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7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 LUCAS R., by his next friend MADELYN
R.; DANIELA MARISOL T., by her next
12 friend KATHERINE L.; MIGUEL ANGEL
S., by his next friend GERARDO S.;
13 GABRIELA N., by her next friend ISAAC
N.; JAIME D., by his next friend REYNA
14 D.; SAN FERNANDO VALLEY REFUGEE
CHILDREN CENTER, INC.;
15 UNACCOMPANIED CENTRAL AMERICAN
REFUGEE EMPOWERMENT,

16 Plaintiffs,

17 v.

18 ALEX AZAR, Secretary of U.S.
19 Department of Health and Human
Services; E. SCOTT LLOYD, Director,
20 Office of Refugee Resettlement of the
U.S. Department of Health & Human
21 Services,

22 Defendants.

Case No. 2:18-CV-05741

**COMPLAINT FOR
INJUNCTIVE RELIEF,
DECLARATORY RELIEF, AND
NOMINAL DAMAGES**

(CLASS ACTION)

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I.

INTRODUCTION

1
2
3 1. This is an action for injunctive relief, declaratory relief, and nominal
4 damages, challenging certain unlawful policies and practices of Defendant Office of
5 Refugee Resettlement (“ORR”), a subordinate entity within the U.S. Department of
6 Health and Human Services (“HHS”). These policies and practices are causing grave
7 harm to children detained for alleged civil violations of the Immigration and
8 Nationality Act, 8 U.S.C. §§ 1101, *et seq.* (“INA”). Pursuant to § 462 of the Homeland
9 Security Act of 2002, Pub. L. 107-296, 116 Stat. 2135, codified at 6 U.S.C. § 279
10 (“HSA”), and § 235 of the William Wilberforce Trafficking Victims Protection
11 Reauthorization Act of 2008, Pub. L. 110-457, 122 Stat. 5044, codified at 8 U.S.C.
12 § 1232 (“TVPRA”), ORR is responsible for the placement, care, custody and release
13 of “unaccompanied alien children.”

14 2. The named Plaintiffs are immigrant and asylum-seeking children
15 detained for alleged civil violations of the INA and are members of the class protected
16 under the settlement in *Flores, v. Sessions*, No. 85-cv-4544-DMG (AGRx) (C.D. Cal.)
17 (“*Flores* Settlement”). Plaintiffs file this complaint as an adjunct and supplement to
18 their motion to enforce their rights under the *Flores* Settlement. That motion is pending
19 before this Court and calendared for hearing on July 27, 2018. (*See Flores v. Sessions*,
20 No. 85-cv-4544, ECF Nos. 409, 440.)

21 3. The *Flores* Settlement and TVPRA § 235 oblige ORR to —

- 22 (a) minimize the detention of immigrant children by releasing them to their
23 parents or other qualified custodians so long as their continued detention
24 is not required due to dangerousness or unusual flight risk;
- 25 (b) place detained immigrant children in the least restrictive setting that is in
26 the best interest of individual children—generally a facility having a state
27 license to care for dependent, as opposed to delinquent, juveniles—for
28 however long as they remain in federal custody;

1 (c) ensure that detained immigrant children are held only in facilities that are
2 safe, sanitary and consistent with concern for the particular vulnerability
3 of minors; and

4 (d) ensure to the greatest extent practicable that children who are or have
5 been in ORR custody, except those from contiguous countries, have
6 counsel to represent them in legal matters and protect them from
7 mistreatment, exploitation, and trafficking.

8 4. ORR violates the foregoing requirements, as well as the Due Process
9 Clause of the Fifth Amendment of the U.S. Constitution and the Freedom of
10 Association Clause of the First Amendment to the U.S. Constitution, by pursuing the
11 following policies and practices:

12 (a) ORR confines children in staff-secure facilities, residential treatment
13 centers (“RTCs”), and secure facilities peremptorily, often on bare
14 allegations they are dangerous or pose a flight risk, without affording
15 them a meaningful or timely opportunity to be heard regarding the
16 reasons for such placement;

17 (b) ORR prolongs children’s detention on the ground that their parents or
18 other available custodians are or may be unfit, while affording neither
19 detained juveniles nor their proposed custodians a meaningful or timely
20 opportunity to be heard regarding a proposed custodian’s fitness;

21 (c) ORR places children in residential treatment facilities and detention
22 facilities in which it knows they will be administered powerful
23 psychotropic medications for weeks, months, or years, without
24 procedural safeguards, including seeking their parents’ consent—even
25 those who are present in the United States and readily available to grant
26 or withhold consent to ORR’s medicating their children—or other lawful
27 authorization; and

28 (d) ORR blocks lawyers from representing detained children with respect to

1 placement, non-consensual administration of psychotropic medications,
2 or release to available custodians notwithstanding that Congress has
3 allocated funds specifically to provide such lawyers to represent children
4 who are or have been in ORR custody in “legal matters,” including issues
5 related to release and least-restrictive placement.

6 5. By this action, Plaintiffs seek equitable relief on behalf of themselves and
7 those similarly situated requiring Defendants to conform their policies, practices, and
8 procedures to the *Flores* Settlement, § 235 of the TVPRA, the Due Process Clause of
9 the Fifth Amendment to the U.S. Constitution, and the Freedom of Association Clause
10 of the First Amendment to the U.S. Constitution. Plaintiffs also seek nominal damages
11 against individual Defendant E. Scott Lloyd in his personal capacity pursuant to *Bivens*
12 *v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).

13 II.

14 JURISDICTION AND VENUE

15 6. This Court has jurisdiction over this action pursuant to Paragraph 37 of
16 the *Flores* Settlement (providing for “the enforcement, in this District Court, of the
17 provisions of this Agreement except for claims brought under Paragraph 24”); 28
18 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. § 2241 (habeas corpus
19 jurisdiction).

20 7. Plaintiffs’ action for declaratory relief is brought pursuant to 28 U.S.C.
21 §§ 2201 and 2202, and 5 U.S.C. § 703.

22 8. Venue is properly in this court pursuant to Paragraph 37 of the *Flores*
23 Settlement and 28 U.S.C. § 1391(b) and (e)(1), because this action challenges class-
24 wide violations of the *Flores* Settlement, and because acts complained of herein
25 occurred in this district, Defendants have offices in this district, and no real property
26 is involved in this action.

27 9. Plaintiffs have private rights of action against Defendants pursuant to
28 Paragraph 37 of the *Flores* Settlement, the Administrative Procedure Act, and 5 U.S.C.

1 §§ 701 *et seq.*

2 III.

3 PARTIES

4 10. Plaintiff Lucas R.¹ is a native and citizen of Guatemala whom ORR is
5 currently detaining at the Shiloh Residential Treatment Center (“Shiloh RTC”) in
6 Texas. He was born in 2005 and is twelve years old. Lucas is, and at all relevant times
7 was, an unaccompanied alien child within the meaning of 6 U.S.C. § 279(g)(2) and a
8 member of the plaintiff class the *Flores* Settlement protects. Pursuant to Federal Rule
9 of Civil Procedure 17(c)(2), Lucas appears through his Next Friend and sister,
10 Madelyn R., a resident of Los Angeles, California. ORR has refused to release Lucas
11 to his Next Friend and sister on the ground that Madelyn’s home may be unfit.

12 11. Plaintiff Daniela Marisol T. is a native and citizen of Honduras in ORR
13 custody in a residential group home in Kentwood, Michigan. Daniela Marisol was
14 born in 2001 and is sixteen years old. Daniela Marisol is, and at all relevant times was,
15 an unaccompanied alien child within the meaning of 6 U.S.C. § 279(g)(2) and a
16 member of the plaintiff class the *Flores* Settlement protects. Pursuant to Federal Rule
17 of Civil Procedure 17(c)(2), Daniela Marisol appears through her Next Friend and
18 sister, Katherine L., a resident of St. Paul, Minnesota. ORR has refused to release
19 Daniela Marisol to her Next Friend and sister on the ground that Katherine is or may
20 be unfit.

21 12. Plaintiff Gabriela N. is a native and citizen of El Salvador whom ORR is
22 presently detaining in St. Michael’s Home for Children in Houston, Texas. She was
23 born in 2000 and is seventeen years old. Gabriela is, and at all relevant times was, an
24 unaccompanied alien child within the meaning of 6 U.S.C. § 279(g)(2) and a member
25 of the plaintiff class the *Flores* Settlement protects. Pursuant to Federal Rule of Civil
26 Procedure 17(c)(2), Gabriela appears through her Next Friend and grandfather, Isaac

27 _____
28 ¹ Plaintiffs concurrently seek permission to use pseudonyms for the named Plaintiffs
and their Next Friends.

1 N., a resident of Oakland, California. ORR has refused to release Gabriela to her Next
2 Friend and grandfather on the ground that Isaac is or may be unfit.

3 13. Plaintiff Miguel Angel S. is a native and citizen of Mexico whom ORR
4 is presently detaining at Yolo County Juvenile Detention Center (“Yolo”), a secure
5 facility in Woodland, California. He was born in 2001 and is seventeen years old.
6 Miguel Angel is, and at all relevant times was, an unaccompanied alien child within
7 the meaning of 6 U.S.C. § 279(g)(2) and a member of the plaintiff class the *Flores*
8 Settlement protects. Pursuant to Federal Rule of Civil Procedure 17(c)(2), Miguel
9 Angel appears through his Next Friend and father, Gerardo S., a resident of San Jose,
10 California. ORR has refused to release Miguel Angel to his Next Friend and father on
11 the ground that Gerardo is or may be unfit.

