

agents entered and searched Plaintiffs' private homes without warrants, without probable cause or exigent circumstances, and without the consent of the Plaintiffs, then detained, interrogated and in some cases arrested Plaintiffs in their homes. Furthermore, ICE agents and accompanying local and county law enforcement officers targeted homes occupied by residents of Latino origin, a pattern of conduct in violation of Plaintiffs' Due Process and Equal Protection rights under the Fifth Amendment of the United States Constitution. Local law enforcement included the Kandiyohi County Sheriff's Department, the City of Willmar Police Department, and in the case of Plaintiffs Barragan and her son, the City of Atwater Police Department.

3. In addition, Defendant ICE agents conducted a campaign of intimidation in and around the city of Willmar by identifying locations such as trailer parks and apartment buildings with known concentrations of Latino residents, then conducted unconstitutional stops and detentions of individuals based solely on the individual's race or apparent national origin. Defendants thereby violated Plaintiffs' Equal Protection Rights provided by the Fifth Amendment of the United States Constitution.

4. These raids were the calculated product of racial and ethnic profiling fundamentally at odds with the basic premises of the Equal Protection Clause of the Fifth Amendment and shock the conscience.

5. Upon information and belief, the techniques applied during the raids were organized and approved by Defendants and other federal government officials and were not the product of *ad hoc* decisions by field operatives. In short, U.S. Department of Homeland Security officials created and approved operations that willfully, knowingly, and/or recklessly disregarded Plaintiffs' Constitutional protections. Furthermore, local and county officials collaborated closely with federal actors in organizing, planning, and executing the raids.

6. Plaintiffs seek injunctive and declaratory relief to prevent such egregious Constitutional violations from occurring again within the Federal District of Minnesota.

7. Plaintiffs seek declaratory relief, injunctive relief, and compensatory and punitive damages to remedy violations of their constitutional and statutory rights.

JURISDICTION

8. This action arises under the Constitution of the United States, and, the Immigration and Nationality Act (“INA”), 8 U.S.C. §§ 1101 *et seq.*, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570. This Court retains jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 2241, art. I, § 9, cl.2 of the United States Constitution (“Suspension Clause”), as detainees are presently in custody or otherwise controlled under color of authority of the United States. Consequently, this Court may grant relief pursuant to 28 U.S.C. §§ 1651, 2201, 2002, 2241, and 2242 and Rule 57 of the Federal Rules of Civil Procedure.

PARTIES

9. Plaintiff **CARLOS HILARIO ARIAS** (“Plaintiff Carlos Arias”) is a Latino male who is a resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

10. Plaintiff **VINCENTE CISNEROS ABONCE** (“Plaintiff Abonce”) is a Latino male and lawful permanent resident of the United States who is a resident of Willmar and the parent to three minor children, **E.C.A., V.C.A., JR., and J.C.A., on whose behalf Plaintiff Abonce also sues as next friend.** At all times relevant to this suit Plaintiff Abonce and his children were residents of Willmar, Kandiyohi County, Minnesota.

11. Plaintiff **DULCE MARIA HERNANDEZ ARIAS** (“Plaintiff Dulce Arias”) is a Latina female who is a resident of Willmar. At all times relevant to this suit she was a resident of Willmar, Kandiyohi County, Minnesota.

12. Plaintiff **ROSA DE JESUS BARRAJAS ARELLANO** (“Plaintiff Arellano”) is a Latina female who is a resident of Willmar. At all times relevant to this suit, she was a resident of Willmar, Kandiyohi County, Minnesota.

13. Plaintiff **GRACIELA BARRAGAN** (“Plaintiff Barragan”) is a Latina female and citizen of the United States who is a resident of Atwater and parent to a minor child, **J.A.P., on whose behalf Plaintiff Barragan also sues as next friend.** At all time relevant to this suit, Plaintiff Barragan and her child were residents of Atwater, Kandiyohi County, Minnesota. Additionally, at all times relevant to this suit she was pregnant.

14. Plaintiff **JOSE MANUEL RAMIREZ CALIX** (“Plaintiff Calix”) is a Latino male who is a resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

15. Plaintiff **ALEJANDRO CARTAGENA** (“Plaintiff Cartagena”) is a Latino male and lawful permanent resident of the United States who is a resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

16. Plaintiff **WILLIAM RAMOS CASTILLO** (“Plaintiff Castillo”) is a Honduran male who is a resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

17. Plaintiff **FABIOLA CISNEROS** (“Plaintiff Cisneros”) is a Latina female who is a resident of Willmar. At all times relevant to this suit she was a resident of Willmar, Kandiyohi County, Minnesota.

18. Plaintiff **ROSA NELY DUARTE** (“Plaintiff Duarte”) is a Latina female who is a resident of Willmar. At all time relevant to this suit she was a resident of Willmar, Kandiyohi County, Minnesota.

