June 7, 2019

VIA FEDEX AND EMAIL

U.S. Department of Homeland Security
Office of the General Counsel
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485
ogc@hq.dhs.gov

U.S. Customs and Border Protection
Office of the Chief Counsel
1300 Pennsylvania Ave. NW
Washington, DC 20229

U.S. Citizenship and Immigration Services
Office of the Chief Counsel
111 Massachusetts Ave., NW
Washington, DC 20529

U.S. Immigration and Customs Enforcement
Office of the Principal Legal Advisor
500 12th St., SW
Washington, DC 20536

U.S. Department of Health and Human Services
Office of the General Counsel
200 Independence Avenue SW
Washington, DC 20201

Re: Claims for Damages under the Federal Tort Claims Act —
on behalf of herself and her minor child,

Dear Counsel:

The Asylum Seeker Advocacy Project represents [REDACTED] and her
minor son, [REDACTED] (“Claimants”). Enclosed please find
administrative claims we are filing on their behalf under the Federal Tort Claims Act. The
claims consist of: (1) a Claim Authorization Form; (2) a Standard Form 95 for each
Claimant; and (3) an Attachment to the Standard Form 95s detailing the basis of their
claims.

In the attached, we detail how federal government officers and their agents violated
Ms. [redacted] and her son’s rights by separating them from each other without notice and detaining them in separate facilities for months. Ms. [redacted] and her son were profoundly traumatized by their separation and prolonged detention. Additionally, Ms. [redacted] suffered from medical issues, including facial paralysis, while detained. Ms. [redacted] and her son have suffered ongoing and cumulative emotional harm from the day they were separated in [redacted] until now, as they have yet to be reunited.

We are submitting these claims without the benefit of formal discovery. Claimants reserve the right to amend or supplement their claims.

The identity of the Claimants is confidential, and we ask that their identity be treated accordingly. Should any U.S. government agency receive a request under the Freedom of Information Act (“FOIA”) related to the enclosed claims, or any other information that would reveal the identity of the Claimants, we ask that the government: (1) notify the undersigned before responding to the requestor; and (2) redact any information identifying the Claimants pursuant to the FOIA privacy exemption under 5 U.S.C. § 552(b)(6), or any other applicable statute or regulation protecting the privacy of the Claimants.

Please do not hesitate to contact me if you have any questions or require additional information.

Dated: June 7, 2019

Sincerely,

[Signature]

Elizabeth Willis
Co-Legal Director
Asylum Seeker Advocacy Project (ASAP)
228 Park Ave. S. #84810
New York, NY 10003-1502
Phone: [redacted]
Fax: [redacted]
Email: [redacted]

Enclosures:
1. Claim Authorization Form
2. Standard Form 95s for each Claimant
3. Attachment to Standard Form 95s
AUTHORIZATION TO FILE ADMINISTRATIVE TORT CLAIM

I, [redacted], authorize Elizabeth Willis of the Asylum Seeker Advocacy Project to submit a claim under the Federal Tort Claims Act on behalf of myself and my minor child, [redacted], to the U.S. Department of Homeland Security, the U.S. Department of Health and Human Services, and any other government agency, seeking compensation for the unlawful actions of their employees or agents against me and my minor child.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Printed Name: [redacted]
Signature: [redacted]
Dated: [redacted]

CERTIFICATION OF INTERPRETATION

I, [redacted], certify under penalty of perjury that I am fluent in the English and Spanish languages and that I read this document to [redacted] in Spanish who verified that she understood the translation and that its contents are true and accurate.

Interpreter Signature: [redacted]
Interpreter Name: [redacted]
Dated: [redacted]
**CLAIM FOR DAMAGE, INJURY, OR DEATH**

**INSTRUCTIONS:** Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

1. **Submit to Appropriate Federal Agency:**

2. **Name, address of claimant, and claimant's personal representative if any:**
   - c/o Elizabeth Willis, Asylum Seeker Advocacy Project (ASAP), 228 Park Ave. S., #84810 New York, NY 10003-1502

3. **TYPE OF EMPLOYMENT**
   - [ ] MILITARY  [ ] CIVILIAN

4. **DATE OF BIRTH**

5. **MARITAL STATUS**

6. **DATE AND DAY OF ACCIDENT**

7. **TIME (A.M. OR P.M.)**

8. **BASIS OF CLAIM** (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary)

See attachment.

9. **PROPERTY DAMAGE**
   - **NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT** (Number, Street, City, State, and Zip Code)
   - N/A

   **BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED.**

   (See instructions on reverse side).

   N/A

10. **PERSONAL INJURY/WRONGFUL DEATH**
    - **STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.**

    See attachment.

11. **WITNESSES**
    - **NAME**
    - See attachment

    **ADDRESS (Number, Street, City, State, and Zip Code)**

12. **AMOUNT OF CLAIM (in dollars)**
    - 4,000,000

12a. **PROPERTY DAMAGE**

12b. **PERSONAL INJURY**

12c. **WRONGFUL DEATH**

12d. **TOTAL** (Failure to specify may cause forfeiture of your rights)

   4,000,000

13. **CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.**

   I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.  

13a. **SIGNATURE OF CLAIMANT**

13b. **PHONE NUMBER OF PERSON SIGNING FORM**

14. **DATE OF SIGNATURE**

**CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM**

The claimant is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

**CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS**

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)
**INSURANCE COVERAGE**

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>15. Do you carry accident insurance?</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>17. If deductible, state amount.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18. Do you carry public liability and property damage insurance?</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code):</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**INSTRUCTIONS**

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY.

Failure to completely execute this form or to supply the required material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14.

Many agencies have published supplemental regulations. If more than one agency is involved, please state each agency.

The claimant is required to submit evidence satisfactory to the Government to establish the liability of the party against whom the claim is brought. The evidence must be presented in a form prescribed by the court in which the claim is brought. A claimant must verify the information submitted under oath or affirmation.

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

**DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT.**

The claim must be presented to the appropriate Federal agency within two years after the claim accrues.

Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

**PRIVACY ACT NOTICE**

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(a)(3), and concerns the information requested in the letter to which this Notice is attached.

A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301; 28 U.S.C. 501 at subsec. 28 U.S.C. 2871 et seq.; 28 C.F.R. Part 14.

B. Principal Purpose: The information requested is to be used in evaluating claims.

C. Routine Use: See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim invalid.

**PAPERWORK REDUCTION ACT NOTICE**

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Office of Information and Regulatory Affairs, Office of Management and Budget. Do not mail completed form(s) to these addresses.
**CLAIM FOR DAMAGE, INJURY, OR DEATH**

**INSTRUCTIONS:** Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

1. Submit to appropriate Federal Agency:

2. Name, address of claimant, and claimant’s personal representative if any:
   - [Redacted]
   - [Redacted], Asylum Seeker Advocacy Project (ASAP), 228 Park Ave. S, #84810, New York, NY 10003-1502

3. **TYPE OF EMPLOYMENT**
   - [Redacted]

4. **DATE OF BIRTH**

5. **MARITAL STATUS**

6. **DATE AND DAY OF ACCIDENT**

7. **TIME (A.M. OR P.M.)**

8. **BASIS OF CLAIM** (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

   See attachment.