12 14. Plaintiff Jaime D. is a native and citizen of Honduras and presently being
13 held in ORR custody in Dobbs Ferry, New York. He was born in 2004 and is thirteen
14 years old. Jaime is, and at all relevant times was, an unaccompanied alien child within
15 the meaning of 6 U.S.C. § 279(g)(2) and a member of the plaintiff class the *Flores*
16 Settlement protects. Pursuant to Federal Rule of Civil Procedure 17(c)(2), Jaime
17 appears through his Next Friend, Reyna D., a resident of Riverdale, Maryland. Reyna
18 is Jaime’s aunt. Reyna has sought to be Jaime’s custodian and to have Jaime released
19 from ORR custody into her care.

20 15. Plaintiff San Fernando Valley Refugee Children Center, Inc. (“Children
21 Center”) is a non-profit organization incorporated in the State of California, with its
22 principal place of business in North Hills, California. The Children Center is a project
23 of the North Hills United Methodist Church’s Hispanic Mission. The Children
24 Center’s mission is to provide comprehensive social services, including mental health
25 care, shelter, transitional living assistance and legal aid, to children, youth, and
26 families who have come in search of refuge from persecution and endemic violence in
27 the Northern Triangle of Central America (El Salvador, Honduras, and Guatemala).
28 The children and youth the Children Center serves are the functional equivalents of its

1 members. The rights of children and youth the Children Center seeks to protect in this
2 action are germane to its mission and purpose. ORR's policies and practices, as alleged
3 herein, make it substantially more difficult for the Children Center to carry out its
4 mission. For example, many of the children and youth whom the Children Center
5 serves have suffered multiple psychological and physical traumas, first in their
6 countries of origin, next during their journeys through Mexico, and then again, upon
7 being arrested and detained for immigration violations. The more time already-
8 traumatized children and youth remain detained, separated from their parents and
9 families, the more their mental and physical health deteriorates. The trauma that
10 immigration detention causes children and youth is greater still when ORR places them
11 in restrictive settings such as juvenile halls and RTCs, or medicates them involuntarily
12 or without their parents' consent or other lawful authority. The additional trauma such
13 detention inflicts requires the Children Center to devote commensurately greater
14 resources, particularly mental health resources, to assist such children and youth to
15 recover.

16 16. The Children Center is one of a small number of non-profit organizations
17 that serve refugee children and youth. The Children Center's resources are limited and
18 do not allow it to help all who are in need. The Children Center's ability to raise funds
19 depends in part on the raw number of children and youth it helps. As a practical matter,
20 resources the Children Center's devotes to serving one child or youth are unavailable
21 to others. Defendants' challenged policies and practices divert the Children Center's
22 limited resources to address the injuries those policies and practices cause, thereby
23 reducing the number of other needy children and youth the Children Center is able to
24 assist, and, *a fortiori*, its ability to raise funds. The Children Center therefore has a
25 direct institutional interest in: (a) minimizing the time refugee children and youth are
26 detained; (b) ensuring that such children and youth are housed in minimally restrictive
27 settings for however long they must remain in immigration-related detention;
28 (c) minimizing the injury children and youth suffer as a result of taking psychotropic

1 drugs; and (d) ensuring that refugee children and youth have counsel to assist them in
2 all legal matters relating to their immigration status, including custody, placement, and
3 the administration of psychotropic drugs without parental consent. The direct
4 participation in this litigation of the children and youth whom the Children Center
5 serves is not necessary because Plaintiffs seek only prospective equitable relief and
6 nominal damages.

7 17. Plaintiff Unaccompanied Central American Refugee Empowerment
8 (“UCARE”) is an unincorporated consortium of non-profit agencies, most of which
9 are incorporated in the State of California, with its principal place of business in Los
10 Angeles, California. UCARE’s mission is to advocate for and provide legal and social
11 services to immigrant and refugee minors, many of whom are or have been in ORR or
12 Immigration and Customs Enforcement custody. In appropriate cases, UCARE
13 arranges free representation and assistance to youth with immigration problems before
14 the U.S. Citizenship and Immigration Services, the Executive Office of Immigration
15 Review, and the Board of Immigration Appeals. Defendants’ unlawful policies, and
16 practices, as alleged herein, make such assistance and representation substantially
17 more difficult and render UCARE’s work less effective. ORR’s compliance with the
18 *Flores* Settlement and § 235 of the TVPRA is germane to UCARE’s purpose. The
19 individual participation of aggrieved youth the UCARE serves is not necessary
20 because UCARE seeks only prospective or injunctive relief and nominal damages for
21 its client members. UCARE has an actual stake in this litigation because the funding
22 of UCARE’s member organizations is largely determined by the number of youth they
23 serve. Defendants’ challenged policies and practices deny or delay children’s release,
24 and thus delay or deny Plaintiff UCARE’s member organizations the opportunity to
25 serve them.

26 18. Defendant Alex Azar is the Secretary of HHS and oversees ORR.
27 Pursuant to 6 U.S.C. § 279, HHS is responsible for the proper care and placement of
28 unaccompanied alien children who are in federal custody by reason of their

1 immigration status. HHS and ORR discharge these duties by, *inter alia*, entering into
2 contracts with public and private entities to house, care for, and provide legal
3 assistance to unaccompanied alien children arrested and detained pursuant to the INA.
4 Defendant Azar is sued in his official capacity only.

5 19. Defendant E. Scott Lloyd is the Director of ORR. ORR is responsible for
6 the care and custody of unaccompanied alien children in federal custody on account
7 of their immigration status. Defendant Lloyd is sued in his individual capacity for
8 nominal damages pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of*
9 *Narcotics*, 403 U.S. 388 (1971), and in all other respects in his official capacity only.

10 20. Defendants, and each of them, have historically professed to act in the
11 capacity of *parens patriae* to detained children. Defendants, and each of them, thereby
12 assume a legal obligation to act in such children's best interests. Defendants breach
13 this duty in pursuing the policies and practices challenged in this Complaint.

14 IV.

15 NAMED PLAINTIFFS' EXPERIENCES IN ORR CUSTODY

16 A. Lucas R.

17 21. On or about February 12, 2018, ORR assumed custody of Plaintiff Lucas
18 R. after he arrived at the U.S.-Mexico border. ORR placed him at the Hacienda del Sol
19 facility in Youngtown, Arizona. Within approximately ten days, Madelyn R., Lucas'
20 adult sister and Next Friend, requested Lucas' custody and delivered to ORR a family
21 reunification packet with the required documentation. Many years ago, Lucas and
22 Madelyn's father abandoned them; their mother died when Lucas was approximately
23 two years old. Thereafter, Madelyn and an aunt raised Lucas in his parents' stead.
24 Madelyn and Lucas have a very close relationship. Over the next six weeks or so, ORR
25 assured Madelyn that everything was in order and that it would soon release Lucas to
26 her custody; it did not.

27 22. According to Madelyn, in Guatemala, Lucas was a thriving, happy child
28 who liked to joke, play, and talk with people. When he arrived at Hacienda del Sol,

1 facility staff noted that Lucas appeared cooperative, calm, and alert, and showed “no
2 behavioral concerns.”

3 23. As his confinement wore on, however, Lucas became depressed, fearing
4 that ORR would never release him to his family. Without obtaining Madelyn’s
5 informed consent, the informed consent of any other adult family member, or judicial
6 authorization, ORR administered Lucas psychotropic drugs, ostensibly to control
7 “moderate” depression. Upon information and belief, ORR did not involve a neutral
8 decision maker in the initial determination of whether to prescribe psychotropic
9 medications to Lucas or in ongoing reviews of those medications.

10 24. The medications caused Lucas stomach pain, and he refused to continue
11 taking them. On or about May 21, 2018, ORR transferred Lucas to Shiloh RTC in
12 Manvel, Texas, without affording him notice, an opportunity to be heard, or a right to
13 appeal. ORR led Madelyn to believe Shiloh RTC was simply another shelter to which
14 it was sending Lucas because Hacienda del Sol lacked space. ORR did not inform
15 Madelyn that Shiloh RTC is a psychiatric institution, that it had administered Lucas
16 psychotropic drugs at the Hacienda del Sol facility, that he was being transferred to
17 Shiloh RTC for mental health reasons, or that Lucas would be required to take more
18 psychotropic drugs at Shiloh RTC.

19 25. Approximately six weeks after Madelyn had requested Lucas’ custody,
20 ORR sent an investigator to Madelyn’s home in Los Angeles, California. Living with
21 Madelyn then and now are her infant daughter, adult brother, and an unrelated female
22 roommate and her child. At the time the investigator arrived, Madelyn’s roommate’s
23 brother was visiting.

24 26. The investigator indicated to Madelyn that her home was suitable, but
25 that all adults who reside with her would have to appear for fingerprinting, including
26 her roommate’s brother. Madelyn advised the investigator that her roommate’s brother
27 did not live in the home, but the investigator insisted that the visitor appear for
28 fingerprinting regardless. All the adult residents of Madelyn’s home appeared for

1 fingerprinting, but her roommate's brother did not. Approximately one month later,
2 ORR orally advised Madelyn that it would not release Lucas to her because her
3 roommate's brother had failed to appear for fingerprinting. ORR represented to
4 Madelyn that its decision was final, and afforded neither Madelyn nor Lucas any
5 hearing, right to administrative appeal, or other means to change its decision. ORR
6 failed to provide Madelyn with a written decision or written explanation for denying
7 her custody of Lucas. Due to ORR's actions and inactions, Lucas' release has been
8 unnecessarily delayed, and Lucas has not been placed in the least restrictive setting.

