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16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA

18 COMMITTEE FOR IMMIGRANT RIGHTS OF
 19 SONOMA COUNTY, FRANCISCO SANCHEZ-
 LOPEZ, CHRISTYAN SONATO-VEGA, and
 20 SAMUEL MEDEL MOYADO,

21 Plaintiffs,

22 v.

23 COUNTY OF SONOMA; SHERIFF-CORONER
 BILL COGBILL and DEPUTY SHERIFF MORRIS
 24 ERIC SALKIN, individually and in their official
 capacities; UNITED STATES OF AMERICA; U.S.
 25 DEPARTMENT OF HOMELAND SECURITY,
 BUREAU OF IMMIGRATION AND CUSTOMS
 26 ENFORCEMENT; SPECIAL AGENT MARIO
 HUELGA and SPECIAL AGENT CHRIS
 27 MERENDINO, individually and in their official
 capacities; DOES 1-50; and ROES 1-50, inclusive,

28 Defendants.

CASE NO. 08-4220 PJH

SECOND AMENDED COMPLAINT
 FOR DECLARATORY AND
 INJUNCTIVE RELIEF AND
 DAMAGES

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 1. This is an action to challenge ongoing policies and practices of Immigration and
3 Customs Enforcement (“ICE”) agents and Sonoma County Sheriff’s Department personnel that
4 exceed both agencies’ lawful authority and violate the constitutional and statutory rights of
5 Latino residents in Sonoma County. The policies and practices challenged in this lawsuit
6 include:

- 7 • Sheriff’s deputies and ICE agents using race as a motivating factor for traffic stops and
8 other detentions, in violation of constitutional and statutory guarantees of equal
9 protection;
- 10 • Sheriff’s deputies and ICE agents stopping, interrogating, searching, and arresting
11 persons without adequate justification;
- 12 • Sheriff’s deputies arresting and holding individuals in the County jail without any
13 lawful basis for detention; and
- 14 • Denial of due process to people arrested on suspected immigration violations and
15 improperly held in the custody of the Sheriff.

16 2. This action is brought by the Committee for Immigrant Rights of Sonoma County,
17 which has waged a long-standing campaign to promote the rights of immigrants and to end local
18 immigration enforcement practices that undermine public safety and the willingness of Sonoma
19 County’s large immigrant community to report crime to local law enforcement agencies. This
20 action is also brought by individuals, including members of the Committee, who have been
21 subjected to the Defendants’ discriminatory practices and unreasonable searches and seizures.

22 3. Plaintiffs seek an end to Defendants’ unlawful and discriminatory policies and
23 practices. Secondly, this action seeks monetary damages for the individual plaintiffs. The
24 specific relief sought by each Plaintiff against each Defendant is alleged herein.

JURISDICTION

25
26 4. This Court has jurisdiction over the claims alleged in this Complaint pursuant to
27 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1343 (civil rights), 28 U.S.C. § 2201
28 (declaratory relief), 42 U.S.C. § 1983, 28 U.S.C. § 1346, 28 U.S.C. § 1651, and 5 U.S.C. § 702

1 (Administrative Procedure Act). Supplemental jurisdiction over the pendant state law claims is
2 proper pursuant to 28 U.S.C. § 1367.

3 **VENUE AND INTRA-DISTRICT ASSIGNMENT**

4 5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (e) because
5 Defendant U.S. Department of Homeland Security, Bureau of Immigration and Customs
6 Enforcement resides in and can be found in this judicial district. This action arises in Sonoma
7 County and assignment in either the Oakland Division or San Francisco division is appropriate
8 pursuant to Local Rule 3-2.

9 **PARTIES**

10 6. Plaintiff Committee for Immigrant Rights of Sonoma County (“Committee”) is a
11 community-based, non-profit membership organization, comprised of Sonoma County residents
12 and organizations whose mission is to mobilize and educate the community around legal and
13 social issues related to the rights of immigrants in Sonoma County and to promote the rights of
14 immigrants and others who are affected by immigration enforcement practices. The
15 Committee’s membership includes persons who have been and/or are imminently susceptible to
16 being injured by Defendants’ unlawful practices, as well as family members of such persons.

17 7. Plaintiff Francisco Sanchez-Lopez is a 22-year old Latino male who resides in
18 Sonoma County, in the State of California. He resided in Sonoma County during the events
19 relevant to this Complaint and described herein.

20 8. Plaintiff Christyan Sonato-Vega is a 24-year old Latino male who resided in
21 Sonoma County, in the State of California, during the events relevant to this Complaint and
22 described herein. Sonato-Vega does not seek injunctive or declaratory relief against Defendants,
23 as discussed below.

24 9. Plaintiff Samuel Medel Moyado is a 23-year old Latino male who resided in
25 Sonoma County, in the State of California, during the events relevant to this Complaint and
26 described herein.

27 10. Defendant County of Sonoma (“Sonoma County” or “County”) is a political
28 subdivision of the State of California that can sue and be sued in its own name. Upon

1 information and belief, Defendant Sonoma County includes, operates, governs, and is
2 responsible for the Sonoma County Sheriff's Department ("Sheriff's Department") pursuant to
3 the laws of the State of California and Sonoma County.

4 11. Defendant Sheriff Bill Cogbill is Sheriff-Coroner of the Sonoma County Sheriff's
5 Department and is responsible for the policies, practices and customs of the Sonoma County
6 Sheriff's Department. Defendant Cogbill also directs the hiring, screening, training, retention,
7 supervision, discipline, counseling and control of the deputy sheriffs under his supervision and
8 command. Defendant Cogbill also directs the processing, care and management of individuals
9 held at the Main Adult Detention Facility ("MADF") and the North County Detention Facility
10 ("NCDF") (collectively, "the Sonoma County jail"). At all relevant times, Defendant Cogbill
11 was acting under color of law. He is sued in his individual and official capacities.

12 12. Defendant Deputy Sheriff Morris E. (Eric) Salkin is a deputy sheriff with the
13 Sonoma County Sheriff's Department. At all relevant times, Defendant Salkin was acting under
14 color of law. He is sued in his individual and official capacities.

15 13. Defendant United States Bureau of Immigration and Customs Enforcement
16 ("ICE"), a federal agency charged with the administration, investigation and enforcement of
17 federal immigration laws as adopted in the Immigration and Nationality Act, 8 U.S.C. § 1101 *et*
18 *seq.*, is a division of the United States Department of Homeland Security ("DHS"). ICE was at
19 all times relevant herein a division of DHS, organized and existing under the laws of the United
20 States.

21 14. Defendant Special Agent Christopher Merendino is a senior special agent of ICE.
22 At all relevant times, Defendant Merendino was acting under color of law, as an agent, employee
23 and/or representative of the United States. He is sued in his individual and official capacities.

24 15. Defendant Special Agent Mario Huelga is a special agent of ICE. At all relevant
25 times, Defendant Huelga was acting under color of law, as an agent, employee and/or
26 representative of the United States. He is sued in his individual and official capacities.

27 16. At all relevant times, Defendants DOES 1 through 50 (also "DOE defendants")
28 were agents, employees, or otherwise representatives of the Sheriff and/or County. At all

1 relevant times, DOES 1 through 50 were acting under color of law. Upon information and
2 belief, Plaintiffs allege that many, if not all, of DOES 1 through 50 are residents of the Northern
3 District of California. Upon information and belief, Plaintiffs allege that DOES 1 through 50,
4 inclusive, are legally responsible for the wrongs committed against Plaintiffs, as alleged herein.
5 When Plaintiffs become aware of the true identities of one or more DOE defendants, Plaintiffs
6 will amend this complaint to add or substitute them as named Defendants.

7 17. At all relevant times, Defendants ROES 1 through 50 (also “ROE defendants”)
8 were agents, employees, or otherwise representatives of ICE. At all relevant times, ROES 1
9 through 50 were acting under color of law. Upon information and belief, Plaintiffs allege that
10 many, if not all, of ROES 1 through 50 are residents of the Northern District of California. Upon
11 information and belief, Plaintiffs allege that ROES 1 through 50, inclusive, are legally
12 responsible for the wrongs committed against Plaintiffs, as alleged herein. When Plaintiffs
13 become aware of the true identities of one or more ROE defendants, Plaintiffs will amend this
14 complaint to add or substitute them as named Defendants.

15 18. Defendant United States of America exists under the Constitution of the United
16 States of America and laws enacted by the United States Congress. ICE was at all times relevant
17 herein a division of DHS, organized and existing under the laws of the United States. Individual
18 defendants Merendino, Huelga and ROES 1-50 were at all relevant times acting as agents,
19 employees, and/or representatives of Defendant United States of America and in engaging in the
20 conduct herein alleged were acting within the scope of their agency and employment and with
21 the knowledge, consent, permission, authorization or ratification, either express or implied, of
22 Defendant United States of America.

23 19. Plaintiffs are informed and believe and thereon allege that each of the Defendants
24 caused, and is liable for, the unconstitutional and unlawful conduct and resulting injuries alleged
25 herein, by, among other things, personally participating in said conduct or acting jointly with
26 others who did so; by authorizing, acquiescing or setting in motion policies, plans or actions that
27 led to the unlawful conduct; by failing to take action to prevent the unlawful conduct; by failing
28 or refusing with deliberate indifference to maintain adequate training and supervision; and/or by

1 ratifying the unlawful conduct taken by employees under his or her direction and control.

2 Plaintiffs are informed and believe and thereon allege that Defendants' actions were pursuant to
3 a policy, custom, or usage of the Sheriff's Department or ICE or other related agencies.

4 **CIVIL IMMIGRATION ENFORCEMENT – LEGAL BACKGROUND**

5 **Local Law Enforcement Agencies' Lack of Authority to Enforce Immigration Law**

6 20. State and federal law do not authorize local authorities such as Defendants
7 Sonoma County, including the Sonoma County Sheriff's Department, and Sheriff Cogbill and
8 the employees under his supervision, including Deputy Sheriff Salkin, to arrest or detain
9 individuals based on suspected civil immigration violations.

10 21. Federal law preempts local law enforcement agencies from enforcing civil
11 immigration law except as specifically provided by statute. Local law enforcement agencies may
12 enforce *criminal* immigration law within the restrictions of state law.

13 22. In California, local law enforcement authorities may make warrantless arrests
14 only where they have probable cause to believe the arrestee has committed a crime in their
15 presence or a felony offense outside their presence. California Penal Code § 836.

16 23. Neither the County nor the Sonoma County Sheriff's Department have entered
17 into a written agreement with ICE pursuant to 8 U.S.C. § 1357(g) to authorize County employees
18 to enforce civil immigration law.

19 24. Neither the County nor the Sonoma County Sheriff's Department have entered
20 into a written agreement with ICE, known as an "Inter-Governmental Service Agreement,"
21 designating the Sonoma County Jail as a detention facility for individuals in federal immigration
22 custody.

23 25. According to Protocol 99-1 of the Sonoma County Law Enforcement Chiefs'
24 Association, "Sonoma County Law Enforcement personnel shall not arrest or detain any person
25 based solely on violation of Title 8, United States Code, Section 1325 (illegal entry)" and
26 "Sonoma County law enforcement personnel shall not undertake any interrogation of any person
27 for the sole purpose of ascertaining his/her immigrant status." According to Section 428 of the
28 Sonoma County Sheriff's Department policies, "The fact that an individual is suspected of being

1 an undocumented alien alone shall not be the basis for contact, detention, or arrest.” Upon
2 information and belief, Defendants Sonoma County and Cogbill have officially abandoned,
3 ignored and contravened these written policies to the extent that they conflict with the other
4 policies, practices and conduct described in this Complaint.

5 **Limits on ICE Agents’ Authority to Make Warrantless Arrests and Issue Immigration**

6 **Detainers**

7 26. ICE agents are authorized to arrest individuals without a warrant only if they (a)
8 have reason to believe that the individuals are in the United States in violation of immigration
9 law, and (b) have reason to believe that the individuals are likely to escape before a warrant can
10 be obtained for their arrest. 8 U.S.C. § 1357.

11 27. ICE must provide certain procedural protections to individuals arrested for civil
12 immigration violations without a warrant. These protections include: the right to be examined by
13 a non-arresting officer without unnecessary delay; notice of the charges against them and their
14 right to a hearing with counsel at their own expense; lists of available pro bono counsel and free
15 legal services; and notice that statements made by the arrestee may be used against him in a
16 subsequent proceeding. 8 U.S.C. §§ 1226, 1229, 1357; 8 C.F.R. § 287.3. A bond determination
17 and a decision whether to issue a Notice to Appear must be made within 48 hours of arrest
18 except in the case of emergency or extraordinary circumstances. *Id.*

19 28. 8 C.F.R. § 287.7 allows ICE agents to issue immigration detainers requesting that
20 other law enforcement agencies maintain custody of a suspected noncitizen already within that
21 law enforcement agency’s custody on an independent civil or criminal charge, to permit ICE to
22 assume custody of the suspected noncitizen. 8 C.F.R. § 287.7 does not authorize ICE agents to
23 issue immigration detainers to instruct local law enforcement agencies to detain or arrest
24 individuals who are not already in the custody of those agencies.

25 **DEFENDANTS’ UNLAWFUL POLICIES, CUSTOMS, AND PRACTICES**

26 29. For at least the past four years, the Sonoma County Sheriff’s Department -- under
27 the direction of Sheriff Bill Cogbill -- has been working with ICE and its officers to enforce civil
28 immigration law against Latino persons in Sonoma County, in excess of local authority. This

1 collaboration takes place in the field in two ways: (1) by Sheriff's deputies participating in joint
2 patrols with ICE agents that specifically target Latino residents of Sonoma County, and (2) by
3 Sheriff's deputies identifying and arresting persons suspected of being unauthorized noncitizens
4 outside the presence of ICE officers, but with the agency's approval.

5 **Joint Patrols Staffed By Local and Federal Officers**

6 30. Defendant Sheriff Cogbill and his deputies, including Defendant Salkin,
7 participate in joint operations with ICE agents, including Defendants Merendino and Huelga, on
8 a regular basis as part of an ongoing enforcement initiative known as the Multi-Agency Gang
9 Enforcement Team ("MAGNET") or the "Gang Task Force." Several agencies, including the
10 Sonoma County Sheriff's Department and ICE, participate in MAGNET operations. Defendants
11 Salkin, Huelga and Merendino are regular field participants or personnel in MAGNET
12 operations.

13 31. MAGNET's purported primary goal is stop gang-related violence and associated
14 criminal activity. However, MAGNET's participants, including Defendants Salkin, Merendino
15 and Huelga, do not limit their enforcement activities to such criminal activity. Specifically, in
16 furtherance of a stated goal to arrest "undocumented alien gang members," MAGNET targets
17 Latinos in Sonoma County who are not engaged in criminal activity. Upon information and
18 belief, Defendant Sheriff's deputies and ICE agents working together on MAGNET patrols enter
19 areas of Sonoma County that have high Latino populations and target young Latino males or
20 young males who appear to be Latino for traffic stops, often without any reasonable suspicion of
21 criminal activity or traffic infraction. After stopping such individuals, Defendants interrogate
22 and search them, even where there is no reasonable suspicion that such individuals are engaged
23 in criminal activity or present a threat to safety.

24 32. Defendants have adopted the policy, practice and custom of relying on the
25 impermissible factors of race, color and/or ethnicity to stop, detain, question and/or search
26 persons who are or appear to be Latino and to prolong their initial stops to probe into their
27 immigration status without reasonable suspicion that they have committed a crime or are
28 noncitizens without lawful immigration status.

1 33. After such initial stops, prolonged detentions for immigration questioning, and
2 searches, Defendants have the policy and practice of arresting and placing individuals in the
3 Sonoma County jail without criminal charges or any actual or purported criminal basis, simply
4 because they are suspected of violating civil immigration laws. Defendant ICE and its agents
5 also engage in the policy and practice of arresting individuals or causing them to be arrested
6 without warrants and causing them to be held in the Sonoma County jail without reason to
7 believe that such individuals are present in the United States without authorization and without
8 reason to believe they are likely to escape before a warrant can be obtained.

9 **Civil Immigration Enforcement By Sheriff's Deputies Unaccompanied By ICE Agents**

10 34. In addition to the joint operations described above, Defendants Cogbill and
11 County employees working under his supervision, including Defendant Salkin, have adopted the
12 policy, practice and custom of stopping, detaining, questioning and/or searching persons who are
13 or appear to be Latino and interrogating them about their immigration status outside the presence
14 of ICE agents.

15 35. These racially-motivated stops are frequently unsupported by reasonable
16 suspicion or probable cause that the person or persons stopped have violated any criminal law.

17 36. Even where such stops may be initially supported by reasonable suspicion of
18 criminal activity or traffic infraction, Defendants Cogbill and the County employees under his
19 supervision, including Defendant Salkin, have adopted the policy, practice and custom of
20 prolonging the initial stop to interrogate individuals about their immigration status and
21 conducting searches of their persons and vehicles despite having neither any criminal basis to
22 prolong the detention nor any investigatory or safety justification for the searches. Upon
23 information and belief, the individual's actual or apparent Latino descent is a motivating factor
24 for Sheriff's deputies' prolonged detention, interrogation, and search of such individuals.

25 37. Defendants Cogbill and the County employees under his supervision, including
26 Defendant Salkin, have also adopted the policy, practice and custom of contacting ICE agents to
27 seek approval to execute warrantless arrests for civil immigration violations. Upon information
28 and belief, these calls to ICE agents are motivated by the individual's actual or apparent Latino

1 descent, Spanish surname, or Latin American country of origin, and Latino residents of Sonoma
2 County are disproportionately affected by this practice.

