

Baher Azmy
Bassina Farbenblum
Scott Michelman
Seton Hall School of Law
Center for Social Justice
833 McCarter Highway
Newark, NJ 07102-5210
(973) 642-8709
Attorneys for Plaintiffs

R. Scott Thompson
Scott L. Walker
Heather Bishop
Lowenstein Sandler PC
65 Livingston Avenue
Roseland, N.J. 07065
(973) 597-2500
Attorneys for Plaintiffs

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

MARIA ARGUETA, ARTURO FLORES,
BYBYANA ARIAS, JUAN ONTANEDA,
VERONICA COVIAS, CARLA ROE 1, CARLA
ROE 2, CARLOS ROE 2, CARLA ROE 3, and
CARLOS ROE 4,

Plaintiffs,

-vs-

JULIE L. MYERS, Assistant Secretary for
Immigration and Customs Enforcement, JOHN P.
TORRES, Deputy Assistant Director for Operations,
Immigration and Customs Enforcement, SCOTT
WEBER, Director, Office of Detention and Removal
Operations, Newark Field Office, BARTOLOME
RODRIGUEZ, Former Director, Office of Detention
and Removal Operations, Newark Field Office, JOHN
DOE ICE AGENTS 1-50, JOHN SOE ICE
SUPERVISORS 1-25, and JOHN LOE PENNS
GROVE OFFICERS 1-10

Defendants.

Civil Action No.

COMPLAINT

JURY TRIAL DEMANDED

Plaintiffs Maria Argueta, Arturo Flores, Bybyana Arias, Juan Ontaneda, Veronica Covias, Carla Roe 1, Carla Roe 2, Carlos Roe 2, Carla Roe 3, and Carlos Roe 4 (collectively “plaintiffs”) by their attorneys, the Seton Hall School of Law Center For Social Justice and Lowenstein Sandler PC, for their Complaint allege as follows:

INTRODUCTION

1. This is a civil rights action raising constitutional claims under the Fourth and Fifth Amendment against federal officials pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), and against state officials pursuant to 42 U.S.C. § 1983 and the New Jersey Constitution, for their participation in a practice of unlawful and abusive raids of immigrant homes across the state of New Jersey. The practice flourished as a predictable consequence of the Department of Homeland Security (“DHS”)’s arbitrary, exponentially-increased quotas for the arrest of immigrants with old deportation orders, and amidst the escalation of a program DHS calls “Operation Return to Sender.” Under pressure from these quotas, immigration agents have regularly disregarded the obligation to secure a judicial warrant or probable cause in carrying out unlawful entries and dragnet searches of homes in which the agents only loosely suspect immigrant families may reside.

2. Plaintiffs in this case are all victims of these unconstitutional home raid practices. They include United States citizens and lawful residents. Each plaintiff was present in his or her home in the pre-dawn hours of the morning, when a team of federal agents gained unlawful entry, through deceit or, in some cases, raw force. Agents swept throughout the homes, ordered sleeping people – including, in some cases, children – out of bed, and detained the occupants without judicial warrant or other legal justification.

3. Some of the plaintiffs were subjected to physical or verbal abuse; others were threatened or had firearms pointed at them or pressed into their chests. At least one plaintiff was forcibly prevented from contacting counsel. At least one of them was subsequently arrested despite having papers – which the arresting agents refused even to look at – reflecting her legal status. Each plaintiff has suffered and continues to suffer from the effects of that abusive conduct.

4. Plaintiffs' experiences are typical of the "Operation Return to Sender" home raid *modus operandi* throughout the state and the nation, which has been comprehensively documented through media reports and first-hand accounts from other victims. The execution of these raids in New Jersey illustrates how "Operation Return to Sender" has extended far beyond its stated goal of apprehending individuals with outstanding deportation orders – persons Immigration and Customs Enforcement ("ICE") calls "fugitives." ICE statistics reveal that as few as one in three individuals arrested in "Operation Return to Sender" in New Jersey is actually a "fugitive" in alleged violation of a deportation order. Instead, the large majority – euphemistically called "collateral arrests" – are individuals merely swept up in the recent dragnets. Agents regularly raid homes where the purported "fugitive" target is not present, and could not reasonably have been believed to have been present. Indeed, according to a recent report by DHS's Inspector General, agents rely on data that is outdated and inaccurate in up to 50% of cases.

5. Despite aggressively increasing the arrest quotas and the number of agents participating in "Operation Return to Sender," and thereafter being notified – via press reports, lawsuits, and congressional testimony – of the widespread allegations of

unconstitutional and abusive conduct by ICE agents as part of this program, the DHS supervisory officials named in this Complaint have continued to foster an institutional culture of lawlessness. Specifically, they have failed to develop meaningful guidelines or oversight mechanisms to ensure that home arrests are conducted within constitutional limits, to provide the agents involved with adequate training (or for some newer agents, any training) on the lawful execution of fugitive operations, or otherwise ensured accountability for the failure to conduct fugitive operations within constitutional limits. On the contrary, on many occasions, DHS supervisory officials have proudly publicized the increasing numbers of arrests made as a result of the unconstitutional raids that continue to be carried out in the shadows and the dark of night.

6. The Constitution constrains the actions of government officials in every domain and protects citizens and non-citizens equally from unreasonable searches, seizures, and incursions into their homes. In this action, the plaintiffs seek damages for the harm they have suffered and seek to hold responsible those who conducted, directed, and sanctioned the complained-of conduct, all of which violated clearly established constitutional protections.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this federal civil rights action pursuant to 28 U.S.C. §§ 1331 & 1343(a)(3). Supplemental jurisdiction over pendant state law claims is proper pursuant to 28 U.S.C. § 1367.

8. Venue lies in this District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claims occurred here, and also under 28 U.S.C. § 1391(e)(3) because defendants include federal officers acting under color of

legal authority, at least one of the plaintiffs resides in this district, and no real property is involved in this action.

PARTIES

The Plaintiffs

9. Plaintiff **MARIA ARGUETA** is of Latino origin, and has held lawful Temporary Protection Status in the United States since 2001. At all times relevant to this action she was a resident of North Bergen, New Jersey.

10. Plaintiff **ARTURO FLORES** is of Latino origin and is a United States citizen. At all times relevant to this action he was a resident of Clifton, New Jersey.

11. Plaintiff **BYBYANA ARIAS** is of Latino origin and is a United States citizen. At all times relevant to this action she was a resident of Clifton, New Jersey.

12. Plaintiff **JUAN ONTANEDA** is of Latino origin. At all times relevant to this action he was a resident of Newark, New Jersey.

13. Plaintiff **VERONICA COVIAS** is of Latino origin and is a lawful permanent resident of the United States. At all times relevant to this action she was a resident of Paterson, New Jersey.