9. **PROPERTY DAMAGE**
   - Name and address of owner, if other than claimant (Number, Street, City, State, and Zip Code)

   - N/A

   - Briefly describe the property, nature and extent of the damage and the location of where the property may be inspected.

   - N/A

10. **PERSONAL INJURY/WRONGFUL DEATH**

    - State the nature and extent of each injury or cause of death, which forms the basis of the claim. If other than claimant, state the name of the injured person or decedent.

    See attachment.

11. **WITNESSES**

    - Name

    - Address (Number, Street, City, State, and Zip Code)

    See attachment.

12. **AMOUNT OF CLAIM** (in dollars)

    - 12a. Property Damage
      - 4,000,000

    - 12b. Personal Injury
      - 4,000,000

    - 12c. Wrongful Death
      - 4,000,000

    - 12d. Total (Failure to specify may cause forfeiture of your rights)
      - 4,000,000

   I certify that the amount of claim covers only damages and injuries caused by the incident above and agree to accept said amount in full satisfaction and final settlement of this claim.

13a. **SIGNATURE OF CLAIMANT** (See instructions on reverse side)

13b. **PHONE NUMBER OF PERSON SIGNING FORM**

14. **DATE OF SIGNATURE**

   CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

   The claimant is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus three times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

   CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

   Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001).

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95-109

NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPARTMENT OF JUSTICE
28 CFR 14.2
### INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property:

15. Do you carry accident insurance? [ ] Yes [ ] No  
   If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. [ ]

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? [ ] Yes [ ] No  
   If deductible, state amount. [ ]

17. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts) [ ]

N/A

### INSTRUCTIONS

**Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.**

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARDS FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY.

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14.

Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

### PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552(a)(3), and concerns the information requested in the letter to which this Notice is attached.

**A. Authority:** The requested information is collected pursuant to one or more of the following: 5 U.S.C. 552(a)(3), 5 U.S.C. 552(a)(3) of seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

**B. Principal Purpose:** The information requested is to be used in evaluating claims.

**C. Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

**D. Effect of Failure to Respond:** Failure to supply the requested information or to execute this form may render your claim "invalid.

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STANDARD FORM 95 REV (2/2007) BACK
Answer 1: Federal Agencies

U.S. Department of Homeland Security
Office of the General Counsel
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485
ogc@hq.dhs.gov

U.S. Customs and Border Protection
Office of the Chief Counsel
1300 Pennsylvania Ave., NW
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U.S. Citizenship and Immigration Services
Office of the Chief Counsel
111 Massachusetts Ave., NW
Washington, DC 20529

U.S. Immigration and Customs Enforcement
Office of the Principal Legal Advisor
500 12th St., SW
Washington, DC 20536

U.S. Department of Health and Human Services
Office of the General Counsel
200 Independence Avenue SW
Washington, DC 20201

Answer 6: Date and Day of Accident

The government forcibly separated Ms. [REDACTED] and [REDACTED] ("Ms. [REDACTED]") (A# [REDACTED]) and her minor son, [REDACTED], on or about [REDACTED]. The government detained Ms. [REDACTED] and [REDACTED] until around [REDACTED]. The government has not reunited them.

Answer 7: Time (A.M. or P.M.)

The government forcibly separated Ms. [REDACTED] and [REDACTED] in the A.M. on or about [REDACTED]. The question is not applicable as to the remainder of their forced separation and detention.
Ms. [redacted] is a 34-year-old indigenous Guatemalan woman who fled Guatemala with her minor son, [redacted], after her brother and others sexually abused her for years. Gang members threatened to kill her and her son, and [redacted] was threatened at knifepoint. Ms. [redacted] and [redacted] came to the United States seeking safety and asylum, but after they arrived, without warning or explanation, immigration officials separated Ms. [redacted] and [redacted] from each other, causing them both severe emotional distress. Officers detained them separately for months, and Ms. [redacted] became so depressed and desperate in detention that she accepted deportation to Guatemala despite her viable asylum claim. Ms. [redacted] and [redacted] had to make the difficult decision for [redacted] to remain in the United States, separated from his mother, so he could stay safe. To this day, this mother and son have not been reunited, causing them both deep and ongoing emotional pain.

Their claim concerns an unprecedented policy issued at the highest levels of the federal government to separate parents from their children. The extraordinary trauma inflicted on parents and children alike was no incidental byproduct of the policy—it was the very point. The federal government sought to inflict so much distress on parents and children seeking asylum that other families would be deterred from trying to seek refuge in this country. Indeed, while serving as Secretary of the Department of Homeland Security (“DHS”), John Kelly stated that he “would do almost anything to deter the people from Central America” from migrating to the United States, including separating children from their parents. After the forced separations began, former Attorney General Jeff Sessions confirmed that the goal was deterrence. In May 2018, Kelly, who had since become President Trump’s Chief of Staff, callously dismissed any concern about the government’s forced separation of a child from her mother, remarking: “[t]he children will be taken care of—put into foster care or whatever.” Despite widespread condemnation and legal challenges, President Trump continued to defend the policy as a deterrent to migration from Central America when he tweeted, “[If] you don’t separate, FAR more people will come.”

In total, the U.S. government has admitted to separating more than 2,800 children from their parents or guardians after they crossed the Southwestern U.S. border. Recent reports indicate that the number of families separated may have been much higher. Shockingly, families continue...
to be separated at the border. The victims of this cruel, illegal, and unconstitutional policy include Ms. __________ and her then fifteen-year-old son, __________, whose forced separation has lasted for more than 563 days.

A. The Forced Separation of __________ from her Minor Son, __________

Ms. __________ and __________ entered the United States on or about __________ by crossing the Rio Grande river. A few hours after crossing the river, they were detained by Customs and Border Protection ("CBP") agents.

Ms. __________ and her son were transported to a CBP facility known as a "hielera," or ice box, because of the freezing cold temperatures inside the facility. When __________ and __________ arrived, immigration officers told them to take off their shoes and sweaters. __________ was shivering because of how cold it was in the facility.

The immigration officers told them to put all of their personal belongings in a bag. Ms. __________ had a notebook with phone numbers and personal and religious items, but the CBP officers said she had to hand over everything. Later, Ms. __________ tried to retrieve her personal and religious belongings, but an officer would not let her take anything but her shoes and sweater. The officer told Ms. __________ that the rest of her belongings would be thrown in the trash.

Immigration officers took Ms. __________'s and __________'s fingerprints, had Ms. __________ fill out forms, and asked questions about her fear of return to Guatemala. Ms. __________ and __________ were cold, tired, and hungry. After they arrived to the CBP facility, they waited for approximately three hours before receiving food and water. Ms. __________ was also scared of the officers. She did not want to disclose all of the reasons she fled Guatemala in front of her son, who was unaware of the sexual abuse and threats she had received. The officers were male, so she was also uncomfortable sharing her history of sexual abuse with them.