3 **Individuals Arrested for Civil Immigration Violations During Joint Patrols or by Sheriff's**
4 **Deputies Alone Held in the Sonoma County Jail**

5 38. Federal Defendants ICE, Huelga, Merendino, and unknown ROES have adopted
6 the policy, practice and custom of requesting that Sonoma County Sheriff's Department
7 personnel take physical custody of individuals suspected of civil immigration violations and hold
8 them in the Sonoma County jail without any criminal basis for arrest. This practice and custom
9 includes issuance of immigration detainers under the purported authority of 8 C.F.R. § 287.7 for
10 persons that are not already in County custody on an independent arrest pursuant to criminal law
11 or other state law.

12 39. County Defendants County of Sonoma, Cogbill, Salkin, and DOES 1-50 have
13 adopted the policy, practice and custom of transporting, booking, and holding individuals in the
14 Sonoma County jail without a warrant or probable cause of criminal activity, based only on
15 Federal Defendants' request and issuance of an immigration detainer under the purported
16 authority of 8 C.F.R. 287.7.

17 40. Defendants ICE, Sonoma County, and Sheriff Cogbill do not provide adequate
18 training to the deputy sheriffs regarding the law and regulations governing ICE detainers, or any
19 federal immigration law.

20 **Warrantless Civil Immigration Arrests Made Without Flight Risk Assessment**

21 41. Whether encountered as a part of a joint MAGNET operation including ICE
22 agents or arrested by Sheriff's deputies with ICE's approval, Defendants have adopted the
23 policy, practice and custom of placing civil immigration arrestees in local custody without
24 meeting federal requirements for the warrantless arrest of noncitizens suspected of violating
25 federal immigration laws, *i.e.*, probable cause and a determination that the person is likely to
26 escape before an arrest warrant can be obtained. 8 U.S.C. § 1357.

27 42. Upon information and belief, Defendants United States and ICE do not provide
28 adequate training to ICE agents regarding the types of evidence necessary to establish reasonable

1 suspicion or probable cause that a person is a noncitizen in the United States without
2 authorization or that the person poses a flight risk as required for warrantless arrests based on
3 suspected civil immigration violations.

4 43. In addition to directing the illegal enforcement of civil immigration law by deputy
5 sheriffs, Defendants Sonoma County, Sheriff Cogbill, United States and ICE do not provide
6 training to deputy sheriffs working with ICE agents regarding the types of evidence necessary to
7 establish reasonable suspicion or probable cause that a person is a noncitizen in the United States
8 without authorization or that the person poses a flight risk as required for warrantless arrests
9 based on suspected civil immigration violations.

10 **Invalid Use of Immigration Detainers**

11 44. Defendants purport to justify holding individuals in the Sonoma County jail
12 without criminal charges -- whether arrested by joint patrols or by Sheriff's deputies acting on
13 their own -- by the issuance of immigration detainers pursuant to 8 C.F.R. § 287.7. However, by
14 the express terms of that regulation, local authorities may only use immigration detainers to
15 retain custody over individuals who are already in local custody pursuant to a valid criminal
16 arrest after they would otherwise be released from local custody. Moreover, 8 C.F.R. § 287.7
17 does not allow ICE to issue detainers to initiate custody for persons not already in the custody of
18 a law enforcement agency on independent criminal or other state law grounds.

19 45. A detainer is not an "arrest warrant," a "criminal detainer," *see* Pub. L. No. 91-
20 538, 84 Stat. 1397 (1970), or an "administrative warrant," *see* 8 U.S.C. § 1226, 8 C.F.R. § 236.1.
21 ICE may only issue immigration detainers to request that another law enforcement agency
22 maintain custody of an individual already held by that agency on independent grounds. 8 C.F.R.
23 § 287.7. In violation of 8 C.F.R. §287.7, Defendants have adopted the policy, practice and
24 custom of using immigration detainers as "warrants," in an effort to allow local law enforcement
25 officers to initiate County custody of individuals without meeting applicable constitutional,
26 statutory, and regulatory requirements.

27
28

1 46. Upon information and belief, Defendant ICE does not generally interpret 8 C.F.R.
2 § 287.7 to authorize local law enforcement to initiate custody of individuals for civil immigration
3 violations.

4 47. Upon information and belief, Defendants' use of immigration detainers to initiate
5 custody of individuals who are not already in the custody of local law enforcement
6 independently of the detainer as described in this Second Amended Complaint is not a common
7 practice elsewhere in the country.

8 **Racially-Motivated Targeting of Criminal Arrestees for Immigration Detainers**

9 48. Defendants also use immigration detainers for inmates of the Sonoma County jail
10 who are in custody after arrests for independent criminal or other state law grounds. Upon
11 information and belief, County Defendants have adopted the policy, practice and custom of
12 identifying individuals held in the Sonoma County jail based on their Latino race or appearance,
13 Spanish surname, and/or birth in a Latin American country for questioning regarding their
14 immigration status and referral to ICE for a determination of whether to issue a detainer.

15 49. Upon information and belief, for those individuals who are already in custody of
16 local law enforcement pursuant to a purported criminal arrest, Defendant ICE and its agents have
17 adopted the policy, practice, and custom of using Latino race or appearance, Spanish surnames,
18 and Latin American national origin as motivating factors for initiating interrogations or other
19 review of inmates as potential subjects of immigration detainers and for the issuance of
20 immigration detainers.

21 **Denial of Procedural Protections**

22 50. With respect to persons arrested and held in the Sonoma County jail for suspected
23 civil immigration violations -- whether by joint ICE/Sheriff's Department teams or by Sheriff's
24 deputies alone -- Defendants have adopted the policy, practice and custom of maintaining local
25 custody for approximately four days before transferring the arrestees to ICE for the initiation of
26 removal proceedings under federal immigration law.

27 51. Once booked into the Sonoma County jail, civil immigration arrestees are -- by
28 Defendants' policy, practice and custom -- denied notice of any charges against them,

1 examination by a neutral magistrate or non-arresting ICE officer, notice that statements they
2 make may be used against them in removal proceedings, a list of low or no-cost immigration
3 legal services, or notice that they have a right to a hearing or bond determination. Such
4 procedural protections are required for individuals arrested without a warrant on suspected
5 immigration violations pursuant to 8 U.S.C. § 1357 and 8 C.F.R. § 287.3 and would be provided
6 to arrestees taken immediately into ICE custody. Under the policy, practice, and custom adopted
7 by Defendants, the issuance of these procedural protections is, on information and belief, delayed
8 for approximately four days while civil immigration arrestees are held in the Sonoma County
9 jail.

10 52. With respect to persons originally held in the Sonoma County jail for criminal or
11 other state law violations, Defendants have adopted the policy, practice, and custom of
12 prolonging the detention of persons against whom immigration detainers have been issued for
13 four days after they otherwise would have been released from local custody. These four day
14 detentions are not justified by the original state law basis for the individuals' initial arrests and
15 are not supported by a separate probable cause determination by a non-arresting ICE officer or a
16 neutral magistrate. These immigration detainees are not provided the procedural protections
17 required by 8 U.S.C. § 1357 and 8 C.F.R. § 287.3 for individuals arrested by ICE without a
18 warrant. Upon information and belief, standards used by ICE and its agents for the issuance of
19 immigration detainers for persons held on criminal or other state law grounds in the Sonoma
20 County jail are insufficient to establish probable cause for the prolonged detentions.

21 53. The procedural protections set forth in 8 C.F.R. § 287.3 are important to allow
22 civil immigration detainees to determine the reasons why they are being detained, to understand
23 their rights to remain silent, to seek out legal representation and advice on the effect of criminal
24 charges on the detainee's immigration status, and their right to post bond such that they do not
25 have to remain in custody pending removal proceedings. These notices are necessary
26 underpinnings to each civil immigration arrestee's right to a meaningful immigration hearing
27 before being deprived of liberty through removal from the United States.

28

1 54. In addition, the United States and California Constitutions impose requirements
2 that are not being met under Defendants' policies, practices, and customs regarding immigration
3 detainers. As a matter of federal and state constitutional law, persons who are detained on
4 immigration detainers—or whose detention is prolonged based on an immigration detainer—are
5 entitled to a probable cause determination within 48 hours of the beginning of the immigration
6 detainer-based detention, as well as notice of the charges against him or her and an opportunity
7 to respond.

8 55. Upon information and belief, after having been held without authorization in
9 Sonoma County jail for four days without notice of the charges against them, their right to a
10 hearing and counsel, their right to post bond, and other required notices before being transferred
11 into ICE custody, civil immigration arrestees are more easily coerced into waiving their
12 constitutional right to a hearing prior to removal than they would be if they were timely provided
13 the procedural protections which are due them as warrantless immigration arrestees.

14 56. Upon information and belief, after having their detentions prolonged for four days
15 pursuant to an immigration detainer without notice of the charges against them, their right to a
16 hearing and counsel, their right to post bond, and other required notices before being transferred
17 into ICE custody, individuals are more easily coerced into waiving their constitutional right to a
18 hearing prior to removal than they would be if they were timely provided the procedural
19 protections set forth in 8 C.F.R. § 287.3.

20 57. Upon information and belief, the financial and administrative costs of providing
21 the procedural protections under 8 U.S.C. § 1357 and 8 C.F.R. § 287.3 to persons who are held
22 in the Sonoma County jail pursuant to immigration detainers would be insubstantial relative to
23 the harm to their due process rights resulting from the denial or delay of these procedural
24 protections.

25 58. Defendants' failure to provide procedural protections required by 8 U.S.C. § 1357
26 and 8 C.F.R. § 287.3 to civil immigration detainees arrested, or subjected to prolonged detention
27 on the basis of an immigration detainer, without a warrant violate those detainees' due process
28

1 rights, as guaranteed under the Fifth and Fourteenth Amendments of the United States
2 Constitution and Article I, section 7 of the California Constitution.

3 **Defendants' Racially-Motivated Classification of Immigration Detainees as Gang Members**

4 59. Upon information and belief, Defendants have adopted the policy, practice, and
5 custom of using race, Spanish surname, and/or national origin as factors to inaccurately classify
6 Latinos who are arrested through MAGNET operations as gang members.

7 60. Upon information and belief, Defendants County, Cogbill, Salkin, and DOES 1-
8 50 have adopted the policy, practice, and custom of using race, Spanish surname, and/or national
9 origin as factors to inaccurately classify Latinos who are booked into the jail—on criminal or
10 other state law charges or on immigration detainees—as gang members.

11 61. In addition to being stigmatizing and causing other injuries, Defendants' racially-
12 motivated and inaccurate classification of inmates as gang members has an impact on their
13 placement within the jail and, as a matter of state law, could impact their sentencing in any
14 subsequent criminal proceedings.

15 **Sheriff's Knowledge and Direction of Challenged Policies, Practices and Customs**

16 62. Defendant Sheriff Cogbill directs the operations, staffing and investigations
17 conducted by MAGNET, and provides updates as to MAGNET and other immigration
18 enforcement activities at Sonoma County Law Enforcement Chiefs' Association meetings.

19 63. On October 5, 2007, at a meeting with representatives of Plaintiff Committee for
20 Immigrant Rights of Sonoma County, Defendant Sheriff Cogbill and other members of the
21 Sonoma County Sheriff's Department, with counsel, confirmed that Defendant Sheriff's
22 Department had regularly engaged in joint patrols with ICE for the previous three years, had
23 arrested individuals based on suspected immigration violations without a criminal basis for arrest
24 outside the presence of ICE agents, and has adopted the policy and practice of holding
25 individuals in the Sonoma County jail based on suspected civil immigration violations, and
26 without any criminal basis for arrest, at the request of ICE agents.

27
28

1 64. Defendant Sheriff Cogbill also has personally received memoranda from his
2 employees informing him of the practices of the Sheriff's Department, including the detention of
3 individuals without a criminal basis for the arrest.

4 65. Defendant Sheriff Cogbill also directs the practices of deputy sheriffs in the
5 Sheriff's Department's Detention Division, which manages the processing, care and management
6 of arrestees held in the Sonoma County jail.

7 66. Defendants Sonoma County and Sheriff Cogbill failed to train deputy sheriffs of
8 the Sonoma County Sheriff's Department including Defendant Salkin on the requirements
9 imposed on ICE agents for warrantless arrests of persons suspected of civil immigration
10 violations and the terms and limitations of 8 C.F.R. § 287.7.

11 67. Upon information and belief, Defendants Sonoma County and Sheriff Cogbill
12 failed to adequately train deputy sheriffs of the Sheriff's Department on the due process and
13 equal protection rights of inmates held at the Sonoma County jail.

14 68. Plaintiffs allege that Sheriff Cogbill is liable in his personal capacity for the
15 actions of his subordinates and ICE agents acting in concert with Sheriff's Department personnel
16 as alleged herein because he was intimately familiar with, approved of, and ratified the policies,
17 practices and customs described herein and failed to take any remedial action to stop ongoing
18 constitutional violations.

19 INDIVIDUAL PLAINTIFFS' EXPERIENCES

20 Ongoing Injury to the Committee for Immigrant Rights and Its Members

21 69. Plaintiff Committee for Immigrant Rights of Sonoma County ("Committee") was
22 founded in 2006 in response to federal immigration reform proposals that would have raised
23 penalties for illegal immigration and classified undocumented immigrants and those who assist
24 them as felons. The Committee's mission has been to oppose anti-immigrant legislation and
25 policies at both federal and local levels. Since its inception, the Committee has worked to
26 educate the public, including immigrant communities in Sonoma County, about immigration law
27 and policies and to inform them about their rights.
28

1 70. Through its Know Your Rights Campaign, the Committee has held a series of
2 house meetings and public forums to distribute information to the Latino community in Sonoma
3 County concerning individual rights, including the right to be free from unreasonable searches
4 and detentions, the right to remain silent when questioned by police or immigration agents, and
5 the right to be represented by a lawyer when accused or interrogated in custody.

6 71. The Committee launched a County of Refuge Campaign in 2007, calling for an
7 end to local law enforcement's assistance in civil immigration enforcement through weekly
8 vigils and public forums. This campaign was the Committee's response to the Sonoma County
9 Sheriff's Department practice of arresting and detaining young Latino members of the
10 community based solely on their immigration status, which is the product of an active and open
11 collaboration between the Sheriff and ICE.

12 72. Members of the Committee have personally witnessed and been subjected to
13 Defendants' unlawful practices, and the Committee's membership includes a constituency of
14 persons, namely Latino residents of Sonoma County, who are especially likely to be subjected to
15 these practices. The Committee's membership includes several Latino families who live in the
16 neighborhoods of Sonoma County where Defendants' regularly patrol. In addition, the
17 Committee itself has been, and continues to be, harmed by Defendants' practices because those
18 practices undermine the Committee's organizational mission and divert the Committee's
19 resources from the pursuit of other, related goals.

20 73. The Committee seeks only injunctive and declaratory relief from Defendants, as
21 discussed below.

22 **The Unlawful Stop and Detention of Francisco Sanchez-Lopez**

23 74. On September 28, 2006, Plaintiff Francisco Sanchez-Lopez ("Sanchez-Lopez")
24 was riding as a passenger in a car in Santa Rosa. A group of officers working together as part of
25 a MAGNET team stopped the car near West 9th Avenue in Santa Rosa. The group included ICE
26 agents, including Defendants Huelga and Merendino; Sheriff's deputies, including Defendant
27 Salkin; and at least one California Highway Patrol ("CHP") officer.

28

1 75. Upon information and belief, the MAGNET team, including Defendants
2 Merendino, Huelga, and Salkin, stopped the car in part due to the race and/or ethnicity of its
3 occupants, including Sanchez-Lopez.

4 76. After stopping the car, a CHP officer approached the driver. The CHP officer told
5 the driver that he was not permitted to have a “For Sale” sign in the car’s rear window, and
6 proceeded to interrogate the driver about whether he had gang affiliations. The driver did not
7 receive a ticket for the “For Sale” sign.

8 77. An officer, who upon information and belief was Defendant Huelga, approached
9 Sanchez-Lopez on the passenger side of the vehicle. Though Sanchez-Lopez had committed no
10 crime and posed no threat, Defendant Huelga asked Sanchez-Lopez for his name and then asked
11 him if he was on probation. Sanchez-Lopez provided his name and admitted that he was on
12 probation. Huelga did not ask the reasons behind Sanchez-Lopez’s probation, nor seek to verify
13 Sanchez-Lopez’s name or probation terms by radio or with other officers. The terms of Sanchez-
14 Lopez’s probation did not require him to submit to searches by law enforcement.

15 78. Without probable cause or reasonable suspicion of any civil or criminal violation,
16 without any reason to believe Sanchez-Lopez was in the United States without documentation,
17 and without any reason to believe that Sanchez-Lopez was armed or dangerous, Huelga ordered
18 Sanchez-Lopez out of the car. Huelga asked Sanchez-Lopez if he was in a gang and if he had
19 any tattoos, and instructed him to show them the tattoos. Sanchez-Lopez said he was not in a
20 gang, and showed Huelga his tattoos. Without reasonable suspicion that Sanchez-Lopez posed a
21 threat to the officers’ safety, probable cause of criminal activity, or Sanchez-Lopez’s consent,
22 Huelga subjected Sanchez-Lopez to a pat-down search and confiscated his wallet. Huelga
23 searched Sanchez-Lopez’s wallet and removed an ID card.