14. Plaintiff **CARLA ROE 1** is of Latino origin. At all times relevant to this action she was a resident of Hudson County, New Jersey.

15. Plaintiff **CARLA ROE 2** is of Latino origin. At all times relevant to this action she was a resident of Morris County, New Jersey.

16. Plaintiff **CARLOS ROE 2** is of Latino origin. At all times relevant to this action he was a resident of Morris County, New Jersey.

17. Plaintiff **CARLA ROE 3** is of Latino origin. At all times relevant to this action she was a resident of Salem County, New Jersey.

18. Plaintiff **CARLOS ROE 4** is of Russian origin. At all times relevant to this action he was a resident of Passaic County, New Jersey.

19. Plaintiffs Carlos and Carla Roes 1-4 seek to proceed pseudonymously because they have an acute fear of retaliation by the immigration authorities whom they sue here as defendants. ICE has been known to retaliate against immigrants who have spoken out against immigration laws and practices. *See, e.g.* Laura Wides-Munoz, *Student activist says ICE targeted her family to silence her*, Associated Press, Mar. 4, 2008.

20. Because the unconstitutional conduct described in this Complaint disproportionately harms immigrants who have legitimate reason to fear immigration authorities, there is a strong public interest in allowing plaintiffs to proceed pseudonymously in order to provide this Court with an opportunity to protect the constitutional rights of individuals in this most vulnerable group.

The Federal Defendants

21. Defendant **JULIE L. MYERS** is, and was at all relevant times, the Assistant Secretary for Homeland Security for Immigration and Customs Enforcement (“ICE”), located in Washington, D.C. Defendant Myers 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 ICE. Defendant Myers is sued in her individual capacity. ICE press releases describing arrests in New Jersey under Operation Return to Sender have repeatedly stated that those arrests were made pursuant

to the nationwide interior immigration enforcement strategy announced by defendant Myers and Michael Chertoff, Secretary of the Department of Homeland Security.

22. Defendant **JOHN P. TORRES** is Deputy Assistant Secretary for Operations for ICE, and was at all relevant times, the Director (or Acting Director) of the ICE Office of Detention and Removal Operations (“DRO”) in Washington, D.C. DRO is the branch of ICE that coordinates the removal of foreign nationals not entitled to remain in the country. As Director, defendant Torres is responsible for overseeing the apprehension, detention and removal of foreign nationals charged with violating federal immigration law. He is also responsible for the supervision of law enforcement officers assigned to DRO field offices, including the Newark, New Jersey office. Defendant Torres is responsible for the supervision and oversight of Fugitive Operations Teams. Defendant Torres is sued in his individual capacity.

23. Defendant **SCOTT WEBER** is the Director of the DRO Field Office in Newark, New Jersey. Defendant Weber is responsible for managing ICE enforcement activities in New Jersey, including the implementation of Operation Return to Sender by Fugitive Operations Teams. Defendant Weber is sued in his individual capacity.

24. Defendant **BARTOLOME RODRIGUEZ** is the former Acting Field Office Director for the DRO Field Office in Newark, New Jersey. In that role, defendant Rodriguez was responsible for managing ICE enforcement activities in New Jersey, including the implementation of “Operation Return to Sender” by Fugitive Operations Teams, in or around February-May 2007. Defendant Rodriguez remains employed with the Newark DRO Field Office. Defendant Rodriguez is sued in his individual capacity.

25. At all times relevant to the incidents complained of in this action, defendants **JOHN DOE ICE AGENTS 1-50** were federal agents employed by ICE. They are responsible for carrying out the policies and practices of ICE, including the execution of “Operation Return to Sender” and the specific home raids complained of here. They are sued in their individual capacities. Upon information and belief, each John Doe ICE Agent defendant is responsible for the injuries and damages suffered by at least one plaintiff as a result of the acts alleged in this Complaint.

26. At all times relevant to the incidents complained of in this action, defendants **JOHN SOE ICE SUPERVISORS 1-25** were federal agents employed by ICE. They are responsible for carrying out and supervising the policies and practices of ICE, including the execution of Operation Return to Sender, and are sued in their individual capacities. Upon information and belief, each John Soe ICE Supervisor defendant is responsible for the injuries and damages suffered by at least one plaintiff as a result of the acts alleged in this Complaint.

27. Plaintiffs are unaware of the true names of, total numbers of, and positions held by defendants John Doe ICE Agents and John Soe ICE Supervisors, and therefore sue those defendants by fictitious names. Plaintiffs will amend their Complaint to state the true names of these defendants after those names have been ascertained.

28. In committing the acts alleged in this Complaint, defendants John Doe ICE Agents and John Soe ICE Supervisors were acting on behalf of ICE. Upon information and belief, defendants John Doe ICE Agents were acting under the immediate supervision of John Soe ICE Supervisors pursuant to the authorization of defendants Myers, Torres, Weber, and/or Rodriguez.

The Penns Grove Defendants

29. Defendants **JOHN LOE PENNS GROVE OFFICERS 1-10** were, at all times relevant to the incidents complained of in this action, officers of the Penns Grove Police Department. One or more defendants Loe, including one female officer and one male officer, participated, with John Doe ICE Agents and John Soe ICE Supervisors, in the raid on the home of plaintiff Carla Roe 3 in Penns Grove, New Jersey on August 1, 2006. Plaintiffs are unaware of the true names of, total numbers of, and positions held by defendants John Loe Penns Grove Officers, and therefore sue those defendants by fictitious names. Plaintiffs will amend their Complaint to state the true names of these defendants after those names have been ascertained.

FACTUAL BACKGROUND

ICE Fugitive Operations in New Jersey

30. ICE, a division of DHS, is responsible for enforcing federal immigration law. The DRO is a branch of ICE.

31. Since 2002, the DRO has overseen ICE's National Fugitive Operation Program,¹ established to arrest and remove so-called immigration "fugitives." ICE defines "fugitives" as individuals with outstanding deportation orders or individuals who failed to report to a DRO officer after receiving notice to do so. ICE implements the Fugitive Operations Program through Fugitive Operations Teams ("FOTs") that are tasked with apprehending immigration fugitives.

¹ The DRO was then a division of the Immigration and Naturalization Service ("INS"). In 2003, when the INS was abolished and ICE was created in its place, the DRO became a division of ICE.

32. Since 2006, the Fugitive Operations Program has substantially escalated its enforcement practices. At the end of Fiscal Year (“FY”) 2007, there were 75 FOTs nationwide, a five-fold increase over the number of teams in 2005. Congress has authorized funding for 29 additional teams in FY 2008. Since mid-2006, there have been four FOTs in the state of New Jersey (doubled from two FOTs at the beginning of 2005).

33. On January 31, 2006, each FOT in the country was ordered to arrest 1,000 fugitive aliens per year. This quota represented an 800% increase on the previous quota of 125 arrests per year, mandated just two years earlier.

