

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

)	
SUNY RODRIGUEZ ALVARADO and)	
A.S.R., a minor,)	
)	
Plaintiffs,)	
)	Civ. No. _____
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

COMPLAINT

Plaintiffs Suny Rodriguez Alvarado and her minor child A.S.R., by and through their counsel, allege the following:

INTRODUCTION

1. This is a civil rights lawsuit to redress the wrongful detention, unlawful conditions of confinement, and other inhumane treatment suffered by Suny Rodriguez Alvarado and her minor child A.S.R., refugees who fled violence and persecution in Honduras only to be imprisoned and grossly mistreated for four months in southern Texas, pursuant to illegal policies and practices of the Department of Homeland Security (DHS).

2. Beginning in summer 2014, DHS initiated an unprecedented program to detain, subject to harsh conditions, and deport Central American refugee families seeking protection in the United States. DHS unlawfully detained refugees like Plaintiffs, and held them in harsh, degrading and inhumane conditions, for the improper purpose of deterring future migrant families from fleeing to the United States, in violation of a binding court order.

3. Indeed, Ms. Rodriguez and her son were detained in such conditions from January to May, 2015, for improper purposes, even though they posed no danger or flight risk and both were eligible for immediate release. DHS also illegally detained accompanied minors like A.S.R. in violation of a longstanding judicial consent decree governing the release of children.

4. Despite their mistreatment by DHS, Plaintiffs both managed to win their immigration cases and now reside lawfully in New Jersey. They bring this action for damages pursuant to the Federal Tort Claims Act for abuse of process, false imprisonment, intentional infliction of emotional distress, negligent supervision, and negligence, and for the harm they suffered at the hands of DHS.

JURISDICTION AND VENUE

5. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1346(b).

6. Venue is proper under 28 U.S.C. § 1402(b) and 28 U.S.C. § 1391(e)(1) because Plaintiffs reside in the District of New Jersey.

PARTIES

Plaintiffs

7. Plaintiff **Suny Rodriguez Alvarado** is a forty-year-old Honduran woman. She is the mother of Plaintiff A.S.R. and partner to A.S.R.'s father, Jose Rafael Sanchez Villatoro. She resides in West New York, New Jersey.

8. Plaintiff **A.S.R.** is the nine-year-old son of Ms. Rodriguez and Mr. Sanchez. He resides with his mother and father in West New York, New Jersey.

Defendant

9. Defendant **United States of America** is sued under the Federal Tort Claims Act for the tortious acts of its employees, including employees of the Department of Homeland Security

and its constituent units, Customs and Border Protection, Immigration and Customs Enforcement, and United States Citizenship and Immigration Services (USCIS), as well as for the tortious actions of contractors that DHS directly supervised.

LEGAL FRAMEWORK

Asylum Processing for Individuals in Expedited Removal

10. Under the Immigration and Nationality Act (INA), DHS may elect to place individuals apprehended shortly after crossing the United States border in “expedited removal” proceedings. In expedited removal proceedings, DHS may remove an individual without further process, provided that an individual who indicates a fear of persecution or an intention to apply for asylum may not be removed until a screening interview is completed. 8 U.S.C. § 1225(b)(1)(A); 8 C.F.R. § 241.8(e).

11. An applicant who seeks to apply for this protection falls into one of two categories: (a) those eligible for asylum or withholding of removal; or (b) those eligible only for withholding of removal, usually due to returning after a prior removal order.

12. Defendant has a mandatory, non-discretionary duty to “immediately refer[] to an asylum officer” for a screening interview those applicants who express a fear of persecution or torture and who are eligible for withholding of removal only. 8 C.F.R. § 241.8(e).

13. In the screening interview, an asylum officer employed by USCIS makes a threshold determination regarding an applicant’s eligibility for relief due to a fear of persecution or torture.

14. The legal standard that asylum officers apply in these initial screening interviews differs depending on whether an applicant is eligible for asylum and withholding of removal, or only for withholding of removal. Those eligible only for withholding must demonstrate a

“reasonable fear” of persecution. 8 C.F.R. §208.31. Those eligible for asylum must demonstrate a “credible fear” of persecution, a lower standard. 8 C.F.R. § 208.30.

15. If an applicant passes the initial interview, the asylum officer refers the applicant for conventional removal proceedings and a full merits hearing before an immigration judge. 8 C.F.R. §§ 208.30(f), 208.31(e). Applicants in these conventional removal proceedings have a right to counsel at no expense to the government, 8 U.S.C. § 1229a(b)(4)(A), a right to judicial review, *id.* § 1252(a), and other statutory and constitutional procedural rights.

16. Applicants who have passed their threshold credible fear interviews may be detained pursuant to 8 U.S.C. § 1226(a) because they are in conventional removal proceedings and awaiting a full merits hearing on their cases.

17. Individuals in reasonable fear proceedings are also subject to detention under § 1226(a) because they do not have an administratively final order of removal. *Ponce-Osorio v. Johnson*, --- F.3d ---, No. 16-60085, 2016 WL 3063299 (5th Cir. May 27, 2016); *Luna-Garcia v. Holder*, 777 F.3d 1182 (10th Cir. 2015); *Ortiz-Alfaro v. Holder*, 694 F.3d 955 (9th Cir. 2012).

18. Although DHS has separate authority under 8 U.S.C. § 1231 to detain individuals previously ordered removed, this section does not apply to individuals in reasonable fear proceedings because they do not have a final order of removal. *See Guerra v. Shanahan*, --- F.3d ---, No. 15-504-cv, 2016 WL 4056035 (2d Cir. July 29, 2016); *Guerrero v. Aviles*, No. 14-4367, 2014 WL 5502931 (D.N.J. Oct. 30, 2014).

19. Once an individual is in § 1226(a) detention, the applicant is entitled to a custody determination based on whether she is a flight risk or danger. 8 C.F.R. § 1236.1(c)(8). DHS makes the initial custody determination, but an applicant may appeal an adverse determination to an immigration judge for *de novo* review. 8 C.F.R. 1003.19(a).

The U.S. Government’s *Non-Refoulement* Obligations

20. Defendant also has a mandatory, non-discretionary obligation under the international law principle of *non-refoulement* not to return a refugee to a country of origin where the person’s “life or freedom would be threatened on account of . . . race, religion, nationality, membership of a particular social group or political opinion.” 1951 Convention Relating to the Status of Refugees, July 28, 1951, art. 33, sec. 1, 19 U.S.T. 6259, 189 U.N.T.S. 150.