24 79. Huelga instructed Sanchez-Lopez to go over to Defendant Merendino.
25 Merendino interrogated Sanchez-Lopez about his immigration status and family background.

26 80. Upon information and belief, Defendants Huelga and Merendino subjected
27 Sanchez-Lopez to prolonged detention, search, and interrogation based in part on his Latino
28 appearance and Spanish surname.

1 81. Following the interrogation and search of Sanchez-Lopez's wallet, Merendino and
2 Huelga directed Defendant Salkin to arrest Sanchez-Lopez and book him into custody at the
3 Sonoma County jail based solely on his suspected immigration status. There was no actual or
4 even purported criminal basis for Sanchez-Lopez's arrest, and neither Merendino nor Huelga
5 made a determination that Sanchez-Lopez presented a flight risk within the meaning of 8 U.S.C.
6 § 1357. At the time of Sanchez-Lopez's arrest, ICE had not issued a Notice to Appear or an
7 arrest warrant for Sanchez-Lopez.

8 82. Defendant Salkin put Sanchez-Lopez in handcuffs and walked him over to a
9 Sonoma County Sheriff's patrol car. No one told Sanchez-Lopez that he was under arrest or why
10 he was under arrest and no one gave Sanchez-Lopez notice of his Miranda rights. As Salkin was
11 walking Sanchez-Lopez to the patrol car, a passenger in the car, Sanchez-Lopez's then-
12 girlfriend, asked why Sanchez-Lopez was being taken. In response, several officers ridiculed
13 and laughed at Sanchez-Lopez, including Defendant Salkin, who responded "He knows why," in
14 a laughing manner.

15 83. Defendant Salkin took physical custody of Sanchez-Lopez and drove him to the
16 Sonoma County jail. Merendino accompanied Salkin and Sanchez-Lopez in Salkin's vehicle.
17 Sanchez-Lopez arrived at the jail at about 6:00 p.m. on September 28, 2006.

18 84. Despite the lack of indicia of gang membership and Sanchez-Lopez's repeated
19 denial of any gang affiliations, Defendants Salkin and Merendino characterized Sanchez-Lopez
20 as a gang member based on his Latino appearance and descent. He was housed with Sureño
21 inmates in the Sonoma County jail.

22 85. Around the time of the arrest, Defendant Merendino issued and signed an
23 immigration detainer, Form I-247, for Sanchez-Lopez which indicates September 28, 2006 as the
24 date the detainer was filed. Sonoma County jail records of Sanchez-Lopez's arrest list
25 Merendino as the arresting officer.

26 86. Sanchez-Lopez spent four nights in the custody of Defendants County and
27 Cogbill at the Sonoma County jail before being transferred to ICE custody on October 2, 2006.
28 During this time Sanchez-Lopez did not receive notice of any charges against him, examination

1 by a neutral magistrate or non-arresting ICE officer, notice that statements he made could be
2 used against them in removal proceedings, a list of low or no-cost immigration legal services, or
3 notice that he had a right to a hearing or a bond determination.

4 87. Being in jail for four nights without any information about what was happening to
5 him, or what would be coming next, and knowing he had not violated any criminal laws,
6 Sanchez-Lopez was extremely frightened and anxious. No one told Sanchez-Lopez how long he
7 could expect to stay in jail or whether he would have an opportunity to clear his name. He feared
8 losing his job and falling behind in school. He did not know that he had any rights as a person
9 who might be put into immigration proceedings, and he was very anxious about what would
10 happen in the future. He had trouble sleeping while he was in jail, and he ate very little because
11 he felt so nervous. The first day he was in County custody, he did not have access to medication
12 for a chronic kidney condition, which also caused him worry and distress.

13 88. Once in ICE custody, Sanchez-Lopez remained in custody for approximately one
14 week, posted bond, and was issued a Notice to Appear.

15 89. In his immigration proceedings, Sanchez-Lopez sought to suppress evidence
16 regarding his immigration status that was gained during the above-described searches, seizures,
17 and interrogations on the basis that the evidence was gained through egregious violations of the
18 Fourth Amendment. On or about March 17, 2008, the immigration judge presiding over
19 Sanchez-Lopez's removal proceedings granted Sanchez-Lopez's motion to suppress and ordered
20 his removal proceedings terminated. On or about May 7, 2009, the Board of Immigration
21 appeals denied ICE's appeal of the immigration judge's decision. The deadline for the
22 government to petition for review of the BIA's decision to the Ninth Circuit Court of Appeals
23 lapsed on or about June 6, 2009.

24 90. Sanchez-Lopez and members of his family have been settled residents of Sonoma
25 County and members of the Committee for approximately two years. During the relevant events
26 alleged in paragraphs 74-89 above, Sanchez-Lopez was employed in Sonoma County, lived in
27 Sonoma County, had friends in the community, and made no attempt to flee. Based on these
28 factors, Sanchez-Lopez was not a flight risk. Sanchez-Lopez's only previous law enforcement

1 record was in connection to violations for driving without a license. Sanchez-Lopez is not, and
2 has never been, a gang member.

3 91. Sanchez-Lopez is and appears to be of Latino descent and a person of color.

4 **The Unlawful Stop and Detention of Christvan Sonato-Vega**

5 92. In or about July, 2007 Christvan Sonato-Vega (“Sonato-Vega”) was a passenger
6 in a car driven by his fiancée. She parked the car and they got out at a bakery in Santa Rosa,
7 intending to purchase a cake. They were ordered to stop by two MAGNET officers, Defendant
8 Salkin and an unknown DOE Defendant, who, upon information and belief, stopped Sonato-
9 Vega because he appeared to be of Latino descent.

10 93. Without reasonable suspicion to believe Sonato-Vega was engaged in criminal
11 activity or posed a threat of danger, Salkin immediately ordered Sonato-Vega to “stop.” Sonato-
12 Vega continued walking, and Salkin repeated, “Stop and put your hands on your head.” Sonato-
13 Vega, feeling he had no choice, complied with the order and stopped walking. Defendant Salkin
14 walked over to Sonato-Vega, held Sonato-Vega’s hands on top of his head, and walked him to
15 the car. Salkin asked him if he had any weapons. Sonato-Vega said, “No,” and Salkin ordered
16 Sonato-Vega to empty his pockets. Sonato-Vega emptied his pockets and placed his hands back
17 on his head. Salkin searched through the contents of Sonato-Vega’s pockets and did a pat-down
18 search of his body. Salkin asked Sonato-Vega to spread his legs for the pat-down search and
19 Sonato-Vega complied, but Salkin kicked Sonato-Vega’s legs apart further and pulled Sonato-
20 Vega’s hands back, causing Sonato-Vega pain.

21 94. Salkin questioned Sonato-Vega about his immigration status, his tattoos, and
22 whether he was a gang member. Sonato-Vega told Salkin that he was not a gang member and
23 exercised his legal right not to answer Salkin’s questions about his immigration status. Salkin
24 threatened that if Sonato-Vega did not cooperate, they would arrest his fiancée.

25 95. Following this search and interrogation, Salkin left Sonato-Vega and his fiancée
26 in the care of the other deputy sheriff and searched the car without their consent. Salkin also
27 questioned Sonato-Vega about the contents of the car. The entire detention lasted between 10
28 and 20 minutes and then Salkin told Sonato-Vega he and his fiancée were free to go.

1 96. The deputy sheriffs did not issue any citation to Sonato-Vega or his fiancée
2 during this encounter.

3 97. On or about Thursday, August 2, 2007, Defendants Salkin and Huelga approached
4 Sonato-Vega at his place of employment, a gas station in Rohnert Park, California. Without
5 reasonable suspicion that Sonato-Vega was engaged in criminal activity or was a non-citizen
6 without authorization to be in the United States, Defendants Salkin and Huelga detained Sonato-
7 Vega and interrogated him about his immigration status and his family.

8 98. When Salkin and Huelga arrived at the gas station, they ordered Sonato-Vega to
9 “stop” and told him he was under arrest. They made him empty his pockets and handcuffed him.
10 Salkin subjected Sonato-Vega to a pat-down search, searched his wallet, and asked him about his
11 immigration status and the status of his parents. During the course of this interrogation, Sonato-
12 Vega refused to answer questions concerning his immigration status.

13 99. Defendant Huelga also subjected Sonato-Vega to a pat-down search before
14 putting him in the patrol car. During the encounter, Huelga ridiculed Sonato-Vega, saying, “Oh
15 look, he’s shaking. He ain’t that tough.” When Sonato-Vega asked why he was being arrested,
16 Huelga responded, with profanity, that Sonato-Vega is “illegal” and “is not allowed to be here.”

17 100. Defendants Salkin and Huelga arrested Sonato-Vega and booked him into the
18 Sonoma County jail based on suspected civil immigration violations alone and without any
19 actual or even purported criminal basis for arrest. Upon information and belief, Salkin and
20 Huelga made this warrantless arrest without probable cause to believe that Sonato-Vega was a
21 noncitizen without authorization to be in the United States and without making a determination
22 that he was likely to escape before an arrest warrant could be obtained. Upon information and
23 belief, Huelga and Salkin subjected Sonato-Vega to the stop, interrogation, search, and arrest
24 because of his Latino appearance and Spanish surname.

25 101. Around the time of the arrest, Huelga issued and signed an immigration detainer,
26 Form I-247, for Sonato-Vega which indicates August 2, 2007 as the date the detainer was filed.
27 Sonoma County jail records of Sonato-Vega’s arrest list Huelga as the arresting officer.
28

1 102. Despite the lack of reliable indicia of gang membership and Sonato-Vega's denial
2 of any gang affiliations, DOE Defendants and Salkin and Huelga characterized Sonato-Vega as a
3 gang member based on his Latino appearance and descent.

4 103. In response to a DOE Defendant's questions at booking about what Latino gang
5 members Sonato-Vega would prefer to be housed with, Sonato-Vega responded that he was not a
6 gang member, that he knew people that were both Norteños and Sureños, and that he would
7 prefer to be housed with non-gang-affiliated inmates. Contrary to Sonato-Vega's request,
8 Defendants County, Cogbill, and DOE Defendants housed him with Sureño inmates who were in
9 criminal custody. Some of the criminal detainees told Sonato-Vega that he would end up in
10 prison.

11 104. While he was in custody at the Sonoma County jail, Sonato-Vega asked County
12 jail employees what the charges were against him. However, while in County custody, Sonato-
13 Vega did not receive notice of the charges against him, an examination by a neutral magistrate or
14 non-arresting ICE officer, a list of low or no-cost immigration legal services, or notice that he
15 had a right to a hearing or a bond determination.

16 105. Being in jail for four days without a clear sense of the charges against him,
17 knowing he had not hurt anyone or violated any criminal laws to cause his arrest, Sonato-Vega
18 felt angry and agitated, as well as extremely nervous and anxious. No one told Sonato-Vega how
19 long he could expect to stay in jail and he did not know he had any rights as a person being held
20 for civil immigration violations. He had trouble sleeping while he was in the Sonoma County
21 jail and ate very little due to his emotional distress and worry.

22 106. Defendants held Sonato-Vega in Defendant Cogbill's custody at the Sonoma
23 County jail until on or about Monday, August 6, 2007, when they transferred him to San
24 Francisco's ICE facility.

25 107. While in ICE detention, Sonato-Vega was threatened by unknown ICE agents
26 ROES with further and prolonged detention and relocation to a facility far away from his home if
27 he did not agree to sign a form. Defendants ROES told Sonato-Vega that he could not challenge
28 his inevitable removal, and that if he signed the form, he would be released from jail sooner.

1 Upon information and belief, these ICE agents made these threats to coerce Sonato-Vega into
2 waiving his rights to a hearing and stipulating to removal. After an extended period of detention,
3 and out of desperation to achieve freedom from confinement, Sonato-Vega stipulated to removal
4 without knowing, voluntary or informed consent. Sonato-Vega's experience of having spent
5 four days in the Sonoma County Jail without notice of the charges against him or his rights as a
6 warrantless civil immigration detainee contributed to his desperation and susceptibility to
7 coercion when he was transferred to ICE custody.

8 108. Because Sonato-Vega was denied notice of the charges against him, an
9 examination by a neutral magistrate or non-arresting ICE officer, a list of low or no-cost
10 immigration legal services, or notice that he had a right to a hearing or a bond determination,
11 Sonato-Vega, through counsel, later sought to reopen his removal proceedings. Sonato-Vega
12 ultimately negotiated a change in his removal designation from "stipulated removal" to
13 "voluntary departure."

14 109. During the relevant events alleged in paragraphs 92-108 above, Sonato-Vega and
15 members of his family were settled residents of Sonoma County, and Sonato-Vega was
16 employed in Sonoma County. Sonato-Vega also was engaged to a U.S. citizen. Sonato-Vega
17 therefore was not a flight risk.

18 110. Prior to August 2007, Sonato-Vega had no prior police record other than for
19 driving without a license. Sonato-Vega is not, and never has been, a gang member.

20 111. Sonato-Vega is and appears to be of Latino descent and a person of color.

21 **The Unlawful Detention of Samuel Medel Movado**

22 112. On the evening of August 8, 2007, Plaintiff Samuel Medel Moyado ("Medel")
23 was arrested on a minor non-drug charge, pursuant to California Penal Code § 647(f).

24 113. Despite a lack of indicia of gang membership and Medel's denial of any gang
25 affiliations, unknown ROE and DOE Defendants, upon information and belief, characterized
26 Medel as a gang member based on his Latino appearance and descent. Despite the fact that
27 Medel was wearing a red t-shirt when he was arrested and that red is the color known to be
28

1 associated with Norteño gang members, Defendants County, Cogbill and DOES placed Medel in
2 detention with members of the Sureño gang (whose favored color is widely known to be blue).

3 114. Upon information and belief, an unknown DOE Defendant, motivated by Medel's
4 race, national origin, and/or Spanish surname, questioned Medel about his immigration status
5 and referred him to ICE for investigation and consideration for issuance of an immigration
6 detainer.

7 115. Upon information and belief, Defendants ICE and a ROE Defendant interrogated
8 Medel about his immigration status while he was in the Sonoma County Jail and issued an
9 immigration detainer for Medel based in part on his Latino appearance and Spanish surname and
10 without a determination that he presented any flight risk.

11 116. At Medel's court hearing on the morning of August 10, 2007 the judge told Medel
12 he was free to leave because no charges had been filed against him. However, relying on an
13 immigration detainer that had been issued pursuant to 8 C.F.R. § 287.7(d), Sheriff's Department
14 personnel continued to detain Medel in Defendant Cogbill's custody, transferred him to another
15 Sheriff's facility and kept him in custody until August 14, when they transferred him to ICE's
16 custody.

17 117. While he was in custody at the Sonoma County jail, Medel did not receive notice
18 of the immigration charges against him, notice that statements he made could be used against
19 him in removal proceedings, a list of low or no-cost immigration legal services, or notice that he
20 had a right to a bond determination.

21 118. Defendants did not bring Medel before a neutral magistrate or non-arresting ICE
22 officer for a probable cause determination or provide him notice of the charges against him and
23 an opportunity to respond within 48 hours of the initiation of his prolonged local custody
24 pursuant to immigration detainer.

25 119. Being in detention for days without a clear sense of the charges against him or
26 what would happen to him, Medel felt nervous and agitated and suffered emotional distress from
27 the uncertainty.

28

1 120. Although Medel attempted to post bond while he was in detention in San
 2 Francisco on or about August 14, Defendants ICE and unidentified ROE Defendants did not give
 3 Medel the opportunity until after they transferred him to ICE’s Eloy Detention Center in
 4 Arizona, over a week after his arrest. Defendants did not release Medel until the evening of
 5 Thursday, August 16, 2007, in Arizona, after he posted bond.

6 121. As a result of Defendants’ actions, Medel was deprived of his right to post bond
 7 until he had already been transferred to Arizona, was unnecessarily deprived of his liberty before
 8 he was given opportunity to post bond, and was forced to incur travel expenses in returning from
 9 Arizona to his home in Santa Rosa.

10 122. Medel is a member of the Committee. During the events alleged in paragraphs
 11 112-121 above, Medel had also been a long-time resident of Sonoma County, with ties to the
 12 community and in a serious relationship with a U.S. citizen. Medel, therefore, was not a flight
 13 risk.

14 123. Prior to August 8, 2007, Medel had no police record as an adult. Medel is not,
 15 and never has been, a gang member.

16 124. Medel is and appears to be of Latino descent and a person of color.

REQUISITES FOR RELIEF

17
 18 125. As a result of the general and specific conduct of Defendants described above,
 19 Plaintiffs have been denied their constitutional and civil rights. Defendants’ conduct is the result
 20 of ongoing policies, practices, conduct and acts that have resulted and will continue to result in
 21 irreparable injury to Plaintiffs, including but not limited to further threats to and violations of
 22 their constitutional and civil rights. Plaintiffs have no plain, speedy, or adequate remedy at law
 23 to redress the violations alleged herein, and therefore seek injunctive relief restraining
 24 Defendants from continuing to engage in the unlawful and unconstitutional policies, practices,
 25 conduct and acts described in this Second Amended Complaint.

26 126. An actual and substantial controversy exists between Plaintiffs and Defendants as
 27 to their respective legal rights and duties. Plaintiffs contend that Defendants’ policies, practices,
 28 conduct and acts alleged herein violate Plaintiffs’ constitutional and civil rights. Defendants

1 contend the opposite and have indicated their intent to continue engaging in the challenged
2 conduct.

