has overseen the training of over 2,000 volunteers who participate in it. Mr. Ragbir has conducted more trainings than is typical this year in order to temporarily mitigate this harm to the accompaniment program in the event of his detention or removal. However, this prevents Mr. Ragbir from taking on additional work.

162. ICE has also surveilled the Coalition's office and gatherings, creating fear among its members and the people whom they serve.⁴²

163. Many citizen and noncitizen volunteers, as well as recipients of the Coalition's services, fear that they are being monitored. In response, the Coalition has created a buddy system to make sure that individuals coming to the Coalition's weekly clinics feel safe moving to and from home. The Coalition's clinic now sees approximately 100 individuals a week.

164. The Coalition has had to create a new program to train its staff to be more vigilant, including training on what to do if they see strange vehicles in the area.

165. The Coalition has had to start monitoring the area to make sure that ICE is not nearby.

166. Coalition members and the communities they serve are concerned about being monitored. The Coalition has had to hold numerous training programs on best practices for secure document storage.

167. Injunctive and/or declaratory relief would, *inter alia*, prevent Defendant from retaliating against Coalition members and significantly decrease the level of resources the

⁴² Several Coalition members saw evidence of ICE officers surveilling a meeting at the Coalition's offices on the eve of Mr. Ragbir's arrest. In addition, clergy have spoken to ICE officers who appeared to surveil Coalition members at a religious service, and at a procession in support of Mr. Ragbir. Nick Pinto, *No Sanctuary*, The Intercept (Jan. 19, 2018), <https://theintercept.com/2018/01/19/ice-new-sanctuary-movement-ravi-ragbir-deportation/>.

Coalition is currently forced to expend responding to immigrants' concerns regarding ICE's retaliation for public speech. Injunctive and declaratory relief would also allow the Coalition to retain the services of its sole employee, Mr. Ragbir, to conduct meetings and gatherings without fear of ICE retaliation or surveillance, and would allow Coalition members to participate in Coalition activities without fear.

3. National Immigration Project of the National Lawyers Guild

168. NIPNLG has had to expend considerable resources in response to ICE's targeting of the members and leaders of immigration advocacy organizations. For example, NIPNLG provided technical assistance to Ms. Mora-Villalpando on her removal proceedings when she was served with an NTA by ICE after decades of working without incident as an organizer. Recognizing ICE's pattern and practice of targeting activists, NIPNLG has had to identify and recruit counsel for certain activists that it anticipated would be targets of retaliatory action. NIPNLG has also published several substantial guides and hosted workshops to advise activists in the immigrant rights community of best practices under the Trump Administration, which included preparing a plan of action.⁴³

169. As a direct result of ICE's pattern and practice of targeting activists for their speech, NIPNLG's legal staff has diverted resources previously devoted to other activities and changed its priorities in order to respond to Defendants' unlawful retaliation practices. Specifically, NIPNLG attorney Khaled Alrabe is now spending approximately 20% of his time

⁴³ See, e.g., Julie (Yihong) Mao, Jan Collatz, *Understanding the Federal Offenses of Harboring, Transporting, Smuggling and Encouraging under 8 U.S.C. § 1324(a)* (Sept. 28, 2017), http://www.nipnlg.org/PDFs/practitioners/practice_advisories/pr/2017_28Sep_memo-1324a.pdf; NIPNLG/Mijente, *In Defense of Organizing*, (May 2017), https://www.nationalimmigrationproject.org/PDFs/community/2017_05June_in-defense-of-mijente-en.pdf; see also *Terminating Removal Proceedings for Activists Targeted for Political Speech* (June 19, 2018), http://www.nationalimmigrationproject.org/pract_advisories/gen/2018_19Jun_activists.html

on anti-retaliation work. NIPNLG senior staff attorney Elizabeth Simpson is now spending approximately 30% of her time on anti-retaliation work. Paromita Shah, an Associate Director at NIPNLG specializing in strategies to combat immigration detention, enforcement and criminalization, is now spending approximately 20% of her time on anti-retaliation work. NIPNLG's legal director Sejal Zota, who works on issues of removal defense, post-conviction, enforcement, and immigration consequences of crimes through litigation, education, and technical assistance, is now spending approximately 5% of her time on anti-retaliation work. NIPNLG's Executive Director Dan Kesselbrenner likewise now spends approximately 5% of his time on anti-retaliation work.

170. NIPNLG has represented Ms. Mora-Villalpando in her individual removal case since March 12, 2018. NIPNLG rarely represents individuals directly in removal cases. In addition to staff time, NIPNLG has incurred travel costs and other related expenses in connection with its representation of Ms. Mora-Villalpando.