21. The United States is bound to the provisions of the 1951 Refugee Convention as a signatory to the 1967 Protocol that amended the 1951 Convention. *See* 1967 Protocol Relating to the Status of Refugees, Jan. 31, 1967 19 U.S.T. 6261, 606 U.N.T.S. 267.

Legal Obligations Governing DHS’s Immigration Detention

22. In addition, Defendant and its employees are subject to mandatory, non-discretionary court orders governing the detention of immigrants to the United States.

23. Specifically, ICE and CBP have a long-standing legal obligation to ensure the prompt release of minors held in immigration custody. *See Flores v. Reno*, CV 85-4544-DMB-AGR, No. 177 (C.D. Cal. July 24, 2015). The *Flores* class action litigation, brought on behalf of minor children held in immigration detention, began in 1985 and resulted in a 1997 consent decree that remains binding on a nationwide basis.

24. The decree sharply limits the circumstances, duration, and manner of immigration detention of minor children. Among other things, the decree requires ICE to expeditiously place minors in licensed facilities and prioritizes the prompt release of detained minors.

25. DHS violated the *Flores* consent decree when, in mid-2014, it launched its massive program of arresting and detaining Central American minors such as Plaintiff A.S.R. seeking

asylum with their parents. *See Flores v. Lynch*, --- F.3d ---, No. 15-56434, 2016 WL 3670046 at *7 (9th Cir. July 6, 2016) (rejecting DHS argument that consent decree applies only to unaccompanied minors and holding decree “unambiguously applies to accompanied minors”); *see also Bunikyte, ex rel. Bunikiene v. Chertoff*, No. A-07-CA-164-SS, 2007 WL 1074070, at *3 (W.D. Tex. Apr. 9, 2007) (“[T]he *Flores* Settlement, by its terms, applies to all ‘minors in the custody’ of ICE and DHS, not just unaccompanied minors.”).

26. The *Flores* decree also limits the time that ICE may hold accompanied minors in immigration detention to twenty days. *Flores v. Reno*, CV 85-4544-DMB-AGR, 2015 WL 9915880 at *5 (C.D. Cal. Aug. 21, 2015).

STATEMENT OF FACTS

ICE’s Policy of Using Deterrence to Justify the Detention of Refugee Families

27. In late 2014 and early 2015, ICE used deterrence of mass migration to justify the detention of refugee families detained at facilities in Texas and New Mexico through custody determinations that failed to consider an individual’s dangerousness or flight risk.

28. During that time, ICE denied release on bond or recognizance to 99 percent of applicants with a credible fear of persecution. Declaration of Allegra McLeod ¶ 11 from *R.I.L.R. v. Johnson*, 1:15-cv-00011, ECF 5-7 (D.D.C Jan. 6, 2015) (copy attached as Ex. A).

29. Of those bond denials that were appealed, immigration judges granted bond or conditional parole in more than 99 percent of cases. Ex. A ¶ 16.

30. In these appeals, ICE opposed bond using an identical submission, in which ICE argued that the detainee should be held to deter other migrants from coming to the United States. *See* Declarations of Phillip Miller & Traci Lembke from *R.I.L.R.*, ECF 5-19 (copy attached as Ex. B).

31. Specifically, ICE submitted statements from two senior DHS officials that a “‘no bond’ or ‘high bond’ policy would significantly reduce the unlawful mass migration of Guatemalans, Hondurans, and Salvadoran[s].” Ex. B, Miller Dec. ¶ 9; Lembke Dec. ¶ 20.

32. Attorneys representing families in ICE’s facilities also noted that ICE opposed bond by citing deterrence of mass migration as a rationale. Declaration of Barbara Hines from *R.I.L.R.*, ECF 5-4, ¶¶ 13-22 (copy attached as Ex. C); Declaration of Virginia Raymond from *R.I.L.R.*, 1:15-cv-00011, ECF 24-4 (D.D.C. Jan. 28, 2015), ¶¶ 5-8 (copy attached as Ex. D).

33. This near-categorical refusal to release families on bond was a dramatic departure from previous ICE practice. Prior to the summer of 2014, ICE did not detain Central American families on this scale and released families on personal recognizance or bond. *See* Declaration of Valerie Burch from *R.I.L.R.*, ECF 24-1 (copy attached as Ex. E); Declaration of Matthew Archambeault from *R.I.L.R.*, ECF 24-2, ¶ 10 (copy attached as Ex. F).

34. High level DHS officials and members of Congress also identified deterrence of other migrants as a reason DHS was detaining Central American families seeking asylum. DHS Press Release, Statement by Secretary of Homeland Security Jeh Johnson Before the Senate Committee on Appropriations (July 10, 2014) (copy attached as Ex. G); Letter from Rep. Logren et. al. to President Obama (Oct 27, 2014) (copy attached as Ex. H); *see also* Chico Harlan, *Inside the Administration’s \$1 Billion Deal to Detain Central American Asylum Seekers*, Wash. Post, Aug. 14, 2016 (discussing the role deterrence has played in justifying family detention).

35. Thus, ICE had a policy and practice of considering deterrence of potential migrants when it made family detention custody determinations in 2014 and early 2015. *See R.I.L.R. v. Johnson*, 80 F.Supp.3d 164, 176 (D.D.C. 2015) (finding an ICE policy of “taking deterrence of

mass migration into account in making custody determinations,” and that the policy “played a significant role in the large number of Central American families detained since 2014”).

Plaintiffs’ Past Persecution in Honduras

36. Ms. Rodriguez was born in Honduras in 1976 and emigrated to the United States in April 1998. She was placed in removal proceedings and ordered removed *in absentia* when she was sick and missed a court date.

37. Despite being subject to an *in absentia* removal order, Ms. Rodriguez received Temporary Protected Status after Hurricane Mitch struck Honduras in October 1998. She then resided lawfully in the United States for a number of years.

38. In 2004, Honduran police officers murdered Ms. Rodriguez’s mother, an outspoken police critic, as well as her stepfather. The police refused to investigate the murders – though they occurred near a police station – and blamed Ms. Rodriguez’s stepfather for a murder-suicide.

39. Ms. Rodriguez returned to Honduras in 2006 to investigate the circumstances of their deaths and to speak out against the corruption that had prevented a proper investigation.

40. When Ms. Rodriguez returned to Honduras, she had the bodies of her mother and stepfather exhumed and examined by the prosecutor’s office. The examination confirmed that her stepfather did not commit the murder and demonstrated that the police had covered up the true cause of death. The discovery led Ms. Rodriguez to speak out against police corruption.