3 127. On or about January 29, 2008, Medel filed an administrative claim with
4 Defendant Sonoma County pursuant to California Government Code § 910 *et seq.* Sonoma
5 County rejected Medel's claim on or about March 5, 2008.

6 128. On or about January 29, 2008, Sonato-Vega filed an administrative claim with
7 Defendant Sonoma County pursuant to California Government Code § 910 *et seq.* Sonoma
8 County rejected Sonato-Vega's claim on or about April 2, 2008.

9 129. On or about October 23, 2008, Medel filed an administrative claim with the
10 Department of Homeland Security pursuant to 28 U.S.C. § 2675. The failure of the Department
11 of Homeland Security to make final disposition of Medel's claim within six months after it was
12 filed is deemed a final denial of the claim. 28 U.S.C. § 2675(a).

13 130. On or about October 23, 2008, Sanchez-Lopez filed an administrative claim with
14 the Department of Homeland Security pursuant to 28 U.S.C. § 2675. The failure of the
15 Department of Homeland Security to make final disposition of Sanchez-Lopez's claim within six
16 months after it was filed is deemed a final denial of the claim. 28 U.S.C. § 2675(a).

17 131. On or about October 23, 2008, Sonato-Vega filed an administrative claim with the
18 Department of Homeland Security pursuant to 28 U.S.C. § 2675. The failure of the Department
19 of Homeland Security to make final disposition of Sonato-Vega's claim within six months after
20 it was filed is deemed a final denial of the claim. 28 U.S.C. § 2675(a).

21 132. The acts of Defendants were willful, wanton, malicious and oppressive and done
22 with conscious disregard and deliberate indifference for Plaintiffs and their rights.

23 133. As a direct and proximate result of Defendants' knowing and intentional conduct
24 with deliberate or reckless indifference to Plaintiffs' civil and constitutional rights, Plaintiffs the
25 Committee, Sanchez-Lopez, Sonato-Vega and Medel have been injured and will continue to be
26 injured, and therefore seek injunctive relief as described below. Also as a direct and proximate
27 result of Defendants' conduct, Plaintiffs Sanchez-Lopez, Sonato-Vega and Medel have suffered
28

1 damages in an amount according to proof, and seek damages against Defendants as described
2 below.

3 **FIRST CLAIM FOR RELIEF**

4 **Fourth Amendment (42 U.S.C. § 1983)**

5 **(Unreasonable Search and Seizure)**

6 **All Plaintiffs Against Defendants Sonoma County, Cogbill, Salkin, and DOES 1-50**

7 134. Plaintiffs incorporate by reference the allegations in the paragraphs above as
8 though fully set forth here.

9 135. Plaintiffs Committee, Sanchez-Lopez and Medel seek injunctive and declaratory
10 relief against the County and against Defendants Cogbill, Salkin, and DOES 1-50 in their official
11 capacities, enjoining them from continuing to engage in the above-described policies, practices
12 and conduct violating the rights of Plaintiffs and Sonoma County residents to be free from
13 unreasonable searches and seizures under the Fourth Amendment of the United States
14 Constitution, including but not limited to:

- 15 a. Stopping persons and vehicles without reasonable suspicion of criminal
16 activity or traffic infraction [¶¶ 25, 30-32, 34-35, 62-64];¹
- 17 b. Unreasonably prolonging traffic and other stops beyond the time they
18 would otherwise take in order to question individuals about matters
19 unrelated to the purported purpose of the stop or other criminal activity,
20 specifically their citizenship and immigration status [¶¶ 30-32, 34, 62-64];
- 21 c. Conducting personal and vehicle searches without probable cause to
22 believe that that the areas searched contain evidence of criminal activity or
23 without a reasonable belief that the person searched or car's occupants are
24 dangerous and may gain access to a weapon in the area searched [¶¶ 30-
25 32, 34-36, 62-64];

26 _____
27 ¹ For convenience and increased clarity, Plaintiffs have tried to refer the Court to the most
28 relevant factual allegations, but such reference is not exhaustive. Other allegations may be
relevant to the claims and defenses and as such all allegations are expressly incorporated by
reference.

- 1 d. Unreasonably arresting individuals without probable cause of criminal
2 activity and without authority to arrest for civil immigration violations [¶¶
3 20-23, 25, 33, 37, 39, 43, 62-64, 66];
- 4 e. Holding persons in the County jail without a criminal basis for custody
5 and based only on suspected civil immigration violations [¶¶ 24-25, 33,
6 39, 62-64, 66];
- 7 f. Arresting and holding persons in the County jail on immigration detainees
8 for more than 48 hours without independent probable cause
9 determinations by a non-arresting ICE officer or neutral magistrate [¶¶ 27,
10 50-54, 62-66]; and
- 11 g. Prolonging the local custody of individuals for more than 48 hours beyond
12 when they would otherwise be released, based on immigration detainees,
13 and without bringing them before a neutral magistrate for a probable cause
14 determination [¶¶ 27, 50-54, 62-66].

15 136. Plaintiff Sanchez-Lopez seeks compensatory damages against Defendant Sonoma
16 County and compensatory and punitive damages against Defendants Cogbill, Salkin, and
17 unknown DOES in their personal capacities for violations of his right to be free from
18 unreasonable searches and seizures according to proof, including but not limited to:

- 19 a. Detaining him without reasonable suspicion of criminal activity [¶¶ 75-78];
- 20 b. Agreeing to, participating in, and/or acquiescing to a pat-down search of his
21 person and search of his wallet without lawful justification [¶¶ 78, 89];
- 22 c. Unreasonably agreeing to, participating in, and/or acquiescing to his
23 prolonged detention beyond the time they would otherwise take to question
24 him about matters unrelated to the purported purpose of the stop, specifically
25 his citizenship and immigration status [¶¶ 77-80];
- 26 d. Unreasonably arresting him without probable cause of criminal activity and
27 without authority to arrest for civil immigration violations [¶¶ 81-83];
- 28

- 1 e. Holding him in custody for approximately four days without authority under
2 state or federal law [¶¶ 81, 86]; and
3 f. Holding him in custody for more than 48 hours without an independent
4 probable cause determination by a non-arresting ICE officer or neutral
5 magistrate [¶¶ 27, 51, 54, 86].

6 137. Plaintiff Sonato-Vega seeks compensatory damages against Defendant Sonoma
7 County, and compensatory and punitive damages against Defendants Cogbill, Salkin and
8 unknown DOES in their personal capacities for violations of his right to be free from
9 unreasonable searches and seizures according to proof, including but not limited to:

- 10 a. Detaining him without reasonable suspicion of criminal activity [¶¶ 92-93, 96,
11 97-98];
12 b. Subjecting him to multiple pat-down searches of his person and his wallet
13 without lawful justification [¶¶ 93, 98-99];
14 c. Unreasonably prolonging his detention beyond the time they would otherwise
15 take to question him about matters unrelated to any lawful purpose,
16 specifically, his citizenship and immigration status [¶¶ 93-96];
17 d. Unreasonably arresting him without probable cause of criminal activity and
18 without authority to arrest for civil immigration violations [¶¶ 97-100];
19 e. Holding him in custody for approximately four days without authority under
20 state or federal law [¶¶ 101, 106]; and
21 f. Holding him in custody for more than 48 hours without an independent
22 probable cause determination by a non-arresting ICE officer or neutral
23 magistrate [¶¶ 27, 51, 54, 104].

24 138. Plaintiff Medel seeks compensatory damages against Defendant Sonoma County,
25 and compensatory and punitive damages against Defendants Cogbill and unknown DOES in
26 their personal capacities for violating his right to be free from unreasonable searches and seizures
27 according to proof by holding him in custody for more than 48 hours after he would have been
28 released from custody on his criminal arrest based on an immigration detainer and without an

1 independent probable cause determination by a non-arresting ICE officer or neutral magistrate
2 [¶¶ 27, 51, 54, 115-118].

3 **SECOND CLAIM FOR RELIEF**

4 **14th Amendment (42 U.S.C. § 1983)**

5 **(Equal Protection)**

6 **All Plaintiffs Against Defendants Sonoma County, Cogbill, Salkin, and DOES 1-50**

7 139. Plaintiffs incorporate by reference the allegations in the paragraphs above as
8 though fully set forth here.

9 140. As Latinos, the individual Plaintiffs and many members of the Committee are
10 members of a protected class.

11 141. Plaintiffs Committee, Sanchez-Lopez and Medel seek injunctive and declaratory
12 relief against the County and against Defendants Cogbill, Salkin, and DOES 1-50 in their official
13 capacities, enjoining them from continuing to engage in the above-described policies, practices
14 and conduct violating the rights of Plaintiffs and Sonoma County residents to be free from
15 discrimination on the basis of race, ethnicity, or national origin including but not limited to:

- 16 a. Using race as a motivating factor to stop, detain, interrogate and/or search
17 persons who appear to be Latino [¶¶ 30-32, 34-35, 62-64, 68, 75, 77-80, 92-
18 94, 97-98];
- 19 b. Using race as a motivating factor to unreasonably prolong detentions in order
20 to question persons regarding their citizenship and immigration status [¶¶ 30-
21 32, 34-36, 62-64, 68, 77-80, 92-95, 97-98, 100];
- 22 c. Using race as a motivating factor in deciding to contact ICE agents to seek
23 immigration detainers for individuals County Defendants encounter in the
24 field and for whom they lack probable cause to arrest for criminal activity [¶¶
25 37, 62-64, 68, 81];
- 26 d. Using race, Spanish surname, or national origin as motivating factors in
27 classifying arrestees as gang members and for making decisions regarding
28 placement in the jail [¶¶ 48-49, 59-65, 67-68, 84, 102-103, 113];

- 1 e. Using race, Spanish surname or national origin as motivating factors to
2 interrogate inmates regarding their immigration status and recommend to ICE
3 that certain inmates in the jail be considered as subjects of immigration
4 detainees [¶¶ 48-49, 62-65, 67-68, 114-115].

5 142. Plaintiff Sanchez-Lopez seeks compensatory damages against Defendant Sonoma
6 County, and compensatory and punitive damages against Defendants Cogbill, Salkin, and
7 unknown DOES in their personal capacities for violations of his right to be free from
8 discrimination on the basis of race, ethnicity, or national origin according to proof, including but
9 not limited to:

- 10 a. Stopping the car in which he was a passenger based on the race of its
11 occupants, including Sanchez-Lopez's [¶ 75];
12 b. Agreeing to, participating in, and/or acquiescing to the use of Sanchez-
13 Lopez's race as a motivating factor for his prolonged detention, search and
14 interrogation [¶¶ 77-80];
15 c. Using his race as a motivating factor for his arrest, inaccurate designation as a
16 gang member, and placement with other persons perceived to be Sureños in
17 the County jail [¶¶ 81-84].

18 143. Plaintiff Sonato-Vega seeks compensatory damages against Defendant Sonoma
19 County, and compensatory and punitive damages against Defendants Cogbill, Salkin and
20 unknown DOES in their personal capacities for violations of his right to be free from
21 discrimination on the basis of race, ethnicity, or national origin race according to proof,
22 including but not limited to:

- 23 a. Using his race as a motivating factor to detain him [¶¶ 92-94, 97-98, 100];
24 b. Using his race as a motivating factor for his prolonged detention, search and
25 interrogation [¶¶ 92-95, 97-98, 100]; and
26 c. Using his race, Spanish surname, and/or perceived national origin as
27 motivating factors for his arrest, inaccurate designation as a gang member,
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1 and placement with other persons perceived to be Sureños in the County jail
2 [¶¶ 102-103].

3 144. Plaintiff Medel seeks compensatory damages against Defendant Sonoma County,
4 and compensatory and punitive damages against unknown DOES in their personal capacities for
5 violations of his right to be free from discrimination on the basis of race, ethnicity, or national
6 origin according to proof, including but not limited to:

- 7 a. Using his race as a motivating factor for his inaccurate designation as a gang
8 member and placement with other persons perceived to be Sureños in the
9 County jail [¶ 113]; and
10 b. Using his race, Spanish surname, and/or perceived national origin as
11 motivating factors in deciding to interrogate Medel about his immigration
12 status and refer him to ICE for consideration as the subject of an immigration
13 detainer [¶¶ 114-115].

14 **THIRD CLAIM FOR RELIEF**

15 **14th Amendment (42 U.S.C. § 1983)**

16 **(Due Process)**

17 **All Plaintiffs Against Defendants Sonoma County, Cogbill, Salkin, and DOES 1-50**

18 145. Plaintiffs incorporate by reference the allegations in the paragraphs above as
19 though fully set forth here.

20 146. Arresting and detaining individuals without lawful authority is a violation of the
21 substantive due process rights of those arrested and detained.

22 147. Plaintiffs Committee, Sanchez-Lopez, and Medel seek injunctive and declaratory
23 relief against the County and against Defendants Cogbill, Salkin, and DOES 1-50 in their official
24 capacities, enjoining them from continuing to engage the above-described policies, practices and
25 conduct of County Defendants violating the rights of Plaintiffs and Sonoma County residents to
26 due process of law under the 14th Amendment of the United States Constitution including but
27 not limited to:

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- 1 a. Arresting and detaining individuals without probable cause of criminal
- 2 activity and for civil immigration violations without any lawful authority, in
- 3 violation of the arrestees' rights to substantive due process [¶¶ 20-23, 25, 33,
- 4 35, 39, 43, 62-64, 66];
- 5 b. Aiding and abetting ICE and its agents in denying procedural protections due
- 6 civil immigration arrestees who are arrested without a warrant [¶¶ 38-39, 41-
- 7 43, 66];
- 8 c. Denying procedural protections under 8 U.S.C. § 1357 and 8 C.F.R. § 287.3
- 9 due to persons who were arrested on criminal or other state law charges and
- 10 whose County custody is prolonged as a result of an immigration detainer [¶¶
- 11 50-58, 67] and;
- 12 d. Detaining or prolonging the detention of individuals in custody of the County
- 13 pursuant to immigration violations without notice of the charges against them
- 14 and an opportunity to respond within a reasonable time after the initiation of
- 15 the immigration detainer-based detention [¶¶ 27, 50-58, 67].

16 148. Plaintiffs Sanchez-Lopez and Sonato-Vega seek compensatory damages against
17 Defendant Sonoma County, and compensatory and punitive damages against Defendants
18 Cogbill, Salkin, and unknown DOES in their personal capacities for violations of their rights to
19 due process under the 14th Amendment to United States Constitution according to proof
20 including, but not limited to:

- 21 a. Arresting and holding them in custody for four days without lawful authority
- 22 [¶¶ 81, 86 (Sanchez-Lopez), ¶¶ 101, 106 (Sonato-Vega)];
- 23 b. Aiding and abetting ICE and its agents in denying procedural protections due
- 24 to them as civil immigration arrestees who were arrested without a warrant [¶
- 25 86 (Sanchez-Lopez); ¶ 104 (Sonato-Vega)]; and
- 26 c. Detaining them for four days without notice of the charges against them or an
- 27 opportunity to respond [¶ 86 (Sanchez-Lopez); ¶ 104 (Sonato-Vega)].
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1 149. Plaintiff Medel seeks compensatory damages against Defendant Sonoma County,
2 and compensatory and punitive damages against Defendants Cogbill and unknown DOES in
3 their personal capacities for violations of his right to due process under the 14th Amendment to
4 United States Constitution according to proof including, but not limited to:

- 5 a. Denying him procedural protections under 8 U.S.C. § 1357 and 8 C.F.R. §
6 287.3 [¶¶ 115, 117, 118]; and
7 b. Prolonging his detention for four days based on an immigration detainer
8 without notice of the charges underlying the prolonged detention or an
9 opportunity to respond [¶¶ 115, 117, 118].

10 **FOURTH CLAIM FOR RELIEF**

11 **Fourth Amendment and 8 U.S.C. § 1357 (*Bivens* and 5 U.S.C. § 702)**

12 **(Unreasonable Search and Seizure)**

13 **All Plaintiffs Against Defendants ICE, Huelga, Merendino, and ROES 1-50**

14 150. Plaintiffs incorporate by reference the allegations in the paragraphs above as
15 though fully set forth here.

16 151. Plaintiffs Committee, Sanchez-Lopez, and Medel seek injunctive and declaratory
17 relief against the above-described policies, practices and conduct of Defendant ICE and
18 Defendants Huelga, Merendino, and ROES 1-50 in their official capacities, enjoining them from
19 continuing to engage in the above-described policies, practices and conduct violating the rights
20 of Plaintiffs and Sonoma County residents to be free from unreasonable searches and seizures
21 under the Fourth Amendment of the United States Constitution, including but not limited to:

- 22 a. Stopping persons and vehicles without reasonable suspicion of criminal
23 activity or of their being noncitizens present in the United States without
24 authorization [¶¶ 26, 30-32, 42];
25 b. Conducting personal and vehicle searches without probable cause to believe
26 that that the areas searched contain evidence of criminal activity or a
27 reasonable belief that the person searched or car's occupants are dangerous
28 and may gain access to a weapon in the area searched [¶¶ 30-32];

- 1 c. Unreasonably arresting individuals without warrants and without probable
2 cause to believe they are noncitizens present in violation of civil immigration
3 laws [¶¶ 33, 42];
- 4 d. Unreasonably arresting individuals for suspected civil immigration violations
5 without warrants and without reason to believe they are likely to escape before
6 a warrant can be obtained [¶¶ 26, 41-42];
- 7 e. Causing individuals to be held in the Sonoma County jail without a criminal
8 basis for custody and based only on suspected civil immigration violations [¶¶
9 28, 38];
- 10 f. Causing individuals to be held in custody on immigration detainers for more
11 than 48 hours without a bond determination and before a decision is made
12 whether to issue a Notice to Appear and absent any emergency or other
13 extraordinary circumstance [¶¶ 27, 51-52];
- 14 g. Failing to bring individuals who were arrested without a warrant for a civil
15 immigration violation before a non-arresting ICE agent or neutral magistrate
16 without unreasonable delay or within 48 hours [¶¶ 27, 51-54]; and
- 17 h. Ordering prolonged local custody of individuals beyond when they would
18 otherwise be released through issuance of immigration detainers without an
19 adequate probable cause determination for the immigration detention within
20 48 hours of the initiation of the immigration detainer-based prolonged
21 detention [¶¶ 27, 51-54].