34. On May 26, 2006, ICE commenced its “Operation Return to Sender,” an operation directed at arresting “fugitive” aliens, prioritizing the arrest of individuals possessing criminal records.

35. Following the commencement of Operation Return to Sender and the implementation of the 1,000-arrests quota, the number of individuals arrested by New Jersey FOTs doubled from 1,094 in FY 2006 to 2,079 in FY 2007.

Unlawful Home Raids Practices

Unlawful Entry

36. A typical home raid is conducted in the pre-dawn hours of the morning. Multiple ICE agents surround a home believed to house one or more immigrant families. The agents pound furiously on the door and/or windows.

37. The agents and their supervisors use a variety of tactics – frequently deceptive and/or coercive – to cause an occupant to open the door. In many raids, the agents shout “Police!” or, in some cases, enlist a local police officer to deceive occupants about the ICE agents’ identities. ICE agents are not, in fact, police officers; rather, they

are administrative officers authorized to enforce the federal immigration laws. Because ICE officers do not usually have the general criminal search and arrest powers of police officers, the assertion that they are “police” misrepresents not only their identity but also the scope of their legal authority. This misrepresentation is especially significant to immigrant populations, who have been encouraged by New Jersey state officials to assist local police without fear of immigration consequences.

38. In other raids, an occupant simply opens the door in response to the pounding, assuming an emergency. Once the door is opened, the agents enter the home, without properly identifying themselves, and without obtaining an occupant’s consent. If the agents do not have a clear path of entry, they frequently forcibly push in the door and the individual who opened it. It has been reported that agents have even broken down doors to gain entry.

39. Some of the ICE agents involved in Operation Return to Sender treat the raids as a perverse sport. For example, in an April 30, 2007 email obtained under a Freedom of Information Act Request, a Connecticut ICE agent boasted to a state police officer, “We have an [operation] scheduled for Wed, 05/02/07 in New Haven . . . [I]f you’re interested we’d love to have you! We have 18 addresses — so it should be a fun time!! Let me know if you guys can play!!” (A copy of the email, obtained through a Connecticut Freedom of Information request, is attached as Exhibit A.)

40. For many ICE agents, deceit and dishonesty are regularized as part of the home raids practice. For example, according to a report from the Freehold, New Jersey Police Department, an ICE Team Leader told a local police officer that he and five members of his team surrounded a Brazilian family’s home at 6:00 a.m., but that the

family was not opening the door. The ICE official asked the local police officer to have “a Marked Freehold Boro[ugh] Police vehicle pull up [sic] to the house and have a uniformed officer knock and have the accused family come to the door. Once someone was to come to the door ICE would take over the investigation.” (A copy of the Freehold Borough Police Department Operations Report, dated August 8, 2007, is attached as Exhibit B.)

Unlawful Seizures

41. Once the door is open, multiple agents typically enter and rapidly sweep through the home, displaying or brandishing firearms as if conducting a high-risk drug sweep. ICE agents on occasion point their guns directly at occupants who, far from posing a genuine threat, are partially undressed or sit terrified in their night clothes.

42. Agents order all of the occupants out of bed and to a central location in the home. Frequently these occupants include children, many of whom are United States citizens. Even though the purported “fugitive” target is frequently unknown to the occupants, the agents interrogate the occupants about their own identities and immigration status, without reasonable basis for believing that they are not United States citizens. In some raids, ICE agents are verbally and physically abusive.

43. In front of children and family members, agents handcuff individuals they suspect are unlawfully present in the United States and order them into a van outside. Often the agents do not allow the arrestees to change out of their bedclothes. They do not tell family members where they are taking their loved ones or how to find them. The agents drive around and repeat this sequence at other homes until their van is filled.

44. The media has repeatedly documented severe abuses emerging from the ICE raids practice. *See e.g.*, Nina Bernstein, *Raids Were a Shambles, Nassau Complains to U.S.*, N.Y. Times, Oct. 3, 2007 (ICE agents conducted home raids wearing cowboy hats and brandishing shotguns and automatic weapons at home occupants including United States citizens and lawful residents); Aaron Nicodemus, *Illegal Aliens Arrested in Raid; Feds Nab 15 in Milford*, Sunday Telegram (Massachusetts), Dec. 9, 2007, at B1 (ICE agents broke through front door of home in the early morning with guns drawn, forcing occupants to get on the floor and not move); Elizabeth Llorente, *Suits: Feds Play Dirty; Immigration Officials Say Raids on Illegals are Within the Law*, The Record (Hackensack, N.J.), Jan. 2, 2008 (armed ICE agents show up at homes at 5:00 a.m., bang on doors, kick them in or use ruses to gain entry, then go into people's bedrooms, rip covers off people in their beds and question them).²

45. The home raids have a devastating effect on children who witness law enforcement agents sweeping through their home with guns, ordering them and their

² *See also* Sandra Hernandez, *ICE Increases Use of Home Raids*, Daily Journal, Mar. 26, 2008 (ICE agents came to home of immigration attorney, looking for another person; when attorney closed his door and asked them to leave premises because they could not produce a search warrant, the agents threatened to break his door down); Nina Bernstein, *Immigrant Workers Caught in Net Cast for Gangs*, N.Y. Times, Nov. 25, 2007 (Nassau County police commissioner describing the "cowboy mentality" of ICE agents who raided Long Island homes, including armed raids on the wrong homes); Sandra Forester, *Immigration Raids Spark Anger in Sun Valley Area: One Family of Legal Residents Says they were Terrorized. Agents Arrested 21 People*, Idaho Statesman, Sept. 21, 2007; Press release, Office of the Mayor of New Haven, Connecticut, June 6, 2007 (describing "federal agents pushing their way into houses, brusquely ordering men, women and children to common areas, and leading family members and loved ones away in handcuffs"); Shannon Prather, *Immigration Raids, Arrests Trigger Lawsuits*, St. Paul Pioneer Press (Minnesota), Apr. 19, 2007 (ICE agents, wearing bulletproof vests and armed with guns, pushed their way into homes and terrified children).

parents to gather together and suddenly handcuffing and dragging away their parents in the middle of the night. The large majority of these children are United States citizens.³

The Arbitrary, Inaccurate, and Pretextual Nature of “Fugitive” Raids

46. The alleged purpose of Operation Return to Sender is the arrest of “fugitives,” with a priority on criminal fugitives. Indeed, in defendant Myers’s 2007 budget presentation to the House Appropriations Committee, she stated that additional FOTs were necessary to “increase the efficiency of ICE immigration enforcement efforts to locate, apprehend, and remove primarily criminal aliens.” The majority of individuals arrested in New Jersey under Operation Return to Sender, however, are neither criminals nor fugitives. Of the 2,079 individuals arrested in New Jersey in FY 2007, 87% had no criminal history. *See* ICE Press Release, Newark, December 4, 2007. Moreover, ICE statistics confirm that in New Jersey, as few as one in three individuals arrested pursuant to Operation Return to Sender is actually a “fugitive,” as defined by ICE. *See* ICE Press Releases issued in Newark on May 1, 2007 (only 75 “fugitives” among 217 arrests from April 9-27, 2007); April 2, 2007 (only 55 “fugitives” among 128 arrests from March 19-30, 2007); March 1, 2007 (only 89 “fugitives” among 220 arrests in January 2007); and November 20, 2006 (only 53 “fugitives” among 137 arrests from November 13-20, 2006).