The officers finally told Ms. __________ and her son that they could rest in the early morning hours on or about __________. Officers took Ms. __________ to a room for women. Officers took __________, who was fifteen years old at the time, to a separate room for men. Ms. __________ had no idea that this would be the last time she would see her son.

during an influx that began in 2017, before the accounting required by [the court in Ms. L. v. Immigration and Customs Enforcement], and HHS has faced challenges in identifying separated children”); Joint Status Report at 11, Ms. L. v. Immigration and Customs Enforcement, No. 18-ev-428 DMS MDD, (S.D. Cal. Feb. 20, 2019) (”Defendants have identified 245 new separations of children and parents that occurred between June 27, 2018 and January 31, 2019, and four cases which require more time to assess.”); Catherine E. Shoichet, At least 1,712 more kids may have been separated from their parents at the border. CNN, May 17, 2019, https://www.cnn.com/2019/05/17/politics/family-separation-lawsuit/index.html.

When Ms. [redacted] went into the small room for women, she saw that it was crowded with women and their young children. She had been given an uncomfortable wrap that looked like aluminum instead of a blanket, but she was so exhausted that she collapsed on a mattress on the floor and fell asleep.

At around 6 or 7 A.M. the same morning, another woman who was detained woke Ms. [redacted] up to tell her that immigration officers had taken her son. Ms. [redacted] wanted to leave the room to see where he was, but she was locked inside. When officers finally opened the door, Ms. [redacted] pleaded with them to tell her where her son was and why they had taken him. An officer told her that [redacted] had been taken to another shelter. Ms. [redacted] was shocked and extremely distraught. She began to cry, and she felt like she would pass out from the pain of being separated from her son.

B. Ms. [redacted] Did Not Receive Any Information about [redacted] for Over a Month

After [redacted] was taken, immigration officers told Ms. [redacted] that she had to sign documents. Ms. [redacted] was still crying because of the separation from her son. She kept asking about [redacted], but the officers became angry and said they did not know what happened to him. The officers told Ms. [redacted] that she would be transferred to another detention center and would receive more information about her son there.

The officials pressured her to sign the documents quickly. She had no idea what they said because the paperwork was all in English. Eventually, Ms. [redacted] signed the documents because she believed she would be reunited with her son after she left the CBP facility. She thought that by signing the documents, she would be allowed to go to wherever the officers were holding her son. She believed she would find him at the next detention center.

Later the same day, immigration officers took Ms. [redacted] to another detention center, which she believes was the West Texas Detention Facility in Sierra Blanca, Texas, which is operated by the private contractor LaSalle Corrections. Ms. [redacted] was sure that she would be reunited with [redacted] at the next detention center, so she felt calmer while she was in transit, believing she would see him soon.

But when Ms. [redacted] arrived at the detention center, she saw that her son was not there either. No one would tell her where he was. She was devastated and entered into a state of desperation. She did not know who to call for help; an officer at the CBP facility had prevented her from taking the notebook where she had written the phone numbers of her friends and family. Ms. [redacted] cried constantly, and she felt so depressed that she did not eat for around five days.

On or around [redacted], Ms. [redacted] had to attend a criminal hearing for the charge of improper entry. The officers at the detention center told her she was going to see a judge, and she thought she would see her son at the court hearing. She entered the courtroom with many other people, and she was handcuffed at her wrists and ankles. She was crying because she didn’t want her son to see her handcuffed. But then she realized that her son wasn’t there either.
Having to leave another place without knowing any information about [redacted] was very difficult for [redacted] and she felt even more depressed.

The criminal complaint was dismissed, and she was given time served. After that, [redacted] was detained in what she believes was a separate area of the West Texas Detention Facility in Sierra Blanca, TX.

For approximately one month after their separation, immigration officers did not give [redacted] any information about her son. [redacted] had crying fits because she wanted to see her son so badly. She did not even know if he was still alive.

C. [redacted] Was Taken to Casa Kokopelli in Mesa, Arizona

Upon information and belief, after his separation from his mother, [redacted] was taken to Casa Kokopelli, a shelter for unaccompanied children in Mesa, Arizona operated by Southwest Key. [redacted] describes the day of their separation as the worst day of his life. Like his mother, he received no warning or explanation before he was separated from her. When the CBP agents woke him up to move him, he thought his mother was going to be moved as well and that they would see each other in the transport car or upon arriving at the next detention center. As he was leaving, he tried to find her. He asked many people if they had seen her, but no one had. Then he arrived at the shelter and his mother wasn’t there.

[redacted] experienced emotional distress while at Casa Kokopelli. After their separation, [redacted] did not have any information about his mother’s whereabouts for more than one month. He was nervous and scared during this time because no one would tell him anything about where his mother was.

Finally, staff at the shelter helped [redacted] call his mother and they learned each other’s whereabouts for the first time in over a month. [redacted] became very worried for [redacted] because he was in detention. Staff at the shelter asked her if they could send [redacted] to stay with anyone, like a family member in the United States. But [redacted] had trouble finding anyone to take [redacted] in, so she asked the staff at the children’s shelter for more time.

[redacted] understood that as long as she was in detention and no one else was able to take him, [redacted] would also remain in detention, too. She felt desperate and distraught that her son was in detention and she could not help him.

D. Ms. [redacted] Suffered from Depression and Facial Paralysis While in Detention

Ms. [redacted] suffered from facial paralysis while in detention. This happened for the first time in around [redacted]. Her eye was swollen and closing, and she couldn’t see out of it. She felt like her face was twisting. Ms. [redacted] believes her facial paralysis was caused by the pain she felt after the separation from her son.

When the facial paralysis happened, medical staff examined her and gave her some pills for pain. Around a few days later, [redacted] was called to a medical office in the detention
center, where staff members said they would take her blood to understand what happened. Around a few weeks later, they called her back to tell her she had multiple medical issues. They told her she would have to go to a hospital to receive treatment and more tests, but that she would have to wait because there were many people waiting to go to the hospital.

Medical staff took Ms. [redacted] s blood around three to four more times, but they did not give her any further treatment or explain the results from the bloodwork. Medical staff at the detention center never took Ms. [redacted] to a hospital.

Ms. [redacted] also felt overwhelmed by depression at the West Texas Detention Facility and asked the nurses there for help. She had trouble sleeping, was constantly crying, and lacked hope and motivation to continue fighting her case. She felt that that she was dying every day she was in detention. The nurses told Ms. [redacted] they would refer her for psychological support, but they never did.

Ms. [redacted] also suffered from poor conditions at the detention facility. Drinking water was not always available to detainees, and as a result, sometimes Ms. [redacted] had to drink from bathroom sinks. The water tasted very chlorinated and caused Ms. [redacted] stomach pain and made her nauseous. The food made Ms. [redacted] feel nauseous as well, so she was not eating very much.

Sometimes officials who seemed to be evaluating the conditions of the detention center would ask detainees about the conditions, and women in the center would tell them about the problems with the water and food. These officials would say they would make changes, but they never did.

E. Ms. [redacted] Accepted Deportation Out of Desperation and to Help Her Son Secure Release from Detention

Ms. [redacted] had a Credible Fear Interview (“CFI”) in detention on or around [redacted], 2018. She felt uncomfortable and very nervous during the interview. Despite suffering from the conditions of her detention, her depression, and the anxiety caused by government officials, Ms. [redacted] passed the CFI. However, a few days after she passed her CFI, an immigration officer determined that Ms. [redacted] would not be released and reunited with her son. Instead, the officer decided that Ms. [redacted] would be detained by the Department of Homeland Security pending a final administrative determination in her case.