9 27. Twelve-year-old Lucas remains detained at Shiloh RTC where he has
10 been administered Zoloft. Zoloft's side-effects include rigidity in the muscles, high
11 fever, sweating, confusion, agitation, hallucinations, overactive reflexes, tremors,
12 nausea, vomiting, diarrhea, loss of appetite, fainting, and seizures.

13 28. Shiloh personnel have now diagnosed Lucas with "major depressive
14 disorder." Among Lucas' "major stressors," Shiloh personnel identify his "[b]eing
15 kept from family and in ORR custody." Shiloh staff have nonetheless told Lucas that
16 ORR will not release him until Shiloh medical personnel declare him psychologically
17 sound.

18 29. ORR has provided Lucas no legal counsel to represent him with respect
19 to release, the administration of psychotropic medications, or placement at Shiloh.

20 B. Daniela Marisol T.

21 30. On or about August 3, 2017, Plaintiff Daniela Marisol T., a partially deaf
22 sixteen-year-old girl, arrived at the U.S.-Mexico border with her older sister, Katherine
23 L., and her nephew. Daniela Marisol, Katherine, and her younger nephew fled from
24 their home country in fear for their lives. At the border, Daniela Marisol was forcibly
25 separated from her sister and nephew and placed in the custody of ORR at the
26 International Education Service Norma Linda Shelter in Los Fresnos, Texas. Daniela
27 Marisol and Katherine are very close, and Daniela Marisol views Katherine as a
28 second mother. Daniela Marisol was so emotionally traumatized by the separation that

1 she was later admitted to a psychiatric hospital to cope with the trauma. The screening
2 physician also recommended treatment for Daniela Marisol's hearing disability once
3 she was released to her sister—a release that, eleven months later, has yet to come to
4 fruition.

5 31. Katherine and her son, detained separately from Daniela Marisol, were
6 released from immigration custody after they proved to an Asylum Officer that they
7 have a credible fear of persecution should they be returned to Honduras. Upon release,
8 Katherine applied to become Daniela Marisol's custodian and have ORR release
9 Daniela Marisol to her custody. However, ORR has placed arbitrary, expensive, and
10 excessive conditions on Daniela Marisol's release, which Katherine has not been able
11 to meet.

12 32. According to Katherine, when Daniela Marisol lived in Honduras with
13 her family, she did not seem to have mental health issues. However, Daniela Marisol's
14 psychological state rapidly deteriorated after her family separation. It was further
15 exacerbated when caseworkers told Daniela Marisol that she was not going to be
16 released to her sister. Daniela Marisol lost hope that she would ever be released to her
17 family. Depressed and suicidal, she was admitted to a psychiatric hospital where she
18 suffered a psychotic breakdown.

19 33. While Daniela Marisol was detained at the Norma Linda shelter, a doctor
20 recognized that she was deaf in one ear. ORR declined to treat her deafness and instead
21 noted that she should consult a specialist regarding her deafness "once [she was]
22 reunified with family." Months later, when she was at a new facility, it was
23 recommended she receive hearing aids, but to date, Daniela Marisol has not received
24 them.

25 34. After her breakdown, on or about September 8, 2017, ORR transferred
26 Daniela Marisol to Shiloh RTC in Manvel, Texas, without affording her notice, an
27 opportunity to be heard or a right to appeal. At Shiloh, Daniela Marisol's hearing
28 disability went untreated.

1 35. Without obtaining the informed consent of Daniela Marisol’s mother,
2 Katherine, other family members, or court authorization, ORR administered numerous
3 psychotropic medications to Daniela Marisol, including atypical antipsychotics and
4 antidepressants, starting when she was in the Norma Linda shelter, and continuing
5 while she was at Shiloh RTC and the David and Margaret shelter in La Verne,
6 California, and through her present placement, Bethany Christian Services in
7 Michigan. In the approximately ten months that she has been in ORR custody, Daniela
8 Marisol has been given multiple psychotropic medications, including Prozac, Abilify,
9 Clonidine, Risperdal, Seroquel, and Zyprexa. While in ORR custody, Daniela Marisol
10 has been the subject of numerous, changing diagnoses, including “Bipolar disorder,
11 MRE, Mixed, with psychosis, GAD, PTSD;” “major depressive disorder, recurrent
12 episode, severe with mood-congruent psychotic features;” and “bipolar II disorder,
13 generalized anxiety disorder, PTSD.” Upon information and belief, ORR did not
14 involve a neutral decision maker in the initial determination of whether to prescribe
15 psychotropic medications to Daniela Marisol or in ongoing reviews of those
16 medications.

17 36. As recognized by the U.S. Food and Drug Administration (“FDA”),
18 antidepressants such as those prescribed to Daniela Marisol “increase[] the risk
19 compared to placebo of suicidal thinking and behavior (suicidality) in children,
20 adolescents, and young adults in short term studies of major depressive disorder
21 (MDD) and other psychiatric disorders.” ORR has frequently given Daniela Marisol
22 an atypical antipsychotic and an antidepressant in combination. Research
23 demonstrates that the number and severity of side effects, such as thoughts of suicide
24 and intentional self-harm, increases as the number of concurrent medications
25 increases. Daniela Marisol has become suicidal while being made to take such
26 antidepressants and drug combinations.

27 37. Daniela Marisol believes that she has to take the medicine because facility
28 staff have told her that she must in order to be released from government custody.

1 38. Katherine desperately wants to provide her younger sister a loving and
2 safe home, and she has done everything in her power to have Daniela Marisol released
3 to her care. However, ORR has told Katherine that, in order for Daniela Marisol to be
4 released to her care, Katherine must move to a new house, have a separate private
5 bedroom for Daniela Marisol, and prove that she can pay over \$500 per month for
6 Daniela Marisol's medical care. Katherine has been unable to meet ORR's arduous
7 and arbitrary demands. ORR never provided Katherine with a written decision or
8 written explanation for denying her custody of Daniela Marisol. It represented to her
9 that the requirements that it set and its decision were final, and it never afforded
10 Katherine or Daniela Marisol any hearing, right to administrative appeal, or other
11 means to change its decision. Due to ORR's actions and inactions, Daniela Marisol's
12 release has been unnecessarily delayed, and she has not been placed in the least
13 restrictive setting.

14 39. Daniela Marisol remains in government custody, away from her sister
15 and other family. ORR has given her no legal counsel to represent her with respect to
16 release, administration of psychotropic medications, or her placement.

17 C. Miguel Angel S.

18 40. On or about May 16, 2017, ORR assumed custody of Plaintiff Miguel
19 Angel after he arrived at the U.S.-Mexico border. ORR placed him at the Southwest
20 Key shelter in southern California. The staff initially told Miguel Angel that he would
21 be released to Gerardo S., his father and next friend, within three months.

22 41. As Miguel's time in detention wore on, he felt anxious at the shelter and
23 often feared he would never be released. On July 17, 2017, ORR transferred Miguel
24 Angel to Shiloh RTC in Texas, without affording him notice, an opportunity to be
25 heard or a right to appeal. At Shiloh, Miguel Angel was administered several
26 psychotropic medications, including Remeron, Trazadone, Seroquel, and Lexapro.
27 Side effects of these medications include stomach pain, dizziness, nausea, drowsiness,
28 unusual weight gain, blurred vision, and insomnia.

1 42. Miguel Angel objected to taking the medications because they made him
2 feel itchy, dizzy, aggressive, nauseous, and caused him to gain an unusual amount of
3 weight in a short period of time. Shiloh staff insisted that he take the medication. Upon
4 information and belief, the staff at Shiloh administered these medications to Miguel
5 Angel without obtaining Gerardo's informed consent or judicial authorization.

6 43. Upon information and belief, ORR did not involve a neutral decision
7 maker in the initial determination of whether to prescribe psychotropic medications to
8 Miguel Angel or in ongoing review of those medications.

9 44. While Miguel Angel was detained at Shiloh, several staff members
10 physically assaulted him multiple times. During one incident, a staff member placed
11 Miguel Angel in a headlock, painfully ripping Miguel Angel's earring out of his
12 earlobe. A physician's assistant watched this, but did nothing to stop the attack. Miguel
13 Angel reported the incident immediately to the facility doctor, but the doctor laughed
14 and did nothing. Another time, two Shiloh staff members picked Miguel Angel up by
15 his arms and pushed him up against a wall. One of the staff members pressed his
16 forearm across Miguel Angel's throat, making it hard for him to breathe. Upon
17 information and belief, when Miguel Angel reported the incidents to staff, no
18 disciplinary action was taken.

19 45. In March 2018, shortly after these assaults took place, ORR transferred
20 Miguel Angel to Yolo Juvenile Detention Center, affording him neither notice nor
21 opportunity to be heard. Upon information and belief, Miguel Angel was transferred
22 to Yolo in retaliation for reporting the assaults.

23 46. At Yolo, facility staff attacked Miguel Angel with pepper spray, and he
24 fears they will do it again. On one occasion, after Miguel Angel had been pepper
25 sprayed by staff in his eyes and ears, he had to use water from the toilet in his cell to
26 wash out his eyes because staff cut off water to his sink. The pepper spray made his
27 eyes feel like they were on fire, and he lost hearing in one ear for several days. Miguel
28 Angel spends most of his time at Yolo locked in a small cell and is only allowed out

1 for short periods, which makes him feel trapped and tortured.