19. Plaintiff **ESAU EDUARDO ESTRADA-MENENDEZ** (“Plaintiff Estrada”) is a Latino male who is a resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

20. Plaintiff **L.G.** (“Plaintiff L.G.”) is a Latina female, a citizen of the United States who is a resident of Willmar and parent to a minor child, **A.G., on whose behalf Plaintiff L.G. also sues as next friend.** At all times relevant to this suit Plaintiff L.G. and her daughter were residents of Willmar, Kandiyohi County, Minnesota.

21. Plaintiff **FRANCIS GARCIA** (“Plaintiff Francis Garcia”) is a Latina female with Lawful Permanent Residency who is a resident of Willmar and parent to a minor child, **O.B., on whose behalf Plaintiff Francis Garcia also sues as next friend.** At all time relevant to this suit Plaintiff Francis Garcia and her son were residents of Willmar, Kandiyohi County, Minnesota.

22. Plaintiff **TERESA DE JESUS GUERERO** (“Plaintiff Guerero”) is a Latina female who is a resident of Willmar. At all times relevant to this suit, she was a resident of Willmar, Kandiyohi County, Minnesota.

23. Plaintiff **WENSCELAO PADILLA GUZMAN** (“Plaintiff Guzman”) is a Latino male with Temporary Protected Status, a native of Honduras, and resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

24. Plaintiff **TROY HASTINGS** (“Plaintiff Hastings”) is a Caucasian male and citizen of the United States who is a resident of Willmar and the parent of a minor child, **B.H., on whose behalf Plaintiff Hastings also sues as next friend.** At all times relevant to this suit Plaintiff Hastings and his child were residents of Willmar, Kandiyohi County, Minnesota.

25. Plaintiff **JOCELINE SARAI LOPEZ** (“Plaintiff Joceline Lopez”) is a Latina female and citizen of the United States who is a resident of Willmar and the parent of a minor child, **J.M., on whose behalf Plaintiff Joceline Lopez also sues as next friend.** At all times relevant to suit Plaintiff Lopez and her minor child were residents of Willmar, Kandiyohi County, Minnesota.

26. Plaintiff **ROSA SORTO LOPEZ** (“Plaintiff Rosa Lopez”) is a Latino female lawfully present in the United States and a resident of Willmar. At all times relevant to this suit she was a resident of Willmar, Kandiyohi County, Minnesota.

27. Plaintiff **ANA DANIRA MALDONADO-HERNANDEZ** (“Plaintiff Maldonado-Hernandez”) is a Latina female who is a resident of Willmar. At all times relevant to this suit she was a resident of Willmar, Kandiyohi County, Minnesota. Additionally, at all times relevant to this suit she was pregnant.

28. Plaintiff **IRIS JANET MALDONADO** (“Plaintiff Iris Maldonado”) is a Latina female who is a resident of Willmar and the parent of three minor children, **P.M., B.M., and**

E.M., on whose behalf Plaintiff Iris Maldonado also sues as next friend. At all times relevant to this suit Plaintiff Iris Maldonado and her three children were residents of Willmar, Kandiyohi County, Minnesota.

29. Plaintiff **JENNY MALDONADO** (“Plaintiff Jenny Maldonado”) is a Latina female who is a resident of Willmar and the parent of one minor child, **S.D.M., on whose behalf Plaintiff Jenny Maldonado also sues as next friend.** At all times relevant to this suit Plaintiff Jenny Maldonado and her child were residents of Willmar, Kandiyohi County, Minnesota.

30. Plaintiff **ERMENCIA MENDEZ** (“Plaintiff Mendez”) is a Latina female who is a resident of Willmar. At all times relevant to this suit she was a resident of Willmar, Kandiyohi County, Minnesota.

31. Plaintiff **AUDREY MITHUN** (“Plaintiff Mithun”) is a Caucasian female and citizen of the United States who is a resident of Willmar. At all times relevant to this suit she was a resident of Willmar, Kandiyohi County, Minnesota.

32. Plaintiff **BARBARA ANAHI MORENO** (“Plaintiff Barbara Moreno”) is a Latina female who is a resident of Willmar. At all times relevant to this suit, she was a resident of Willmar, Kandiyohi County, Minnesota.

33. Plaintiff **JAVIER MORENO** (“Plaintiff Javier Moreno”) is a Latino male who is a citizen of the United States and resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

34. Plaintiff **JOSEFA MONTALVO** (“Plaintiff Montalvo”) is a Latina female who is a resident of Willmar and the grandparent to one minor grandchild, **B.M., on whose behalf**

Plaintiff Montalvo also sues as next friend. At all times relevant to this suit Plaintiff Montalvo and her grandchild were residents of Willmar, Kandiyohi County, Minnesota.

35. Plaintiff **ALBIS MUNOZ** (“Plaintiff Albis Munoz”) is a Latino male who is a native of Honduras and resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

36. Plaintiff **FRANCISCO MUNOZ** (“Plaintiff Francisco Munoz”) is a Latino male who is a lawful permanent resident of the United States, native of Honduras, resident of Willmar, and parent to one minor child, **I.M., on whose behalf Plaintiff Francisco Munoz also sues as next friend.** At all times relevant to this suit Plaintiff Francisco Munoz and his child were residents of Willmar, Kandiyohi County, Minnesota.