At a hearing in the detained immigration court on around [redacted], the Immigration Judge (“IJ”) scheduled another hearing for Ms. [redacted] to present her full asylum case in [redacted], which would have been nearly a year after she was separated from her son. Ms. [redacted] felt she could not wait until October for her next hearing. She was distraught due to the ongoing separation from her son while in detention, which affected her mental and physical health. Ms. [redacted] also felt she could help her son secure release from the shelter for unaccompanied children if she were no longer in detention herself.
Ms. [redacted] decided to accept deportation and informed the IJ at the hearing on or about [redacted] 2018. Immigration officials deported Ms. [redacted], without her son, on around [redacted] 2018.

F. Ms. [redacted] and [redacted] Remain Separated, Causing Ongoing Emotional Distress

As a result of Ms. [redacted]'s decision to accept deportation, [redacted] was released from detention and placed in foster care. Ms. [redacted] gave her son the option of whether to return to Guatemala or stay in the United States without her. [redacted] decided to stay in the United States due to his fear of returning to Guatemala. [redacted] had been threatened in Guatemala at knife point, and he continues to fear for his life if he is forced to return to Guatemala.

While [redacted] feels safer from gangs in the United States, he fears he will never see his mother again. Ms. [redacted] now lives in fear for her own safety in Guatemala and worries about her son's well-being in foster care in the United States.

In [redacted], Dr. [redacted], a Psychiatrist and Clinical Professor at the Icahn School of Medicine, conducted a psychological evaluation of Ms. [redacted]. His findings are included in the attached report. Dr. [redacted] found that "Ms. [redacted] is experiencing a many months long episode of Major Depressive Disorder" as a result of her detention and separation from her son. See Attached Psychological Evaluation of [redacted] ("Psych Eval") at 7.

Dr. [redacted] found that Ms. [redacted]'s "detention and especially separation from [redacted] have impacted her current physical and psychological health." Id. at 5. She developed "facial paralysis", back pain, poor appetite, nausea, anxiety, depressed mood, and lack of sleep." Id. She also "currently experiences depressed mood that relate to her separation from her son." Id. Notably, "she cries every day when she is reminded by all the items [redacted] left behind in Guatemala" and "suffers from a lack of motivation in her daily life to complete her tasks." Id.

Ms. [redacted]'s Major Depression qualifies her as disabled under the Rehabilitation Act. 42 U.S.C. § 12102(1); 29 C.F.R. § 1630.2(i)(1)(i). In addition to the harm described above, federal government officers and their agents have failed to provide reasonable accommodation for Ms. [redacted] as required under the Rehabilitation Act. 29 U.S.C. § 794(a); 42 U.S.C. § 12102(1); 6 C.F.R. § 15.30. Ms. [redacted] was excluded from both the asylum process and the reunification process under the Ms. L settlement solely as a result of her disability. Because of her depression and concern for her son, Ms. [redacted] requested deportation very shortly before the government was ordered to reunite families who had been separated at the border on June 26.

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8 Under the Rehabilitation Act, "[n]o otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency." 29 U.S.C. § 794(a); see also 6 C.F.R. § 15.30 (prohibiting discrimination by the Department of Homeland Security (DHS)). A disability is defined as "(A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment." 42 U.S.C. § 12102(1).
2018, despite her viable asylum claim. Ms. was therefore unable to effectively participate in her immigration proceedings or receive the benefits from the Ms. L settlement agreement.

G. The Trump Administration’s Family Separation Policy

1. The Purpose of the Policy

Curbing asylum has been a central focus of the Trump Administration’s immigration policy. On April 6, 2018, President Trump issued a memo entitled “Ending ‘Catch and Release’ at the Border of the United States and Directing Other Enhancements to Immigration Enforcement.” The memo, among other things, directs the Secretary of Homeland Security, the Secretary of Defense, the Attorney General, and the Secretary of Health and Human Services to submit a report to the President that details all of the measures their respective departments have pursued or are pursuing to end “catch and release” practices. “Catch and Release” refers to a federal policy that allows people who are seeking asylum to wait for their hearings in the community, not in government custody.

On the same day that President Trump issued his directive, then Attorney General Jeff Sessions announced that the government would institute a “Zero Tolerance” policy, mandating the prosecution of all persons who cross the United States border between ports of entry. The purpose of the “Zero Tolerance” policy was to deter Central Americans from seeking asylum or otherwise coming to the United States. Through this policy, the United States intentionally inflicted trauma on immigrant parents and their children who crossed the border, by separating the children from their parents in violation of the United States Constitution. The U.S. government has admitted to

12 Id.
14 60 Minutes: Chaos on the Border, Robots to the Rescue, To Kill a Mockingbird (CBS television broadcast Nov. 25, 2018) (revealing an un-redacted copy of the memo implementing the “Zero Tolerance” policy that stated that the policy’s purpose was deterrence).
forcibly separating more than 2,800 children from their parents and placing them in government custody. 15 A recent HHS OIG report and other sources indicate that the actual number is “thousands” higher. 17 Family separations at the border continue. 18

Administration officials at the highest levels knew well before implementing the policy that it would harm the people it affected. 19 Yet, once the separations began to generate public outrage and condemnation, administration officials changed their tune. They insisted that their hardline stance on prosecuting border crossings was not intended to discourage immigration, and, shockingly, even denied the existence of a family separation policy. 20 The administration, however, could not expunge the numerous statements made by high-level officials confirming that family separation was the express policy and that its purpose was deterrence.

In a December 16, 2017 memorandum exchanged between senior officials at DOJ and DHS, the officials proposed a “Policy Option” of “Increased Prosecution of Family Unit Parents.” 21 Under the proposal, “parents would be prosecuted for illegal entry . . . and the minors present with them would be placed in HHS custody as [unaccompanied alien children].” 22 The memorandum asserted that “the increase in prosecutions would be reported by media and it would have substantial deterrent effect.” 23

When asked about the policy by NPR on May 11, 2018, John Kelly, President Trump's
Chief of Staff, responded that “a big name of the game is deterrence… It could be a tough deterrent—would be a tough deterrent.”24 As for the children affected, he said: “[t]he children will be taken care of—put into foster care or whatever.”25

On June 19, 2018, on Fox News’ “The Ingraham Angle,” host Laura Ingraham asked then-Attorney General Jeff Sessions, “[I]s this policy in part used as a deterrent? Are you trying to deter people from bringing children or minors across this dangerous journey? Is that part of what the separation is about?” Sessions replied, “I see that the fact that no one was being prosecuted for this was a factor in a fivefold increase in four years in this kind of illegal immigration. So, yes, hopefully people will get the message and come through the border at the port of entry and not break across the border unlawfully.”26

And President Trump himself has indicated that deterrence was the motivation behind his Justice Department’s “Zero Tolerance” policy. When speaking with reporters at the White House on October 13, 2018, he said, “If they feel there will be separation, they don’t come.”27 On December 16, 2018, the President tweeted, “[I]f you don’t separate, FAR more people will come.”28

Thus, the trauma inflicted by the family separation policy was entirely intentional and premeditated. This point cannot be overstated: the most senior members of the U.S. government intentionally chose to cause parents and small children, including infants, extraordinary pain and suffering in order to accomplish their policy objectives. The unspeakable pain and suffering experienced by parents and small children was seen as a useful device by the most senior members of the U.S. Government to accomplish their policy objective of deterring Central Americans from seeking asylum in the United States.