47. The remaining individuals arrested were a mix of undocumented immigrants and, upon information and belief, United States citizens, permanent residents, and visa-holders who have never had any court order, warrant or criminal conviction

³ *See* Jeffrey S. Passel, Pew Hispanic Center, *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.* (2006), <http://pewhispanic.org/files/reports/61.pdf> (finding that five out of six families in which at least one parent does not possess lawful immigration status, have at least one U.S. citizen child).

against them, but who were nevertheless swept up in the “Operation Return to Sender” dragnet. ICE refers to these individuals – the large majority of those arrested in New Jersey – as “collateral arrests.” This denomination obfuscates the reality that the search for “fugitives” often merely serves as a pretext for sweeping up large numbers of immigrants.

48. The accounts of plaintiffs and media reports indicate that in a substantial number of cases, ICE agents conduct home raids without reasonable grounds for believing that the purported target of their search is present in the home being raided. For example, in a series of pre-dawn warrantless raids on February 19, 2008 in Passaic, New Jersey, ICE acknowledged that its agents raided 13 homes in search of only six individuals.⁴ ICE agents returned with 12 arrestees.

49. On February 13, 2008, the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security and International Law held a hearing on ICE’s detention and deportation of United States citizens in its home raids and other enforcement activities. An ICE representative acknowledged at that hearing that United States citizens have been wrongfully detained and even deported.⁵ The chair of the subcommittee remarked after the hearing that the United States had reached an era “where an overzealous government is interrogating, detaining and deporting its own citizens while treating non-citizens even worse.”

⁴ Meredith Mandell, *Immigration raid raises questions about Passaic's 'safe haven' status*, NJ Herald News, Mar. 12, 2008; *see also* Nina Bernstein, *Immigrant Workers Caught in Net Cast for Gangs*, N.Y. Times, Nov. 25, 2007 (Nassau County police commissioner describing the “cowboy mentality” of ICE agents who raided Long Island homes, including armed raids on the wrong homes).

⁵ Eunice Moscoso, *House panel questions U.S. immigration raids*, Austin American Statesman, Feb. 16, 2008. Marisa Taylor, *Feds admit jailing citizens as illegal immigrants*, Houston Chronicle, Feb. 14, 2008.

50. Compounding the deliberate pretextual use of “fugitive” searches to arrest undocumented immigrants, much of the information in the database that ICE agents purportedly rely on to locate fugitives is outdated, inaccurate, and incomplete. In March 2007, the DHS Office of Inspector General publicly criticized ICE for its incomplete and inaccurate background information, understaffing, and incomplete training. The Inspector General’s detailed report on the Fugitive Operations Program, attached as Exhibit C, noted that:

(a) the DRO database that FOTs rely on contains inaccurate and incomplete information on fugitive aliens; a veteran analyst of the database estimated that 50% of the data is inaccurate;

(b) data was not reconciled with other federal databases to establish the validity of identity and background information on any particular fugitive;

(c) in 2006, DRO began hiring lower-level, less experienced officers for fugitive operations; and

(d) some fugitive operations agents have not completed the Fugitive Operations Training Program – 2004 guidelines allow the agents to work for up to two years before receiving the necessary training.

51. The raids on plaintiffs’ homes exemplify the extraordinary level of inaccuracy.

Raids on Individual Plaintiffs’ Homes

Maria Argueta

52. Plaintiff Maria Argueta has had valid Temporary Protection Status since 2001, allowing her to remain lawfully in the United States for the duration of that status.

53. On January 29, 2008, Maria was asleep in her home, the ground-floor apartment in a building in North Bergen, New Jersey. There were other tenants living in separate apartments on the basement and second-floor levels.

54. At or around 4:30 a.m., Maria was awakened by very loud banging on the door and windows of her building. The banging was so aggressive Maria thought the people were going to break the windows and the door. Maria was very frightened and did not open the door.

55. Upon information and belief, the basement tenants opened the door to their apartment and were confronted by defendant John Doe ICE Agents. The agents identified themselves as police, which they were not, and claimed they were looking for a criminal.

56. Upon information and belief, the basement tenants telephoned the landlord of the residence, who was Maria's brother, and handed the telephone to one or more John Doe ICE Agents. Upon information and belief, the agents told Maria's brother that they were police officers searching for a male criminal and that they needed to search the ground floor apartment of the residence. Maria's brother then telephoned Maria and told her that police officers who were searching for a male criminal were outside and needed access to her apartment.

57. After this call, Maria opened her front door to the John Doe ICE Agents. The agents wore vests with the word "police" printed on them and visibly displayed holstered firearms. Maria saw one woman among them.

58. Having deceived Maria as to their purpose, these John Doe ICE Agents entered Maria's apartment without voluntary informed consent, probable cause, or

exigent circumstances. Upon information and belief, the agents did not possess a valid judicial warrant that would justify the entry and subsequent search of Maria's home.

59. Once inside Maria's apartment, the agents identified themselves as police and claimed they were looking for a particular man. Maria told the agents she did not know that man. There was no reasonable basis to suspect the man lived in the apartment, since no man had lived in the apartment in the seven years that Maria had lived here.

60. Without voluntary informed consent, probable cause, or exigent circumstances, the John Doe ICE Agents searched Maria's entire apartment, entering all the rooms and looking inside closets and underneath beds. Upon information and belief, the agents did not possess a valid judicial warrant for the search of the home.

61. During the time that the agents were in her home, Maria felt as if she was not free to leave the apartment because the agents followed her throughout the house – even as she went to the bathroom and got changed out of her night clothes – and there were three officers blocking the front door to the apartment during the raid.

62. One or more of the John Doe ICE Agents asked Maria about her immigration status. Maria attempted to explain that she had been granted Temporary Protection Status and was waiting to receive her new TPS card in the mail.

63. Maria provided the agents with documents confirming the TPS grant. The agents threw the documents aside without looking at them. They told her she would not be receiving her TPS card that year.

64. Maria's TPS status was easily verifiable in the publicly-accessible United States Citizenship and Immigration Service database.