37. Plaintiff **JUAN MUNOZ** (“Plaintiff Juan Munoz”) is a Latino male who is a native of Honduras and resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

38. Plaintiff **SAOMARA MUNOZ** (“Plaintiff Saomara Munoz”) is a Latina female who is a native of Honduras and resident of Willmar. At all times relevant to this suit she was a resident of Willmar, Kandiyohi County, Minnesota. Additionally, at all times relevant to this suit she was pregnant.

39. Plaintiff **MANUELA DE JESUS PINEDA** (“Plaintiff Pineda”) is a Latina female with Temporary Protected Status, native of Honduras, and resident of Willmar. At all times relevant to this suit she was a resident of Willmar, Kandiyohi County, Minnesota.

40. Plaintiff **JAIME REYES** (“Plaintiff Reyes”) is a Latino male who is a resident of Willmar and the parent of two minor children, **D.R.B. and J.R.B., on whose behalf Plaintiff Reyes also sues as next friend.** At all times relevant to this suit Plaintiff Reyes and his children were residents of Willmar, Kandiyohi County, Minnesota.

41. Plaintiff **MARLEN ALONSO SORIANO** (“Plaintiff Soriano”) is a Latina female who is a lawful permanent resident of the United States and resident of Willmar, MN. At all times relevant to this suit she was a resident of Willmar, Kandiyohi County, Minnesota.

42. Plaintiff **ALEX JOSUE SORTO** (“Plaintiff Sorto”) is a Latino male who is a citizen of the United States and resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

43. Plaintiff **ANDRES MENENDEZ VEGA** (“Plaintiff Vega”) is a Latino male who is a resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

44. Plaintiff **RAUL VELIZ, JR.** (“Plaintiff Veliz”) is a Latino male who is a citizen of the United States and resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

45. Plaintiff **DIGNA MUNOZ XIOMARA** (“Plaintiff Xiomara”) is a Latina female who is a resident of Willmar. At all times relevant to this suit she was a resident of Willmar, Kandiyohi County, Minnesota. Additionally, at all times relevant to this suit she was pregnant.

46. Plaintiff **JORGE ZELAYA** (“Plaintiff Jorge Zelaya”) is a Latino male with Temporary Protected Status in the United States, native of Honduras, and resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

47. Plaintiff **SAMUEL ZELAYA** (“Plaintiff Samuel Zelaya”) is a Latino male who is a resident of Willmar. At all times relevant to this suit he was a resident of Willmar, Kandiyohi County, Minnesota.

48. Plaintiff **CONSÚL JOSE ERASMO MONTALVAN**, ‘next friend’ to Honduran Nationals, is the Consul of Honduras for Illinois, Ohio, Indiana, Michigan, Iowa, Wisconsin, North Dakota, South Dakota, and Minnesota.

49. Defendant **UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT DIVISION OF HOMELAND SECURITY** (“Defendant ICE”) is a division of the United States Department of Homeland Security. Among other duties, Defendant ICE is charged with investigative and enforcement responsibilities of federal immigration laws within the territorial United States.

50. Defendant **UNITED STATES DEPARTMENT OF HOMELAND SECURITY** (“Defendant DHS”) is charged with, among other things, administering the United States Immigration and Customs Enforcement and implementing and enforcing the Immigration and Nationality Act. As such, it has decision-making authority over the matters alleged in this complaint and Plaintiffs’ custody.

51. Defendant **MICHAEL CHERTOFF** (“Defendant Chertoff”) is Secretary of the United States Department of Homeland Security. Defendant Chertoff is charged with the

constitutional and lawful implementation of the Immigration and Nationality Act, 8 U.S.C. § § 1101, *et seq.*, and with the administration of Immigration and Customs Enforcement. Defendant Chertoff is sued in his official capacity.

52. Defendant **JULIE L. MYERS** (“Defendant Myers”) is the Assistant Secretary of Homeland Security. Defendant Myers is charged with, among other duties, administering the Executive Office of Immigration Review (“EOIR”). The EOIR conducts removal proceedings in immigration cases and decides administrative appeals of such cases. Defendant Myers is also charged with the constitutional and lawful implementation of the Immigration and Nationality Act, 8 U.S.C. § § 1101, *et seq.*, and with the administration of Defendant ICE. Defendant Myers is sued individually and in her official capacity.

53. Defendant **JOHN P. TORRES** (“Defendant Torres”) is the Director of the Office of Detention and Removal for Immigration and Customs Enforcement. In this capacity, Defendant Torres is responsible for the apprehension, detention, and removal of foreign nationals charged with violation of immigration law and the supervision of law enforcement officers assigned to the Detention and Removal field offices, including the field office based in Minneapolis, Minnesota. Defendant Torres is sued individually and in his official capacity.