2. The Implementation of the Policy

Once the policy was implemented and immigration officers separated children from their parents, DHS deemed separated children to be unaccompanied and transferred them to the HHS Office of Refugee Resettlement (“ORR”), which is responsible for the long-term custodial care and placement of “unaccompanied [noncitizen] children.”29 But DHS failed to take even the most basic steps to record which children belonged to which parents, highlighting the government’s utter indifference to the dire consequences of the policy on the separated families.

24 Transcript: White House Chief Of Staff John Kelly’s Interview With NPR, supra note 3.
25 Id. (emphasis added).
26 Bump, supra note 1.
28 Donald Trump, supra note 4 (emphasis in original).
The DHS Office of Inspector General ("DHS OIG") noted that the "lack of integration between CBP's, ICE's and HHS' respective information technology systems hindered efforts to identify, track, and reunify parents and children separated under the Zero Tolerance policy" and that "as a result, DHS has struggled to provide accurate, complete, reliable data in family separations and reunifications, raising concerns about the accuracy of its reporting."30

Generally, CBP officers—the first to encounter individuals entering the United States—were the officers who separated parents and children. Following the separation, CBP transferred many of the parents into ICE custody.31 When the "Zero Tolerance" policy went into effect, ICE's system "did not display data from CBP's systems that would have indicated whether a detainee had been separated from a child."32 As a result, when ICE was processing detained individuals for removal, "no additional effort was made to identify and reunite families prior to removal."33 Even more alarming, in order to keep track of the children, ICE manually entered the child's identifying information into a Microsoft Word document, which was then e-mailed as an attachment to HHS, a process described by the DHS OIG as particularly "vulnerable to human error," and one which "increased the risk that a child could become lost in the system."34

As emphasized by Judge Sabraw in Ms. L. v. Immigration and Customs Enforcement, the agencies' failure to coordinate tracking of separated families was a "startling reality" given that:

> [t]he government readily keeps track of personal property of detainees in criminal and immigration proceedings. Money, important documents, and automobiles, to name a few, are routinely catalogued, stored, tracked and produced upon a detainee's release, at all levels—state and federal, citizen and alien. Yet, the government has no system in place to keep track of, provide effective communication with, and promptly produce alien children. The unfortunate reality is that under the present system migrant children are not accounted for with the same efficiency and accuracy as property. Certainly, that cannot satisfy the requirements of due process.35

The government's inhumane treatment of separated families described by Judge Sabraw was not merely the result of indifference or incompetence. Commander Jonathan White, a former senior HHS official, testified before Congress that he repeatedly warned those devising the policy that separating children from their parents would have harmful effects on the children, including "significant potential for traumatic psychological injury to the child."36 But those in charge willfully disregarded Commander White's warnings. Imposing trauma on these parents and children was their very goal.

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30 See id. at 9–10 (noting, among other things, that agencies' incompatible computer systems erased data that connected children with their families); see also HHS OIG REPORT, supra note 5, at 2, 13 (reporting that the lack of an integrated data system to track separated families across HHS and DHS added to the difficulty in HHS's identification of separated children).
32 Id. at 9–10.
33 Id. at 10.
34 Id.
35 Ms. L. v. 310 F. Supp. 3d at 1144 (emphasis in original).
36 Stahl, supra note 19.
Only after the family separation policy garnered widespread condemnation and became bad politics did President Trump, on June 20, 2018, sign an executive order ("EO") purporting to end it. The EO states that it is the “policy of this Administration to maintain family unity, including by detaining alien families together where appropriate and consistent with law and available resources.” 37 The EO, however, did not explain whether or how the federal government would reunify families who had been previously separated. In fact, on June 22, 2018, the government admitted that it had no reunification procedure in place. 38

It was not until a federal judge ordered the government on June 26, 2018 to reunite families that the government began taking steps to do so. 39 What followed was chaos. DHS claimed that DHS and HHS had created a centralized database containing all relevant information regarding parents separated from their children; however, the DHS OIG found “no evidence that such a database exists.” 40 According to the DHS OIG, whatever data was collected was incomplete, contradictory, and unreliable. 41

Because no single database with reliable information existed, the Government Accountability Office found that agencies were left to resort to a variety of inefficient and ineffective methods to determine which children were subject to Judge Sabraw’s injunction. 42 These methods included officers hand sifting through agency data looking for any indication that a child in HHS custody had been separated from his or her parent 43 and calling in the Office of the Assistant Secretary for Preparedness and Responses, an HHS agency whose normal prerogative involves response to hurricanes and other disasters, to review data provided by CBP, ICE, and ORR. 44 The method for determining which family units required reunification changed frequently, sometimes more than once a day, with staff at one ORR shelter reporting that “there were times when [they] would be following one process in the morning but a different one in the afternoon.” 45 Judge Sabraw criticized the agencies for their lack of preparation and coordination at a status conference proceeding on July 27, 2018: “[W]hat was lost in the process was the family. The

38 See Ms. L., 310 F. Supp. 3d at 1140-41; see also U.S. GOV'T ACCOUNTABILITY OFF., GAO-19-163,
UNACCOMPANIED CHILDREN: AGENCY EFFORTS TO REUNIFY CHILDREN SEPARATED FROM PARENTS AT THE BORDER: 21 (2018) [hereinafter GAO REPORT] (“HHS officials told [the GAO] that there were no specific procedures to reunite children with parents from whom they were separated at the border prior to the June 2018 court order.”).
39 The only procedure in place capable of reuniting children with their parents was the procedure developed to place unaccompanied children with sponsors in compliance with the Trafficking Victims Protection Reauthorization Act. Under this procedure, however, a parent could only be reunited with his or her child if the government deemed them eligible to be a sponsor. Id. Judge Sabraw noted that this procedure was inadequate because it was created to address “a different situation, namely what to do with alien children who were apprehended without their parents at the border or otherwise,” and further, that the procedure was not developed to address situations such as this one where family units were separated by government officials after they crossed the border together. Id. at 27 (quoting Order Following Status Conference, Ms. L. v. Immigration and Customs Enforcement, No. 18-0428-DMS-MDD (S.D. Cal. July 10, 2018)).
40 GAO REPORT, supra note 39, at 23-25.
41 Id. at 24.
42 Id. at 27.
parents didn’t know where the children were, and the children didn’t know where the parents were. And the government didn’t know, either. 46

The government’s cruel policy of separating children from their parents, and its failure to track the children once they were separated, violated the claimants’ constitutional right to family integrity. 47 The government instituted and implemented this policy to intentionally inflict emotional distress on the parents and children who were separated. It succeeded, with devastating consequences for parents and children like Ms. [redacted] and [redacted].