65. One or more of the John Doe ICE Agents asked Maria for identification. She presented her Salvadoran passport, which the agents confiscated and have never returned to her. As a result of this seizure, Maria had to later go to the Salvadoran consulate to obtain a new passport, at her own expense and inconvenience.

66. At the conclusion of their search, John Doe ICE Agents arrested Maria, without a warrant or reasonable belief that she was unlawfully present in the United States and in spite of clear and easily-verifiable evidence to the contrary.

67. A female ICE agent taunted Maria, telling her to put on clothes with long sleeves because where she was going there would be a lot of men.

68. Maria told the agents that her brother was going to get her an attorney to obtain her release from custody. One or more of the John Doe ICE Agents refused to allow her speak with an attorney after she stated that her brother would secure one for her, and mockingly told Maria not to bother because even with an attorney's help she would never be released. Maria was handcuffed and led to a waiting car.

69. One or more of the John Doe ICE Agents transported Maria to an ICE facility in Elizabeth, New Jersey, where several ICE agents laughed at and humiliated her by mockingly singing a popular Latino song entitled "Maria has Gone."

70. Later that day, Maria was transferred to a different ICE facility in Newark, where she was placed in a windowless office with several other women, before being transferred to a jail in Jersey City.

71. Maria did not receive any food or water until 7:00 a.m. the next morning, over 24 hours after she was arrested.

72. Maria was finally released at 3:00 p.m. on January 30, almost 36 hours after she was arrested.

73. During the entire period of her detention, nobody explained to Maria why she was being detained, or why she was transferred between facilities. She was released without explanation or apology, without her wrongfully-taken passport, and without her jewelry that ICE agents confiscated from her in detention. Her jewelry was never returned to her.

Arturo Flores and Bybyana Arias

74. Plaintiffs Arturo Flores and his stepdaughter Bybyana Arias are both United States citizens.

75. On the morning of November 13, 2006, Arturo and his wife were asleep in their home in Clifton, New Jersey. Also asleep in the home was Arturo's wife's teenage daughter, Bybyana.

76. At or around 3:00 a.m., Arturo was awakened by loud banging on his front door and the sound of his doorbell ringing repeatedly.

77. As he approached the door, he saw four law enforcement officers, who he later learned were defendant John Doe ICE Agents, through the window. They were holding flashlights and shouting "Police!"

78. When Arturo opened the front door slightly, the agents forced the door open, shoved Arturo out of the way, and unlawfully entered the home in the absence of voluntary informed consent, probable cause, or exigent circumstances.

79. Upon information and belief, the agents did not possess a valid judicial warrant that would justify the entry and subsequent search of the home.

80. The John Doe ICE Agents stated that they were looking for a particular individual whom they did not immediately identify.

81. Without seeking permission, and without probable cause or exigent circumstances, the John Doe ICE Agents searched all the rooms of Arturo's home.

82. A female ICE agent entered Bybyana's bedroom where she was sleeping.

83. Stating that she was "the police," she shined a flashlight at Bybyana and shouted loudly, ordering Bybyana out of bed.

84. The agents ordered her to the common area, where she was detained in her nightclothes.

85. The agents ordered Arturo to open the door to his bedroom where his wife was still in bed. Without seeking or obtaining permission, the female John Doe ICE Agent entered the room and ordered the wife into the common area, where she was detained.

86. During the time that the agents were in Arturo's home, none of the occupants were free to leave. One or more of the John Doe ICE Agents repeatedly shouted "Don't move!" at the occupants in the common room. The agents carried holstered firearms. If an occupant moved, the agents placed their hands on their holstered guns, suggesting they were preparing to draw their weapons.

87. The agents interrogated Arturo without any reasonable basis to believe that he was not a United States citizen.

88. One or more of the John Doe ICE Agents demanded that Arturo produce identification. He produced a valid driver's license. The agents transmitted over a radio the information found on his license.

89. After they had searched the home, one or more John Doe ICE Agents arrested, handcuffed, and led away Arturo's wife and brother, in front of Bybyana.

90. One or more of the John Doe ICE Agents remained in the home for an additional period of time after the search and arrests had been completed.

91. Bybyana was extremely distressed by the raid. She had difficulty eating and sleeping for at least six months after it occurred, and thought about the raid constantly. Her school grades markedly declined during that period.

Juan Ontaneda

92. On the morning of December 7, 2007, plaintiff Juan Ontaneda was living in a multi-family home in Newark, New Jersey. He was renting a room in an apartment with a family consisting of a father, mother, grandfather, and three children.

93. Between 5:30 and 6:00 a.m., Juan was startled by pounding on his front door. The pounding was so loud he feared the door would be knocked down.

94. Believing the person knocking might be another tenant who was locked out, Juan opened the door. He was confronted by six defendant John Doe ICE Agents, wearing jackets bearing the word "ICE" and displaying holstered firearms.

95. Without identifying themselves, one or more of the John Doe ICE Agents showed Juan what appeared to be a computer printout and asked if he knew the person pictured on the printout, a man the agents referred to as "Elias." Juan denied knowing or recognizing the individual that the agents were looking for.

96. Juan attempted to close the door, but several of the John Doe ICE Agents physically held the door open.

97. At this time, the owner of the multi-family dwelling came downstairs from the second floor apartment. After speaking with the agents, the landlord told Juan to get the grandfather.

98. When Juan returned to the entryway of his apartment, he discovered that all the John Doe ICE Agents had entered the apartment behind him. Upon information and belief, the ICE Agents entered without a judicial warrant, any occupant's voluntary informed consent, and in the absence of probable cause or exigent circumstances.

99. While detaining the occupants of the house, a number of the John Doe ICE Agents interrogated the grandfather about his immigration status.

100. While detaining Juan in the kitchen, the agents demanded identification. Juan produced his valid North Carolina driver's license.

101. None of the John Doe ICE Agents asked Juan at that time, or at any other time while they were in the home, about his immigration status.

102. The agents contacted other ICE personnel to inquire whether there was an outstanding deportation order for Juan. Upon information and belief, the agents were informed that Juan did not have an outstanding deportation order against him.

103. Juan heard the agent who had questioned him suggest to other agents that he should not be arrested. However, a second agent, who upon information and belief was senior to the first agent, ordered that Juan be arrested.

104. In the absence of a warrant, probable cause, exigent circumstances, or a reasonable basis for believing that Juan was not a United States citizen or was unlawfully present in the United States, one or more of the John Doe ICE Agents arrested Juan.

105. The John Doe ICE Agents handcuffed his wrists and ankles and put a belt-cuff around his waist. The agents then escorted Juan to a van waiting outside the home and transported him to the detention facility in Elizabeth, New Jersey.

Veronica Covias

106. Veronica Covias is a lawful permanent resident of the United States. In March 2007, she lived with her husband and son in a two-story home in Paterson, New Jersey.