54. Defendant **SCOTT BANIECKE** (“Defendant Baniecke”) is the Field Office Director for the St. Paul Office of Detention and Removal, where Plaintiffs are or were being held under his administrative authority. Defendant Baniecke is responsible for managing enforcement activities of ICE within the geographic boundaries of Minnesota. Upon information and belief, Defendant Baniecke was personally involved in and/or ordered, coordinated, and

authorized the unlawful conduct of ICE agents alleged in the complaint. Defendant Banieceke is sued individually and in his official capacity.

55. Defendant **PETER BERG** (“Defendant Berg”) is a Supervisory Detention & Deportation Officer for Detention and Removal for the St. Paul Office of Detention and Removal. In this capacity, amongst other duties Defendant Berg is responsible for overseeing the ICE Fugitive Operations Team operating for the St. Paul Office of Detention and Removal. Upon information and belief, Defendant Berg was personally involved in and/or personally contributed to coordinating and executing the unlawful conduct of ICE agents alleged in this complaint. Defendant Berg is sued individually and in his official capacity.

56. Defendant **ALLEN GAY** (“Defendant Gay”) is a Deportation Officer for the St. Paul Office for Detention and Removal. In this capacity, amongst other duties Defendant Gay is a member of the Fugitive Operations Team and is responsible for identifying, locating and arresting persons identified as present without proper admission to the United States. Upon information and belief, Defendant Gay was personally involved in and/or personally contributed to coordinating and executing the unlawful conduct of ICE agents alleged in this complaint. Defendant Berg is sued individually and in his official capacity.

57. At all times relevant to the incidents complained of in this lawsuit, defendants **JOHN DOE ICE AGENTS NOS. 1-30** are or were federal law enforcement agents employed by Defendants ICE and DHS whose identities are at this time unknown to Plaintiffs. Defendants were empowered by law to execute searches and make arrests for violation of federal law. When and if the identities of Defendants John Doe ICE Agents Nos. 1-30 become known to Plaintiffs, Plaintiffs may amend this complaint to add said Agents as named Defendants.

58. Defendant **JAMES A. KULSET** (“Defendant Kulset”) is the Chief of Police for the City of Willmar Police Department. In this capacity Defendant Kulset possesses administrative authority regarding the employees and officers in this department. Upon information and belief, Defendant Kulset was personally involved in and/or personally ordered or authorized members of his department to cooperate with ICE agents during the unlawful activities alleged herein. Defendant Kulset is sued individually and in his official capacity.

59. At all times relevant to the incidents complained of in this lawsuit, defendants **JOHN DOE WILLMAR POLICE OFFICERS Nos. 1-10** were local law enforcement employed by and serving the City of Willmar Police Department, whose identities are at this time unknown to Plaintiffs. Upon information and belief, Defendants were present at the scene and assisted in the immigration activities conducted by ICE agents operating within the community of Willmar. When and if the identities of Defendants **JOHN DOE WILLMAR POLICE OFFICERS Nos. 1-10** become known to Plaintiffs, Plaintiffs may amend this complaint to add said Officers as named Defendants.

60. Defendant **REED SCHMIDT** (“Defendant Schmidt”) is the Chief of Police for the City of Atwater Police Department. In this capacity Defendant Schmidt possesses administrative authority regarding the employees and officers in this department. Upon information and belief, Defendant Schmidt was personally involved in and/or personally ordered or authorized members of his department to cooperate with ICE agents during the unlawful activities alleged herein concerning the city of Atwater, MN. Defendant Schmidt is sued individually and in his official capacity.

61. Defendant **PAUL SCHMIDT** (“Defendant Schmidt”) is an officer employed by and serving with the Atwater police force. Upon information and belief, Defendant Schmidt participated directly in ICE raid activities within the city of Atwater, MN. Defendant Schmidt is sued individually and in his official capacity.

62. Defendant **DAN HARTOG** (“Defendant Hartog”) is the Sheriff for the County of Kandiyohi. In this capacity Defendant Hartog possesses administrative authority regarding the employees and officers in his agency. Upon information and belief, Defendant Hartog was personally involved in and/or personally ordered or authorized members of his department to cooperate and participate with ICE agents during the unlawful activities alleged herein. Defendant Hartog is sued individually and in his official capacity.

63. At all times relevant to the incidents complained of in this lawsuit, defendants **JOHN DOE KANDIYOHI SHERIFF’S DEPARTMENT DEPUTIES Nos. 1-10** were law enforcement officers employed by and serving the County of Kandiyohi, whose identities are at this time unknown to Plaintiffs . Upon information and belief, Defendants assisted ICE agents in coordinating raid activities and/or were present at the scene of the unlawful conducted by ICE agents operating within the County of Kandiyohi. When and if the identities of Defendants **JOHN DOE KANDIYOHI SHERIFF’S DEPARTMENT DEPUTIES Nos. 1-10** become known to Plaintiffs, Plaintiffs may amend this complaint to add said Officers as named Defendants.