2 47. Miguel Angel's father, Gerardo, applied to be Miguel Angel's sponsor
3 around October 2017. Miguel Angel and Gerardo have a very close relationship, and
4 Miguel Angel wants to live with him. Gerardo lives in an apartment with his brother,
5 and in October 2017 both Gerardo and his brother submitted all required documents
6 to ORR, including birth certificates and fingerprints. ORR also requested that
7 Gerardo's neighbor, who lives across the hallway, submit the same information. The
8 neighbor submitted this information in October 2017.

9 48. In December 2017, a home investigator visited Gerardo's apartment to
10 perform a home study. The home study went well, and the investigator assured
11 Gerardo that Miguel Angel would probably be released in the first few weeks of
12 January. Gerardo heard nothing from ORR or Miguel Angel's case workers throughout
13 January or February 2018.

14 49. In March 2018, Gerardo was told that the Shiloh doctors would not
15 approve Miguel Angel for release and that he would remain in ORR custody until they
16 do. In early May 2018, Miguel Angel's case worker at Yolo told Gerardo that he
17 needed to provide proof of school enrollment and the name of a psychiatric clinic in
18 order for Miguel Angel to be released. Gerardo has tried his best to comply with these
19 requirements, but the local school requires Miguel Angel to be physically present in
20 order to be enrolled, and Gerardo has been unable to find a psychiatric clinic that will
21 give Miguel Angel an appointment. In late May 2018, Miguel Angel's case worker
22 told Gerardo that his fingerprints had expired, and that Gerardo, his brother, and his
23 neighbor would need to submit their fingerprints again.

24 50. ORR has refused to release Miguel Angel to Gerardo's custody for eight
25 months. ORR has not provided Miguel Angel or Gerardo with written notification of
26 its refusal to release Miguel Angel or the basis for the refusal, or an opportunity to
27 review the underlying evidence or appeal ORR's refusal to release Miguel Angel to
28 his father. Due to ORR's actions and inactions, Miguel Angel's release has been

1 unnecessarily delayed and he has not been placed in the least restrictive setting.

2 D. Gabriela N.

3 51. On or about January 8, 2017, ORR assumed custody of Plaintiff Gabriela
4 N., shortly after she had turned herself in at the U.S.-Mexico border. As a young girl
5 living in El Salvador, Gabriela experienced extreme violence and did not feel safe at
6 home. ORR placed her at the Southwest Key Casita del Valle facility (“Casita del
7 Valle shelter”) in Clint, Texas. In the fall of 2017, Isaac N., Gabriela’s grandfather and
8 Next Friend, requested Gabriela’s custody and submitted an application to serve as her
9 custodian. Gabriela’s mother appeared before a U.S. Consular official in El Salvador
10 to execute a formal designation pursuant to Paragraph 14D of the *Flores* settlement
11 directing ORR to release Gabriela to her grandfather.

12 52. Gabriela’s biological father is deceased, and her stepfather physically
13 abused her mother and disabled sister who suffers from paralysis from the abuse and
14 can no longer to speak. Thus, Gabriela fled to the U.S. seeking safety, with the hope
15 of living with her grandfather. Gabriela and her grandfather, Isaac, have a close
16 relationship, and she wants to live with him. Over the next eight months or so, Isaac
17 continued to submit documents that ORR requested and completed a home study in
18 anticipation that ORR would release Gabriela to his custody; it did not.

19 53. According to Isaac, in El Salvador, Gabriela had no mental health
20 concerns, and she took no medications for mental illness. When she arrived at Casita
21 del Valle shelter, facility staff noted that Gabriela appeared emotionally stable,
22 receptive, and resilient.

23 54. As her confinement wore on, however, Gabriela became depressed and
24 anxious, fearing that ORR would never release her to her family. Without obtaining
25 Isaac’s informed consent, the informed consent of any other adult family member, or
26 judicial authorization, ORR repeatedly administered Gabriela psychotropic
27 medications, ostensibly to control post-traumatic stress disorder, anxiety, major
28 depressive disorder, and attention-deficit hyperactivity disorder (“ADHD”).

1 55. While at Casita del Valle shelter, Gabriela was administered Prozac, a
2 psychotropic medication.

3 56. On or about September 7, 2017, ORR transferred Gabriela to Shiloh RTC,
4 without affording notice, an opportunity to be heard or a right to appeal. At Shiloh,
5 ORR administered Gabriela more psychotropic medications, including Gabapentin,
6 Prozac, and Bupropion, all of which include side effects of increased risk of suicidal
7 ideation and behavior. Bupropion is not FDA-approved to treat depression or ADHD
8 in adolescents. Upon information and belief, ORR did not involve a neutral decision
9 maker in the initial determination of whether to prescribe psychotropic medications to
10 Gabriela or in ongoing review of those medications.

11 57. Gabriela does not believe the medications help her, and she does not want
12 to take them. However, Gabriela believes that she must take the medications in order
13 to be released from detention. Shiloh staff told Gabriela that ORR would not release
14 her until Shiloh medical personnel declare her psychologically sound.

15 58. In February 2018, ORR sent an investigator to Isaac's home in Oakland,
16 California, where he lived, and continues to live, alone. Isaac moved to a new
17 apartment and purchased a new bed for Gabriela in preparation for her release.

18 59. The investigator indicated to Isaac that his home was suitable, but
19 questioned Isaac's ability to support Gabriela's education and care for her financially.
20 Isaac assured the investigator that he would do everything required to provide for
21 Gabriela. Later, Gabriela's social worker at Shiloh told Isaac that ORR was no longer
22 considering him as a custodian for his granddaughter and was going to transfer
23 Gabriela elsewhere. ORR afforded neither Isaac nor Gabriela any hearing, right to
24 administrative appeal, or other means to change its decision. ORR failed to provide
25 Isaac with a written decision or written explanation for denying him custody of
26 Gabriela. Due to ORR's actions and inactions, Gabriela's release has been
27 unnecessarily delayed and Gabriela has not been placed in the least restrictive setting.

28 60. Seventeen-year-old Gabriela remains detained at St. Michael's Home for

1 Children, where she has been administered Prozac.

2 61. After being detained for over one and a half years, Gabriela is miserable
3 and desperately wants to live with her grandfather. Her grandfather is ready and eager
4 to care for her. Shiloh staff have nonetheless told Gabriela that ORR will not release
5 her to her grandfather. ORR has provided Gabriela no legal counsel to represent her
6 with respect to release, the administration of psychotropic medications, or her
7 placement at Shiloh.

8 E. Jaime D.

9 62. On or about April 8, 2018, ORR assumed custody of Plaintiff Jaime D.
10 after he arrived at the U.S.-Mexico border with his 6-year-old sister and 10-year-old
11 aunt. ORR placed Jaime and his younger sister and aunt at the Cayuga Centers shelter
12 in Bronx, New York. On or about April 10, 2018, Reyna D., Jaime's aunt and Next
13 Friend, requested Jaime's custody and submitted a family reunification packet to ORR.
14 Reyna is Jaime's only family in the United States. Jaime desperately wants to be
15 released to Reyna's care. Jaime's mother died when he was seven years old and, upon
16 information and belief, his father died before he was born. Reyna discussed ORR's
17 requirements for becoming Jaime's custodian in detail with Jaime's case manager at
18 Cayuga Centers and immediately began gathering the required documents to send to
19 ORR.

20 63. When Jaime was first sent to Cayuga Centers, the staff made him feel
21 very nervous. Jaime was terrified that he would be forced to return to his home country,
22 where his life had been threatened. He made up a story about his life in his home
23 country, because he thought that this would make the shelter staff leave him alone. He
24 later recanted this story multiple times. Despite the shelter recommending that Jaime
25 be placed in a staff-secure facility, thirteen-year-old Jaime was transferred to a secure
26 facility.

27 64. On or about April 18, 2018, ORR transferred Jaime to Yolo County
28 Juvenile Detention Center in Woodland, California. ORR transferred Jaime to Yolo

1 without affording him notice, an opportunity to be heard or a right to appeal. He was
2 awakened at 4:00 in the morning and restrained with heavy shackles throughout the
3 cross-country flight from New York to California. Jaime was not allowed to say
4 goodbye to his younger sister or aunt. He was extremely worried they would think he
5 had abandoned them.

6 65. Yolo staff first contacted Reyna regarding her application for Jaime's
7 custody about a week after Jaime arrived at Yolo. Approximately two weeks later,
8 Jaime's case manager noted that Reyna had "provided all that [had] been asked of
9 her," including a complete family reunification packet and fingerprints. In late May
10 2018, Reyna completed a home study and interview with a home investigator. ORR
11 found Reyna a suitable custodian for Jaime's younger sister and aunt. ORR released
12 the two girls to Reyna's care on or about June 8, 2018.

13 66. While detained at Yolo, Jaime was very scared for his safety and suffered
14 from anxiety. Reyna was extremely concerned for his well-being as well, as Jaime
15 sounded increasingly sad and scared during their phone calls. Throughout his time at
16 Yolo, Jaime suffered physical abuse at the hands of older youth in the facility. Jaime
17 alerted facility staff of the abuse, but staff ignored his concerns and said they did not
18 believe him.