107. At approximately 4:00 a.m. on or about March 26, 2007, the family awoke to loud, repeated pounding on their front door and shouts of “Paterson Police!” Veronica went downstairs and opened the door a crack, thinking that there was an emergency. At the door were several defendant John Doe ICE Agents. She asked what they wanted.

108. Defendants John Doe ICE Agents stated that they just wanted to talk to Veronica. In response, Veronica asked if they had a warrant. The agents did not answer her question, instead repeating they “just want to talk to her.” Before Veronica could respond, a John Doe ICE Agent put his foot in the crack of the door, pushed the door open, and forced his way into the home. Veronica did not give voluntary, informed consent to this entry. Upon information and belief, the agents did not possess a judicial warrant.

109. Four or five John Doe ICE agents entered into the home, displaying batons. They wore uniforms with “ICE” printed on the back.

110. Without seeking or obtaining consent, two John Doe ICE Agents searched each room on the first floor of the home. The female agent detained Veronica, and two other agents went upstairs.

111. Veronica asked the agents if she could go upstairs to look after her husband who was sick in bed. An agent told her she had to remain detained on the first floor and could not go to see him. The agent stated that they would take her husband “as he is.” She heard the agents yelling at her son upstairs.

112. Veronica then saw her son coming down the stairs handcuffed at his wrists and ankles. She begged the agents repeatedly to tell her where they were taking her son. They refused to answer. She pleaded for permission to hug her son goodbye, but the agents pushed her aside and took her son outside to an unmarked van. They prevented Veronica from running out of the house after her son by closing the door on her.

113. After being held in solitary confinement for approximately three days in Georgia, Veronica’s son was deported.

Carla Roe 1

114. In August 2007, plaintiff Carla Roe 1 resided in a home in Hudson County, New Jersey. Also residing in the home were Carla Roe 1’s husband and the couple’s two young children, both of whom are United States citizens.

115. Around 6:30 a.m. one morning in August 2007, Carla Roe 1 and her husband were startled by loud knocking at their front door.

116. The husband opened the front door just wide enough to see who was outside. He was confronted by three defendant John Doe ICE Agents.

117. At no point did the agents identify themselves. They stated that they were looking for a person who sold drugs, and asked to enter the home.

118. When the husband asked who the agents were looking for, the agents physically pushed the door wide open and walked straight into the home in the absence of

probable cause or exigent circumstances, and without the husband's voluntary informed consent. Upon information and belief, the agents did not possess a valid judicial warrant that would justify the entry and subsequent search of the home.

119. The husband called for Carla Roe 1 to come downstairs and also asked her to call her brother. When Carla Roe 1 came down the stairs and saw the agents, she stated clearly that the agents did not have permission to be in her home. The agents falsely indicated that her husband had given them permission to enter. Carla Roe 1 asked her husband if he had let the agents in. He responded in Spanish that he had not given the agents permission to enter, but that they had pushed their way in.

120. Carla Roe 1 asked the agents to speak quietly to avoid waking her two sleeping children (both United States citizens), but one or more John Doe ICE Agents replied that they "didn't care about the kids" and that they could "do whatever [they] want[ed]."

121. One or more of the agents asked Carla Roe 1 for identification. She told them she did not have any. The agents told Carla Roe 1 they wanted to check her credit because they thought someone might be fraudulently using her Social Security number.

122. Carla Roe 1 told the agents she had an attorney whom she wanted to contact. One or more John Doe ICE Agents told her that she was not allowed to make any phone calls. When she asked her husband to pass her his cellular phone so she could call her attorney, one or more John Doe ICE Agents grabbed the phone from his hand.

123. One or more John Doe ICE Agents told Carla Roe 1 that if she did not have identification, they would take her into custody.

124. After Carla Roe 1 explicitly told the agents that they did not have consent to be in her home, the agents searched the entire ground floor of the home with flashlights, without presenting a warrant and without voluntary informed consent, probable cause, or exigent circumstances.

125. The agents arrested Carla Roe 1 and placed her in the back of their car. They did not tell Carla Roe 1 or her husband where they were taking her. They transported her to the Hudson County Correctional Center.

126. At the correctional center, Carla Roe 1 again asked to speak with her attorney, but one or more John Doe ICE Agents forbade her from doing so.

127. After being detained for approximately two and one-half months, Carla Roe 1 was deported to Mexico.

Carlos Roe 2 and Carla Roe 2

128. Carla Roe 2 lived with her son Carlos Roe 2, and several other individuals in a three-story home in Morris County, New Jersey.

129. One morning in June 2007, at approximately 6:45 a.m., Carla Roe 2 heard loud, aggressive banging on the front door. As she opened the door to see who was there, three defendant John Doe ICE Agents, with guns drawn, forced their way into the home and physically pushed Carla Roe 2 outside. The agents entered the home in the absence of probable cause or exigent circumstances, and without Carla Roe 2's consent. Upon information and belief, they lacked a judicial warrant for the entry and subsequent search.

130. Carla Roe 2 re-entered her home, following the agents.

131. The agents grabbed Carla Roe 2, pulled her up the stairs, and pushed her down onto a couch. The agents proceeded to the third floor while a John Doe ICE Agent detained Carla Roe 2 on the second floor.

132. On the third floor, the agents found Carlos Roe 2, a high school student, coming out of the bathroom in his underwear. Without reasonable basis to believe he was not a United States citizen, the agents grabbed him and handcuffed him. A John Doe ICE Agent pointed his gun at Carlos Roe 2, while a female agent restrained Carlos Roe 2.

133. Without explanation, the agents asked him if he had any papers. Carlos Roe 2 responded that he had papers from high school, and that the agents could contact his high school. When the agents stated that they did not mean those types of papers, Carlos Roe 2 responded that he did not have any other papers.

134. During this search and seizure, the phone rang. One of the agents looked at the "caller ID" and asked Carla Roe 2 about the caller whose name appeared on the phone display; Carla Roe 2 did not respond. The agent then wrote down every name and number recorded in the "caller ID" function of Carla Roe 2's home phone.

135. While the agents were focused on Carlos Roe 2, Carla Roe 2 used the phone to call a family member. When the agents realized she was on the phone, a John Doe ICE Agent grabbed the phone from her and forcefully pulled it out of the wall and hid it in the refrigerator.

136. The agents pushed Carla Roe 2 onto the couch and the female agent yelled abusive language, including "Fuck you!" and "You are a piece of shit!"

137. A John Doe ICE Agent took Carlos Roe 2 outside. Two John Doe ICE Agents stayed in the home.

138. Carla Roe 2 became visibly upset and distressed. An agent ordered her to be quiet and sit down, and then shoved a gun in her chest to make her sit down.

139. Anxious for the officers to leave, she told them to “arrest [her] already.” John Doe ICE Agent taunted, “Why don’t you go back to your own country!” The agents left, without telling her where they had taken her son.