41. In response, the Honduran police subjected Ms. Rodriguez’s family to intimidation, harassment, threats, and extortion at their business, at their home, and in the streets.

42. After years of abuse, in September 2014, and when Ms. Rodriguez confronted the police officers and demanded that they leave her and her family in peace, the officers responded by physically attacking Ms. Rodriguez in front of her home.

43. Ms. Rodriguez reported the physical assault and harassment to the Chief of Police. Ms. Rodriguez also contacted the Commissioner for Human Rights in Honduras and the International Criminal Police Organization (INTERPOL) and encouraged others to do the same.

44. As a result of her activism, the Honduran police intensified their abuse, and Ms. Rodriguez became afraid to leave her house. Eventually, conditions became unbearable, and Ms. Rodriguez, her partner Mr. Sanchez, and their young son A.S.R. decided to flee in late 2014.

Plaintiffs' Arrival in the United States and Apprehension by CBP

45. Ms. Rodriguez, A.S.R., and Mr. Sanchez fled Honduras in November 2014. While they were *en route* to the United States, Mexican authorities arrested them and returned them to Honduras.

46. Still fearing for their lives, Ms. Rodriguez, Mr. Sanchez and A.S.R. attempted to flee Honduras a second time. This time they successfully reached the U.S.-Mexico border. On or about January 16, 2015, they crossed the Rio Grande River in an inflatable raft. The crossing soaked their clothing and the family arrived in Texas hungry, wet and thirsty.

47. CBP agents soon apprehended the family and placed them into a van, hungry and wet, without addressing their obvious need for basic provisions like clothes, food, and water.

48. CBP agents transported Plaintiffs and Mr. Sanchez to a holding facility, known as a "hielera," or "icebox," because of its cold temperatures, where they processed the family. When Plaintiffs requested food and dry clothes, CBP officials laughed at and taunted Plaintiffs for requesting these basic necessities.

Ms. Rodriguez Expresses a Fear of Returning to Her Country of Origin

49. Ms. Rodriguez informed a Spanish-speaking CBP agent whom she knew as “Agent Rodriguez” that she feared returning to Honduras. Despite her having expressed this fear, Agent Rodriguez and other agents pressured Ms. Rodriguez to sign papers accepting removal to Honduras.

50. Agent Rodriguez rebuked Ms. Rodriguez, telling her that she was not allowed in the United States and could not stay. Agent Rodriguez told Ms. Rodriguez that she would face the same violence she fled from in Honduras in the United States, and that her flight was pointless.

51. Although Ms. Rodriguez repeatedly expressed her fear of returning to Honduras during her time in CBP detention, CBP agents did not immediately refer her to an asylum officer for a reasonable fear interview or cease pressuring Ms. Rodriguez to sign deportation papers.

52. CBP agents have a mandatory, non-discretionary duty not to coerce individuals to withdraw their application for admission into the United States. *See* CBP Directive No. 3340-043 (Sept. 3, 2008) (copy attached as Ex. I).

53. Defendant’s employees violated a mandatory, non-discretionary duty by attempting to coerce Ms. Rodriguez and her family to agree to deportation. CBP agents also violated a mandatory, non-discretionary duty by failing to immediately refer Ms. Rodriguez for appropriate screening and by using CBP detention as a means to attempt to force Ms. Rodriguez to abandon her bona fide legal claims. 8 C.F.R. § 241.8(e). These coercive efforts also violate domestic law that provides protections for those fleeing persecution, as well as the principle of *non-refoulement*.

54. CBP’s practice of coercing detained individuals to sign papers agreeing to removal is well-known. *See, e.g., Lopez Venegas v. Napolitano*, Complaint, No. 2:13-cv-03972 (C.D. Cal.

Aug. 18, 2014); *Doe v. Johnson*, No. 4:15-cv-00250, ECF 1 (D. Ariz. June 8, 2015); Human Rights Watch, “*You Don’t Have Rights Here*”: *US Border Screening and Returns of Central Americans to Risk of Serious Harm* 20-29 (Oct. 2014).

55. The CBP officers’ threats of deportation and denial of food caused Ms. Rodriguez to develop intense headaches, feel nauseous, cry repeatedly, and tremble uncontrollably.

Conditions in CBP Holding Facilities During Plaintiffs’ CBP Detention

56. During CBP’s initial processing, Ms. Rodriguez informed Agent Rodriguez that A.S.R. had asthma. Ms. Rodriguez was travelling with A.S.R.’s inhaler and pills for his asthma. CBP never provided any medical treatment to A.S.R. during his time in CBP detention.

57. After processing, CBP agents separated Plaintiffs from Mr. Sanchez and told Plaintiffs that Mr. Sanchez would be deported that night. CBP agents took Mr. Sanchez to another holding facility, and later, to the ICE South Texas Detention Facility in Pearsall, Texas. Ms. Rodriguez and their son did not see him for the next eight months while he was detained, pursuing his immigration case. Mr. Sanchez was unable to provide assistance to Ms. Rodriguez and their son, A.S.R., during their immigration proceedings in detention.

58. CBP agents refused to answer Ms. Rodriguez’s questions about Mr. Sanchez’s location or whether the family would be reunited.

59. Plaintiffs experienced inhumane conditions that fell below CBP’s own minimum standards for operation of its facilities at the first holding facility known as the “icebox.” CBP agents detained Plaintiffs in a crowded room with a wet floor and cement blocks for seats. Other detainees had taken all the seats, so Ms. Rodriguez requested a blanket for her asthmatic son to sleep on so that he would not have to sleep directly on the wet floor. CBP agents told her that she could not have anything because she was not in her own country.

60. CBP agents later gave her a Mylar blanket, but left Plaintiffs to sleep on the floor.

61. CBP agents gave Plaintiffs a cold ham sandwich and a juice box each after several hours. This was the first time Plaintiffs had eaten since crossing the border. CBP agents never gave Plaintiffs anything other than cold sandwiches for their meals while in CBP custody.

62. CBP agents kept the detention cell temperature very cold level throughout Plaintiffs' time in the holding facility. Ms. Rodriguez requested that CBP agents raise the temperature to accommodate her son's severe asthma, but the guards ignored her request.

63. Because of these inhumane conditions, Plaintiff A.S.R.'s asthma worsened. A.S.R. suffered serious asthma attacks in the first CBP holding facility because of the cold air. Ms. Rodriguez pleaded with CBP for help, especially with the room temperature, but CBP officials ignored her pleas, as well as this threat to A.S.R.'s deteriorating health.