Answer 10: Nature and Extent of Injury

Please see the facts described above in the Basis of Claim. As a result of the actions of the federal government, its employees, and its contractors, Ms. [redacted] and her minor son suffered discrimination, prejudice in their immigration cases, humiliation, emotional distress, physical pain, loss of enjoyment of life, loss of personal property, and damages from their separation, detention, and restrictions on liberty. Moreover, Ms. [redacted] and her son suffered damages due to the failure of the government and its agents to meet the requisite standard of medical care. This is not intended to be an exhaustive list of possible causes of action.

Answer 11: Witnesses

Possible witnesses include the following:

- Mike Sheppard, Warden, West Texas Detention Facility, Sierra Blanca, TX
- Former Secretary Kirstjen Michele Nielsen, Department of Homeland Security
- Acting Secretary Kevin K. McAleenan, Department of Homeland Security

Possible witnesses also include multiple employees of DHS, CBP, ICE, and HHS, and each entity’s contractors who had contact with or reviewed records related to [redacted] and [redacted] and their apprehension, separation, detention, and Ms. [redacted]’s removal: federal government officials involved in developing and implementing the separation policy; and the many individuals with whom Ms. [redacted] and [redacted] were detained in Texas and Arizona.

This is not intended to be an exhaustive list of possible witnesses.

47 See Ms. L., 302 F. Supp. 3d at 1161–67 (finding that plaintiffs had stated a legally cognizable claim for a violation of their substantive due process rights to family integrity under the Fifth Amendment to the United States Constitution based on their allegations that the Government had separated them from their minor children while they were held in immigration detention and without a showing that they were unfit parents or otherwise presented a danger to their children); Ms. L., 310 F. Supp. 3d at 1142–46 (finding that plaintiffs were likely to succeed on their substantive due process claim when assessing their motion for a preliminary injunction). See also Smith v. Organization of Foster Families, 431 U.S. 816, 845 (1977) (liberty interest in family relationships has its source in “intrinsic human rights”). DHS employees are responsible for supervising and managing detainees at CBP and ICE facilities, including those located in Texas. And HHS employees are responsible for supervising and managing the detention of unaccompanied children, including at facilities in Michigan. DHS and HHS employees are federal employees for the purposes of the Federal Tort Claims Act.
Mount Sinai Program in Global Mental Health
Arnold Global Health Institute and Department of Psychiatry

M.D., Director
M.D., Associate Director

10 April 2019

Re: [Redacted] DOB: [Redacted]

To Whom It May Concern:

My name is [Redacted], and I am a licensed psychiatrist in the State of New York. On April 3, 2019 I conducted an interview of [Redacted] at the request of her attorney, Elizabeth Willis, in connection with her deportation to Guatemala from the U.S. and separation from her child. Below please find my credentials, as well as an overview of the case, findings of the psychological exam, and my impressions.

Credentials
I am currently a Clinical Professor in the Departments of Psychiatry, Medical Education and Global Health and System Design at the Icahn School of Medicine at Mount Sinai in New York, New York. I graduated from Columbia University College of Physicians and Surgeons in 1995 and went on to complete an internship in Internal Medicine at the Mount Sinai Hospital, a residency and chief residency in Psychiatry at Columbia University/New York State Psychiatric Institute, and a fellowship in Psychiatry and the Law at New York University. The latter, in particular, along with my subsequent experience in disaster and global psychiatry and in Mount Sinai’s Human Rights Clinic and Libertas Human Rights Clinic at the affiliated Elmhurst Hospital, has afforded me specialized training relevant to the evaluation of asylum seekers. A copy of my curriculum vitae is available upon request.

On April 3 2019, I conducted a 2-hour psychological examination of [Redacted] via Skype, prior to which she was reminded of the limits on confidentiality of the interview and consented to proceed. The interview was conducted in Spanish. [Redacted] was present with us to translate during the interview. [Redacted], a graduate student of Public Health at the Icahn School of Medicine at Mount Sinai who serves as a volunteer at Mount Sinai’s Human Rights Clinic, also assisted.

My evaluation was also informed by my review of [Redacted]’s draft affidavit, but, unless otherwise noted, this affidavit reflects information provided to me by [Redacted] during the examination. I have limited my report to those aspects of her history that were pertinent to the issues at hand and, and, unless otherwise noted, it reflects information provided to me by [Redacted] during the examination.
Overview of Case
Ms. [redacted] was born in Guatemala on [redacted]. She was raised by her mother in Chimaltenango. Her father passed away when Ms. [redacted] was around one year old. She is unsure how he died but was told that it was from an illness. Ms. [redacted] had five brothers who were all older than her. Her family lived in a one room house in Guatemala. Her mother did not remarry and raised the six children on her single income.

Ms. [redacted] has one son, [redacted], who is currently living with a foster family in San Antonio, Texas. They came to the United States in around 2017 after being threatened by members of a gang in Guatemala. Ms. [redacted] is 33 years old, and her son is 16 years old. Ms. [redacted] and [redacted] were separated shortly after entry. Although she had passed her credible fear interview, Ms. [redacted] requested the judge to deport her to Guatemala after she was still detained without a release date, finding detention stressful to the point that she even developed physical symptoms. She is currently back in Guatemala and separated from her son. She is currently not formally employed but she has a source of income which comes from selling things in her neighborhood. I found that she is suffering from Major Depression as a result of these circumstances, especially separation from [redacted].

Relevant History
Developmental and Family History
Ms. [redacted] grew up as one of six children with only one of her biological parents in Guatemala. Her father passed away when Ms. [redacted] was only a year old and as a result her mother was a single parent. Ms. [redacted] reported that she does not know exactly how her father died but she has been told that it was from an illness. Ms. [redacted] siblings and brothers lived in Chimaltenango. They lived in one room home that had some outdoor space. Ms. [redacted] mother supported the family by initially working at a local market and then moving on to washing clothes for people in the neighborhood.

Ms. [redacted] reported that her family was very poor, and she explains that “there were days we did not have food to eat.” The family did not have electricity but neighbors around them did. Ms. [redacted] explains that it was too expensive for them to afford. When asked about her schooling, Ms. [redacted] reported that she received only a few years of schooling, which were distributed over different points of her life. At the age of around seven Ms. [redacted] left school during the middle of the year as her mom felt it was time for her to help support the family. Ms. [redacted] was around eight when she began working full-time taking care of a family’s children. When asked if she enjoyed her time working, Ms. [redacted] explains that there was no question of whether she enjoyed it or not since it was an obligation for her to work.

Ms. [redacted] reported that she did not have fun growing up. She had friends in her neighborhood, and she considered the children she worked for as friends as well, but she was unable to play with any of them. Ms. [redacted] explains that she was always busy contributing to the family and was even expected to work on weekends. When Ms. [redacted] recounts her best memory growing up, she describes her 10th birthday when her family held a dinner for her.
On the other hand, when asked about the worst part of growing up, Ms. reported the worst part was that her older brother abused her sexually, physically and verbally. Her brother was around six years older than Ms. and began abusing her at an early age. Her earliest memory of it was when she was around four or five years old.