19 67. Two weeks after he was transferred to Yolo, Jaime's case manager noted
20 that the Yolo staff were "all in agreement that [Jaime] isn't appropriately placed in a
21 secure setting." Jaime was told by his case worker that he was too young to be at Yolo
22 and would hopefully be transferred soon. However, Jaime remained at Yolo for
23 another three weeks. On or about May 24, 2018, ORR transferred Jaime to Children's
24 Village staff secure facility in Dobbs Ferry, New York.

25 68. Thirteen-year-old Jaime remains detained at Children's Village, where he
26 is increasingly anxious and worried that he will never be released to his aunt's care.
27 As of the filing of this Complaint, Reyna has not heard from Jaime's case worker at
28 Children's Village for over a month. Reyna has not been given any information about

1 why Jaime has not yet been released to her care. ORR has not provided Jaime or Reyna
2 with written notification of its refusal to release Jaime or the basis for the refusal, or
3 an opportunity to review the underlying evidence or appeal ORR's refusal to release
4 Jaime to his aunt. Due to ORR's actions and inactions, Jaime's release has been
5 unnecessarily delayed and Jaime has not been placed in the least restrictive setting.

6 69. ORR has provided Jaime no legal counsel to represent him with respect
7 to release or his placement at Children's Village.

8 V.

9 CLASS ACTION ALLEGATIONS

10 70. The named Plaintiffs bring this action pursuant to Federal Rule of Civil
11 Procedure 23(a) and (b)(2) on behalf of themselves and the following similarly situated
12 proposed class members:

13 All children in ORR custody pursuant to 6 U.S.C. § 279 and/or 8 U.S.C.
14 § 1232 —

- 15 (a) whom ORR refuses to release to parents or other available custodians
16 within thirty days of the proposed custodian's submitting a complete
17 family reunification packet on the ground that the proposed custodian is
18 or may be unfit;
- 19 (b) who have been, are or will be placed in a secure facility, medium-secure
20 facility, or RTC, or continued in any such facility for more than thirty
21 days, without being afforded notice and an opportunity to be heard before
22 a neutral and detached decisionmaker regarding the grounds for such
23 placement; or
- 24 (c) who have been or will be administered psychotropic medication without
25 procedural safeguards, including obtaining informed consent or court
26 authorization prior to medicating a child, involving a neutral
27 decisionmaker in the initial determination of whether to prescribe
28 psychotropics to a child in ORR custody, and involving a neutral

1 decision-maker to conduct periodic reviews of those medications as
2 treatment continues; or

3 (d) who are natives of non-contiguous countries and to whom ORR blocks
4 legal assistance in legal matters or proceedings involving their custody,
5 placement, release, and/or non-consensual consumption of psychotropic
6 drugs.

7 71. The exact size of the proposed class is unknown, but likely includes
8 hundreds of children. The size of the class is so numerous that joinder of all members
9 is impracticable.

10 72. The claims of Plaintiffs and those of the proposed class members raise
11 common questions of law and fact concerning whether Defendants' policies and
12 practices relating to the release, placement, treatment, and legal representation of
13 detained immigrant children are consistent with the *Flores* Settlement, § 235 of the
14 TVPRA, the Fifth Amendment to the United States Constitution, and the First
15 Amendment of the Constitution. These questions are common to the named Plaintiffs
16 and the members of the proposed class because Defendants have acted and will
17 continue to act on grounds generally applicable to the named Plaintiffs and the
18 proposed class members. Plaintiffs' claims are typical of the class's claims.

19 73. The prosecution of separate actions by individual members of the
20 proposed class would create a risk of inconsistent or varying adjudications establishing
21 incompatible standards of conduct for Defendants. Proposed class members are
22 predominantly indigent, non-English-speaking children who are being denied basic
23 fairness in ORR's prolonging their detention in lieu of releasing them to parents or
24 other proposed custodians, "stepped up" to RTC, secure or staff-secure placement
25 without notice or opportunity to be heard, and administered psychotropic medications
26 without a parent's informed consent. The proposed class members are under ORR's
27 exclusive physical control and often understand little, if anything, about their rights
28 under the *Flores* Settlement, the TVPRA, or the Constitution. ORR actively obstructs

1 lawyers from representing members of the proposed class in legal proceedings relating
2 to custody, placement, or release. Unless this matter proceeds as a class action, the
3 majority of class members have little chance of securing judicial review of the policies
4 and practices challenged herein.

5 74. Defendants, their agents, employees, and predecessors and successors in
6 office have acted or refused to act, and will continue to act or refuse to act, on grounds
7 generally applicable to the class, thereby making injunctive relief and corresponding
8 declaratory relief appropriate with respect to the class as a whole. Plaintiffs will
9 vigorously represent the interests of unnamed class members. All members of the
10 proposed class will benefit by this action. The interests of the named Plaintiffs and
11 those of the proposed class members are identical.

12 75. Plaintiffs are represented by experienced and reputable lawyers
13 associated with non-profit public interest law firms and an international law firm
14 serving *pro bono publico*. Plaintiffs' counsel includes attorneys with years of
15 experience litigating complex suits and class actions on behalf of children and foreign
16 nationals, including counsel for the plaintiff class in *Flores v. Sessions*.

17 VI.

18 ORR POLICY & PRACTICE VIOLATES DUE PROCESS

19 A. Defendants have violated Plaintiffs' due process and family association rights,
20 the TVPRA, and the Flores Settlement in determining custodians' fitness.

21 76. When children are held in government custody apart from their primary
22 caregivers for long periods, they suffer profound and long-lasting injury. The
23 American Academy of Pediatrics has explained that "highly stressful experiences, like
24 family separation, can cause irreparable harm, disrupting a child's brain architecture
25 and affecting his or her short- and long-term health. This type of prolonged exposure
26 to serious stress—known as toxic stress—can carry lifelong consequences for
27 children." Toxic stress is associated with increased rates of mental health issues, risky
28 health behaviors, and physical illness such as diabetes, cancer, posttraumatic stress

1 disorder (“PTSD”), and heart disease. Studies of immigrant children detained in the
2 United States have discovered high rates of PTSD, anxiety, depression, and suicidal
3 ideation. A primary factor in recovering from such trauma is reunification with a
4 parent or other trusted adult. Without the presence of trusted caregivers, children are
5 often unable to cope with the psychological trauma and stress associated with
6 detention.

7 77. Paragraph 14 of the *Flores* Settlement requires ORR to release children
8 from immigration-related custody “without unnecessary delay” so long as their
9 continued detention is not required to secure availability for removal or to protect
10 safety. Paragraph 18 of the Settlement requires ORR to make “prompt and continuous
11 efforts” toward family reunifications and to release children to suitable custodians
12 without unnecessary delay.

13 78. Similarly, § 235(c)(2)(A) of the TVPRA, codified at 8 U.S.C.
14 1232(c)(2)(A), requires ORR to “promptly” place detained children “in the least
15 restrictive setting that is in the best interest of the child,” generally, with “a suitable
16 family member” TVPRA § 235(c)(3)(A) provides, “[A]n unaccompanied alien
17 child may not be placed with a person or entity unless the Secretary of Health and
18 Human Services makes a determination that the proposed custodian is capable of
19 providing for the child’s physical and mental well-being.”

20 79. Paragraph 24A of the *Flores* Settlement guarantees detained children the
21 right to a hearing during which an immigration judge reviews whether they may be
22 continued in custody because they are dangerous or unusually likely to abscond.
23 However, neither the *Flores* Settlement nor the TVPRA prescribe what process is due
24 where ORR unreasonably prolongs a juvenile’s detention or refuses to release him or
25 her because ORR questions whether an available parent or other potential custodian is
26 capable of providing for the child’s physical and mental well-being.

27 80. Plaintiffs have substantial liberty interests in being free from government
28 custody, in preserving their family unity and the ability for their family to care for

1 them, and in family association. Defendants may not abridge these liberty interests
2 without appropriate procedures to protect against erroneous deprivation.

3 81. Plaintiffs have a fundamental right to the supervision, companionship,
4 and care of their parents. Absent a showing of parental unfitness, the government may
5 not keep children from their parents or refuse to release children into the custody of
6 their parents.

7 82. As a matter of both policy and practice, ORR does not make prompt and
8 continuous efforts toward family reunification and the release of children in its
9 custody. Instead, it delays or refuses to make determinations about whether proposed
10 custodians are or may be unfit.

11 83. As a matter of both policy and practice, ORR affords Plaintiffs and their
12 proposed class members little or no procedural protection against prolonged detention
13 on the ground that their parents or other proposed custodians are or may be unfit.
14 ORR's nominal procedures for vetting detained children's parents or other proposed
15 custodians do not appear in the Code of Federal Regulations, nor even in a semi-
16 permanent practice manual. Rather, they appear on ORR's web page,
17 [www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-](http://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-2)
18 [section-2](http://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-2) (last visited June 29, 2018), and are subject to change without prior notice
19 or opportunity for comment. Under its nominal procedures —

- 20 (a) ORR does not decide within any time certain whether a detained minor's
21 parent or other proposed custodian is suitable;
- 22 (b) ORR does not provide a detained minor, or his or her parent or other
23 proposed custodian, an opportunity to inspect or rebut evidence
24 derogatory of the proposed custodian's fitness;
- 25 (c) ORR does not afford a detained minor or his or her proposed custodian a
26 hearing before a neutral and detached decisionmaker either before or after
27 ORR declares a potential custodian unfit;
- 28 (d) Once ORR decides a proposed custodian is unsuitable, it need not inform

1 a detained minor or the proposed custodian of its decision for up to 30
2 days;

3 (e) ORR allows detained minors no appeal or other administrative recourse
4 from its finding a proposed custodian unsuitable, though such a decision
5 nearly always prolongs the minor’s detention;

6 (f) Except for parents and legal guardians, ORR allows rejected custodians
7 no appeal from a decision declaring them unfit, which nearly always
8 prolongs an affected minor’s detention;

9 (g) As for parents and legal guardians, ORR’s policy requires them to submit
10 a written request to HHS’s Assistant Secretary for Children and Families
11 to be heard regarding ORR’s declaring them unfit, but a hearing need not
12 be convened within any time certain.