64. Ms. Rodriguez became deeply anxious and concerned for her son because of the very cold temperatures and the wet floor her son was forced to sleep on.

65. On or about January 17, 2015, CBP agents transferred Plaintiffs to a second holding facility, known as a "perrera," or "dog-house."

66. CBP agents kept Plaintiffs in this second facility for two days and one night.

67. At this second facility, CBP agents again forced Plaintiffs to sleep in an extremely cold room on the floor, crowded with other people. The agents again gave Plaintiffs only a thin Mylar blanket to place between themselves and the floor. CBP agents also seized A.S.R.'s medicine from Ms. Rodriguez.

68. Ms. Rodriguez again asked CBP agents to raise the temperature because of A.S.R.'s poor health. CBP agents instead lowered the temperature.

69. A.S.R. continued to suffer a decline in health at the second CBP facility, coughing repeatedly because of the holding facility's cold, inhumane environment.

70. At this second facility, CBP agents again repeatedly pressured Ms. Rodriguez to sign deportation papers, despite her previous statement that she feared returning to Honduras. CBP agents harassed Ms. Rodriguez and the other detainees to sign the forms, as frequently as every twenty minutes.

71. CBP officials told Ms. Rodriguez that there were already too many immigrants in the holding center and too many immigrants trying to enter the United States. The CBP agents repeated Agent Rodriguez's assertions, telling the Plaintiffs and other detainees that the United States was violent and not safe, just like their countries of origin.

72. Ms. Rodriguez continued to suffer from intense headaches, nausea, repeated crying, uncontrollable trembling, and fear during her time in the second CBP facility because of the pressure to agree to deportation.

73. In addition to his physical illness, A.S.R. also suffered emotionally, and became visibly sad and depressed. He cried multiple times during Plaintiffs' time in CBP custody.

CBP Obligations and Policy Violations Regarding Detention Conditions

74. CBP agents detained Plaintiffs, confined them in coercive, inhumane conditions and attempted to force Plaintiffs to abandon their legal rights to deter other migrants and refugees from seeking protection in the United States.

75. CBP's "Hold Rooms and Short Term Custody" Policy (Hold Rooms Policy, or Policy) (copy attached as Ex. J) governed CBP activities at the "icebox" and "dog-house" during Plaintiffs' detention. The Policy stated that "[w]herever possible, a detainee should not be held

for more than 12 hours. Every effort will be made to promptly process, transfer, . . . or release those in custody as appropriate and as operationally feasible.” Ex. I ¶ 6.2.1.

76. CBP agents violated a mandatory, non-discretionary duty by detaining Plaintiffs for nearly three days, far in excess of the 12 hours mandated by agency policy.

77. The Hold Rooms Policy further mandated that detainees be held “in facilities that are safe, secure, and clean. Detainees will be provided food, water, properly equipped restrooms and hygiene supplies as set forth in this directive.” *Id.* ¶ 5.1. The Policy also stated that hold rooms for “unaccompanied alien children” must have an “adequate temperature.” *Id.* ¶ 6.24.7 The *Flores* consent decree also requires that facilities with children must provide shelter at an appropriate temperature.

78. CBP agents violated a mandatory, non-discretionary duty by ignoring Ms. Rodriguez’s complaints about the temperature in both CBP facilities. CBP agents disregarded their agency’s policy that temperatures in holding facilities be appropriate for children.

79. The Policy also required that “detention space capacity will not be exceeded.” *Id.* ¶ 7.1.2. CBP agents violated a mandatory, non-discretionary policy by overcrowding CBP’s facilities, forcing Plaintiffs to sit on a cold floor with wet clothes and without bedding.

80. The Hold Rooms Policy further stated that “Juveniles detained longer than 24 hours will be given access to basic hygiene articles, a blanket, and a mattress,” *id.* ¶ 6.24.6, and that every 2 of 3 meals that a Juvenile receives must be hot, *id.* ¶ 6.24.9. CBP agents violated mandatory, non-discretionary duties by failing to provide A.S.R. with hot food and bedding.

81. CBP’s neglect and deliberate indifference to Plaintiffs’ medical and subsistence needs, its coercive tactics, and the inhumane conditions of CBP holding facilities caused Plaintiffs severe emotional distress and significant physical injury.

82. CBP detained Plaintiffs, subjected Plaintiffs to inhumane conditions, and coerced Plaintiffs to agree to deportation for the improper purpose of deterring other migrants and refugees from attempting to seek protection in the United States.

Plaintiffs' Detention in the South Texas Family Residential Center

83. On or about January 19, 2015, DHS officials transferred Plaintiffs to the South Texas Family Residential Center in Dilley, Texas (hereinafter "Dilley"). DHS officials intentionally misrepresented to Plaintiffs that DHS had plans to deport them to Honduras.

84. ICE administers and supervises Dilley and operates the facility in conjunction with the Corrections Corporation of America (CCA). ICE unlawfully detained Plaintiffs at this facility for the next four months, until May 14, 2015.

85. ICE's detention of Plaintiffs, and the inhumane conditions of confinement to which CBP subjected Plaintiffs, violated the *Flores* consent decree in a number of respects, discussed *infra* ¶¶ 111-12, 117, 125-26, and was done for the improper purpose of forcing Plaintiffs to abandon their valid legal claims and deterring other migrants from coming to the United States, in violation of the INA and a federal court order.

ICE's Coercion and Intimidation

86. During Plaintiffs' time in Dilley, ICE officials repeatedly subjected Ms. Rodriguez and A.S.R. to intimidation and threats of deportation.

87. After their arrival in detention in mid-January 2015 and until Plaintiffs' credible and reasonable fear interviews on February 10, 2015, Ms. Rodriguez's ICE deportation officer – whom she knew as Agent Johnston – frequently attempted to coerce her into signing deportation forms. When Ms. Rodriguez refused, Agent Johnston raised his voice in a threatening manner.

88. Ms. Rodriguez repeatedly explained that she would not agree to deportation because she feared returning to her country of origin. Agent Johnston ignored her attempts to make known that she had a strong claim for legal refuge in the United States.

89. On approximately four occasions, CCA guards woke Ms. Rodriguez very late at night to attempt to coerce her into signing deportation papers. When Ms. Rodriguez pressed the guards to explain their actions, the guards informed her that they were acting under ICE's orders.

90. On multiple occasions, the CCA guards took Ms. Rodriguez to see ICE Agent Johnston, who would pressure her to sign papers to agree to deportation.

91. Like CBP, ICE officials did not immediately refer Ms. Rodriguez for a reasonable fear interview, despite her insistence that she feared returning to Honduras.