64. Defendant **JANE DOE KANDIYOHI PROBATION OFFICER** was a probation official employed by and serving the County of Kandiyohi, whose identity is at this time unknown to Plaintiffs. Upon information and belief, Defendant Jane Doe Probation Officer

compiled immigration information on or relating to Plaintiffs in this case based on their race and national origin, presented such information to ICE, and materially contributed to initiating and coordinating the unlawful actions of ICE agents. When and if the identity of Defendant **JANE DOE KANDIYOHI PROBATION OFFICER** becomes known to Plaintiffs, Plaintiffs may amend this complaint to add her as a named Defendant.

FACTS

65. Upon information and belief, Defendant Jane Doe Probation Officer of the Kandiyohi County Probation Service collected information regarding persons under her supervision who, in her determination, had been “born in foreign countries” and concluded were “here illegally.” Defendant Jane Doe Probation Officer next contacted ICE officials in Bloomington, MN, and presented a “dossier of foreigners” for their inspection. Following presentation of the dossier, ICE agents began to organize and coordinate the mass, unlawful warrantless home invasions complained of herein.

66. Upon information and belief, law enforcement officers from the City of Willmar Police Department and the Kandiyohi Sheriff’s Department accompanied ICE agents and participated in these actions. On April 12, 2007, Willmar Police Chief James A. Kulset, while attending a public community forum in Willmar, stated that the Willmar Police Department provided “logistical assistance and support” to immigration agents operating in the community. According to Defendant Kulset, “assistance and support” included directing ICE agents to the location of particular addresses within the community.

67. The Willmar Police Department and Kandiyohi County Sheriff’s Office were considerably more involved in the planning and execution of these raids in and around Willmar than Defendant Kulset publicly acknowledged. During the period between April 5 and April 10,

2007 several exchanges between officials from the City of Willmar Police Department, the Kandiyohi County Sheriff's Department, the Kandiyohi County Community Corrections Probation Office, and ICE occurred in planning and coordinating the raids. Local law enforcement agencies participated in strategic planning in advance of the raids and provided additional human "targets" as part of an alleged identity theft investigation, then participated with ICE agents in the arrest phase of the operation. Follow-up contacts took place following the conclusion of operations.

68. From April 10-14, 2007, all named Plaintiffs, with the exception of Raul Veliz, Jr., occupied homes forcibly entered by ICE agents without warrants or consent in and around Willmar, MN. An unknown number of these warrantless searches also involved local and county law enforcement officers. Home invasions occurred without presentation of search or arrest warrants, lacked probable cause and exigent circumstances permitting entry, and were nonconsensual.

69. ICE agents also conducted warrantless, non-consensual home searches in the nearby community of Atwater, MN. Involved in this raid were two members of the Atwater Police Department, including the Chief of Police.

70. Immediately prior to Defendants' unlawful entries, Plaintiffs' heard unknown persons loudly yelling and banging on Plaintiffs' doors, windows, and other areas on the outside of Plaintiffs' homes. When asked by Plaintiffs' to identify themselves, Defendant ICE agents falsely claimed, "It's the Police!" or similar variations thereof.

71. In limited circumstances, and intending solely to determine the identity of those outside, some Plaintiffs slightly opened doors leading to the outside of the house. Seizing this

opportunity, Defendant ICE agents then forcibly burst through the door and shoved aside anyone proving an obstacle to entry.

72. Plaintiff Arias held the door closed while ICE agents attempted to push in the door. Nevertheless, Defendant ICE agents forced opened the door and, gesturing for their guns, forced Plaintiff Arias to step back.

73. Plaintiff L.G., a seventeen-year-old female, witnessed ICE agents forcing a door open to enter her home.

74. Plaintiff Guzman heard keys used to break through his front door and ICE agents entered his home.

75. Plaintiff Hastings was shoved out of the way by ICE agents forcing their way into his home.

76. Plaintiff Rosa Lopez witnessed ICE agents breaking a window and opening a door to gain access to her home.

77. Through his closed front door Plaintiff Vega told agents to remain outside while he dressed, but ICE agents entered through a closed door requiring force to gain entry.

78. ICE agents falsely told Plaintiff Samuel Zelaya they entered through “an open door.”

79. Once gaining unlawful warrantless and nonconsensual entries into the “target addresses” Defendants proceeded to conduct warrantless searches of Plaintiffs’ homes going room to room without Plaintiffs’ consent. These unlawful searches, or attempts to search, followed every unlawful home entry.

80. In every instance, ICE agents unlawfully entered Plaintiffs’ homes—accompanied by an undetermined number of local and county law enforcement officers—and unlawfully

searched the premises and unlawfully detained all persons inside. These detentions and arrests included the sixteen minor children named as Plaintiffs in this action.

81. When Plaintiffs asked Defendant ICE agents why they were in their homes, ICE agents frequently stated they were looking for a fugitive, but refused to give the name of the person they allegedly sought or named someone who no longer lived—or never lived—on the premises. In several instances Defendants refused to answer Plaintiffs’ requests for warrants, and in one case told a Plaintiff “we don’t need one; we are the authorities and can come into the house.”