22 152. Plaintiff Sanchez-Lopez seeks compensatory and punitive damages against
23 Defendants Huelga and Merendino and unknown ROES in their personal capacities for
24 violations of his right to be free from unreasonable searches and seizures according to proof,
25 including but not limited to:

- 26 a. Detaining him without reasonable suspicion of criminal activity or that he or
27 other occupants of the car in which he was a passenger were noncitizens
28 present in the United States without authorization [¶¶ 75-78];

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- b. Subjecting him to a pat-down search of his person and search of his wallet without lawful justification [¶¶ 78, 89];
- c. Unreasonably arresting him or causing him to be arrested for suspected civil immigration violations without a warrant and without reason to believe that he was likely to escape before a warrant could be obtained for his arrest [¶¶ 81-83, 85];
- d. Causing him to be held in custody of the County for approximately four days without a criminal basis for custody and based only on suspected civil immigration violations without authority under state or federal law [¶¶ 81, 86];
- e. Arresting him or causing him to be arrested and held in custody for more than 48 hours without a probable cause determination [¶¶ 27, 50-54, 86];
- f. Arresting him or causing him to be arrested without a warrant and held in custody without an examination by a non-arresting ICE officer without unreasonable delay [¶¶ 50-54, 86]; and
- g. Causing him to be held in custody for more than 48 hours without a bond determination and before a decision was made whether to issue a Notice to Appear and absent any emergency or other extraordinary circumstance [¶¶ 27, 50-54, 86].

153. Plaintiff Sonato-Vega seeks compensatory and punitive damages against Defendant Huelga and unknown ROES in their personal capacity for Sonato-Vega's violations of his right to be free from unreasonable searches and seizures according to proof, including but not limited to:

- a. Detaining him without reasonable suspicion of criminal activity or that he was a noncitizen present in the United States without authorization [¶¶ 97-98];
- b. Subjecting him to a pat-down search of his person and search of his wallet without lawful justification [¶¶ 98-99];

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- c. Unreasonably arresting him or causing him to be arrested for suspected civil immigration violations without a warrant and without reason to believe that he was likely to escape before a warrant could be obtained for his arrest [¶¶ 97-101];
- d. Causing him to be held in custody of the County for approximately four days without a criminal basis for custody and based only on suspected civil immigration violations without authority under state or federal law [¶¶ 101, 106];
- e. Arresting him or causing him to be arrested and held in custody for more than 48 hours without a probable cause determination [¶¶ 27, 50-54, 104];
- f. Arresting him or causing him to be arrested without a warrant and held in custody without an examination by a non-arresting ICE officer without unreasonable delay [¶¶ 50-54, 104]; and
- g. Causing him to be held in custody for more than 48 hours without a bond determination and before a decision was made whether to issue a Notice to Appear and absent any emergency or other extraordinary circumstance [¶¶ 27, 50-54, 104].

154. Plaintiff Medel seeks compensatory and punitive damages against Defendants ROES in their personal capacities for violations of his right to be free from unreasonable searches and seizures according to proof, including but not limited to:

- a. Causing his prolonged detention in the Sonoma County jail for approximately four days after he otherwise would have been released through the issuance of an immigration detainer without a probable cause determination within 48 hours of the initiation of the prolonged immigration detainer-based detention [¶¶ 27, 50-54, 115-119].

155. Plaintiffs do not seek damages from Defendant ICE under this claim for relief.

FIFTH CLAIM FOR RELIEF

Fifth Amendment (*Bivens* and 5 U.S.C. § 702)

(Equal Protection)

All Plaintiffs Against Defendants ICE, Huelga, Merendino, and ROES 1-50

156. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.

157. Plaintiff Committee, Sanchez-Lopez, and Medel seek declaratory and injunctive relief against Defendant ICE and Defendants Huelga, Merendino, and ROES 1-50 in their official capacities, enjoining them from continuing to engage in the above-described policies, practices and conduct violating the rights of Plaintiffs and Sonoma County residents to be free from discrimination on the basis of race, ethnicity, or national origin under the Fifth Amendment of the United States Constitution, including but not limited to:

- a. Using race as a motivating factor to stop, detain, interrogate, search and/or arrest persons who appear to be Latino [¶¶ 30-32, 75, 77-80, 92-94, 97-98];
- b. Using race as a motivating factor to inaccurately designate individuals and gang members [¶¶ 48-49, 59-61, 84, 102-103, 113]; and
- c. Using race, Spanish surname or national origin as motivating factors in determining whether to question and issue immigration detainers for persons in the custody of Sonoma County [¶¶ 48-49].

158. Plaintiff Sanchez-Lopez seeks compensatory and punitive damages against Defendants Huelga and Merendino and unknown ROES in their personal capacities for violations of his right to be free from discrimination on the basis of race, ethnicity, or national origin according to proof, including but not limited to:

- a. Stopping the car in which he was a passenger based on the race of its occupants, including Sanchez-Lopez's [¶ 75];
- b. Using his race as a motivating factor for his prolonged detention, search and interrogation [¶¶ 77-80];

1 c. Using his race as a motivating factor for his arrest and inaccurate designation
2 as a gang member [¶¶ 81-84].

3 159. Plaintiff Sonato-Vega seeks compensatory and punitive damages against
4 Defendant Huelga and unknown ROES in their personal capacities for violations of his right to
5 be free from discrimination on the basis of race, ethnicity, or national origin according to proof,
6 including but not limited to:

- 7 a. Using his race as a motivating factor to detain him [¶¶ 97-98];
8 b. Using his race as a motivating factor for his prolonged detention, search and
9 interrogation [¶¶ 97-98, 100]; and
10 c. Using his race, Spanish surname, and/or perceived national origin as
11 motivating factors for his arrest and inaccurate designation as a gang member
12 [¶¶ 102-103].

13 160. Plaintiff Medel seeks compensatory and punitive damages against unknown
14 Defendants ROES in their personal capacities for violations of his right to be free from
15 discrimination on the basis of race, ethnicity, or national origin according to proof, including but
16 not limited to:

- 17 a. Using his race as a motivating factor for his inaccurate designation as a gang
18 member [¶ 113]; and
19 b. Using his race, Spanish surname, and/or perceived national origin as
20 motivating factors in their decisions to subject him to interrogation and to
21 issue an immigration detainer ordering his prolonged detention in the Sonoma
22 County Jail [¶ 114-115].

23 161. Plaintiffs do not seek damages from ICE under this claim for relief.

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SIXTH CLAIM FOR RELIEF

Fifth Amendment, 8 U.S.C. § 1357, 8 C.F.R. § 287.3, 8 C.F.R. § 287.7

(*Bivens* and 5 U.S.C. § 702)

(Due Process)

All Plaintiffs Against Defendants ICE, Huelga, Merendino, and ROES 1-50

162. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.

163. A federal agency's failure to follow its own governing statutes and regulations violates due process of law guaranteed by the Fifth Amendment of the United States Constitution.

164. Plaintiffs Committee, Sanchez-Lopez, and Medel seek injunctive and declaratory relief against Defendant ICE and Defendants Huelga, Merendino, and ROES 1-50 in their official capacities, enjoining them from continuing to engage in the above-described policies, practices and conduct violating the rights of Plaintiffs and Sonoma County residents to due process under the Fifth Amendment of the United States Constitution, including but not limited to:

- a. Violating 8 U.S.C. § 1357 by making warrantless arrests without reason to believe that the person arrested is likely to escape before a warrant can be obtained [¶¶ 26, 41-43];
- b. Violating the terms of 8 C.F.R. § 287.7 by issuing immigration detainers to Defendants County and Cogbill for persons not already in County custody pursuant to an independent criminal or other state law arrest [¶¶ 28, 33, 38, 40, 44-47];
- c. Violating the terms of 8 U.S.C. § 1357 and 8 C.F.R. § 287.3 and its authorizing statutes by failing to provide procedural protections required for persons arrested without a warrant for civil immigration violations [¶¶ 26-27, 50-58];

- 1 d. Denying procedural protections under 8 U.S.C. § 1357 and 8 C.F.R. § 287.3
 2 due to persons who were arrested on criminal or other state law charges and
 3 whose County custody is prolonged as a result of an immigration detainer [¶¶
 4 27, 50-58]; and
- 5 e. Causing persons to be detained in County custody, or causing their detention
 6 to be prolonged, based on immigration detainers for four days without notice
 7 of the charges against them and an opportunity to respond [¶¶ 27, 50-58].

8 165. Plaintiff Sanchez-Lopez seeks compensatory and punitive damages against
 9 Defendant Merendino in his personal capacity and Plaintiffs Sanchez-Lopez and Sonato-Vega
 10 seek compensatory and punitive damages against Defendants Huelga and unknown ROES in
 11 their personal capacities for violations of their rights to due process under the Fifth Amendment
 12 of the United States Constitution including, but not limited to:

- 13 a. Arresting them or causing their arrest for civil immigration violations without
 14 a warrant and without reason to believe they are likely to escape before a
 15 warrant can be obtained [¶¶ 81-83 (Sanchez-Lopez); ¶¶ 97-100 (Sonato-
 16 Vega)];
- 17 b. Ordering them to be held in the custody of Defendants County and Cogbill
 18 through issuance of immigration detainers that violate 8 C.F.R. § 287.7 and 8
 19 U.S.C. § 1357 [¶¶ 81-85 (Sanchez-Lopez); ¶¶ 100-01 (Sonato-Vega)];
- 20 c. Denying procedural protections due to them as civil immigration arrestees
 21 who were arrested without a warrant in violation of 8 U.S.C. § 1357 and 8
 22 C.F.R. § 287.3 [¶ 86 (Sanchez-Lopez); ¶ 104 (Sonato-Vega)]; and
- 23 d. Causing them to be held for four days in the Sonoma County jail without
 24 notice of the charges against them or an opportunity to respond [¶ 86
 25 (Sanchez-Lopez); ¶ 104 (Sonata-Vega)].

26 166. Plaintiff Medel seeks damages against unknown ROES in their personal
 27 capacities for violations of their rights to due process under the Fifth Amendment of the United
 28 States Constitution including, but not limited to:

- 1 a. Failing to provide procedural protections under 8 U.S.C. § 1357 and 8 C.F.R.
2 § 287.3 [¶¶ 117-118] and;
3 b. Causing his detention in the Sonoma County jail to be prolonged for four days
4 without notice of the charges against him or an opportunity to respond [¶¶
5 117-118].

6 167. Plaintiffs do not seek damages from ICE under this claim for relief.

7 **SEVENTH CLAIM FOR RELIEF**

8 **Violation of 42 U.S.C. § 2000d *et seq.* (Title VI)**

9 **All Plaintiffs Against Defendants Sonoma County, Cogbill, Salkin, and DOES 1-50**

10 168. Plaintiffs incorporate by reference the allegations in the paragraphs above as
11 though fully set forth here.

12 169. Upon information and belief, Sonoma County and the Sonoma County Sheriff's
13 Department and their programs or activities, including MAGNET, receive financial assistance
14 and funding from the United States government. As a recipient of federal financial assistance,
15 Sonoma County, the Sonoma County Sheriff's Department, and their programs or activities are
16 required to conduct their activities in a racially non-discriminatory manner pursuant to Title VI
17 of the Civil Rights Act of 1964.

18 170. Plaintiffs Committee, Sanchez-Lopez and Medel seek injunctive and declaratory
19 relief against the County and against Defendants Cogbill, Salkin, and DOES 1-50 in their official
20 capacities, enjoining them from continuing to engage in the above-described policies, practices
21 and conduct violating the rights of Plaintiffs and Sonoma County residents to be free from
22 discrimination on the basis of race, ethnicity, or national origin including but not limited to:

- 23 a. Using race as a motivating factor to stop, detain, interrogate and/or search
24 persons who appear to be Latino [¶¶ 30-32, 34-35, 62-64, 68, 75, 77-80, 92-
25 94, 97-98];
26 b. Using race as a motivating factor to unreasonably prolong detentions in order
27 to question persons regarding their citizenship and immigration status [¶¶ 30-
28 32, 34-36, 62-64, 68, 77-80, 92-95, 97-98, 100];

- 1 c. Using race as a motivating factor in deciding to contact ICE agents to seek
- 2 immigration detainees for individuals County Defendants encounter in the
- 3 field and for whom they lack probable cause to arrest for criminal activity [¶¶
- 4 37, 62-64, 68, 81];
- 5 d. Using race, Spanish surname, or national origin as motivating factors in
- 6 classifying arrestees as gang members and for making decisions regarding
- 7 placement in the jail [¶¶ 48-49, 59-65, 67-68, 84, 102-103, 113];
- 8 e. Using race, Spanish surname or national origin as motivating factors in
- 9 interrogating inmates about their immigration status and recommending to
- 10 ICE that certain inmates in the jail be considered as subjects of immigration
- 11 detainees [¶¶ 48-49, 62-65, 67-68, 114-115].

12 171. Plaintiff Sanchez-Lopez seeks compensatory damages against Defendant Sonoma
13 County for violations of his right to be free from discrimination on the basis of race, ethnicity, or
14 national origin according to proof, including but not limited to:

- 15 a. Stopping the car in which he was a passenger based on the race of its
- 16 occupants, including Sanchez-Lopez's [¶ 75];
- 17 b. Agreeing to, participating in, and/or acquiescing to the use of Francisco's race
- 18 as a motivating factor for his prolonged detention, search and interrogation [¶¶
- 19 77-80];
- 20 c. Using his race as a motivating factor for his arrest, inaccurate designation as a
- 21 gang member, and placement with other persons perceived to be Sureños in
- 22 the County jail [¶¶ 81-84].

23 172. Plaintiff Sonato-Vega seeks compensatory damages against Defendant Sonoma
24 County for violations of his right to be free from discrimination on the basis of race, ethnicity, or
25 national origin according to proof, including but not limited to:

- 26 a. Using his race as a motivating factor to detain him [¶¶ 92-94, 97-98 100];
- 27 b. Using his race as a motivating factor for his prolonged detention, search and
- 28 interrogation [¶¶ 92-94, 97-98, 100]; and

1 c. Using his race, Spanish surname, and/or perceived national origin as
2 motivating factors for his arrest, inaccurate designation as a gang member,
3 and placement with other persons perceived to be Sureños in the County jail
4 [¶¶ 102-103].

5 173. Plaintiff Medel seeks compensatory damages against Defendant Sonoma County
6 for violations of his right to be free from discrimination on the basis of race, ethnicity, or
7 national origin according to proof, including but not limited to:

- 8 a. Using his race as a motivating factor for his inaccurate designation as a gang
9 member and placement with other persons perceived to be Sureños in the
10 County jail [¶ 113]; and
11 b. Using his race, Spanish surname, and/or perceived national origin as
12 motivating factors in interrogating him about his immigration status and
13 deciding to refer him to ICE for consideration as the subject of an immigration
14 detainer [¶¶ 114-115].

15 174. Plaintiffs do not seek damages against individual defendants in their personal
16 capacities under this claim.

17 **EIGHTH CLAIM FOR RELIEF**

18 **5 U.S.C. § 706**

19 **Plaintiffs Sanchez-Lopez, Medel and Committee**

20 **Against Defendants ICE, Huelga, Merendino, and ROES 1-50**

21 175. Plaintiffs incorporate by reference the allegations in the paragraphs above as
22 though fully set forth here.

23 176. A federal agency's failure to follow its own regulations can be enjoined under the
24 Administrative Procedure Act, 5 U.S.C. § 706 ("APA").

25 177. Defendants ICE, Huelga, Merendino, and ROES 1-50 have, through the above-
26 described policies, practices and customs engaged in "agency actions" or "failures to act" that
27 should be enjoined under the APA.

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1 178. Issuance of immigration detainers for persons not already in custody of a local
2 law enforcement agency exceeds the authority provided in 8 U.S.C. § 1357 and 8 C.F.R. § 287.7
3 and violates the terms of 8 C.F.R. § 287.7 and is therefore agency action that is “arbitrary and
4 capricious, an abuse of discretion, or otherwise not in accordance with law;” “contrary to
5 constitutional right, power, privilege, or immunity;” “in excess of statutory jurisdiction,
6 authority, or limitations, or short of statutory right;” and “without observance of procedure
7 required by law.” 5 U.S.C. § 706(2).

8 179. Arresting individuals for civil immigration violations without a warrant and
9 without making a flight risk determination as required by 8 U.S.C. § 1357 is agency action that is
10 “arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law;”
11 “contrary to constitutional right, power, privilege, or immunity;” “in excess of statutory
12 jurisdiction, authority, or limitations, or short of statutory right;” and “without observance of
13 procedure required by law.” 5 U.S.C. § 706(2).