92. A.S.R. was also present at the meetings with ICE Agent Johnston. On multiple occasions, A.S.R. also expressed to Johnston that he did not want to return to Honduras.

93. ICE Agent Johnston applied further pressure by putting Ms. Rodriguez on the phone with the Honduran consulate. Agent Johnston stated the call was necessary to prepare for her deportation. Ms. Rodriguez told the consulate, in the presence of Agent Johnston, that she would not sign any papers and that she feared return to Honduras.

94. Ms. Rodriguez experienced panic attacks, tremors, and nausea due to the ICE officials' repeated threats of deportation, intimidation tactics, and refusal to afford her an immediate interview to begin the process of applying for withholding of removal. These symptoms began during Ms. Rodriguez's time in CBP detention and subsided only after Ms. Rodriguez passed her reasonable fear interview in mid-February 2015.

95. A.S.R. also experienced physical and emotional difficulties during this period. He was depressed, did not sleep well, and lost weight. He feared returning to Honduras during this time because he saw other families being deported.

96. DHS finally arranged for Ms. Rodriguez and A.S.R. to have a reasonable fear interview on February 10, 2015. However, in order to intimidate her, Agent Johnston continued to tell Ms. Rodriguez that she would fail her interview and be deported. ICE's harassment caused Ms. Rodriguez great emotional distress as she worried about forced return to the danger she fled.

97. Defendant's employees violated mandatory, non-discretionary statutory duties by failing to provide Ms. Rodriguez with an immediate reasonable fear interview and by continuing to threaten deportation. 8 C.F.R. § 241.8(e).

98. ICE's repeated refusal to immediately arrange for Ms. Rodriguez's reasonable fear interview, its attempts to coerce her into signing deportation papers, and its threats of deportation inflicted severe emotional distress and physical injury on Ms. Rodriguez and her son.

99. ICE's coercive use of power to force Plaintiffs to sign removal papers also constituted an abuse of its legal authority.

Plaintiffs' Screening Interview and Continued Detention After the Interview

100. On February 10, 2015, an Asylum Officer interviewed Ms. Rodriguez and her son.

101. On February 11, 2015, Plaintiffs received notice of their positive interview results. The asylum officer determined that Ms. Rodriguez had demonstrated a reasonable fear of torture if returned to Honduras and that A.S.R. had passed his credible fear interview.

102. On February 16, 2015, ICE Agent Trevino executed a Form I-286, Notice of Custody Determination. There was no evidence that A.S.R., then an eight-year-old boy, posed any danger to the community or was a risk of flight. Nevertheless, Agent Trevino concluded that

no amount of bond or conditions of supervised release could ensure his future appearance for removal proceedings.

103. Ms. Rodriguez requested review of this custody decision by an immigration judge.

104. A second ICE Agent, Gonzales, reaffirmed the custody decision on March 5, 2015.

105. ICE did not give Ms. Rodriguez a custody determination. ICE's refusal to make a custody determination in Ms. Rodriguez's case was unlawful. 8 C.F.R. § 1236.1(c)(8).

106. At the time that ICE made A.S.R.'s custody determination, it had a policy in place of considering deterrence of other migrants.

107. On February 20, 2015, the district court in *R.I.L.R. v. Johnson*, 80 F. Supp. 3d 164 (D.D.C. 2015), granted a preliminary injunction preventing ICE from considering deterrence when making custody determinations for those in credible fear proceedings.

108. Nevertheless, ICE continued to detain Plaintiffs for many weeks for the improper purpose of deterring further immigration, even though Plaintiffs posed no security or flight risk.

109. A.S.R. was a member of the *R.I.L.R.* class. 80 F. Supp. 3d at 180. His detention for the improper purpose of general deterrence was unlawful. *Id.* at 189-91.

110. Because Ms. Rodriguez passed a reasonable fear interview, she was not subject to an administratively final order of removal. She was therefore also subject to detention under 8 U.S.C. § 1226(a). Her continued detention for the improper purpose of deterrence was unlawful.

111. In addition, ICE detained A.S.R. without cause in violation of the consent decree in *Flores v. Reno*. The *Flores* consent decree requires ICE to expeditiously place minors in licensed facilities and prioritizes the prompt release of minors held in immigration detention.

112. ICE also violated *Flores* by detaining A.S.R. in excess of twenty days.

A.S.R.'s Custody Case

113. Throughout their time in detention, Ms. Rodriguez informed ICE officials that she did not wish to be separated from A.S.R. unless he was released to his aunt in New Jersey.

114. After Plaintiffs passed their screening interviews in February 2015, Ms. Rodriguez pursued release for A.S.R. by requesting review of his custody determination so that he could live with his aunt.

115. Ms. Rodriguez, through *pro bono* counsel, eventually succeeded in reversing ICE's custody determination on March 12, 2015. On that date, Immigration Judge Eileen R. Trujillo ordered ICE to release A.S.R. and that the agency "comply with all the applicable rules and regulations pertaining to the release of a minor."

116. ICE did not immediately release A.S.R. ICE Deputy Chief Counsel Paul Nishiie informed A.S.R.'s counsel that they did not intend to release A.S.R., despite the court order.

117. On April 4, 2015, ICE officials again violated the immigration judge's order, as well as the agency's other legal obligations, by attempting to place A.S.R. in a shelter for unaccompanied children. ICE's attempt to separate Ms. Rodriguez and A.S.R. terrified Plaintiffs and violated the *Flores* consent decree and 8 C.F.R. § 1236.3 which impose a mandatory, non-discretionary duty on ICE to prioritize release to family members, here to A.S.R.'s aunt.

118. ICE officials refused to provide assurances to Ms. Rodriguez that her son would be placed with his aunt and would not indicate how long they would house A.S.R. in the shelter.

119. ICE officials brought Plaintiffs to a bus at the detention facility. However, A.S.R. would not leave Ms. Rodriguez's side. The two stayed together, refusing to be separated.

120. As a condition to stop ICE's plan, an ICE official required Ms. Rodriguez to sign a document retracting her prior request that her son be released.

121. ICE's attempt to separate A.S.R. from his mother caused both Ms. Rodriguez and A.S.R. extreme distress, as they feared Defendant's actions would cause them to lose contact with each other, as they had with Mr. Sanchez.

122. ICE took these actions without informing A.S.R.'s counsel at the time.

123. On April 7, 2015, A.S.R., through *pro bono* counsel, filed a petition for a writ of habeas corpus in federal court to enforce the immigration judge's order. *A.S.R. v. Lucero*, No. EP-15-cv-0101 (W.D. Tex. filed Apr. 7, 2015).