13 84. Whether a parent or other custodian is qualified to care for a child is a
14 matter generally committed to state and local governments. Plaintiffs are informed and
15 believe that in all fifty states and their subdivisions, children may not be detained for
16 want of a qualified custodian without affording them and/or their parents or other
17 potential custodians a prompt hearing before a judge or other neutral and detached
18 decisionmaker, during which allegations of unfitness are tested via trial-like
19 procedures and any ensuing finding of unsuitability must be based on competent
20 evidence.

21 85. In contrast, in refusing to release Plaintiffs and those similarly situated to
22 parents and other available custodians on grounds of fitness, ORR provides neither
23 Plaintiffs nor those similarly situated —

- 24 (a) an evidentiary hearing;
- 25 (b) the right to review or rebut adverse witnesses and evidence;
- 26 (c) appointed counsel, guardians *ad litem*, or interpreters;
- 27 (d) a finding of suitability or lack thereof by a neutral and detached decision-
28 maker under defined and consistent legal standards;

- 1 (e) the right to a prompt determination of a proposed custodian’s fitness; or
- 2 (f) the right to appeal administratively adverse decisions.

3 86. In practice, ORR often refuses to decide whether a detained child’s
4 proposed custodian is fit, thereby needlessly prolonging detention and family
5 separation.

6 87. On information and belief, Plaintiffs allege that, to date, HHS’s Assistant
7 Secretary for Children and Families has never convened an actual hearing before a
8 neutral arbiter to review a decision by ORR declaring a detained child’s proposed
9 custodian unsuitable.

10 88. ORR’s procedures for determining whether parents and other proposed
11 custodians are suitable creates an unreasonable risk that Plaintiffs and those similarly
12 situated will be erroneously —

- 13 (a) subjected to prolonged detention;
- 14 (b) placed in overly restrictive settings that are not in their best interests;
- 15 (c) administered psychotropic medications; and
- 16 (d) separated from parents and family.

17 89. As a direct and proximate result of ORR’s torpid, opaque, and
18 perfunctory procedures for declaring detained children’s parents and other proposed
19 custodians unsuitable, Plaintiffs and those similarly situated have been and will be
20 erroneously—

- 21 (a) subjected to prolonged detention;
- 22 (b) placed in overly restrictive settings that are not in their best interests;
- 23 (c) administered psychotropic medications; and
- 24 (d) separated from parents and family.

25 90. The government’s refusing to release children to their parents’ custody,
26 or to the custody of adult siblings and other family members, deprives plaintiffs of
27 their fundamental rights without any reasonable justification or legitimate purpose,
28 violates the substantive and procedural components of the Due Process Clause, and

1 violates the freedom of association clause of the First Amendment. In prolonging the
2 separation of children from their proposed custodians, Defendants also compromise
3 the short and long-term health of Plaintiffs and those similarly situated.

4 B. Defendants have violated Plaintiffs' due process rights, the TVPRA, and the
5 Flores Settlement by placing them in unlicensed placements.

6 91. Definition 6 and paragraph 19 of the *Flores* Settlement require ORR to
7 place a detained child in a non-secure facility holding a state license to care for
8 dependent children except in circumstances enumerated in Settlement paragraph 21:
9 *i.e.*, the child has committed a violent crime or non-petty delinquent act, has threatened
10 violence during federal custody, is an unusual escape-risk, or is so disruptive that
11 secure confinement is necessary to ensure the welfare of the minor or others.

12 92. Section 235(c)(2)(A) of the TVPRA similarly requires ORR to place
13 detained children promptly “in the least restrictive setting that is in the best interest of
14 the child . . .” and bars its placing a child “in a secure facility absent a determination
15 that the child poses a danger to self or others or has been charged with having
16 committed a criminal offense.”

17 93. TVPRA § 235(c)(2)(A) provides, “The placement of a child in a secure
18 facility shall be reviewed, at a minimum, on a monthly basis, in accordance with
19 procedures prescribed by the Secretary, to determine if such placement remains
20 warranted.” The TVPRA is otherwise silent with respect to what process is due when
21 ORR places or continues a child in an RTC, medium-secure or secure facility.

22 94. Federal law and policy recognize that both children and communities are
23 better off when children are not needlessly incarcerated. A vast body of research has
24 established that detaining children interferes with healthy development, exposes youth
25 to abuse, undermines educational attainment, makes children with mental health needs
26 worse off, and puts children at greater risk of self-harm. Juvenile detention facilities
27 often respond to threats of self-harm in ways that further endanger youth, such as by
28 placing them in isolation. Schooling children receive during detention is often

1 substandard, which places them at serious disadvantage when they enter school after
2 having been detained for substantial periods. Research has demonstrated that
3 incarceration also exacerbates pre-existing trauma.

4 95. The vast majority of children who end up in secure custody through ORR
5 have never been charged, let alone convicted, of crimes in the U.S. or in their home
6 country. Often, ORR places the most vulnerable children—those with the greatest
7 mental health needs—in staff-secure, secure or RTC facilities. Prolonging the
8 detention of children with mental health needs in such facilities is profoundly
9 injurious. ORR’s detaining children in such facilities exacerbates mental health issues
10 to the point that ORR eventually consigns children to mental hospitals.

11 96. The Fifth Amendment’s Due Process Clause protects children’s freedom
12 from unnecessary physical restraint, including placement in RTCs, medium-secure or
13 secure facilities. ORR’s placing children in such facilities is constrained by due
14 process, which requires adequate procedural protections to ensure that ORR’s asserted
15 justification for such placement outweighs children’s constitutionally protected
16 interest in avoiding excessive physical restraint. Due process requires that ORR give
17 Plaintiffs and their proposed class members meaningful notice and an opportunity to
18 be heard before it places them in RTCs, medium-secure or secure facilities and an
19 ongoing review with commensurate protections every thirty days.

20 97. As a matter of policy and practice, Defendant ORR affords detained
21 children wholly inadequate procedural protection against erroneous placement in
22 RTCs, secure or medium-secure facilities. ORR’s procedures for initially placing a
23 child in an RTC, secure or medium-secure facility and for periodically reviewing the
24 need for such placements appear nowhere in the Code of Federal Regulations. Rather,
25 they appear on ORR’s web page and are subject to change without prior notice or
26 opportunity for public comment.

27 98. In practice, ORR’s placing children in RTCs, secure or medium-secure
28 facilities results from an opaque and peremptory process in which youth are summarily

1 “stepped up” to such facilities without any meaningful opportunity to be heard, either
2 before or after being stepped up, regarding the reasons for placing them in such
3 facilities. In placing children in RTCs, secure and medium-secure facilities, ORR
4 provides neither Plaintiffs nor those similarly situated —

- 5 (a) an evidentiary hearing;
- 6 (b) notice of the placement decision or individualized reasoning therefor;
- 7 (c) an opportunity to present evidence and witnesses;
- 8 (d) the right to a neutral adjudicator;
- 9 (e) an opportunity to review or rebut adverse witnesses and evidence;
- 10 (f) the right to counsel, guardians *ad litem*, or interpreters;
- 11 (g) a finding of dangerousness or other adequate cause for such placement
12 under coherent and consistent legal standards;
- 13 (h) the right to appeal administratively from adverse decisions; or
- 14 (i) a monthly review of whether their placement in RTCs, medium-secure,
15 or secure facilities remains warranted.

16 99. Pursuant to paragraph 24A of the *Flores* Settlement and orders issued by
17 the District Court for the Central District of California, immigration judges may
18 review ORR’s decisions to continue detaining children in federal custody on grounds
19 they are dangerous or unusual flight-risks. ORR regularly places children in RTCs,
20 secure and medium-secure facilities on the ground that they are dangerous or unusual
21 flight-risks, contrary to immigration judges’ determinations that they are neither.

22 100. Plaintiffs are informed and believe that in all fifty states and their
23 subdivisions, it is unlawful to place children in RTCs, secure or medium-secure
24 facilities without affording them a prompt and meaningful opportunity to be heard
25 before a neutral and detached decisionmaker regarding the grounds for such
26 placement.

27 101. The lack of procedural protection against erroneous ORR decisions to
28 place children in RTCs, secure and medium-secure facilities creates an unreasonable

1 risk that youth will be placed in overly restrictive settings against their best interests,
2 subjected to needless restrictions on their personal liberty, and unjustly suffer the
3 trauma and stigma of imprisonment. As a direct and proximate result of ORR's
4 peremptorily consigning children to RTCs, secure and medium-secure facilities,
5 Plaintiffs and their proposed class members have been and are being erroneously:
6 (a) placed in restrictive settings against their best interests; (b) subjected to excessive
7 restrictions on their personal liberty; and (c) subjected to the trauma and stigma of
8 imprisonment.