82. Once inside Plaintiffs’ homes, Defendant ICE agents went room to room, searching each room, rooting through closets, dressers, beds, and generally leaving a mess of personal property in their wake. Any Latino persons found were brought to a central location in the home to be detained and interrogated by additional ICE agents. Latinos were then interrogated, often aggressively and invariably in handcuffs.

83. At no point were Plaintiffs advised that they had the right to remain silent or to speak to an attorney prior to ICE interrogations. Plaintiffs attempting to exercise their rights endured harsh and misleading treatment from ICE agents. An ICE agent told Plaintiff Samuel Zelaya, who was stating he wanted a lawyer before answering questions, “You’ll be able to speak to a lawyer, but in Honduras.” When Plaintiff Soriano declared that her relatives had a right to counsel, an ICE agent responded, “If you have money for a lawyer, go get one!”

84. Defendants took no precautions to preserve the dignity of persons dressed only in sleeping clothes. ICE agents required Plaintiff Dulce Arias to undress in front of them, refusing to give her privacy and watching as she disrobed. Later, the same ICE agents forced Plaintiff

Dulce Arias to dress her uncle, Plaintiff Carlos Arias, resulting in considerable embarrassment for both.

85. When alerted to specific health conditions Defendants refused precautions to protect the health of detainees. Plaintiff Vega showed Defendant ICE agents and officers medical information about his pending knee surgery; the officer responded he didn't care and shackled Plaintiff Vega's legs, wrists, and waist. Despite having been alerted by Plaintiff Jenny Maldonado of her nausea while transporting her to Bloomington with 12 other people, ICE agents refused to accommodate her, and she eventually vomited on herself.

86. Plaintiffs Barragan, Maldonado-Hernandez, Saomara Munoz, and Xiomara were pregnant. ICE agents took no precautions to maintain the health of these individuals or their unborn children.

87. Plaintiff Dulce Arias had suffered an ectopic pregnancy and, despite heavy bleeding, was denied use of the bathroom by ICE agents.

88. Plaintiffs Arrellano and Iris Maldonado were nursing their infants. ICE agents refused to make accommodations for Plaintiffs' children. After her arrest and while in ICE custody, Plaintiff Maldonado continued to produce and leak breast milk. ICE agents refused her a change of clothes or the means to clean herself.

89. In several instances, ICE agents entered bedrooms while Plaintiffs and their children were sleeping, and woke them by shining flashlights in their faces. Plaintiffs and their children felt intentionally intimidated and frightened.

90. Children were often left bereft and crying, as when ICE agents physically grabbed and separated Plaintiff S.M. from his mother, and then, while yelling and intimidating the boy a short distance from his mother, demanded information about his father. Defendants failed to

make reasonable efforts to accommodate children of detainees. Plaintiff children now suffer from waning appetites, disrupted sleep, nightmares, and behavioral difficulties resulting from the loss of a parent and/or from the aggressive encounter with Defendants.

91. In the case of Plaintiff Mithun, Defendant ICE agents, after observing that she was white, neither asked for identification nor challenged her presence within the United States. Instead, they ordered her out of her bedroom and into the living room where she was detained by ICE agents during the remainder of the raid and forcibly returned to the room on one occasion.

92. Similarly, when encountering Plaintiff Hastings, a white male, Defendant ICE agents neither demanded identification nor challenged his presence within the United States. ICE agents entered Hastings' home without his consent.

93. All Plaintiffs, with the exception of Raul Veliz, Jr., were detained and/or arrested in their homes. Plaintiffs taken into custody are or were being held at detention facilities in Bloomington, Hennepin County, Ramsey County, and Sherburne County. Several are now subject to removal proceedings; Plaintiff Cisneros has been deported, along with her daughter E.C. who holds United States citizenship.

94. On information and belief, Defendants used coercive methods to solicit and obtain waivers of rights and stipulated orders for removal for the purpose of expediting removal of certain Plaintiffs from the territorial borders of the United States.

95. On April 12, 2007, at approximately 7:00 AM, Plaintiff Raul Veliz, Jr., was stopped by a group of vehicles driven by ICE agents. Just prior to being stopped, he witnessed vehicles drive past with ICE agents inside taking notice of him as he drove past. Next, vehicles manned with 7 to 8 ICE agents wearing guns and bulletproof vests surrounded his car. ICE agents and Willmar Police officers failed to provide a basis for why Plaintiff Veliz's vehicle was

stopped. Even after Plaintiff Veliz showed agents a valid driver's license and made clearly known his United States citizenship, ICE agents nevertheless wrongfully detained and questioned him for 15-20 minutes while ICE vehicles surrounded his automobile. Referring to Plaintiff Veliz, an ICE agent instructed others to "find something on him."