124. ICE officials violated mandatory, non-discretionary agency policies by withholding information from Plaintiffs and by threatening to separate her from her son.

125. The *Flores* consent decree and 8 C.F.R. § 1236.3 impose a mandatory, non-discretionary duty on ICE to prioritize release to family members over refugee shelters or foster care. By threatening to release A.S.R. to a shelter, ICE violated this mandatory duty and the immigration judge's order, which incorporated these regulations and *Flores* by reference.

126. The *Flores* consent decree imposes a mandatory, non-discretionary duty on ICE to ensure that detained minors are allowed to have "contact with family members who were arrested with the minor." ICE violated this mandatory duty by attempting to separate A.S.R. from Ms. Rodriguez without her consent and by withholding information about Mr. Sanchez.

127. ICE's violations of its mandatory duties caused Plaintiffs severe emotional distress.

Sleep Disruptions

128. During their time in Dilley, Plaintiffs experienced other instances of humiliation, threats, and intimidation by ICE and its CCA-employed guards.

129. Practices at Dilley required that Plaintiffs sleep with the lights on in their trailer. CCA guards informed Plaintiffs that the "lights on" mandate was an ICE policy.

130. After Plaintiffs and other families in their cabin repeatedly complained about this policy, they were allowed to sleep with the lights off. CCA employees then began to enter the room with flashlights periodically throughout the night, sometimes as frequently as every ten minutes. CCA guards stated they were acting pursuant to ICE's orders.

131. On multiple occasions, CCA guards required Plaintiffs to appear at the health clinic, without warning, during the late hours of the night and early hours of the morning. When Plaintiffs objected, CCA guards informed Plaintiffs that they were following ICE orders.

132. ICE practices regarding the use of lights and health clinic check-ins eliminated Plaintiffs' sense of privacy and impeded Plaintiffs' ability to sleep, exacerbating their stress and anxiety. ICE used these practices to further dissuade Plaintiffs from exercising their lawful rights.

133. ICE and CCA used these practices despite express provisions to the contrary in the Intergovernmental Service Agreement ("IGSA") between CCA and ICE and in ICE policy.

134. The IGSA provides that CCA's performance will be judged on the basis of the IGSA and the ICE Family Residential Standards. The Family Residential Standards are standards promulgated by ICE to govern conditions and practices in ICE's family detention facilities.

135. The IGSA stipulates that CCA will not conduct "mandatory Head Counts", but rather, will "allow residents to self-check in with designated staff three times per day." IGSA Performance Work Statement at 13 (copy attached as Ex. K).

136. Similarly, the Family Residential Standards states that a detainee census "shall not be conducted during sleeping hours and staff shall not shine lights or otherwise disturb residents" ICE Family Residential Standard: Resident Census at 2 (copy attached as Ex. L).

137. ICE and CCA repeatedly ignored and violated these contract provisions.

138. In sum, ICE and CCA officials violated non-discretionary policies by frequently disturbing Plaintiffs' sleep. ICE used these conditions of detention to cause Plaintiffs to give up their legal rights and claims and to deter other migrants and refugees pursuant to DHS policy.

139. These ICE practices re-traumatized Ms. Rodriguez after her past persecution by the Honduran police, including that they led her to feel as if she were under constant police surveillance.

Refusal to Share Information About Mr. Sanchez

140. Ms. Rodriguez repeatedly requested that ICE agents inform her where her partner was located. ICE agents did not respond to her requests.

141. A couple weeks after her arrival in Dilley, a CCA employee finally informed Ms. Rodriguez that she could determine her partner's location by using the ICE detainee locator website. Through the CCA employee, Ms. Rodriguez learned that her partner was detained in Pearsall, Texas.

142. Upon information and belief, ICE officials deliberately withheld information about Mr. Sanchez's whereabouts to cause severe emotional distress, with the goal of coercing Plaintiffs into agreeing to deportation and to deter other migrants from coming to the United States. Plaintiffs suffered anxiety in part because CBP agents had previously told Ms. Rodriguez that Mr. Sanchez would be deported and Plaintiffs believed ICE withheld his location because he had been deported.

143. Mr. Sanchez was unable to assist with preparing the Plaintiffs' immigration cases because he and Plaintiffs were in separate detention facilities, making communication very difficult. This caused Plaintiffs additional emotional distress as Ms. Rodriguez and A.S.R. sought to prepare their case without Mr. Sanchez.

ICE and CCA's Efforts to Prevent Access to Counsel

144. ICE and CCA officials also inhibited Ms. Rodriguez's access to counsel.

145. On May 13, 2015, the day before Ms. Rodriguez's merits hearing in her immigration case, ICE and CCA officials required Ms. Rodriguez and her attorneys to wait several hours before allowing them to meet with one another. Ms. Rodriguez had out-of-state attorneys who were only at the remote Dilley facility for a brief period to prepare and present her case. The limited timeframe for preparing the case made the delay particularly stressful for Ms. Rodriguez, who knew that much rested on her appearance in immigration court the following day. ICE and CCA officials caused this delay even though both counsel and Ms. Rodriguez repeatedly requested to see one another.

146. ICE Family Residential Standards governing CCA's and ICE's employees allow Plaintiffs to meet with counsel during regular business hours and during meal times when necessary. ICE Family Residential Standards: Visitation at 7 (copy attached as Ex. M). ICE and CCA violated these mandatory, non-discretionary policies.

147. ICE officials deliberately attempted to inhibit Ms. Rodriguez's success in her immigration case so they could deport her and A.S.R.

148. ICE and CCA's delays caused Ms. Rodriguez severe anxiety and emotional distress as she worried whether she would be able to finish preparing her case.

ICE's Direct Supervision of CCA

149. At all times relevant to this complaint, ICE directly and daily supervised the operations of CCA in Dilley. ICE officials were present at Dilley on a daily basis and knew or should have known of all CCA practices relevant to this complaint.

150. All policies and procedures that CCA implemented at Dilley and which were required by the IGSA between ICE and CCA were previously approved by ICE.

151. ICE Family Residential Standards also mandate direct supervision of family detention facilities by ICE. The standards provide that “ICE/DRO [Detention and Removal Operations] Field Office staff will frequently and directly observe facility operations and living and working conditions.” ICE Family Residential Standard: Staff-Resident Communication at 1 (copy attached as Ex. N).

152. In addition, USCIS officials conducting credible fear and reasonable fear screenings worked daily at Dilley, and therefore had extensive knowledge of conditions at Dilley.