14 180. Failure to provide procedural protections required by 8 U.S.C. § 1357 and 8
15 C.F.R. § 287.3 and its authorizing statutes for persons held in the Sonoma County jail on
16 immigration detainers after being arrested without a warrant is agency action that is “arbitrary
17 and capricious, an abuse of discretion, or otherwise not in accordance with law;” “contrary to
18 constitutional right, power, privilege, or immunity;” “in excess of statutory jurisdiction,
19 authority, or limitations, or short of statutory right;” and “without observance of procedure
20 required by law.” 5 U.S.C. § 706(2).

21 181. Under the above-described policies, practices, and customs, the procedural
22 protections required by 8 U.S.C. § 1357 and 8 C.F.R. § 287.3 and its authorizing statutes due
23 persons held in the Sonoma County jail on immigration detainers after being arrested without a
24 warrant or whose prolonged detention for immigration violations is not supported by their
25 original arrests, are “agency actions” “unlawfully withheld or unreasonably delayed.” 5 U.S.C. §
26 706(1).

27 182. Plaintiffs Committee, Sanchez-Lopez, and Medel seek injunctive and declaratory
28 relief against Defendant ICE and Defendants Huelga, Merendino, and ROES 1-50 in their

1 official capacities, enjoining them from continuing to engage in the above-described policies,
 2 practices and conduct that systematically violate statutory and regulatory requirements upon ICE
 3 and its agents including but not limited to:

- 4 a. Making warrantless arrests without reason to believe that the person arrested
 5 is likely to escape before a warrant can be obtained [¶¶ 26, 41-42];
- 6 b. Issuing immigration detainers to Defendants County and Cogbill for persons
 7 not already in County custody pursuant to an independent criminal or other
 8 state law arrest [¶¶ 28, 33, 38, 40, 44-47];
- 9 c. Failing to provide procedural protections required for persons arrested without
 10 a warrant for civil immigration violations including but not limited to
 11 examination by non-arresting ICE officer, notice of the reasons for the arrest,
 12 the right to be represented by counsel at a hearing, a list of free available legal
 13 services, notice that statements made can be used against them at a subsequent
 14 hearing, and a bond determination within 48 hours of arrest [¶¶ 27, 50-58];
 15 and
- 16 d. Denying procedural protections under 8 U.S.C. § 1357 and 8 C.F.R. § 287.3
 17 due to persons who were arrested on criminal or other state law charges and
 18 whose County custody is prolonged as a result of an immigration detainer [¶¶
 19 27, 50-58].

20 183. Plaintiffs do not seek damages under this claim.

21 **NINTH CLAIM FOR RELIEF**

22 **42 U.S.C. § 1983, 42 U.S.C. § 1985(3) (Conspiracy)**

23 **All Plaintiffs Against All Defendants**

24 184. Plaintiffs incorporate by reference the allegations in the paragraphs above as
 25 though fully set forth here.

26 185. Defendants County, Cogbill, Salkin, and DOES 1-50 conspired with Defendants
 27 ICE, Huelga, Merendino, and ROES 1-50 by entering into a mutual understanding and
 28 agreement and committing overt acts in furtherance of their agreement to violate Plaintiffs'

1 constitutional and statutory rights, including their right to equal protection under law, in violation
2 of 42 U.S.C. § 1985(3), according to proof, including and not limited to the following:

- 3 a. The establishment of a joint operation by Defendants County, Cogbill, DOES
4 1-50, ICE, and ROES 1-50 to target Latino immigrant gang members through
5 the policy and practice of using race, ethnicity, or national origin as a
6 motivating factor to initiate contact with and determine subsequent actions
7 against individuals [¶¶ 30-33], subjecting individuals to unlawful searches and
8 seizures [¶ 32, *see* Claims for Relief 1 and 4], and denying individuals
9 substantive and procedural due process [*see* Claims for Relief 3 and 6].
- 10 b. The joint participation of Defendants Salkin, DOES 1-50, Huelga, Merendino,
11 and ROES 1-50 on multiple occasions during which these individual
12 Defendants engaged in the unlawful use of race, ethnicity, or national origin
13 as a motivating factor to initiate contact with and determine subsequent
14 actions against individuals [¶¶ 75, 97-100, 114-115], subjected individuals to
15 unlawful searches and seizures [¶¶ 77-80, 98], and denied individuals
16 substantive and procedural due process [*see* Claims for Relief 3 and 6].
- 17 c. The knowledge or witness of and the failure to prevent or stop the ongoing
18 unlawful use of race, ethnicity, or national origin as a motivating factor to
19 initiate contact with and determine subsequent actions against individuals [¶¶
20 62-68, 75, 97-100, 114-115], unlawful searches and seizures [¶¶ 62-68, 77-80,
21 98], and the denial of substantive and procedural due process [*see* Claims for
22 Relief 2-3, 5-6] by Defendants County, Cogbill, Salkin, DOES 1-50, ICE,
23 Huelga, Merendino, and ROES 1-50.

24 186. As a direct and proximate result of the aforementioned conspiracy between
25 Defendants through individual actions and policies and practices, Plaintiffs Sanchez-Lopez,
26 Sonato-Vega, and Medel have been deprived of their rights to be free from unreasonable and
27 unlawful searches and seizures, to equal protection under the laws, and to substantive and
28

1 procedural due process rights, as secured by the Fourth, Fifth, and Fourteenth Amendments to
2 the United States Constitution.

3 187. Plaintiffs Committee, Sanchez-Lopez and Medel seek injunctive and declaratory
4 relief against Defendants County and ICE and against Defendants Cogbill, Salkin, DOES 1-50,
5 Huelga, Merendino, and ROES 1-50 in their official capacities, enjoining them from continuing
6 to engage in the above-described conspiracy to violate the constitutional and statutory rights of
7 Plaintiffs and Sonoma County residents.

8 188. Plaintiff Sanchez-Lopez seeks compensatory damages against Defendant Sonoma
9 County and compensatory and punitive damages against Defendants Cogbill, Salkin, DOES 1-
10 50, Huelga, Merendino, and ROES 1-50 for conspiring to violate his constitutional and statutory
11 rights according to proof, including but not limited to:

- 12 a. Agreeing to and intentionally subjecting Sanchez-Lopez to discriminatory
13 treatment on the basis of his race, ethnicity, or national origin [¶¶ 74-75, 80];
- 14 b. Agreeing to and intentionally subjecting Sanchez-Lopez to unreasonable
15 searches and seizures [¶¶ 77-81];
- 16 c. Agreeing to and intentionally denying Sanchez-Lopez substantive and
17 procedural due process [*see* Claims for Relief 2-3, 5-6].

18 189. Plaintiff Sonata-Vega seeks compensatory damages against Defendant Sonoma
19 County and compensatory and punitive damages against Defendants Cogbill, Salkin, DOES 1-
20 50, Huelga, and ROES 1-50 for conspiring to violate his constitutional and statutory rights
21 according to proof, including but not limited to:

- 22 a. Agreeing to and intentionally subjecting Sonata-Vega to discriminatory
23 treatment on the basis of his race, ethnicity, or national origin [¶¶ 92, 100-
24 102];
- 25 b. Agreeing to and intentionally subjecting Sonata-Vega to unreasonable
26 searches and seizures [¶¶ 97-98, 100];
- 27 c. Agreeing to and intentionally denying Sonata-Vega substantive and
28 procedural due process [*see* Claims for Relief 2-3, 5-6].

1 190. Plaintiff Medel seeks compensatory damages against Defendant Sonoma County
2 and compensatory and punitive damages against Defendants Cogbill, DOES 1-50, and ROES 1-
3 50 for conspiring to violate his constitutional and statutory rights according to proof, including
4 but not limited to:

- 5 a. Agreeing to and intentionally subjecting Medel to discriminatory treatment on
6 the basis of his race, ethnicity, or national origin [¶¶ 113-115];
- 7 b. Agreeing to and intentionally subjecting Medel to unreasonable searches and
8 seizures [¶¶ 116-120];
- 9 c. Agreeing to and intentionally denying Medel substantive and procedural due
10 process [*see* Claims for Relief 2-3, 5-6].

11 **TENTH CLAIM FOR RELIEF**

12 **California Constitution, Art. I, § 13**

13 **(Unreasonable Search and Seizure)**

14 **All Plaintiffs Against Defendants Sonoma County, Cogbill, Salkin, and DOES 1-50**

15 191. Plaintiffs incorporate by reference the allegations in the paragraphs above as
16 though fully set forth here.

17 192. Plaintiffs Committee, Sanchez-Lopez and Medel seek injunctive and declaratory
18 relief against the County and against Defendants Cogbill, Salkin, and DOES 1-50 in their official
19 capacities, enjoining them from continuing to engage in the above-described policies, practices
20 and conduct violating the rights of Plaintiffs and Sonoma County residents to be free from
21 unreasonable searches and seizures under Article 1, § 13 of the California Constitution:

- 22 a. Stopping persons and vehicles without reasonable suspicion of criminal
23 activity or traffic infraction [¶¶ 25, 30-32, 34-35, 62-64];
- 24 b. Making pretextual stops for traffic or other infractions for the purpose of
25 detaining and questioning individuals regarding their immigration status [¶¶
26 25, 30-32, 34-35, 62-64];
- 27 c. Unreasonably prolonging traffic and other stops beyond the time they would
28 otherwise take in order to question individuals about matters unrelated to the

- 1 purported purpose of the stop or other criminal activity, specifically their
2 citizenship and immigration status [¶¶ 30-32, 36, 62-64];
- 3 d. Conducting personal and vehicle searches without probable cause to believe
4 that that the areas searched contain evidence of criminal activity or without a
5 reasonable belief that the person searched or car's occupants are dangerous
6 and may gain access to a weapon in the area searched [¶¶ 30-32, 34-36, 62-
7 64];
- 8 e. Unreasonably arresting individuals without probable cause of criminal activity
9 and without authority to arrest for civil immigration violations [¶¶ 20-23, 25,
10 33, 37, 39, 43, 62-64, 66];
- 11 f. Holding persons in the County jail without a criminal basis for custody and
12 based only on suspected civil immigration violations [¶¶ 24-25, 33, 39, 62-64,
13 66];
- 14 g. Holding persons in custody for more than 48 hours without an independent
15 probable cause determination by a non-arresting ICE officer or neutral
16 magistrate [¶¶ 27, 50-54, 62-66, 68]; and
- 17 h. Prolonging the local custody of individuals for more than 48 hours beyond
18 when they would otherwise be released, based on immigration detainees, and
19 without bringing them before a neutral magistrate for a probable cause
20 determination [¶¶ 27, 50-54, 62-68].

21 193. Plaintiff Sonato-Vega seeks compensatory damages against Defendant Sonoma
22 County, and compensatory and punitive damages against Defendants Cogbill, Salkin and
23 unknown DOES in their personal capacities for violations of his right to be free from
24 unreasonable searches and seizures according to proof, including but not limited to:

- 25 a. Detaining him without reasonable suspicion of criminal activity [¶¶ 97-98];
26 b. Subjecting him to a pat-down searches of his person and his wallet without
27 lawful justification [¶¶ 98-99];
- 28

- 1 c. Unreasonably arresting him without probable cause of criminal activity and
- 2 without authority to arrest for civil immigration violations [¶¶ 97-100];
- 3 d. Holding him in custody for approximately four days without authority under
- 4 state or federal law [¶¶ 101, 106]; and
- 5 e. Holding him in custody for more than 48 hours without an independent
- 6 probable cause determination by a non-arresting ICE officer or neutral
- 7 magistrate [¶¶ 27, 50-54, 104].

8 194. Plaintiff Medel seeks compensatory damages against Defendant Sonoma County,
9 and compensatory and punitive damages against Defendants Cogbill and unknown DOES in
10 their personal capacities for violating his right to be free from unreasonable searches and seizures
11 according to proof by holding him in custody for more than 48 hours after he would have been
12 released from custody on his criminal arrest based on an immigration detainer and without an
13 independent probable cause determination by a non-arresting ICE officer or neutral magistrate
14 [¶¶ 27, 50-54, 112-19].

15 195. Plaintiff Sanchez-Lopez does not seek damages under this claim.

16 **ELEVENTH CLAIM FOR RELIEF**

17 **California Constitution, Art. I, § 7(a)**

18 **(Equal Protection)**

19 **All Plaintiffs Against Defendants Sonoma County, Cogbill, Salkin, and DOES 1-50**

20 196. Plaintiffs incorporate by reference the allegations in the paragraphs above as
21 though fully set forth here.

22 197. As Latinos, the individual Plaintiffs and many members of the Committee are
23 members of a protected class.

24 198. Plaintiffs Committee, Sanchez-Lopez and Medel seek injunctive and declaratory
25 relief against the County and against Defendants Cogbill, Salkin, and DOES 1-50 in their official
26 capacities, enjoining them from continuing to engage in the above-described policies, practices
27 and conduct violating the rights of Plaintiffs and Sonoma County residents to equal protection
28 under Article I, § 7(a) of the California Constitution, including but not limited to:

- 1 a. Using race as a motivating factor to stop, detain, interrogate and/or search
2 persons who appear to be Latino [¶¶ 30-32, 34-35, 62-64, 68, 75, 77-80, 92-
3 94, 97-98];
- 4 b. Using race as a motivating factor to unreasonably prolong detentions in order
5 to question persons regarding their citizenship and immigration status [¶¶ 30-
6 32, 34-36, 62-64, 68, 77-80, 92-95, 97-98, 100];
- 7 c. Using race as a motivating factor in deciding to contact ICE agents to seek
8 immigration detainees for individuals County Defendants encounter in the
9 field and for whom they lack probable cause to arrest for criminal activity [¶¶
10 37, 62-64, 68, 81];
- 11 d. Using race, Spanish surname, or national origin as motivating factors in
12 classifying arrestees as gang members and for making decisions regarding
13 placement in the jail [¶¶ 48-49, 59-65, 67-68, 84, 102-103, 113];
- 14 e. Using race, Spanish surname or national origin as motivating factors in
15 questioning inmates about their immigration status and recommending to ICE
16 that certain inmates in the jail be considered as subjects of immigration
17 detainees [¶¶ 48-49, 62-65, 67-68, 114-115].

18 199. Plaintiff Sonato-Vega seeks compensatory damages against Defendant Sonoma
19 County, and compensatory and punitive damages against Defendants Cogbill, Salkin and
20 unknown DOES in their personal capacities for violations of his right to be free from
21 discrimination on the basis of race, ethnicity, or national origin race according to proof,
22 including but not limited to:

- 23 a. Using his race as a motivating factor to detain him [¶¶ 97-98, 100];
- 24 b. Using his race as a motivating factor for his prolonged detention, search and
25 interrogation [¶¶ 97-98, 100]; and
- 26 c. Using his race, Spanish surname, and/or perceived national origin as
27 motivating factors for his arrest, inaccurate designation as a gang member,
28

1 and placement with other persons perceived to be Sureños in the County jail
2 [¶¶ 102-103].

3 200. Plaintiff Medel seeks compensatory damages against Defendant Sonoma County,
4 and compensatory and punitive damages against unknown DOES in their personal capacities for
5 violations of his right to be free from discrimination on the basis of race, ethnicity, or national
6 origin race according to proof, including but not limited to:

- 7 a. Using his race as a motivating factor for his inaccurate designation as a gang
8 member and placement with other persons perceived to be Sureños in the
9 County jail [¶ 113]; and
10 b. Using his race, Spanish surname, and/or perceived national origin as
11 motivating factors in deciding to question Medel about his immigration status
12 and refer Medel to ICE for consideration as the subject of an immigration
13 detainer [¶¶ 114-115].

14 201. Plaintiff Sanchez-Lopez does not seek damages under this claim.

15 **TWELFTH CLAIM FOR RELIEF**

16 **California Constitution Art. I, § 7(a)**

17 **(Due Process)**

18 **All Plaintiffs Against Defendants Sonoma County, Cogbill, Salkin, and DOES 1-50**

19 202. Plaintiffs incorporate by reference the allegations in the paragraphs above as
20 though fully set forth here.

21 203. Plaintiffs Committee, Sanchez-Lopez, and Medel seek injunctive and declaratory
22 relief against the County and against Defendants Cogbill, Salkin, and DOES 1-50 in their official
23 capacities, enjoining them from continuing to engage the above-described policies, practices and
24 conduct of County Defendants violating the rights of Plaintiffs and Sonoma County residents to
25 due process under Article I, § 7(a) of the California, including but not limited to:

- 26 a. Arresting and detaining individuals without probable cause of criminal
27 activity and for civil immigration violations without any lawful authority, in
28

- 1 violation of the arrestees' rights to substantive due process [¶¶ 20-23, 25, 33,
2 37, 39, 43, 62-64, 66];
- 3 b. Aiding and abetting ICE and its agents in denying procedural protections due
4 civil immigration arrestees who are arrested without a warrant [¶¶ 38-39, 41-
5 43, 66];
- 6 c. Denying procedural protections under 8 U.S.C. § 1357 and 8 C.F.R. § 287.3
7 due to persons who were arrested on criminal or other state law charges and
8 whose County custody is prolonged as a result of an immigration detainer [¶¶
9 50-58, 67]; and
- 10 d. Failing to provide persons held in the Sonoma County jail on suspected civil
11 immigration violations notice of the charges against them, information
12 regarding the possible consequences of their arrests, and an opportunity to be
13 heard within a reasonable period after their arrests or the initiation of
14 immigration detainer-based detentions [¶¶ 27, 50-58, 65, 67].