140. The agents placed Carlos Roe 2 in an unmarked vehicle. At no point did they read him his rights or advise him that he could speak with an attorney. They transported Carlos Roe 2 to a police station, where they questioned him for approximately thirty minutes and asked him to identify individuals in photographs.

141. The agents repeatedly asked Carlos Roe 2 if he was a gang member or sold drugs, both of which he denied. He has never had any connection whatsoever with any gang and has not been charged with crimes in connection with gang activity.

142. Carlos Roe 2 was taken to ICE Headquarters in Newark for six hours, and then brought before a judge, who set bond at \$20,000. He was detained in a facility in Hudson County for two months.

Carla Roe 3

143. Carla Roe 3 lived in Salem County, New Jersey with her husband, three U.S.-citizen children, and several other relatives.

144. At approximately 3:00 a.m. one day in August 2006, Carla Roe 3 and her husband, asleep in their home, awoke to loud knocking on their door. The individuals outside repeatedly yelled “Open the front door!” Carla Roe 3 responded “no.”

145. Eventually, Carla Roe 3’s husband walked down the steps to the front door and opened it to see what the callers wanted. Carla Roe 3 saw defendants John Doe

ICE Agents and John Loe Penns Grove Officers, who were wearing bullet-proof vests and carrying guns.

146. Carla Roe 3 recognized among the law enforcement officials a female Spanish-speaking local police officer from the Penns Grove Police Department. In addition, upon information and belief, Carla Roe 3's husband recognized a black male local police officer from the Penns Grove Police Department.

147. John Doe ICE Agents and John Loe Penns Grove Officers told Carla Roe 3's husband that they were looking for a particular individual, who was Carla Roe 3's brother. Without waiting for a response, the agents pushed the husband up the stairs and shoved him into the kitchen counter inside the home. They also shoved Carla Roe 3 out of the way. All John Doe ICE Agents and John Loe Penns Grove Officers had their guns drawn when they entered the home. All agents kept their guns drawn for the duration of the raid, except for the local police officer that Carla Roe 3 recognized, who holstered it once she saw Carla Roe 3. Neither Carla Roe 3 nor her husband gave consent to the defendants' entry of their home. Several John Doe ICE Agents and/or John Loe Penns Grove Officers remained outside.

148. Once inside the home, a John Doe ICE Agent handcuffed the husband and again asked where Carla Roe 3's brother was. The husband replied that he had been deported two to three years earlier. Upon information and belief, a minimal search of DHS records would have revealed that the brother had already been deported. It was unreasonable for the agents to believe that the brother would be in the house.

149. A John Doe ICE Agent called for back-up and at least another twelve John Doe ICE Agents came into the home. Numerous law enforcement officers remained outside around the perimeter of the home.

150. Upon information and belief, the agents did not possess a valid judicial warrant that would justify the entry and subsequent search of the home. Nevertheless, the agents, lacking probable cause or exigent circumstances, detained Carla Roe 3 on the couch in an intimidating manner, with one or more agents pointing their guns at her and indicating that she was not free to leave. The agents repeatedly asked whether Carla Roe 3 or her husband had weapons or drugs. Both Carla Roe 3 and her husband replied “no” each time. The agents also told Carla Roe 3 and her husband to identify the other people living in the home.

151. The agents proceeded to search the entire home without voluntary informed consent, probable cause, or exigent circumstances. On information and belief, upon encountering Carla Roe 3’s sleeping relative, one agent put a gun to his head and shouted “Wake up!” The agents handcuffed several of Carla Roe 3’s relatives and brought them into the common area.

152. Carla Roe 3 begged the agents not to go into her children’s bedrooms because she did not want them to be frightened. Against her pleas, the agents searched inside both rooms where her U.S.-citizen children were sleeping.

153. When Carla Roe 3 tried to ask the agents questions, they refused to answer. They repeatedly screamed “Shut up!” at her and other occupants of the house.

154. One or more of the John Doe ICE Agents asked Carla Roe 3 for identification. She presented her Mexican passport, which the agents confiscated and

have never returned to her. As a result of this seizure, Carla Roe 3 had to later go to the Mexican consulate to obtain a new passport, at her own expense and inconvenience.

155. A John Doe ICE Agent threatened Carla Roe 3 that if she did not go to “the office” she would be deported to Mexico and that the state would take her children. In addition, the agent said he would make it his “personal mission” to ensure her husband went to jail for 22 years for crossing the border. The agents then arrested her husband, and two other occupants of the house. All three were subsequently deported.

Carlos Roe 4

156. Plaintiff Carlos Roe 4 is of Russian origin and is married to a United States citizen.

157. At approximately 5:30 a.m. one day in September 2007, John Doe ICE Agents knocked on the front door of Carlos Roe 4’s two-bedroom apartment in Passaic County, New Jersey.

158. Carlos Roe 4’s friend, visiting for a week from out of town, opened the door and was confronted by two defendant John Doe ICE Agents.

159. Carlos Roe 4 rushed to the door to see who was there. Suddenly, there were approximately nine John Doe ICE Agents at the door. One agent forced the door open with her back and barred exit from the apartment with her foot and arm.

160. A defendant John Doe ICE Agent stated to Carlos Roe 4 that they were looking for a man named Jose Morales, who had been fraudulently using Carlos Roe 4’s mailing address. The agent showed Carlos Roe 4 a hand-drawn picture of a man, sketched on plain paper, which looked to Carlos Roe 4 like a child’s drawing.

161. Carlos Roe 4 told the agents he had lived in his apartment for seven years and had never seen any mail for Jose Morales and did not know him. The John Doe ICE Agents then changed their story and said that they were going door-to-door to find Morales.

162. Without voluntary informed consent, probable cause or exigent circumstances, and (on information and belief) without a judicial warrant, the agents entered and searched the home. They visibly displayed their guns.

163. Carlos Roe 4 was stunned and frightened. He was not free to leave his apartment because the female agent was blocking the front door, and the presence of multiple armed agents in his home also made him feel that he was not free to leave.

164. The agents demanded identification from Carlos Roe 4 and his friend. Upon information and belief, they called Carlos Roe 4's name into their radio and learned he had no outstanding deportation order. One John Doe ICE Agent brought the friend's identification outside and another John Doe ICE Agent said, "It's him."

165. Two John Doe ICE Agents searched through the friend's room and belongings, including inside drawers and suitcases.

166. While one still blocked the front doorway, the other agents searched the rest of Carlos Roe 4's home. The female agent flipped through his books and another John Doe ICE Agent rummaged through his mail, asking him questions about his previous roommate whose name appeared on some mail items.

167. The agents then arrested the friend and took him outside, telling Carlos Roe 4 that they were just checking his friend out and would return him shortly. The friend remains detained at the Elizabeth, New Jersey immigration detention facility.