Ms. explained that the abuse took place in her home while her mother was away at work. Another brother of hers, who was one year older, and Ms., would be left home alone during the day. Ms.'s brother would play outside for most of the day while the older, abusive brother came in and attacked her, forcing her to have vaginal sex. He would also hit and yell at her. Ms. reported that she did not speak of this abuse to anyone and kept it a secret for years. Ms. recounted that the abuse stopped when she started working and was no longer around the house. Ms. began working in other homes as the caretaker of the children. She reported that she often slept at her employers' homes rather than her own because it was safer.

Ms. was around 16 years old when she fell in love with and entered a relationship with her employer's son, David. She sought protection from him and wanted to build a home together. David often told Ms. they would one day be married as long as she did not mention details of their relationship to his parents. The majority of their sexual relationship was non-consensual, of which was a product. Ms.'s relationship with David came to an end when she became pregnant, as he wanted her to get an abortion. David feared his parents would find out about their relationship. Choosing not to get an abortion, Ms. left her employer's home when she was around 3 months pregnant and returned to live with her mother around the age of 17.

Approximately a year after was born, Ms. had to deal with sexual attempts from her brother once again. He tried to engage in vaginal sexual intercourse and Ms. stopped him by saying "no more, now I can defend myself." While he was not successful in sexually abusing Ms. again, her brother physically abused her by hitting her.

Ms. reported facing abuse in the homes of other employers as well. She explains that one particular incident when the brother-in-law of her employer raped her, in the course of which he left a scar on her leg. In her affidavit, she also recounted being repeatedly raped by a cousin and instances of being attacked by two other men.

**Educational and Occupational History**

Ms. received only a few years of elementary level education. She stopped attending school at around the age of seven or eight during the middle of a school year as she was expected to start working to help provide for the family. At around the age of 13, Ms. went back to school for three years because she was able to financially support her own studies.

Ms. was around eight years old when she began working full-time to support her family. She was sent to another person's home to care for their children. After was born,
Ms. [redacted] resumed working in other people's homes and continued to face abuse from her employers.

In the last few years leading up her departure, Ms. [redacted] had begun selling orange juice in her neighborhood up until she left Guatemala following extortionary threats from a gang. Ms. [redacted] is now back in Guatemala and is helping her aging mother run her business. She explained that, had the gangs not intruded upon her life, she was content with the life she had working and raising [redacted].

**Medical History**

When Ms. [redacted] was 12 years old, she had a painful growth on her arm removed. Ms. [redacted] also reported a history of chronic gastritis.

Ms. [redacted] explained that since her detention in the U.S. she has been experiencing new onset nausea and loss of appetite but forces herself to eat to avoid gastritis. She also reported the onset of several episodes of what she describes as "facial paralysis", which she described as follows: "I started crying a lot and get pain on the side of my face, it feels like my cheek keeps getting pulled down and then my eye shuts fully." This problem has not been evaluated by a neurologist.

**Psychiatric History**

Ms. [redacted]’s only contact with mental health professionals has been in the last 3 months back in Guatemala, during which time she has begun seeing a pro bono psychologist to help her cope with her distress over her separation from [redacted].

**Substance Abuse History**

Ms. [redacted] reported that she has never consumed any form of liquor or drugs and has never been diagnosed with a substance abuse problem.

**Current Trauma**

In November 2017 a local gang approached her at her juice stand and demanded that she pay them 15,000 quetzal. Ms. [redacted] did not have this amount of money, but the men that came to her had been watching her business grow for a few months. Ms. [redacted] reported that this was the first threat made to her by these gang members, who also threatened Ms. [redacted] by telling her that they knew the details of which school her son went to and what times of the day he came and left school.

The members of the gang gave Ms. [redacted] a couple of weeks to pay them the full sum of money, but within around ten days of being threatened, Ms. [redacted] and [redacted] fled Guatemala because she could not raise this sum.

Ms. [redacted] reported that it took around eight days for her and [redacted] to reach the U.S border from their home in Guatemala, a journey that was free of any threats or harm. Once they had reached the border, both Ms. [redacted] and her son were detained within an hour.

Officers asked Ms. [redacted] her motives for being in America and what she feared in Guatemala, but she did not give them information as her son was with her. Ms. [redacted]...
explained that her son did not know about the threats from the gang and she did not want him to find out. Ms. [redacted] reported that they arrived in the middle of the night, and so they were sent to a place to sleep for the night. However, they were sent to separate sleeping quarters, and in the morning, Ms. [redacted] awoke to learn that [redacted] was taken to another location and has not seen him since then.

After about a month of being detained, Ms. [redacted] was allowed to speak to [redacted] over the phone. Ms. [redacted] reported that she was not given any information about his whereabouts until then and did not even know if he were alive or dead. The judge accused Ms. [redacted] of lying and fabricating her story. She reported that she was “getting really desperate” and asked the judge to deport her back to Guatemala as he gave her no guarantee of when she would be allowed to leave the detention center where she felt helpless about her son. [redacted] was taken to a group home after his time in the detention center and now lives with a foster family in San Antonio, Texas. Once a week Ms. [redacted] receives a call from her son, but the timings of these phone calls are not known beforehand. She fears she will miss his phone call and so Ms. [redacted] has not found a job that has fixed hours.

Ms. [redacted] reported that [redacted] has said he is doing well but he wishes for his mother to be with him. She has been living in Guatemala for around seven to eight months now, helping her mother with her business. Ms. [redacted] was introduced to a family by one of her brothers, and she lives with them on a temporary basis and helps pay some of their electrical and water bills.

Ms. [redacted] explained that since her return to Guatemala around seven or eight months ago, she sees that the gangs have become even more of a threatening presence and has witnessed them carrying knives and guns to attack people and steal their belongings. She is also aware of their involvement in multiple local murders. They have yet to re-approach Ms. [redacted] as it has only been a few months since she has started selling items, but she fears and expects that they will.

Since her return to Guatemala, Ms. [redacted] has been suffering from many health issues and has been referred to both a neurologist and a cardiologist but due to a lack of money, she has been unable to see either of them. However, she has begun to see a psychologist willing to see her pro bono.

**Psychological Examination**

Ms. [redacted] explained how detention and especially separation from [redacted] have impacted her current physical and psychological health. She has since developed what she describes as “facial paralysis”, back pain, poor appetite, nausea, anxiety, depressed mood, and lack of sleep.

Ms. [redacted] reported that she currently experiences depressed mood that relate to her separation from her son. She explains that she cries every day when she is reminded by all the items he left behind in Guatemala. Ms. [redacted] suffers from a lack of motivation in her daily life to complete her tasks. Her psychologist has recommended that she keep telling herself...
“I can do it” throughout the day when she suffers from depressed moods. When Ms. had her son in her life, her whole life revolved around him and his needs and that he was her daily motivation and source of purpose in life. She even has lost the desire to things she once wanted to do, such as take classes or study again to finish her schooling.