15 204. Plaintiff Sonato-Vega seeks compensatory damages against Defendant Sonoma
16 County, and compensatory and punitive damages against Defendants Cogbill, Salkin, and
17 unknown DOES in their personal capacities for violations of his right to due process under the
18 California Constitution including, but not limited to:

- 19 a. Arresting and holding him in custody for four days without lawful authority
20 [¶¶ 101, 106];
- 21 b. Aiding and abetting ICE and its agents in denying procedural protections due
22 to him as a civil immigration arrestee who was arrested without a warrant [¶
23 104]; and
- 24 c. Failing to provide him with notice of the charges against him, information
25 regarding the possible consequences of his arrest, or an opportunity to be
26 heard within a reasonable time after his arrest [¶ 104].

27 205. Plaintiff Medel seeks compensatory damages against Defendant Sonoma County,
28 and compensatory and punitive damages against Defendants Cogbill and unknown DOES in

1 their personal capacities for violations of his right to due process under the California
2 Constitution including, but not limited to:

- 3 a. Aiding and abetting ICE and its agents in denying procedural protections
4 under 8 U.S.C. § 1357 and 8 C.F.R. § 287.3 due to him [¶¶ 117-118]; and
5 b. Failing to provide him with notice of the charges against him, information
6 regarding the possible consequences of his immigration detainer, or an
7 opportunity to be heard within a reasonable time after the beginning of his
8 prolonged detention pursuant to immigration detainer [¶¶ 117-118].

9 206. Plaintiff Sanchez-Lopez does not seek damages under this claim.

10 **THIRTEENTH CLAIM FOR RELIEF**

11 **Violation of Bane Act, California Civil Code § 52.1**

12 **All Plaintiffs Against Defendants Sonoma County, Cogbill, Salkin, and DOES 1-50**

13 207. Plaintiffs incorporate by reference the allegations in the paragraphs above as
14 though fully set forth here.

15 208. Plaintiffs Committee, Sanchez-Lopez, and Medel seek injunctive and declaratory
16 relief pursuant to California Civil Code § 52.1 against the County and against Defendants
17 Cogbill, Salkin, and DOES 1-50 in their official capacities, enjoining them from continuing to
18 engage the above-described policies, practices and conduct interfering with the exercise and
19 enjoyment of the rights of Plaintiffs and other Sonoma County residents under the U.S. and
20 California Constitutions, according to proof and including but not limited to:

- 21 a. Subjecting individuals to stops, detention, interrogation, and arrest for
22 suspected civil immigration violations without reasonable suspicion or
23 probable cause of criminal activity and without lawful authority [¶¶ 20-23, 25,
24 30-37, 39, 43, 62-64, 66]; and
25 b. Prolonging the local custody of individuals for more than 48 hours beyond
26 when they would otherwise be released, based on immigration detainers, and
27 without a probable cause determination or notice of the charges against them
28 and an opportunity to respond [¶¶ 27, 50-58].

1 209. Plaintiff Sonato-Vega seeks compensatory damages against Defendant Sonoma
2 County and compensatory, statutory, and treble damages against Defendants Cogbill, Salkin, and
3 unknown DOES in their personal capacities for violations of the Bane Act, according to proof
4 and including but not limited to:

- 5 a. Subjecting him to unreasonable searches and seizures without reasonable
6 suspicion of criminal activity or that he posed a threat of safety [¶¶ 97-100];
- 7 b. Arresting and holding him in custody for four days without lawful authority
8 [¶¶ 101, 106];
- 9 c. Failing to bring him before a magistrate or non-arresting ICE officer within 48
10 hours of his arrest for a probable cause determination [¶¶ 104-106]; and
- 11 d. Failing to provide him with notice of the charges against him, information
12 about what consequences would follow from his arrest, or an opportunity to
13 be heard within a reasonable time after his arrest [¶¶ 104-106].

14 210. Plaintiff Medel seeks compensatory damages against Defendant Sonoma County,
15 and compensatory, statutory, and treble damages against Defendants Cogbill and unknown
16 DOES in their personal capacities for violations of the Bane Act, according to proof and
17 including but not limited to:

- 18 a. Failing to bring him before a magistrate or non-arresting ICE officer within 48
19 hours of the beginning of his prolonged detention based on an immigration
20 detainer [¶¶ 115-118]; and
- 21 b. Failing to provide him with notice of the charges against him, information
22 about what consequences would follow from his immigration detainer, or an
23 opportunity to be heard within a reasonable time after the beginning of his
24 prolonged detention pursuant to immigration detainer [¶¶ 115-118].

25 211. Plaintiff Sanchez-Lopez does not seek damages under this claim.

26 ///

27
28

FOURTEENTH CLAIM FOR RELIEF

California Government Code § 11135 and Its Implementing Regulations

All Plaintiffs Against Defendant Sonoma County

1
2
3
4 212. Plaintiffs incorporate by reference the allegations in the paragraphs above as
5 though fully set forth here.

6 213. California Government Code § 11135 provides, in relevant part: “No person in
7 the State of California shall, on the basis of race, national origin, ethnic group identification,
8 religion, age, sex, sexual orientation, color, or disability, be unlawfully denied full and equal
9 access to the benefits of, or be unlawfully subjected to discrimination under, any program or
10 activity that is conducted, operated, or administered by the state or by any state agency, is funded
11 directly by the state, or receives any financial assistance from the state.”

12 214. California Code of Regulations §§ 98101(i)(1) and (2) prohibit recipients of state
13 funding from utilizing criteria or methods of administration which have the effect of
14 discriminating against protected groups.

15 215. Upon information and belief, Defendant Sonoma County and the Sonoma County
16 Sheriff’s Department receive financial assistance from the State of California, thus subjecting it
17 to the prohibitions of Cal. Gov’t Code § 11135 and its implementing regulations.

18 216. Plaintiffs are informed and believe and thereon allege that the policies, practices,
19 and customs Defendants County and Cogbill have adopted in furtherance of their collaboration
20 with ICE to target immigrant gang members, including but not limited to their use of
21 immigration detainers to initiate and prolong custody in the County jail, have a disparate impact
22 on Latinos in Sonoma County.

23 217. Plaintiffs Committee, Sanchez-Lopez and Medel seek injunctive and declaratory
24 relief against the County and against Defendants Cogbill, Salkin, and DOES 1-50 in their official
25 capacities, enjoining them from continuing to engage in the above-described policies, practices
26 and conduct in violation of Cal. Gov’t Code § 11135 and its implementing regulations, including
27 but not limited to:

28

- 1 a. Using race as a motivating factor to stop, detain, interrogate and/or search
 2 persons who appear to be Latino [¶¶ 30-32, 34-35, 62-64, 68, 75, 77-80, 92-
 3 94, 97-98];
- 4 b. Using race as a motivating factor to unreasonably prolong detentions in order
 5 to question persons regarding their citizenship and immigration status [¶¶30-
 6 32, 34-36, 62-64, 68, 77-80, 92-95, 97-98, 100];
- 7 c. Using race as a motivating factor in deciding to contact ICE agents to seek
 8 immigration detainees for individuals County Defendants encounter in the
 9 field and for whom they lack probable cause to arrest for criminal activity [¶¶
 10 37, 62-64, 68, 81];
- 11 d. Using race, Spanish surname, or national origin as motivating factors in
 12 classifying arrestees as gang members and for making decisions regarding
 13 placement in the jail [¶¶ 48-49, 59-65, 67-68, 84, 102-103, 113];
- 14 e. Using race, Spanish surname or national origin as motivating factors in
 15 questioning inmates about their immigration status and recommending to ICE
 16 that certain inmates in the jail be considered as subjects of immigration
 17 detainees [¶¶ 48-49, 62-65, 67-68, 114-115]; and
- 18 f. Adopting and implementing policies, practices, and customs that have a
 19 disparate impact on Latino residents of Sonoma County on account of their
 20 race, ethnicity, or national origin [¶¶ 30-31, 62, 72].

21 218. Plaintiff Sonato-Vega seeks compensatory damages against Defendant Sonoma
 22 County, and compensatory and punitive damages against Defendants Cogbill, Salkin and
 23 unknown DOES in their personal capacities for violations of his rights under Cal. Gov't Code §
 24 11135 and its implementing regulations according to proof, including but not limited to:

- 25 a. Using his race as a motivating factor to detain him [¶¶ 97-98 100];
 26 b. Using his race as a motivating factor for his prolonged detention, search and
 27 interrogation [¶¶ 97-98 100]; and
 28

- 1 c. Using his race, Spanish surname, and/or perceived national origin as
2 motivating factors for his arrest, inaccurate designation as a gang member,
3 and placement with other persons perceived to be Sureños in the County jail
4 [¶¶ 102-103]; and
- 5 d. Application of policies, practices, and customs that had a disparate impact on
6 him on account of his race, ethnicity, or national origin.

7 219. Plaintiff Medel seeks compensatory damages against Defendant Sonoma County,
8 and compensatory and punitive damages against unknown DOES in their personal capacities for
9 violations of his right to be free from discrimination on the basis of race, ethnicity, or national
10 origin race according to proof, including but not limited to:

- 11 a. Using his race as a motivating factor for his inaccurate designation as a gang
12 member and placement with other persons perceived to be Sureños in the
13 County jail [¶ 113]; and
- 14 b. Using his race, Spanish surname, and/or perceived national origin as
15 motivating factors in deciding to question Medel about his immigration status
16 and refer him to ICE for consideration as the subject of an immigration
17 detainer [¶¶ 114-115]; and
- 18 c. Application of policies, practices, and customs that had a disparate impact on
19 him on account of his race, ethnicity, or national origin.

20 220. Plaintiff Sanchez-Lopez does not seek damages under this claim.

21 **FIFTEENTH CLAIM FOR RELIEF**

22 **False Imprisonment (Cal Gov't Code § 815.2)**

23 **Plaintiffs Sonato-Vega and Medel Against**

24 **Defendants Sonoma County, Cogbill, Salkin, and DOES 1-50**

25 221. Plaintiffs incorporate by reference the allegations in the paragraphs above as
26 though fully set forth here.

27 222. Pursuant to California Government Code § 815.2, a public entity is liable for
28 injury proximately caused by an act or omission of an employee of the public entity within the

1 scope of his employment. All of the conduct alleged in this Second Amended Complaint by
 2 employees of Sonoma County, including Defendants Cogbill, Salkin, and DOES 1-50, was
 3 undertaken in the course and scope of their employment.

4 223. Plaintiff Sonato-Vega seeks compensatory damages against Defendant County
 5 and compensatory and punitive damages against Defendants Cogbill, Salkin and unknown DOES
 6 in their personal capacities for inflicting personal injury on him by subjecting him to false arrest
 7 and imprisonment according to proof by acts including but not limited to:

- 8 a. Detaining him without reasonable suspicion of criminal activity [¶¶ 92-96];
- 9 b. Unreasonably arresting him without probable cause of criminal activity and
 10 without authority to arrest for civil immigration violations [¶¶ 97-100]; and
- 11 c. Holding him in custody for approximately four days without authority under
 12 state or federal law [¶¶ 100, 105];
- 13 d. Holding him in custody for more than 48 hours without an independent
 14 probable cause determination by a non-arresting ICE officer or neutral
 15 magistrate [¶¶ 100, 104, 105].

16 224. Plaintiff Medel seeks compensatory damages against Defendant County and
 17 compensatory and punitive damages against Defendants Cogbill and unknown DOES in their
 18 personal capacities for subjecting him to false imprisonment according to proof by holding him
 19 in custody for more than 48 hours after he would have been released from custody on his
 20 criminal arrest based on an immigration detainer and without an independent probable cause
 21 determination by a non-arresting ICE officer or neutral magistrate [¶¶ 116-119].

22 **SIXTEENTH CLAIM FOR RELIEF**

23 **Intentional Infliction of Emotional Distress (Cal Gov't Code § 815.2)**

24 **Plaintiffs Sonato-Vega and Medel Against**

25 **Defendants Sonoma County, Cogbill, Salkin, and Does 1-50**

26 225. Plaintiffs incorporate by reference the allegations in the paragraphs above, as
 27 though fully set forth here.

28

1 226. Plaintiff Sonato-Vega seeks compensatory damages against Defendant County
2 and compensatory and punitive damages against Defendants Cogbill, Salkin and unknown DOES
3 in their personal capacities for actually causing and/or proximately causing Sonato-Vega to
4 suffer severe emotional distress by subjecting him to extreme and outrageous conduct with the
5 intent to cause, or alternatively a reckless disregard of the probability of causing, emotional
6 distress according to proof by acts, including but not limited to:

- 7 a. Using his race and/or perceived national origin as a motivating factor to
8 detain, question, search, and arrest him and in inaccurately designating him as
9 a criminal gang member [¶¶ 92-96, 97-100, 102-103];
10 b. Unreasonable searches and seizures [¶¶ 93-95, 98-99];
11 c. Deprivations of substantive and procedural due process protections, such as
12 holding him in custody for approximately four days without lawful authority
13 and without notice of the charges against him, the possible consequences of
14 his detention, and an opportunity to respond [¶¶ 100, 104-105]; and
15 d. Humiliating and abusive treatment [¶¶ 99, 105, 107];

16 227. Plaintiff Medel seeks compensatory damages against Defendant County and
17 compensatory and punitive damages against Defendants Cogbill, Salkin and unknown DOES in
18 their personal capacities for actually causing and/or proximately causing Medel to suffer severe
19 emotional distress by subjecting him to extreme and outrageous conduct with the intent to cause,
20 or alternatively a reckless disregard of the probability of causing, emotional distress according to
21 proof by acts, including, but not limited to:

- 22 a. Subjecting him to discriminatory treatment, such as the use of his race,
23 Spanish surname, and/or perceived national origin to inaccurately designate
24 him as a gang member and detain him with other inmates perceived to be
25 Sureños [¶¶ 113-115]; and
26 b. Prolonging his detention for four days based on an immigration detainer
27 without a probable cause determination and without notice of the charges
28

1 against him, information regarding the possible consequences of his prolonged
2 detention, and an opportunity to respond [¶¶ 116-119].

3 **SEVENTEENTH CLAIM FOR RELIEF**

4 **Negligence (Cal Gov't Code § 815.2)**

5 **Plaintiffs Sonato-Vega and Medel Against**

6 **Defendants Sonoma County, Cogbill, Salkin, and Does 1-50**

7 228. Plaintiffs incorporate by reference the allegations in the paragraphs above, as
8 though fully set forth here.

9 229. Defendants Cogbill, Salkin and DOES 1-50 have a duty to act with reasonable
10 care and not subject persons to personal injury in the course of their law enforcement duties and
11 the legal duties not to subject them to discriminatory treatment on the basis of his race, ethnicity,
12 or perceived national origin; unreasonable searches and seizures; deprivations of liberty without
13 due process; to adequately train and supervise employees; and to adopt and enforce policies so as
14 to prevent the occurrence of constitutional violations and tortious actions.

15 230. Plaintiff Sonato-Vega seeks compensatory and punitive damages against
16 Defendants Cogbill, Salkin and unknown DOES in their personal capacities for severe emotional
17 distress he suffered as a result of their breaches of their above-described duties to him according
18 to proof including but not limited to:

- 19 a. Using his race and/or perceived national origin as a motivating factor
20 to detain, question, search, and arrest him and in inaccurately
21 designating him as a criminal gang member [¶¶ 92-96, 97-100, 102-
22 103];
- 23 b. Unreasonable searches and seizures [¶¶ 94-95, 98];
- 24 c. Deprivations of substantive and procedural due process protections,
25 such as holding him in custody for approximately four days without
26 lawful authority and without notice of the charges against him, the
27 possible consequences of his detention, and an opportunity to respond
28 [¶¶ 10, 104-105]; and

1 d. Humiliating and abusive treatment [¶¶ 99, 105, 107].

2 231. Plaintiff Medel seeks compensatory and punitive damages against Defendants
3 Cogbill and unknown DOES in their personal capacities for severe emotional distress he suffered
4 as a result of their breaches of their above-described duties to him according to proof including
5 but not limited to:

- 6 a. Subjecting him to discriminatory treatment, such as the use of his race,
7 Spanish surname, and/or perceived national origin to inaccurately
8 designate him as a gang member and detain him with other inmates
9 perceived to be Sureños [¶¶ 113-115]; and
10 b. Prolonging his detention for four days based on an immigration
11 detainer without a probable cause determination and without notice of
12 the charges against him, information regarding the possible
13 consequences of his prolonged detention, and an opportunity to
14 respond [¶¶ 116-119].

15 **EIGHTEENTH CLAIM FOR RELIEF**

16 **False Imprisonment (Federal Tort Claims Act, 28 U.S.C. § 1346)**

17 **Plaintiffs Sanchez-Lopez, Sonato-Vega and Medel**

18 **Against Defendant United States of America**

19 232. Plaintiffs incorporate by reference the allegations in the paragraphs above as
20 though fully set forth here.

21 233. The United States is liable for torts committed by federal employees acting within
22 the course and scope of employment. 28 U.S.C. § 1346(b).