9 102. Placement in RTCs, secure and medium-secure facilities further injures
10 Plaintiffs and those similarly situated because ORR, as a matter of policy and practice,
11 delays release to parents and other reputable custodians of youth whom it has ever
12 confined in such facilities, even when such placement is based on incomplete,
13 inaccurate, or erroneous evidence, and even if ORR subsequently transfers a child to
14 a non-secure dependent care facility.

15 103. As a matter of policy and practice, ORR refuses to release children whom
16 it has ever placed in a secure or medium-secure facility until and unless its director or
17 his designee approves release. In practice, this policy prolongs non-dangerous
18 children's detention for weeks or months notwithstanding that parents or other
19 reputable custodians are available to care for them.

20 104. As a matter of policy and practice, ORR refuses to release children whom
21 it has placed in RTCs until and unless RTC medical personnel declare the child
22 mentally fit. ORR affords children no hearing or other meaningful procedural recourse
23 when RTC medical personnel refuse to declare them mentally fit. As a direct and
24 proximate result of said policy and practice, children placed in RTCs suffer the
25 functional equivalent of indefinite civil commitment without due process of law.

26 105. On information and belief, Plaintiffs further allege that ORR regularly
27 insists that the parents and other potential custodians possess novel and superfluous
28 qualifications to receive custody of children whom ORR has ever placed in an RTC,

1 secure or medium-secure facility. Such qualifications include being cancer-free,
2 having income sufficient to supply released children with psychotropic drugs,
3 repetitive fingerprinting, and supplying fingerprints of third parties who do not reside
4 in the proposed custodian's home. As a direct and proximate result of said policy and
5 practice, children placed in RTCs, secure and medium-secure facilities have been and
6 are being erroneously: (a) placed in restrictive settings against their best interests; and
7 (b) subjected to excessive restrictions on their personal liberty.

8 C. Defendants have subjected Plaintiffs to the administration of psychotropic drugs
9 without having procedural safeguards in place, including obtaining informed
10 consent.

11 106. Paragraph 7 of the *Flores* Settlement provides in pertinent part: "The INS
12 shall assess minors to determine if they have special needs" A child may have
13 special needs "due to drug or alcohol abuse, serious emotional disturbance, mental
14 illness or retardation, or a physical condition or chronic illness that requires special
15 services or treatment." Paragraph 12 of the *Flores* Settlement provides in pertinent
16 part: "Following arrest, the INS shall hold minors in facilities that are safe and sanitary
17 and that are consistent with the INS's concern for the particular vulnerability of
18 minors." The *Flores* Settlement further provides that facilities in which ORR places
19 children with mental health needs must "meet those standards . . . set forth in Exhibit
20 1." Settlement ¶¶ 6, 8. Exhibit 1 requires that licensed programs "comply with all
21 applicable state child welfare laws and regulations . . . and shall provide or arrange for
22 the following services for each minor in its care: . . . appropriate mental health
23 interventions when necessary."

24 107. Section 235(c)(2) of the TVPRA requires ORR to provide children in its
25 custody with safe and secure placements. Placements that involve the unnecessary or
26 coerced administration of psychotropic medications are neither "safe" nor "secure."

27 108. The *Flores* Settlement incorporates by reference relevant law of the state
28 in which children are placed and thereby requires ORR to comply with applicable child

1 welfare laws and regulations when administering psychotropic medications to
2 Plaintiffs and those similarly situated. Plaintiffs are informed and believe, and on such
3 basis allege, that the laws of all states in which ORR places Plaintiffs and those
4 similarly situated require ORR to obtain informed parental consent or its lawful
5 equivalent when administering psychotropic medications to minors.

6 109. For example, Texas Administrative Code sections 748.2001(b),
7 748.2253, 748.2255 require informed consent be provided prior to administering
8 psychotropic drugs to children in state custody. Texas Family Code section 266.004(a)
9 provides that before children in the care of the Texas Department of Family and
10 Protective Services may receive medical care, someone authorized by a court must
11 provide consent.

12 110. Similarly, California Welfare and Institutions Code sections 369.5(a)(1)
13 and 739.5(a)(1) provide that only a juvenile court may lawfully authorize the
14 administration of psychotropic medication to children who are in state custody, unless
15 the juvenile court specifically authorizes a parent to do so after making specific
16 findings regarding the parent's fitness and capacity to do so.

17 111. Plaintiffs and their proposed class members have a substantial liberty
18 interest protected by the Due Process Clause of the Fifth Amendment in being free
19 from the unauthorized and unnecessary administration of psychotropic medications.
20 Plaintiffs are entitled to constitutionally sufficient procedures to protect against
21 erroneous deprivation of this interest.

22 112. Psychotropic medications are powerful drugs that act on the central
23 nervous system and affect cognition, emotions, and behavior. Such drugs should only
24 be administered in combination with other mental health supports to treat specifically
25 diagnosed psychiatric illnesses and mental health disorders. Few psychotropic
26 medications have been approved by the FDA as safe and effective to treat children,
27 and careful oversight and monitoring is accordingly required when children are given
28 such drugs. Such medications should not be used as chemical straitjackets to control

1 behavior.

2 113. Serious, long-lasting adverse effects are common for individuals given
3 psychotropic medications. The full risks of giving such drugs to children are not well
4 understood, although psychotropics are known to cause serious and sometimes
5 irreversible side effects in adults, including psychosis, seizures, movement disorders,
6 suicidal ideation, aggression, extreme weight gain, and organ damage. Increasing the
7 number of psychotropic drugs children take concurrently increases the likelihood of
8 adverse reactions and long-term side effects. Close and continuing scrutiny of children
9 given such medications is therefore critical.

10 114. As a matter of policy and practice, ORR authorizes and condones the
11 administration of psychotropic drugs to children entirely without procedural
12 safeguards, including informed parental consent. Rather, ORR authorizes detention
13 facility staff to “consent” to the involuntary, long-term administration of psychotropic
14 drugs to juveniles in their parents’ stead, even when such parents are readily available
15 to ORR and/or the detention facility to give or withhold such consent.

16 115. As a matter of policy and practice, ORR also fails to provide any
17 substantial procedural safeguards against unnecessary or unauthorized administration
18 of psychotropic drugs to children in its custody. At a minimum, such safeguards must
19 include a neutral decisionmaker’s approval of the initial decision to administer
20 psychotropics to a child, as well as periodic reviews to ensure that youth are not
21 administered psychotropic medications unnecessarily, for too long, at harmful dosages
22 or in harmful combinations.

23 116. On information and belief, Plaintiffs allege that ORR failed to have any
24 of these procedural safeguards in place prior to administering psychotropic
25 medications to the named Plaintiffs. In addition, the psychiatrist who currently
26 prescribes psychotropic medications to children at ORR’s Shiloh RTC, Dr. Javier
27 Ruíz-Nazario, is not certified by the Texas Medical Board to treat children and
28 adolescents. Dr. Ruíz-Nazario has also received payments from drug companies that

1 manufacture psychotropic drugs given to children at Shiloh RTC.

2 D. Defendants have obstructed Plaintiffs' access to counsel.

3 117. Paragraph 24A of the *Flores* Settlement requires ORR to give detained
4 children a hearing before an immigration judge to review whether they are dangerous
5 or likely to abscond. Settlement paragraph 24D provides that Defendants must
6 “promptly provide each minor not released with . . . the list of free legal services
7 providers compiled pursuant to INS regulation” Exhibit 1, paragraph 14 of the
8 *Flores* Settlement requires licensed facilities in which Defendants detain minors to
9 provide “information regarding the availability of free legal assistance, the right to be
10 represented by counsel at no expense to the government” Exhibit 6 of the *Flores*
11 Settlement advises detained minors, “If you believe that you have not been properly
12 placed or that you have been treated improperly, you may ask a federal judge to review
13 your case. You may call a lawyer to help you do this. If you cannot afford a lawyer,
14 you may call one from the list of free legal services given to you with this form.”

15 118. Section 235(c)(5) of the TVPRA directs Defendant HHS Secretary to
16 “ensure, to the greatest extent practicable and consistent with section 292 of the
17 Immigration and Nationality Act (8 U.S.C. § 1362), that all unaccompanied alien
18 children who are or have been in the custody of the Secretary or the Secretary of
19 Homeland Security, and who are not [from contiguous countries], have counsel to
20 represent them in legal proceedings or matters and protect them from
21 mistreatment” Section 279(b)(A) of the HSA makes ORR responsible for
22 “developing a plan to be submitted to Congress on how to ensure that qualified and
23 independent legal counsel is timely appointed to represent the interests of each such
24 [unaccompanied alien] child” Immigration regulations, including 8 C.F.R.
25 §§ 287.3(c), 1003.62, 1240.10(a)(2) and 1292.1 *et seq.*, generally guarantee Plaintiffs
26 and their proposed class members the right to be represented by retained and *pro bono*
27 counsel in proceedings before U.S. Citizenship and Immigration Services and the
28 Executive Office for Immigration Review.

1 119. In furtherance of TVPRA § 235(c)(5), Defendant HHS contracts with the
2 Vera Institute of Justice (“VIJ”), a non-profit organization, to coordinate the delivery
3 of free legal services to unaccompanied children from non-contiguous countries who
4 are or have been in ORR custody. VIJ in turn subcontracts with non-profit legal aid
5 providers to counsel and represent such children in applying for affirmative
6 immigration benefits, such as asylum or Special Immigrant Juvenile Status, and in
7 asserting other defenses against removal.