Since her time at the detention center Ms. reported that she has daily problems with the level of her physical energy. She explained that she “wants to do things, but my body does not let me.” Despite sleeping too much at night, she still feels tired throughout the day. She also suffers from a poor appetite. Ms. has nausea every time she eats, but when she chooses not to eat she suffers from gastritis. She explained that often there will be food in front of her but she will have no appetite to eat it even at her usual meal times. While Ms. has always suffered from gastritis, which she describes as a sharp pain in her stomach when she does not eat on time, her nausea has been a new development since her time at the detention center.

Ms. reported that she has trouble focusing and concentrating on her daily tasks. Often, Ms. feels that her thoughts about take control of her mind, and she is unable to stop them. Ms. explained that sometimes she imagines that her son has not been taken from her but is just away at school for the day. When she sees his belongings at home she remembers that he is gone.

When asked about suicide, Ms. explained that after her traumatic childhood when she was at a low point in her life, the birth of her son felt like a new beginning for her. Ms. reported that if she did not have her son in her life she would have wanted to commit suicide, but her son became her motivation to live. She has always felt that she has been suffering her whole life but when was born, Ms. says it was as though “someone pushed me so I could keep going.” Ms. feels that it is not only traumatic for her to be separated from her son but it is for him as well— “He needs me, and I need him.” Taking care of her mother has now given Ms. a new purpose to focus on while she is separated from her son.

Ms. has suffered from nightmares about the sexual abuse throughout her life in Guatemala and had them often in the detention center. She has dreamt of other people abusing her. These people were close to her in her life but had not actually abused Ms. Ms. reported that these nightmares happen once every couple of months. When she goes to a store and it is dark outside and Ms. sees people pass by, she feels as though the abuse is happening all over again. Ms. reported that she avoids going out at night as it is common in Guatemala for men to touch women and abuse them once it is dark outside.

While Ms. tries to think of happy thoughts every day to avoid focusing on the memories of her trauma, she finds it difficult as she is living in the same area she grew up in. Ms. is constantly surrounded by those that abused her and the traumatic memories she wishes to avoid. Her therapist has told her to speak to herself in a mirror every morning and remind herself that “today is a new day to live and yesterday is gone.”
Ms. [redacted] denied ever having problems with excessively happy moods or with hearing voices, seeing things, or paranoia.

Ms. [redacted] has felt helpless during her adolescent years as well when she realized she did not have a father or a mother who could protect her from all the traumas in her life. She never felt responsible for the sexual abuse she endured, but Ms. [redacted] has felt guilty for not being able to provide her son with a traditional family. Ms. [redacted] has been thinking about her sexual abuse less, since the time she has been seeing her therapist. When she is reminded of it or has to speak about details of those incidences, Ms. [redacted] feels as though it happened just yesterday. Ms. [redacted]’s guilt for not giving [redacted] a family is exacerbated with the fact that David has told her that if she was a virgin then they would have been a family at this point.

Ms. [redacted] now hopes that God will give her a dignified home and family to erase all the negative memories and traumas she has faced in her life. She does not want a relationship right now as her focus is returning to her son, but Ms. [redacted] says that in the future she would like to give her son a home. Since the birth of her son, Ms. [redacted] has become more devoted to God and her Catholic church. While she does not have time to be fully involved, Ms. [redacted] actively makes an effort to be a part of group activities and to assist Mass.

**Assessment of Mental Status**

Ms. [redacted] was well dressed and groomed in what appeared to be traditional indigenous Guatemalan attire and appeared her stated age. She exhibited no abnormal body or facial movements during the interview. The rate, rhythm, and volume of her voice were all within normal limits. She spoke in fluent Spanish, and the translator did not have trouble understanding her speech.

Ms. [redacted] presented as calm overall, although she did become tearful and slowed her speech when recounting past episodes of her sexual abuse and her current separation from her son. Eye contact was good. She was cooperative and made an evident effort to answer my questions and ensure that I understood everything she was saying. Indeed, she tended to give long, detailed answers. Her narrative was clear, coherent, and consistent with her written statements. She did not report or appear to be experiencing hallucinations or delusional preoccupations. She also denied any suicidality and likewise did not report or appear to be having any violent thoughts.

Ms. [redacted] was insightful about her level of suffering, and there were no indications that she was exaggerating or manufacturing symptoms.

**Impressions**

Ms. [redacted] is experiencing a many months long episode of Major Depressive Disorder of at least moderate intensity as a result of her detention and especially her separation from [redacted]. Although her extensive history of childhood sexual trauma and the gang threats certainly render her more susceptible to experiencing a depressive episode, they do not appear directly related.
Ms. [redacted] has six of the nine potential symptoms of a Major Depressive Episode (one needs five to meet criteria, including at least one emotional symptom). They are as follows:

1) Depressed mood most of the day, nearly every day

2) Markedly diminished interest or pleasure in all, or almost all activities most of the day, nearly every day

3) Decrease in appetite, and nausea, nearly every day

4) Hypersomnia nearly everyday

5) Fatigue or loss of energy nearly everyday

6) Diminished ability to think or concentrate, nearly every day

These symptoms are causing Ms. [redacted] both significant distress and dysfunction, either of which alone would be enough to warrant a psychiatric diagnosis.

It is possible Ms. [redacted] is also experiencing Post-Traumatic Stress Disorder (PTSD) as a result of the many childhood sexual traumas she endured (and even the threats from the gangs). This diagnosis is suggested not just by the extreme exposure she had to this trauma but also by her sense of re-experiencing of the rapes since returning to Guatemala and by her attempts to avoid thinking about or being around reminders of the rapes. But, these responses could also be expectable under the circumstances of returning back to where it all happened, especially as this time she is alone without the comfort afforded by the company of her son or the benefit of being able to focus her attention on caring for him. It is therefore not clear whether she has any other of the requisite symptoms of PTSD nor whether the reactions she is having are excessive enough in nature as to amount to a disorder.

Absent a physical examination, the possibility of a medical cause of these above-noted symptoms cannot be ruled out. However, nothing in the history available to me is indicative of her having an acute medical condition that would account for all the observed mental health symptoms. On the other hand, what she describes as “facial paralysis” appears to be a neurological reaction to intense emotions over [redacted], possibly a variant of migraine headaches. There was also no evidence whatsoever of her exaggerating or fabricating her symptoms.

Ms. [redacted]’s current mental health treatment seems to be productive and meaningful. She would benefit from continuing to see her psychotherapist and to address the above-noted symptoms and their impact on her daily life. Anti-depressant medication should also be strongly considered, but she said she could not afford it. Indeed, such medications would certainly be more available and likely be more affordable here in the U.S.

However, it is hard to imagine how even the most comprehensive and sophisticated psychiatric treatment will ever help her as fully as would being reunited with [redacted]. Her mental health issues are born not out of any innate biological problem but out of how the world, and especially
U.S. immigration officials, has treated her and her son. The most important anti-depressant for Ms. would therefore be reunion with. 

Ms.'s level of distress during her examination were entirely consistent with her reported symptoms. It is likely that Ms. will experience tearfulness and other signs of distress if and when she is asked to provide oral testimony in support of her case.

I would be willing to answer any questions or further explain my findings in any way or forum that would be helpful to this matter. I can be reached at or 

Respectfully Submitted,

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