23 234. Plaintiff Sanchez-Lopez seeks compensatory damages against the United States
24 for the actions of its agents, Defendants Huelga and Merendino and unknown ROES, that
25 inflicted personal injury on him by subjecting him to false arrest and imprisonment according to
26 proof by acts taken in the course and scope of employment including but not limited to:

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- 1 a. Detaining him without reasonable suspicion of criminal activity or that he or
2 other occupants of the car in which he was a passenger were noncitizens
3 present in the United States without authorization [¶¶ 74-80];
- 4 b. Unreasonably arresting him or causing him to be arrested for suspected civil
5 immigration violations without a warrant and without reason to believe that he
6 was likely to escape before a warrant could be obtained for his arrest [¶¶ 81-
7 83];
- 8 c. Causing him to be held in custody of the County for approximately four days
9 without a criminal basis for custody and based only on suspected civil
10 immigration violations without authority under state or federal law [¶¶ 86-87];
- 11 d. Arresting him or causing him to be arrested and held in custody for more than
12 48 hours without a probable cause determination [¶¶ 81, 82, 86];
- 13 e. Arresting him or causing him to be arrested without a warrant and held in
14 custody without an examination by a non-arresting ICE officer without
15 unreasonable delay [¶¶ 81, 82, 86]; and
- 16 f. Causing him to be held in custody for more than 48 hours without a bond
17 determination and before a decision was made whether to issue a Notice to
18 Appear and absent any emergency or other extraordinary circumstance [¶¶
19 86].

20 235. Sonato-Vega seeks compensatory damages against the United States for the
21 actions of its agents, Defendants Huelga and unknown ROES, that inflicted personal injury on
22 him by subjecting him to false arrest and imprisonment according to proof by acts taken in the
23 course and scope of employment including but not limited to:

- 24 a. Detaining him without reasonable suspicion of criminal activity or that he was
25 a noncitizen present in the United States without authorization [¶¶ 92-96];
- 26 b. Unreasonably arresting him or causing him to be arrested for suspected civil
27 immigration violations without a warrant and without reason to believe that he
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- 1 was likely to escape before a warrant could be obtained for his arrest [¶¶ 97-
2 100];
- 3 c. Causing him to be held in custody of the County for approximately four days
4 without a criminal basis for custody and based only on suspected civil
5 immigration violations without authority under state or federal law [¶¶ 100,
6 104-105];
- 7 d. Arresting him or causing him to be arrested and held in custody for more than
8 48 hours without a probable cause determination [¶¶ 100, 101, 105];
- 9 e. Arresting him or causing him to be arrested without a warrant and held in
10 custody without an examination by a non-arresting ICE officer without
11 unreasonable delay [¶¶ 100, 101, 104, 105, 106]; and
- 12 f. Causing him to be held in custody for more than 48 hours without a bond
13 determination and before a decision was made whether to issue a Notice to
14 Appear and absent any emergency or other extraordinary circumstance [¶¶
15 104, 108].

16 236. Plaintiff Medel seeks compensatory damages against the United States for the
17 actions of its agents, unknown ROE Defendants, taken in the course and scope of employment
18 that inflicted personal injury on him by subjecting him to false arrest and imprisonment
19 according to proof by acts including but not limited to holding him in custody for more than 48
20 hours after he would have been released from custody on his criminal arrest based on an
21 immigration detainer and without an independent probable cause determination by a non-
22 arresting ICE officer or neutral magistrate [¶¶ 116-119].

23 **NINETEENTH CLAIM FOR RELIEF**

24 **Intentional Infliction of Emotional Distress (Federal Tort Claims Act, 28 U.S.C. § 1346)**

25 **Plaintiffs Sanchez-Lopez and Sonato-Vega**

26 **Against Defendant United States of America**

27 237. Plaintiffs incorporate by reference the allegations in the paragraphs above as
28 though fully set forth here.

1 238. Plaintiff Sanchez-Lopez seeks compensatory damages against the United States
2 for the actions of its agents, Defendants Huelga, Merendino, and unknown ROES, for actually
3 causing and/or proximately causing Sanchez-Lopez to suffer severe emotional distress by
4 subjecting him to extreme and outrageous conduct with the intent to cause, or alternatively a
5 reckless disregard of the probability of causing, emotional distress according to proof by acts
6 taken in the course and scope of employment, including but not limited to:

- 7 a. Using his race and/or perceived national origin as a motivating factor to
8 detain, question, search, and arrest him and in inaccurately designating him as
9 a criminal gang member [¶¶ 75, 77, 78, 80-82, 84];
10 b. Unreasonable searches and seizures [¶¶ 77, 78, 81];
11 c. Deprivations of substantive and procedural due process protections, such as
12 causing him to be held in custody for approximately four days without lawful
13 authority and without notice of the charges against him, the possible
14 consequences of his detention, and an opportunity to respond [¶¶ 86]; and
15 d. Humiliating and abusive treatment [¶¶ 77, 82, 84, 87];

16 239. Sonato-Vega seeks compensatory damages against the United States for the
17 actions of its agents, Defendants Huelga and unknown ROES, for actually causing and/or
18 proximately causing Sonato-Vega to suffer severe emotional distress by subjecting him to
19 extreme and outrageous conduct with the intent to cause, or alternatively a reckless disregard of
20 the probability of causing, emotional distress according to proof by acts taken in the course and
21 scope of employment, including but not limited to:

- 22 a. Using his race and/or perceived national origin as a motivating factor to
23 detain, question, search, and arrest him and in inaccurately designating him as
24 a criminal gang member [¶¶ 97-100, 102-103];
25 b. Unreasonable searches and seizures [¶¶ 98-99];
26 c. Deprivations of substantive and procedural due process protections, such as
27 holding him in custody for approximately four days without lawful authority
28 and without notice of the charges against him, the possible consequences of

1 his detention, and an opportunity to respond [¶¶ 100, 104-105]; and
2 d. Humiliating and abusive treatment [¶¶ 99, 105, 107];

3 **TWENTIETH CLAIM FOR RELIEF**

4 **Negligence (Federal Tort Claims Act, 28 U.S.C. § 1346)**

5 **Plaintiffs Sanchez-Lopez, Sonato-Vega and Medel**

6 **Against Defendant United States of America**

7 240. Plaintiffs incorporate by reference the allegations in the paragraphs above as
8 though fully set forth here.

9 241. ICE agents have a duty to act with reasonable care and not subject persons to
10 personal injury in the course of their law enforcement duties. ICE agents have legal duties not to
11 subject people to discriminatory treatment on the basis of race, ethnicity, or perceived national
12 origin; unreasonable searches and seizures; deprivations of liberty without due process; to
13 adequately train and supervise employees; and to prevent the occurrence of constitutional
14 violations and tortious actions.

15 242. Plaintiff Sanchez-Lopez seeks compensatory damages against the United States
16 for severe emotional distress he suffered as a result of the breaches of ICE agents' above-
17 described duties to him in the course and scope of employment according to proof including but
18 not limited to:

- 19 a. Using his race and/or perceived national origin as a motivating factor to
20 detain, question, search, and arrest him and in inaccurately designating him as
21 a criminal gang member [¶¶ 75, 77, 78, 80-82, 84];
22 b. Unreasonable searches and seizures [¶¶ 77, 78, 81];
23 c. Deprivations of substantive and procedural due process protections, such as
24 causing him to be held in custody for approximately four days without lawful
25 authority and without notice of the charges against him, the possible
26 consequences of his detention, and an opportunity to respond [¶¶ 86]; and
27 d. Humiliating and abusive treatment [¶¶ 77, 82, 84, 87];
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1 243. Plaintiff Sonato-Vega seeks compensatory damages against the United States for
2 severe emotional distress he suffered as a result of the breaches of ICE agents' above-described
3 duties to him in the course and scope of employment according to proof including but not limited
4 to:

- 5 a. Using his race and/or perceived national origin as a motivating factor to
6 detain, question, search, and arrest him and in inaccurately designating him as
7 a criminal gang member [¶¶ 97-100, 102, 103];
- 8 b. Unreasonable searches and seizures [¶¶ 98, 99];
- 9 c. Deprivations of substantive and procedural due process protections, such as
10 holding him in custody for approximately four days without lawful authority
11 and without notice of the charges against him, the possible consequences of
12 his detention, and an opportunity to respond [¶¶ 100, 104, 105]; and
- 13 d. Humiliating and abusive treatment [¶¶ 99, 105, 107].

14 244. Plaintiff Medel seeks compensatory damages against the United States for severe
15 emotional distress he suffered as a result of the breaches of ICE agents' above-described duties
16 to him in the course and scope of employment according to proof including but not limited to:

- 17 a. Knowingly participating in a system of collaboration with Sonoma
18 County Sheriff employees through which race, Spanish surname
19 and/or perceived national origin were motivating factors for
20 questioning by such County employees regarding immigration status
21 and/or decisions to refer persons to ICE for consideration as the
22 subjects of immigration detainees;
- 23 b. Causing his detention to be prolonged for four days by issuing a
24 immigration detainer without a probable cause determination and
25 without notice of the charges against him, information regarding the
26 possible consequences of his prolonged detention, and an opportunity
27 to respond [¶¶ 116-119].

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TWENTY-FIRST CLAIM FOR RELIEF

Deprivation of Civil Rights Through Intimidation, Threats and Coercion

(Federal Tort Claims Act; Cal. Civ. Code § 52.1)

Plaintiffs Sanchez-Lopez, Sonato-Vega and Medel

Against Defendant United States of America

245. Plaintiffs incorporate by reference the allegations in the paragraphs above as though fully set forth here.

246. The United States is liable for acts committed by its agents in the scope and course of their employment for which private persons would be liable for damages under state law. California Civil Code § 52.1 creates a private right of action against private individuals for interfering with the exercise and enjoyment of rights under both the U.S. and California Constitutions.

247. Plaintiff Sanchez-Lopez seeks compensatory damages against the United States for violations of the Bane Act committed by Defendants Huelga and Merendino and unknown ROES in the scope and course of their employment, according to proof including but not limited to:

- a. Subjecting him to unreasonable searches and seizures without reasonable suspicion of criminal activity or that he posed a threat of safety [¶¶ 77-80];
- b. Arresting and holding him in custody for four days without lawful authority [¶¶ 82-86];
- c. Failing to bring him before a magistrate or non-arresting ICE officer within 48 hours of his arrest for a probable cause determination [¶¶ 86-87]; and
- d. Failing to provide him with notice of the charges against him, information about what consequences would follow from his arrest, or an opportunity to be heard within a reasonable time after his arrest [¶¶ 86-87].

248. Plaintiff Sonato-Vega seeks compensatory damages against the United States for violations of the Bane Act committed by Defendant Huelga and unknown ROES in the course and scope of their employment, according to proof including but not limited to:

- 1 a. Subjecting him to unreasonable searches and seizures without reasonable
- 2 suspicion of criminal activity or that he posed a threat of safety [¶¶ 97-100];
- 3 b. Arresting and holding him in custody for four days without lawful authority
- 4 [¶¶ 101, 106];
- 5 c. Failing to bring him before a magistrate or non-arresting ICE officer within 48
- 6 hours of his arrest for a probable cause determination [¶¶ 104-106]; and
- 7 d. Failing to provide him with notice of the charges against him, information
- 8 about what consequences would follow from his arrest, or an opportunity to
- 9 be heard within a reasonable time after his arrest [¶¶ 104-106].

10 249. Plaintiff Medel seeks compensatory damages against the United States for
11 violations of the Bane Act committed by unknown ROES in the course and scope of their
12 employment, according to proof including but not limited to:

- 13 a. Causing his custody in the Sonoma County jail to be prolonged for four days
- 14 without a probable cause determination on the basis for his prolonged
- 15 detention within 48 hours after the beginning of his prolonged detention
- 16 pursuant to immigration detainer; [¶¶ 115-118]; and
- 17 b. Causing his custody in the Sonoma County jail to be prolonged for four days
- 18 without notice of the charges against him, information about what
- 19 consequences would follow from his immigration detainer, or an opportunity
- 20 to be heard within a reasonable time after the beginning of his prolonged
- 21 detention pursuant to immigration detainer [¶¶ 115-118].

22 **TWENTY-SECOND CLAIM FOR RELIEF**

23 **Assault and Battery (Federal Tort Claims Act)**

24 **Plaintiffs Sanchez-Lopez and Sonato-Vega**

25 **Against Defendant United States of America**

26 250. Plaintiffs incorporate by reference the allegations in the paragraphs above as
27 though fully set forth here.

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1 251. Plaintiff Sanchez-Lopez seeks compensatory damages against the United States
2 for the actions of its agents, Defendants Huelga and Merendino, who intended to and did cause
3 offensive and unlawful physical contact with Sanchez-Lopez in the course and scope of
4 employment [¶¶ 78, 80, 81].

5 252. Plaintiff Sonato-Vega seeks compensatory damages against the United States for
6 the actions of its agent, Defendant Huelga, who intended to and did cause offensive and unlawful
7 physical contact with Sonato-Vega in the course and scope of employment [¶¶ 98, 99].

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiffs pray that the Court:

10 1. Issue preliminary and permanent injunctions against the County Defendants and
11 any of their officers, agents, successors, employees, representatives and any and
12 all persons acting in concert with them, prohibiting them from:

13 a. Detaining persons or vehicles without reasonable suspicion of criminal
14 activity; prolonging traffic or other stops for the purpose of questioning
15 individuals about their immigration status; conducting personal or vehicle
16 searches without probable cause to believe that the areas searched contain
17 evidence of criminal activity or a reasonable belief that the car's occupants
18 are dangerous or may gain access to a weapon in the area searched;
19 arresting or taking custody of individuals based on suspected civil
20 immigration violations or based on an immigration detainer issued by ICE
21 or its agents; or prolonging the custody of individuals in the County jail
22 for more than 48 hours based on an immigration detainer without a
23 probable cause determination;

24 b. Using a person's Latino race or appearance, Spanish surname, or national
25 origin as a factor to initiate a traffic or other stop, prolong a detention,
26 question about matters not related to the purpose of the detention such as
27 immigration status, engage in a search of a person or person's property or
28 car, designate or classify someone as a gang member or make decisions

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about his placement in the County jail, or refer a person or inmate to ICE for consideration as a subject of an immigration detainer; and

c. Denying procedural protections under 8 U.S.C. § 1357 and 8 C.F.R. § 287.3 due to persons who were arrested on criminal or other state law charges and whose County custody is prolonged as a result of an immigration detainer and; detaining or prolonging the detention of individuals in custody of the County pursuant to immigration violations without notice of the charges against them and an opportunity to respond within a reasonable time after the initiation of the immigration detainer-based detention.

2. Issue preliminary and permanent injunctions against Defendants Huelga, Merendino, and ROES 1-50 in their official capacities, ICE and any of their officers, agents, successors, employees, representatives and any and all persons acting in concert with them, prohibiting them from:

- a. Directing local law enforcement agencies to make arrests for civil immigration violations without a warrant;
- b. Issuing immigration detainers ordering local law enforcement agencies to arrest or take custody of persons who are not already in local custody on independent criminal or other state law grounds;
- c. Making warrantless arrests without reason to believe that the person arrested is a noncitizen in the United States without authorization
- d. Making warrantless arrests without reason to believe that the person is likely to escape before a warrant can be obtained;
- e. Failing to provide procedural protections required by 8 U.S.C. § 1357 and 8 C.F.R. § 287.3 to persons in local custody pursuant to an immigration detainer;
- f. Stopping and searching persons and vehicles without reasonable suspicion of criminal activity or of their being noncitizens present in the United

1 States without authorization, or without probable cause to believe that that
2 the areas searched contain evidence of criminal activity or a reasonable
3 belief that the person searched or car's occupants are dangerous and may
4 gain access to a weapon in the area searched; and

5 g. Using a person's Latino race or appearance, Spanish surname, or national
6 origin as a factor to initiate contact for purposes of immigration
7 enforcement or in considering whether to issue an immigration detainer.

- 8 3. Issue a judicial declaration that Defendants' actions as alleged in this Complaint
9 violate the Fourth, Fifth and Fourteenth Amendments of the U.S. Constitution; 42
10 U.S.C. § 1983; 42 U.S.C. § 2000d; 42 U.S.C. § 1985(3), Article I, Sections 7, 13,
11 and 15 of the California Constitution; California Civil Code § 52.1; and California
12 Government Code § 11135 and its implementing regulations.
- 13 4. Declare that Defendant ICE's use of 8 C.F.R. § 287.7 to initiate County custody
14 of individuals violates 8 U.S.C. § 1357 and 8 C.F.R. § 287.7 and therefore also
15 violates due process under the Fifth Amendment to the United States Constitution.
- 16 5. Declare that Defendants Sonoma County and Cogbill are not authorized to arrest
17 or take custody of individuals based on alleged civil immigration violations and
18 that doing so violates the arrestees' rights to substantive due process.
- 19 6. Award Plaintiffs nominal, compensatory, special, statutory, and punitive damages
20 under 42 U.S.C. § 1983, 42 U.S.C. § 2000d, California Civil Code § 52.1,
21 California Government Code § 11135, 28 U.S.C. § 1346(b) and the California
22 torts of false imprisonment, intentional infliction of emotional distress and
23 negligence, except that no damages are sought against ICE and no punitive
24 damages are sought against the County.
- 25 7. Award pre-judgment and post-judgment interest to the extent permitted by law.
- 26 8. Award Plaintiffs their costs and expenses, including reasonable attorneys' fees
27 under 42 U.S.C. § 1988 and the Equal Access to Justice Act, 5 U.S.C. § 504, 28
28 U.S.C. § 2412.

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9. Award such further and additional relief as is just and proper.

DEMAND FOR JURY TRIAL

In accordance with Fed. R. Civ. P. 38(b), and Northern District Local Rule 3-6(a),
plaintiffs hereby demand a jury trial on all issues triable by a jury.

Dated: September 14, 2009

By /s/ Alfred C. Pfeiffer
Alfred C. Pfeiffer, Jr.

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