CLAIMS FOR RELIEF

COUNT I – FOURTH AMENDMENT CONSTITUTIONAL CLAIMS (AGAINST ALL DEFENDANTS)

96. Plaintiffs allege and incorporate by reference paragraphs 1-95.

97. On April 10-14, 2007, Defendants ICE agents, with assistance provided by local law enforcement agencies, conducted warrantless and nonconsensual entries, searches, and seizures of Plaintiffs' homes and persons in violation of the Plaintiffs' Fourth Amendment Rights guaranteed by the United States Constitution.

98. Defendants' warrantless and nonconsensual entries, searches, and seizures of homes, persons, and property caused damages to Plaintiffs and their family members. Plaintiffs face continued irreparable harm by these constitutional violations.

99. On April 12, 2007, at approximately 7:00 AM, Plaintiff Veliz's vehicle was unlawfully stopped by ICE agents without probable cause or reasonable, articulable suspicion. Rather, the stop was initiated solely on the basis of Plaintiff Veliz's race or national origin, all in violation of Plaintiff's Fourth Amendment rights.

100. As a consequence of Defendants' warrantless and nonconsensual entries, searches, and seizures, all evidence obtained thereby, including but not limited to statements and information gathered by ICE agents or other law enforcement agents, should be properly suppressed and prohibited from use in any government proceeding against Plaintiffs and/or their family members.

101. In violating Plaintiffs' Fourth Amendment Rights, Defendants' actions caused harm to Plaintiffs for which Plaintiffs seek compensatory and punitive damages and injunctive relief.

**COUNT II- FIFTH AMENDMENT DUE PROCESS CLAIMS
(AGAINST ALL DEFENDANTS)**

102. Plaintiffs allege and incorporate by reference paragraphs 1-101.

103. Defendants are liable for the conduct of ICE agents who performed warrantless and nonconsensual entries, searches, and seizures during operations in and around the community of Willmar, MN, from April 10-14, 2007.

104. By taking Plaintiffs into custody and questioning them without affording Plaintiffs' constitutional rights, Defendants, in acting under color of law, have violated and continue to violate Plaintiffs' Fifth Amendment Rights guaranteed by the United States Constitution.

105. To the extent that Plaintiffs' detention occurred without basis in law or fact and violates common law principles of due process and the Due Process Clause of the Fifth Amendment to the Constitution, Plaintiffs' detention creates a deprivation of liberty without due process of law.

106. Such violations of their Fifth Amendment rights caused damages, and Plaintiffs continue to be irreparably harmed by these violations.

107. In violating Plaintiffs' Fifth Amendment Rights, Defendants' actions caused harm to Plaintiffs for which Plaintiffs seek compensatory and punitive damages and injunctive relief.

**COUNT III- FIFTH AMENDMENT PROTECTION AGAINST SELF INCRIMINATION
AND RIGHT TO COUNSEL CLAIMS
(AGAINST ALL DEFENDANTS)**

108. Plaintiffs allege and incorporate by reference paragraphs 1-107.

109. On April 10-14, 2007 Defendants announced both publicly and to Plaintiffs detained by ICE agents that Defendants were searching for known criminal fugitives.

110. Upon entering Plaintiffs' homes with neither arrest warrants nor consent, ICE agents failed to inform Plaintiffs of their rights to remain silent and to speak with an attorney prior to answering questions in a custodial interrogation, as guaranteed by the Fifth Amendment of the United States Constitution.

111. Such violations of their Fifth Amendment Rights have caused and continue to cause Plaintiffs irreparable harm.

112. In violating Plaintiffs' Fifth Amendment Rights, Defendants' actions caused harm to Plaintiffs for which Plaintiffs seek compensatory and punitive damages and injunctive relief.

**COUNT IV– SIXTH AMENDMENT RIGHT TO COUNSEL CLAIMS
(AGAINST ALL DEFENDANTS)**

113. Plaintiffs allege and incorporate by reference paragraphs 1-112.

114. By denying Plaintiffs access to counsel or the means to obtain counsel in a prompt and effective manner, Defendants violated Plaintiffs' Sixth Amendment right to counsel.

115. To the extent questioning of Plaintiffs occurred during custodial interrogations, such interrogations violate the Plaintiffs' Sixth Amendment Rights guaranteed by the United States Constitution.

116. As a consequence of Defendants' Sixth Amendment violations all evidence obtained thereby, including but not limited to statements and information gathered by ICE agents or other law enforcement agents, should be suppressed and prohibited from use in any government proceeding against Plaintiffs and/or their family members.

117. In violating Plaintiffs' Sixth Amendment Rights, Defendants' actions caused harm to Plaintiffs for which Plaintiffs seek compensatory and punitive damages and injunctive relief.