153. Further, the San Antonio ICE Field Office exercised direct control and supervision over policies and practices at Dilley.

154. Finally, high-level DHS officials regularly visited the Dilley facility to supervise and observe operations at least every fifteen days.

Plaintiffs’ Immigration Cases

155. On or about May 14, 2015, Ms. Rodriguez won her withholding of removal case before Immigration Judge Lourdes Rodriguez De Jongh, who found that Ms. Rodriguez more likely than not would be persecuted if returned to Honduras. Ms. Rodriguez prevailed while detained in Dilley and despite the threats, intimidation, and mistreatment she suffered.

156. On or about May 14, 2015, DHS officials released Plaintiffs from Dilley, approximately 128 days after first arresting them. Plaintiffs relocated to New Jersey, where Ms. Rodriguez and A.S.R. were reunited with relatives, including Ms. Rodriguez’s elder children.

157. A.S.R. did not have a merits hearing to establish his eligibility for protection while in ICE detention. After he and his mother were released, his case was transferred to New Jersey.

158. On October 1, 2015, Mr. Sanchez was granted protection under the Convention Against Torture in Pearsall Immigration Court. On October 2, 2015, Mr. Sanchez was released from detention and was reunited with his family in New Jersey after eight months' separation.

159. On January 19, 2016, Immigration Judge Leo Finston in Newark Immigration Court granted A.S.R. asylum, finding that he had a well-founded fear of persecution.

Exhaustion of Administrative Remedies

160. The United States is liable pursuant to the Federal Tort Claims Act for the tortious acts of its employees in "circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred." 28 U.S.C. § 1346(b).

161. At all times relevant to this Complaint, ICE and CBP officials acted within the scope of their employment and/or their official duties as employees of DHS, a U.S. agency.

162. Pursuant to 28 U.S.C. § 2675(a), the Plaintiffs filed FTCA administrative claims with DHS for all the tortious actions alleged here and committed by ICE, CBP, and CCA officials acting under the supervision of DHS.

163. DHS denied the Plaintiffs' claims on February 26, 2016.

164. Plaintiffs have administratively exhausted their claims under the FTCA.

CLAIMS

First Claim Federal Tort Claims Act - 28 U.S.C. § 1346(b) Abuse of Process

165. Plaintiffs incorporate and re-allege all the allegations in paragraphs 1-164.

166. Under Texas law, the elements of an abuse of process claim include (1) an illegal, improper, or perverted use of the process, neither warranted nor authorized by the process, (2) an ulterior motive or purpose in exercising such use, and (3) damage as a result of the illegal act.

167. Defendant's employees abused legal process for the unlawful purpose of (1) deterring future migrants from seeking refuge in the United States in violation of the INA and a court order and (2) coercing Plaintiffs to abandon their legal claims when by detaining and subjecting Plaintiffs to inhumane conditions of confinement.

168. ICE and CBP abused their detention authority by detaining Plaintiffs in the "icebox," the "dog house", and Dilley, by failing to immediately provide a credible or reasonable fear interview as required by law, and by subjecting them to inhumane and coercive conditions. These abuses of authority were done for the improper purposes of coercing Plaintiffs to abandon their claims and deterring other migrants, in violation of the INA and federal court orders.

169. ICE officials also abused the legal process by threatening and attempting to separate Ms. Rodriguez from her son, despite Ms. Rodriguez's repeated insistence that ICE could only release A.S.R. to his aunt in New Jersey.

170. ICE used its authority to separate Plaintiffs from Mr. Sanchez for the unlawful purpose of deterring future immigration in violation of the INA and a court order, to impede Plaintiffs' case for protection in the United States, and to inflict emotional distress on Plaintiffs.

171. Plaintiffs suffered physical injury, mental anguish, and unlawful detention as a result of Defendant's employees' abuse of their legal authority.

172. The actions of Defendant's employees constitute abuse of process under Texas law.

Second Claim
Federal Tort Claims Act - 28 U.S.C. § 1346(b)
False Imprisonment

173. Plaintiffs incorporate and re-allege all the allegations in paragraphs 1-172.

174. Under Texas tort law, false imprisonment requires (1) willful detention, (2) without consent, and (3) without authority of law.

175. Defendant's employees knowingly and intentionally detained and imprisoned Plaintiffs when they were picked up at the U.S.-Mexican border and placed in detention facilities for approximately 128 days. Plaintiffs at no point consented to or agreed to their detention.

176. Defendant's employees unlawfully used their detention authority to detain Plaintiffs for the purpose of general deterrence in violation of the INA and a federal court order.

177. Defendant's employees also abused their authority by detaining A.S.R. for an excessive period of time in violation of the *Flores* consent decree.

178. ICE unlawfully delayed its initial custody determination for three weeks after transferring Plaintiffs to Dilley, and then unlawfully held Plaintiffs for an additional three months despite having no evidence that either Plaintiff was dangerous or posed a flight risk.

179. The actions of Defendant's employees constitute false imprisonment under Texas law.

Third Claim
Federal Tort Claims Act - 28 U.S.C. § 1346(b)
Intentional Infliction of Emotional Distress

180. Plaintiffs incorporate and re-allege all the allegations in paragraphs 1-179.

181. Under Texas law, intentional infliction of emotional distress exists where 1) the defendant acted intentionally or recklessly, 2) the conduct was extreme and outrageous, 3) the

defendant's action caused the plaintiff's emotional distress, and 4) the emotional distress that plaintiff suffered was severe.

182. Defendant's employees knowingly and intentionally caused Plaintiffs severe emotional stress by denying Plaintiffs proper food, clothing, and appropriate facilities during their time in CBP detention, maintaining CBP facilities at freezing temperatures, repeatedly threatening Plaintiffs with deportation, mocking Plaintiffs, intimidating Plaintiffs to try to secure their signatures on documents authorizing their removal from the United States, failing to immediately refer Plaintiffs for a reasonable or credible fear interview and delaying access to counsel the day before the merits hearing in Ms. Rodriguez's withholding of removal case.

183. Defendant's employees knowingly and intentionally caused Plaintiffs severe emotional distress by separating Ms. Rodriguez from her partner and A.S.R. from his father, and then by withholding information from Plaintiffs about his location.

184. Defendant's employees also knowingly and intentionally caused Plaintiffs severe emotional distress by invading Plaintiffs' privacy, harassing Plaintiffs in their sleep using disruptive "lights on" and "check in" policies, interrupting their sleep by forcing Plaintiffs to report to ICE agents and the health clinic, and attempting to forcibly separate Ms. Rodriguez from A.S.R. and place A.S.R. in a shelter with full knowledge that Ms. Rodriguez did not consent to this arrangement but instead was seeking a family placement, as the law allows and a federal court order requires.