171. NIPNLG has filed a FOIA lawsuit against Customs and Border Protection and ICE after the agencies ignored Ms. Mora-Villalpando's request for more than fifty days. On June 7, 2018, NIPNLG amended the complaint to add USCIS as a defendant after exhausting its administrative appeal.

172. On June 19, 2018, NIPNLG prepared and published a practice advisory entitled "Terminating Removal Proceedings for Activists Targeted for Political Speech." The advisory details strategies for practitioners representing immigrant rights activists who have been targeted for removal due to anti-ICE activism.

173. Further, NIPNLG's members—which include Mr. Ragbir and his wife, Amy Gottlieb—have been directly affected by ICE's targeting of immigrant activists.

174. Injunctive and or declaratory relief will, *inter alia*, prevent Defendants from retaliating against NIPNLG's members, allow NIPNLG to re-allocate some of the substantial resources currently devoted to anti-retaliation work, including the representation of immigration activists who have been targeted by Defendants.

4. CASA

175. Defendants' retaliatory actions have had a highly negative impact on the community that CASA serves, and are also extremely detrimental to the mission and purpose of the organization. ICE's actions will harm CASA's mission in multiple ways and have already forced CASA to divert valuable resources away from its usual activities.

176. CASA has observed ICE targeting members of CASA's community and has responded to more than 50 reported ICE raids over the last year. CASA has seen blatant instances of racial profiling, including ICE targeting two Latinos at a convenience store in Baltimore.

177. As CASA raises its profile, including through increasing impact litigation, the risks of CASA's leaders and their families being targeted have increased. Leaders like Missael Garcia and Monica Camacho, two of CASA's most outspoken activists and both plaintiffs in CASA's DACA lawsuit, face potential retaliation for continuing to defend their families and their communities. As they lose protections like DACA and TPS, these leaders become vulnerable to increasingly aggressive ICE enforcement action.

178. Over the past year, ICE has deported several CASA leaders, including Liliana Cruz, Catia Paz, and two young brothers, Diego and Lizandro Claros. All of these leaders had been vocal supporters of CASA and immigration programs like DACA and DAPA. They had received extensive media coverage for their advocacy and engagement with elected officials.

Each of them was effectively silenced by ICE through their deportation, which in the case of Diego and Lizandro happened a mere five days after reporting for a routine ICE check-in.

179. ICE has also detained and threatened deportation of several additional CASA leaders, including Karen Julissa Fiallos Ramos, Florinda Faviola Lorenzo, and Roxana Elizabeth Orellana Santos.

180. ICE's SDDOs have consistently and repeatedly told CASA members that they are aware of their CASA membership during scheduled ICE check-ins.

181. ICE's targeting of CASA leaders has required an increased dedication of resources to defending these members, including through legal services, organizing and communications. Although CASA will never stop advocating for the community it serves, its mission is inherently negatively affected whenever one of its members, and particularly when one of its leaders, is deported. CASA has long pursued a strategy of encouraging its members to share their stories and shed light on the reality of immigration enforcement practices in the United States. Every time one of its members is deported, detained, or silenced for fear of retaliatory action by ICE, CASA loses a unique immigrant perspective and experience.

182. CASA has had to redirect resources to deal with ICE's increasingly vindictive and unrestrained enforcement activity. CASA has dramatically expanded its Know Your Rights presentations across the organization, helping to educate thousands of immigrants over the past year about their constitutional rights and how to protect their families from immigration enforcement.

183. CASA has restructured its services to deal with the termination of DACA and TPS, and has increased the number of comprehensive immigration screenings it provides to its members, in anticipation of continuing excessive ICE enforcement activity.

184. CASA has significantly expanded its litigation efforts to challenge the Administration's unconstitutional actions against its members and the broader immigrant community. All of these changes have taken resources away from other vital CASA programming and advocacy efforts.

185. Injunctive and or declaratory relief will, *inter alia*, prevent Defendants from retaliating against and targeting CASA's members, allow CASA to re-allocate some of the substantial resources currently devoted to anti-retaliation work, including its defense of immigration activists who have been targeted by Defendants, and allow CASA members to participate in CASA activities without fear.

5. New York Immigration Coalition

186. Defendants' targeting of immigrant-rights activists like Mr. Ragbir directly interferes with NYIC's mission of advancing immigrant rights throughout New York. Defendants' retaliatory measures against the Coalition—one of NYIC's own member organizations—weakens NYIC's unified strength as a coalition and spread fear among the immigrant communities that NYIC serves.

187. NYIC has had to significantly increase its budget in order to fund the rapid responses required in cases of retaliatory enforcement against community activists.