8 120. In many regions of the country, VIJ-funded legal services providers are
9 the only legal counsel available to juveniles in ORR custody. Plaintiffs and the
10 members of the proposed class are almost uniformly indigent, speak little or no
11 English, and have little or no ability to represent themselves in hearings pursuant to
12 paragraph 24A of the *Flores* Settlement or in any other legal proceedings involving
13 ORR’s custody, release, placement or medication decisions.

14 121. On information and belief, ORR has no eligibility standards for providing
15 VIJ-funded legal services to detained children. Rather, ORR exercises opaque and
16 arbitrary discretion to prescribe those legal matters or proceedings in which VIJ-
17 funded legal providers may represent detained children and those in which they may
18 not.

19 122. As a matter of policy and practice, ORR routinely bars VIJ-funded legal
20 services providers from representing unaccompanied children from non-contiguous
21 countries in legal proceedings involving ORR’s custody, release, placement, and
22 medication decisions, even when such legal services providers have the time and
23 desire to undertake such representation.

24 123. Legal proceedings involving ORR’s custody, release, placement, and
25 medication decisions, including hearings pursuant to paragraph 24A of the *Flores*
26 Settlement, are “legal proceedings or matters” within the meaning of TVPRA
27 § 235(c)(5).

28 124. By blocking VIJ-funded legal services providers from representing

1 children in legal proceedings involving ORR's custody, release, placement and
2 medication decisions, ORR forces Plaintiffs and those similarly situated to fend for
3 themselves in a complex and foreign adversarial legal system with little hope of
4 prevailing. Without meaningful access to counsel, Plaintiffs and those similarly
5 situated are denied a fair chance of succeeding in legal challenges to ORR's custody,
6 release, placement and medication decisions and, *a fortiori*, suffer prolonged detention
7 and the harms extended confinement and family separation inflicts. ORR deprives
8 youth of liberty for years, which is comparable to imprisonment for a felony
9 conviction.

10 125. In blocking Plaintiffs and those similarly situated from receiving
11 assistance in legal matters and proceedings involving ORR's custody, placement,
12 medication, and release decisions, ORR acts arbitrarily, capriciously, abusively of
13 discretion, and contrary to children's best interests, and obstructs lawyers from
14 discharging their duty of zealous representation.

15 126. As a direct and proximate result of ORR's blocking VIJ-funded legal
16 services providers from representing Plaintiffs and those similarly situated children in
17 legal proceedings involving ORR's custody, release, placement, or medication
18 decisions, including hearings pursuant to paragraph 24A of the *Flores* Settlement,
19 Plaintiffs and those similarly situated are being: (a) improperly administered
20 psychotropic drugs; (b) erroneously denied placement in the least restrictive setting
21 that is in their best interest; and (c) erroneously denied release to available custodians
22 without unnecessary delay.

23 VII.

24 IRREPARABLE INJURY

25 127. Plaintiffs have suffered and will continue to suffer irreparable harm
26 because of Defendants' policies and practices as challenged herein. ORR has deprived
27 and will continue to deprive Plaintiffs and those similarly situated of their rights under
28 the First and Fifth Amendments, the TVPRA, and the *Flores* Settlement. ORR

1 confines children to jail-like settings without affording them a meaningful or timely
2 opportunity to be heard regarding the reasons for such placement; prolongs children's
3 detention on the ground that their parents or other available custodians are or may be
4 unfit, while affording neither detained children nor their proposed custodians a
5 meaningful or timely opportunity to be heard regarding a proposed custodian's fitness;
6 places children in facilities in which it knows they will be administered powerful
7 psychotropic medications without procedural safeguards; and blocks lawyers from
8 representing detained children with respect to placement, administration of
9 psychotropic medications, or release to available custodians. In doing so, Defendants
10 have profoundly undermined the health and well-being of Plaintiffs and those similarly
11 situated along multiple domains, as described above.

12 VIII.

13 FIRST CLAIM FOR RELIEF

14 [DENIAL OF DUE PROCESS: DETERMINING CUSTODIANS' FITNESS]

15 128. Plaintiffs hereby incorporate by reference Paragraphs 1-127 of this
16 Complaint as though fully set forth here.

17 129. As a matter of policy and practice Defendants unreasonably and
18 unnecessarily delay or refuse to release children to parents, close family members, and
19 other available custodians on the ostensible grounds that such custodians are or may
20 be unfit, and they do so without affording detained minors or their proposed custodians
21 a timely, prompt, or meaningful opportunity to be heard regarding such custodians'
22 fitness. Defendants' policies and practices violate the fundamental rights of Plaintiffs
23 and those similarly situated and demonstrate a deliberate indifference to risk of harm
24 to children.

25 130. Such policy and practice individually and collectively violate paragraphs
26 14 and 18 of the *Flores* Settlement, TVPRA § 235(c)(2)(A), the Administrative
27 Procedure Act, 5 U.S.C. §§ 701 *et seq.*, the procedural and substantive components of
28 the Due Process Clause of the Fifth Amendment of the United States Constitution, and

1 the Freedom of Association Clause of the First Amendment of the United States
2 Constitution.

3 IX.

4 SECOND CLAIM FOR RELIEF

5 [DENIAL OF DUE PROCESS: RESTRICTIVE PLACEMENT]

6 131. Plaintiffs hereby incorporate by reference Paragraphs 1-127 of this
7 Complaint as though fully set forth here.

8 132. As a matter of policy and practice, Defendants place Plaintiffs and those
9 similarly situated in RTCs, secure facilities, and medium-secure facilities without
10 affording them a meaningful opportunity to be heard either prior or subsequent to such
11 placement.

12 133. Such policy and practice individually and collectively violate Definition
13 6 and paragraph 19 of the *Flores* Settlement, TVPRA § 235(c)(2)(A), the
14 Administrative Procedure Act, 5 U.S.C. §§ 701 *et seq.*, and the Due Process Clause of
15 the Fifth Amendment to the United States Constitution.

16 X.

17 THIRD CLAIM FOR RELIEF

18 [UNLAWFUL ADMINISTRATION OF PSYCHOTROPIC DRUGS]

19 134. Plaintiffs hereby incorporate by reference Paragraphs 1-127 of this
20 Complaint as though fully set forth here.

21 135. As a matter of policy and practice, Defendants administer children
22 psychotropic drugs without procedural safeguards, including: obtaining informed
23 consent or the lawful equivalent; involving a neutral decision maker in the initial
24 determination of whether to prescribe psychotropic medications to children in ORR
25 custody; and conducting a periodic review of such treatment decisions to ensure that
26 youth are not administered psychotropic medications unnecessarily or at harmful
27 dosage levels or in harmful combinations.

28 136. Such policy and practice individually and collectively violate paragraphs

1 6, 8, 12, and 19 and Exhibit 1 of the *Flores* Settlement, the TVPRA, the Administrative
2 Procedure Act, 5 U.S.C. §§ 501 *et seq.*, and the Due Process Clause of the Fifth
3 Amendment to the United States Constitution.

4 XI.

5 FOURTH CLAIM FOR RELIEF

6 [BLOCKING LEGAL ASSISTANCE IN MATTERS RELATING TO CUSTODY,
7 MEDICATION AND RELEASE]

8 137. Plaintiffs hereby incorporate by reference Paragraphs 1-127 of this
9 Complaint as though fully set forth here.

10 138. As a matter of policy and practice, ORR blocks VIJ-funded lawyers from
11 representing Plaintiffs and those similarly situated in legal matters and proceedings
12 involving ORR's decisions regarding custody, release, medication, and placement.

13 139. Such policy and practice individually and collectively violate paragraphs
14 24A and 24D, Exhibit 1 paragraph 14, and Exhibit 6 of the *Flores* Settlement, TVPRA
15 § 235(c)(5), HSA § 279(b)(A), 8 C.F.R. §§ 287.3(c), 1003.62, 1240.10(a)(2) and
16 1292.1 *et seq.*, the Administrative Procedure Act, 5 U.S.C. §§ 501 *et seq.*, and the Due
17 Process Clause of the Fifth Amendment to the United States Constitution.

18 XII.

19 PRAYER FOR RELIEF

20 WHEREFORE, Plaintiffs pray that this Court —

- 21 1. assume jurisdiction of this cause;
- 22 2. certify this case as a class action on behalf of the class proposed herein;
- 23 3. enter declaratory judgment that Defendants' policies and practices as
24 challenged herein are unlawful;
- 25 4. issue temporary and permanent injunctions enjoining Defendants from —
26 (a) denying Plaintiffs or their proposed class members due process in
27 evaluating the fitness of parents and other available custodians;
28 (b) denying Plaintiffs or their class members due process in placing them in

1 RTCs, medium-secure or secure facilities;

2 (c) administering psychotropic drugs to Plaintiffs or their class members in
3 non-exigent circumstances without parental consent or the lawful
4 equivalent thereof;

5 (d) blocking Plaintiffs or their class members from receiving legal assistance
6 pursuant to 8 U.S.C. § 1232(c)(5) in hearings in legal proceedings or
7 matters involving ORR's decisions regarding custody, placement, or
8 release;

9 5. award the named Plaintiffs and their class members nominal damages
10 pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403
11 U.S. 388 (1971);

12 6. award Plaintiffs costs and attorney's fees pursuant to the Equal Access to
13 Justice Act, 28 U.S.C. § 2412; and

14 7. issue such further relief as the Court deems just and proper.
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1 Dated: June 29, 2018

Respectfully submitted,

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