185. Defendant's employees' behavior was extreme and outrageous under the circumstances, particularly in light of Plaintiffs' recent flight from abuse and persecution.

186. Defendant's employees ignored mandatory and non-discretionary duties when purposefully inflicting this emotional distress upon Plaintiffs.

187. Plaintiffs' emotional distress was caused by the conduct of Defendant's employees, and the emotional distress Plaintiffs experienced was severe.

188. The actions of Defendant's employees constitute intentional infliction of emotional distress under Texas law.

Fourth Claim
Federal Tort Claims Act - 28 U.S.C. § 1346(b)
Negligent Supervision

189. Plaintiffs incorporate and re-allege all the allegations in paragraphs 1-188.

190. To state a claim for negligent supervision under Texas law, a plaintiff must show that she suffered damages from the foreseeable misconduct of an employee supervised by the defendant. The elements required mirror those of a typical negligence claim: the plaintiff must show (1) a legal duty owed to the plaintiff, (2) a breach of that duty by the defendant, and (3) damages proximately caused by the breach.

191. Defendant's employees in supervisory roles at DHS have a duty to properly supervise CBP and ICE agents and to oversee the Dilley detention facility.

192. CBP and ICE's negligent supervision proximately caused the unlawful conduct and injury that Plaintiffs experienced to occur.

193. CBP and ICE's failure to adequately supervise its own direct employees, as well as their failure to adequately supervise CCA contract employees, resulted in severe emotional stress to Plaintiffs, physical ailments, inhumane treatment, and unlawfully prolonged imprisonment.

194. The CBP and ICE agents involved in all alleged actions lacked proper supervision.

195. CBP agents violated non-discretionary, mandatory agency obligations by intimidating and harassing Plaintiffs, failing to provide appropriate food for A.S.R. during his detention, placing Plaintiffs in crowded facilities, failing to maintain the appropriate temperature

in the facilities, intentionally provoking Plaintiffs' physical discomfort, failing to provide A.S.R. with adequate sleeping accommodations, coercing Plaintiffs to agree to withdraw their applications or agree to deportation and failing to immediately refer Plaintiffs for a screening interview.

196. CBP supervisory officials were fully aware of the coercive tactics of the CBP officials they oversee, as well as the horrendous conditions in CBP holding facilities, which have been well-documented in the press, reports, and litigation. *See, e.g.*, Notice of Motion to Enforce Settlement, *Flores v. Lynch*, 2:85-cv-04544, ECF No. 197-2 (C.D. Cal. May 17, 2016); Complaint, *Doe v. Johnson*, 4:15-cv-00250, ECF 1 (D. Ariz. June 8, 2015); Guillermo Cantor, *Hieleras (Iceboxes) in the Rio Grande Valley Sector*, American Immigration Council (Dec. 2015); John Burnett, *Amid Wave Of Child Immigrants, Reports Of Abuse By Border Patrol*, NPR, July 24, 2014; Cindy Carcamo & Richard Simon, *Immigrant Groups Complain of 'Icebox' Detention Cells*, L.A. Times, Dec. 5, 2013. CBP's lack of adequate supervision or enforcement of its own policies resulted in the emotional distress and physical injuries that Plaintiffs suffered.

197. ICE officials responsible for Plaintiffs during the period of their detention and those directly supervising the Dilley facility also lacked adequate supervision.

198. ICE officials violated non-discretionary, mandatory policies with the knowledge of their supervisors by attempting to coerce Plaintiffs into agreeing to deportation without the legal process to which Plaintiffs were lawfully entitled, harassing Plaintiffs through interruptions of their sleep schedule, unlawfully detaining Plaintiffs for four months, inhibiting access to counsel, and allowing repeated violations of its Family Residential Standards at the Dilley facility.

199. Widespread misconduct by ICE officials in family detention facilities alerted, or should have alerted, supervisors at ICE to inadequate supervision practices by January 2015. *See*,

e.g., Wil S. Hylton, *The Shame of America's Family Detention Camps*, N.Y. Times, Feb. 4, 2015 (Magazine); Julia Preston, *As U.S. Speeds the Path to Deportation, Distress Fills New Family Detention Centers*, N.Y. Times, Aug. 5, 2014.

200. ICE directly supervised the operations of CCA at Dilley and permitted egregious violations of ICE detention policies and practices. ICE was negligent in failing to correct repeated abuses of its Family Residential Standards, which CCA was obligated to respect.

201. The actions of Defendant's supervisory employees constituted negligent supervision under Texas law.

Fifth Claim
28 U.S.C. § 1346(b) -Federal Tort Claims Act
Negligence

202. Plaintiffs incorporate and re-allege all the allegations in paragraphs 1-201.

203. Under Texas tort law, negligence requires that a (1) defendant owed the plaintiff a legal duty, (2) defendant breached that duty, and (3) defendant's breach proximately caused damages to the plaintiff.

204. Defendant owed a legal duty of care to Plaintiffs as individuals held in its custody.

205. While in the custody of CBP, Plaintiff A.S.R experienced a worsening of his asthma. CBP employees caused these injuries by holding A.S.R in extremely cold rooms, forcing him to sleep on the floor, and ignoring his mother's pleas to raise the facilities' temperature.

206. Ms. Rodriguez experienced nausea, developed severe headaches, cried repeatedly, and trembled uncontrollably because Defendant failed to properly care for her while in CBP and ICE detention. Because Defendant failed to properly care for her, Ms. Rodriguez also developed fear that she would be forced to return to life-threatening danger in Honduras or be separated from her son. This fear produced physical symptoms of extreme stress and re-traumatization.

207. Plaintiff A.S.R. also suffered while in detention because Defendant failed to properly care for him. A.S.R. lost weight, became depressed, did not want to play, and was constantly fearful of being forced to return to the dangerous home he had just fled.

208. Plaintiffs' injuries were proximately caused by the negligence of Defendant.

209. Defendant is liable for the negligent acts of CBP and ICE officials acting on its behalf.

210. The actions of Defendant constitute negligence under Texas law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests that this Court:

- (1) Award Plaintiffs compensatory damages in an amount to be proven at trial.
- (2) Grant such other relief as the Court deems just and equitable.

Respectfully submitted,

August 17, 2016
Newark, New Jersey

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* Motion for admission *pro hac vice* forthcoming.