188. NYIC has had to ask some of its staff to devote themselves solely to advocacy work, rather than participating in other activities such as community education, capacity building, and coordination and support of legal services.

189. NYIC has had to redesign its know-your-rights programs to address the risks presented by ICE's targeting of immigrant-rights activists. Redesigning this program took staff time that would otherwise have been spent on other organizational priorities.

190. NYIC has had to redesign the curriculum for its Immigration Navigator program to address increased risks to the communities it supports, as a result of ICE's efforts to target activists. The effort to redesign this curriculum diverted staff time from other organizational priorities.

191. NYIC has had to expend resources monitoring ICE's activities so that it can alert its members and the community at large. NYIC has had to devote additional resources to provide accompaniment to individuals for ICE check-ins, given the frequency with which check-ins are used to abruptly detain or deport immigrants. In the past, check-ins did not require organized support.

192. Injunctive and or declaratory relief will, *inter alia*, prevent Defendants from retaliating against and targeting members of NYIC's community, allow NYIC to re-allocate some of the substantial resources currently devoted to fighting Defendants' unlawful retaliation against immigrants.

6. Detention Watch Network

193. Defendants' selective enforcement of the immigration laws against immigrant-rights activists impedes DWN's pursuit of its mission. Mr. Ragbir and Ms. Mora-Villalpando are both DWN members, and ICE's enforcement actions against them have deeply affected DWN's membership.

194. Over the last few months, DWN has spent considerable time and resources tracking the escalating practice of targeting immigrant-rights activists for enforcement proceedings based on their advocacy, consulting its membership on the best response, working with activists to develop individualized emergency plans, and supporting activists to think through how to engage in public advocacy given the escalated risks.

195. DWN has had to divert staff time and capacity to mobilize its members and allies and to support engagement with Congressional representatives of targeted activists.

196. DWN has held press conferences, briefings, and additional extensive media work to educate and engage reporters about ICE's targeting of immigrant-rights activists.

197. All this work diverts staff time and capacity away from other programs and projects that are central to DWNs mission.

198. Injunctive and/or declaratory relief would, *inter alia*, prevent Defendant from retaliating against DWN members and significantly decrease the level of resources that DWN is currently allocating to anti-retaliation work and allow DWN members to participate in DWN activities without fear, including DWN members who have already been targeted, including Mr. Ragbir and Ms. Mora-Villalpando.

CLAIMS FOR RELIEF

COUNT I

(Retaliation in Violation of the First Amendment)

199. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein.

200. To sustain a First Amendment retaliation claim, a plaintiff must show “(1) that the speech or conduct at issue was protected, (2) that the defendant took adverse action against the plaintiff, and (3) that there was a causal connection between the protected speech and the adverse action.” *Gonzalez v. Hasty*, 802 F.3d 212, 222 (2d Cir. 2015) (quotation marks omitted).

201. Plaintiffs have engaged in speech protected by the First Amendment. They have criticized U.S. immigration law and policy, organized rallies and protests against the U.S. immigration system, helped noncitizens navigate that system, and urged government officials to change it. Plaintiffs' speech about U.S. immigration law and policy pertains to matters of public

concern and seeks political change. It is therefore entitled to the highest level of protection under the First Amendment.

202. Defendants have taken adverse actions against Plaintiffs. Defendants have revoked Mr. Ragbir's stay of removal, revoked his order of supervision, arrested him, detained him, transferred him away from his family and community until court intervention, and continue to seek to deport him. Defendants have deported one of the Coalition's leaders and are seeking to deport another. And Defendants have engaged in a nationwide pattern and practice of targeting and selectively enforcing the immigration laws against Plaintiffs, their members and other immigration-rights activists and organizations on the basis of their protected speech regarding U.S. immigration law and policy.

203. There is a causal connection between Plaintiffs' protected speech and Defendants' adverse actions. Defendants have targeted and selectively enforced the immigration laws against Plaintiffs and their leaders and members on the basis of their protected speech regarding U.S. immigration law and policy.

204. As a result, this Court should declare that Defendants' retaliatory actions violate the First Amendment; enter a preliminary and permanent injunction restraining Defendants from taking any action to surveil, detain, remove, or otherwise take adverse action against Mr. Ragbir unless Defendants demonstrate to the Court's satisfaction that such action is untainted by unlawful retaliation; and enter a preliminary and permanent injunction restraining Defendants from targeting and selectively enforcing the immigration laws against any individual based on the individual's protected speech regarding U.S. immigration law and policy.

COUNT II
(Content, Viewpoint, and Speaker Discrimination
in Violation of the First Amendment)

205. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein.

206. Government action that targets speech based on its content is presumptively unconstitutional and is justified only if the Government demonstrates that it is narrowly tailored to serve a compelling state interest. *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218 (2015).