**COUNT V: *BIVENS* CLAIMS OF PLAINTIFFS AGAINST DEFENDANTS
BANIECKE, BERG, GAY MYERS, TORRES, AND
JOHN DOE ICE AGENTS ##1-30, AND,
42. U.S.C. §1983 CLAIMS AGAINST DEFENDANTS KULSET, HARTOG, JOHN DOE
WILLMAR POLICE OFFICERS ##1-10, JOHN DOE KANDIYOHI DEPUTIES ##1-10,
AND, JANE DOE PROBATION OFFICER**

118. Plaintiffs above-named incorporate by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

119. In committing the acts complained herein, Defendants deprived Plaintiffs of certain constitutionally protected rights, including, but not limited to:

- a. the right to be free from unlawful entries to their homes without a valid warrant, without voluntary consent manifest by the facts or implied by the circumstances, and absent either probable cause and exigent circumstances as guaranteed by the Fourth Amendment of the United States Constitution;
- b. the right to be free from unlawful searches of their homes and persons without a valid warrant, without voluntary consent manifest by the facts or implied by the circumstances, and absent either probable cause and exigent circumstances as guaranteed by the Fourth Amendment of the United States Constitution;
- c. the right to be free from unlawful seizures of their persons and effects without a valid warrant or voluntary consent and absent probable cause and exigent circumstances as guaranteed by the Fourth Amendment of the United States Constitution;

- d. the right to be free from detentions without individual, reasonable and articulable suspicion of unlawful activity or probable cause as guaranteed by the Fourth Amendment of the United States Constitution;
- e. The right against self-incrimination and the right to counsel as guaranteed by the Fifth Amendment of the United States Constitution;
- f. the right to Equal Protection under the law, as guaranteed by the Fifth and Fourteenth Amendments of the United States Constitution; and
- g. The right to assistance of counsel as guaranteed by the Sixth Amendment of the United States Constitution.

120. Because Defendants acted in clear violation of well-settled law with regard to standards for home entry, search, seizure, questioning, and detention of which a minimally competent law enforcement officer would have been aware, they are not entitled to a good faith defense or official immunity defense.

121. The actions of these Defendants were intentional, malicious, and/or reckless and showed a callous disregard of, or indifference to, the rights of the Plaintiffs.

122. The actions of Defendants operating under color of authority provided by the Federal government create a cause of action for damages against them in their individual capacities, pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

123. Similarly, the actions of Defendants operating under color of authority of local and state units of government, including but not limited to the Willmar Police Department and the Kandiyohi County Sheriff's Department, create a cause of action for damages in their individual capacities, pursuant to 42 U.S.C. § 1983.

124. As a direct and proximate result of the unconstitutional actions of Defendants, Plaintiffs suffered harm, in the form of, *inter alia*, outrage, humiliation, and emotional and physical distress. Plaintiffs are entitled to compensatory and punitive damages in an amount to be determined at trial.

**COUNT VI – FIFTH AMENDMENT AND FOURTEENTH AMENDMENT
EQUAL PROTECTION CLAIMS
(AGAINST ALL DEFENDANTS)**

125. Plaintiffs allege and incorporate by reference all preceding paragraphs.

126. The application of law by Federal actors in a discriminatory manner, when based upon arbitrary characteristics such as race and national origin, violates the Fifth Amendment of the Constitution.

127. Similarly, state actors engaged in discriminatory application of the law, when based upon arbitrary characteristics such as race and national origin, violate the Fourteenth Amendment of the United States.

128. Defendants' actions as set forth herein violated Plaintiffs' right to be free from discriminatory treatment as provided by the Equal Protection Clauses of the Fifth and Fourteenth Amendments.

129. These violations of their Fifth and Fourteenth Amendment rights caused Plaintiffs damages, and Plaintiffs continue to be irreparably harmed by these violations.

130. In violating Plaintiffs' Fifth and Fourteenth Amendment Rights, Defendants caused harm to Plaintiffs for which Plaintiffs seek compensatory and punitive damages and injunctive relief.

COUNT VII – STATUTORY CLAIMS

131. Plaintiffs allege and incorporate by reference all preceding paragraphs.

132. Defendants' actions as set forth herein violate the Immigration and Nationality Act by denying Plaintiffs' protections guaranteed by the Act.

133. In violating Plaintiffs' protections guaranteed by the Immigration and Nationality Act, Defendants' actions caused damages to Plaintiffs for which Plaintiffs seek relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs in all capacities respectfully request that this Court grant the following relief:

A. Find, adjudge, and decree that the Defendants and each of them have committed the violations of law alleged herein.

B. Permanently enjoin the Defendants and each of them from continuing to engage in each violation of law the Court shall find.

C. Award to each Plaintiff such actual damages as the Court shall find each Plaintiff to have sustained as a proximate result of each violation of law the Court shall find.

D. Award to each Plaintiff punitive or exemplary damages equal to or an appropriate multiple each Plaintiff's actual damages.

E. Award to Plaintiffs their costs of suit in bringing this action.

F. Award to Plaintiffs their reasonable attorneys fees as the prevailing parties in this action.

G. Award to Plaintiffs pre- and post-judgment interest as provided by law.

H. Grant Plaintiffs all such other and further relief to which they are entitled, as is just and appropriate in these proceedings.

Dated: July 27, 2007

GRAY, PLANT, MOOTY, MOOTY &
BENNETT, P.A.

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