207. Defendants' pattern and practice of selectively enforcing the immigration laws against immigration-rights activists on the basis of their protected speech regarding U.S. immigration law and policy targets speech based on its content, does not serve a compelling state interest, and is not narrowly tailored.

208. Government action that targets private speech based on the viewpoint taken by the speaker is unconstitutional. *Matal v. Tam*, 137 S. Ct. 1744 (2017); *Sorrell v. IMS Health Inc.*, 564 U.S. 552 (2011).

209. Defendants' pattern and practice of selectively enforcing the immigration laws against immigration-rights activists on the basis of their protected speech regarding U.S. immigration law and policy targets private speech based on the viewpoint of the speaker.

210. Government action that targets speech based on the identity of the speaker is presumptively unconstitutional and is justified only if the Government demonstrates that it is narrowly tailored to serve a compelling state interest. *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310 (2010).

211. Defendants' pattern and practice of selectively enforcing the immigration laws against immigration-rights activists on the basis of their protected speech regarding U.S.

immigration law and policy targets speech based on the identity of the speaker, does not serve a compelling state interest, and is not narrowly tailored.

212. As a result, this Court should declare that Defendants' pattern and practice of targeting immigration-rights activists on the basis of their protected speech regarding U.S. immigration law and policy violates the First Amendment; enter a preliminary and permanent injunction restraining Defendants from taking any action to surveil, detain, remove, or otherwise take adverse action against Mr. Ragbir unless Defendants demonstrate to the Court's satisfaction that such action is untainted by unlawful discrimination; and enter a preliminary and permanent injunction restraining Defendants from selectively enforcing the immigration laws against any individual based on the individual's protected speech regarding U.S. immigration law and policy.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court enter judgment in their favor and:

- a. Declare that Defendants' retaliatory enforcement of the immigration laws against Mr. Ragbir and other immigrant-rights activists on the basis of their protected political speech about U.S. immigration law and policy violates the First Amendment;
- b. Declare that Defendants' pattern and practice of discriminatorily targeting and/or enforcing the immigration laws against Mr. Ragbir and other immigrant-rights activists and their organizations based on the content and viewpoint of their speech and the identity of the speaker violates the First Amendment;
- c. Enter a preliminary and permanent injunction restraining Defendants from taking any action to surveil, detain, remove, or otherwise take adverse action against Mr. Ragbir unless Defendants demonstrate to the Court's satisfaction that such action is untainted by unlawful retaliation or discrimination against protected speech;

d. Enter a preliminary and permanent injunction restraining Defendants on a nationwide basis from targeting and/or selectively enforcing the immigration laws against any individual—including, without limitation, through investigation, surveillance, detention, deportation, or any other adverse enforcement action—based on the individual’s protected political speech about U.S. immigration law and policy;

e. Issue a writ of habeas corpus directing Defendants to refrain from taking any action to surveil, detain, remove, or otherwise take adverse action against Mr. Ragbir unless Defendants demonstrate to the Court’s satisfaction that such action is untainted by unlawful retaliation or discrimination against protected speech;

f. Award Plaintiffs costs and reasonable attorneys’ fees; and

g. Order such other relief as this Court may deem just and proper.

July 17, 2018

Respectfully submitted,

Alina Das, Esq. (AD8805)
Jessica Rofé, Esq. (JR5231)
Brittany Castle, Legal Intern
Jeremy Cutting, Legal Intern
WASHINGTON SQUARE
LEGAL SERVICES, INC.
Immigrant Rights Clinic
New York University School of Law
245 Sullivan Street, 5th floor
New York, New York 10012
Tel: (212) 998-6430
alina.das@nyu.edu
jessica.rofe@nyu.edu

/s/ R. Stanton Jones
R. Stanton Jones*
John L. Freedman
William C. Perdue*
Daniel F. Jacobson*
Sally Pei*
Stephen K. Wirth*
Andrew T. Tutt*
ARNOLD & PORTER
KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001
(202) 942-5000
(202) 942-5999 (fax)
stanton.jones@arnoldporter.com

Anthony Boccanfuso
Ada Añon
ARNOLD & PORTER
KAYE SCHOLER LLP
250 West 55th Street
New York, NY 10019
(212) 836-8000
(303) 836-8689 (fax)
anthony.boccanfuso@arnoldporter.com

Emily Newhouse Dillingham*
ARNOLD & PORTER
KAYE SCHOLER LLP
70 West Madison Street
Suite 4200
Chicago, IL 60602
(312) 583-2300
(312) 583-2360 (fax)
emily.dillingham@arnoldporter.com

* Admitted pro hac vice

Counsel for Plaintiffs