The Pervasiveness of ICE Raids Practices

168. The nationwide pattern and practice of unlawful raids of the type plaintiffs experienced has been the subject of widespread media reporting as well as multiple lawsuits filed in other federal district courts. *See, e.g., Barrera v. Boughton*, No. 07-cv-1436 (D. Conn. Sept. 26, 2007); *Aguilar v. ICE*, No. 07-cv-8224 (S.D.N.Y. Sep. 20, 2007); *Flores-Morales v. George*, No. 07-cv-0050 (M.D. Tenn. July 5, 2007); *Reyes v. Alcantar*, No. 07-cv-2271 (N.D. Cal. Apr. 26, 2007); *Mancha v. ICE*, No. 06-cv-2650 (N.D. Ga. Nov. 1, 2006).

169. Members of Congress have also directly questioned DHS about the raids practice. In a letter dated June 11, 2007, three members of Congress raised direct concerns about ICE home raids undertaken in New Haven, Connecticut on June 6, 2007, in which ICE agents “pushed their way into homes” without search warrants, and “treated both adults and children inappropriately.” The letter asked why, despite stated DHS policy, only four of the 31 individuals arrested were actually “fugitives” with outstanding deportation orders.

170. The raids practice has also been criticized by the United Nations Special Rapporteur on the Human Rights of Migrants in his most recent report on the United States. *See Report of Special Rapporteur Jorge Bustamante A/HRC/7/12/Add. 2* (Mar. 5, 2008) at 16-17 (noting ICE agents’ “frequent disregard of due process” and reporting victims’ stories that agents entered homes without warrants, denied occupants access to lawyers, and coerced them to sign voluntary departure agreements).

171. Reports of ICE raids – and their often concomitant abuses – have been particularly prevalent in the state of New Jersey. Since March 2006 ICE home raids have

been reported across the state, including in Metuchen on May 24, 2006;⁶ Woodbridge on May 24, 2006;⁷ multiple towns between May 26 and June 14, 2006;⁸ Edison on May 24, 2006;⁹ Penns Grove on August 1, 2006; Clifton on November 13, 2006; Atlantic City on November 13-19, 2006;¹⁰ Bridgeton on January 29, 2007; Vineland on February 1, 2007;¹¹ Bridgeton on February 1, 2007;¹² Englewood on March 26, 2007;¹³ Paterson on March 26 or 27, 2007; Cliffside Park in April 2007;¹⁴ Newark in April 2007;¹⁵ Morristown on June 6, 2007;¹⁶ Emerson on June 20, 2007;¹⁷ Hillsdale on June 20, 2007;¹⁸ Westwood on June 20, 2007;¹⁹ Penns Grove in August 2007; Union City in August 2007;

⁶ *See id.*

⁷ *See id.*

⁸ *See* Jennifer Lee and Julia Mead, *2,100 are Arrested on Immigration Violations*, N.Y. Times, June 15, 2006.

⁹ *See* ICE Press Release, *ICE operation arrests 32 fugitives hiding in Edison, New Jersey: Surveillance by ICE offices indicates some fugitives were working together to defy the law*, May 24, 2006, www.ice.gov/pi/news/newsreleases/articles/060524edison.htm; John Dunphy, *They can run, but they can't hide for long: Homeland Security Division Cracks Down On Illegal Immigrants*, The Sentinel, May 31, 2006; Brian Donohue, *Raids leave gaps in a thriving community: Immigration laws target Indonesians*, The Star-Ledger, July 9, 2006.

¹⁰ *See* Derek Harper, *Immigration officials make 137 arrests around N.J.*, Atlantic City Press, Nov. 21, 2006.

¹¹ *See* Miles Jackson, *Immigration Agents Spook City Residents*, The Daily Journal (Vineland, N.J.), Feb. 2, 2007.

¹² *See id.*

¹³ *See* Lucas Sanchez, *ICE Raid in Englewood*, Blog at Blue Jersey.com, Mar. 26, 2007 (<http://www.bluejersey.com/showDiary.do?diaryId=4373>).

¹⁴ Elizabeth Llorente, *Suits: Feds play dirty; Immigration officials say raids on illegals are within the law*, The Record (Hackensack, N.J.), Jan. 2, 2008.

¹⁵ *Id.*

¹⁶ Nancy Rosenstock, *'La Migra' Grabs 7 in New Jersey*, The Militant, June 25, 2007; Daily Record Staff Report, *Morris Gang, Immigration Raid Nets 7*, The Daily Record, June 7, 2007.

¹⁷ *See* Elizabeth Llorente, *18 Reputed Gang Members Arrested*, The Record (Hackensack, N.J.), June 22, 2007 (accessed on LexisNexis.com, Mar. 11, 2008).

¹⁸ *See id.*

¹⁹ *See id.*

Buena on August 29, 2007;²⁰ Fair Lawn in September 2007;²¹ Paterson on September 21, 2007; Newark on December 7, 2007; Princeton on December 7, 2007;²² North Bergen on January 29, 2008; and Passaic on February 19, 2008.²³

Defendants' Supervisory Responsibility

Defendants Myers and Torres

172. Defendants Myers and Torres oversaw the implementation of a five-fold increase in the number of Fugitive Operations Teams in the two-year period between 2005 and 2007. They also approved a remarkable 800% increase in the arrest quotas of each team in the corresponding period of time without providing the necessary training to prevent ICE agents – faced with these new pressures – from acting abusively and unlawfully. They facilitated the creation of a culture of lawlessness and lack of accountability within an agency they supervise.

173. In recent years, defendants Myers and Torres have been repeatedly placed on notice of the routine unconstitutional home-raid practices by ICE agents throughout the country. Specifically, defendants Myers and Torres have been sued numerous times for their roles in these practices. *See e.g. Aguilar v. ICE*, No. 07-cv-8224 (S.D.N.Y. Sept. 20, 2007) (suing defendants Myers and Torres); *Flores-Morales v. George*, No. 07-cv-0050 (M.D. Tenn. July 5, 2007) (suing defendant Myers); and *Mancha v. ICE*, No. 06-cv-2650 (N.D. Ga. Nov. 1, 2006) (suing defendants Myers and Torres).

²⁰ See James Quaranta, *Six Arrested in Immigration Raids*, The Daily Journal (Vineland, N.J.), August 31, 2007.

²¹ See Elizabeth Llorente, *Suits: Feds play dirty; Immigration officials say raids on illegals are within the law*, The Record (Hackensack, N.J.), Jan. 2, 2008.

²² See Robert L. Ashbaugh, *Princeton Borough, Editorial/Opinion*, The Times of Trenton, Jan. 7, 2008.

²³ See Meredith Mandell, *City Police, federal agents arrest 12 illegals; Critics: Action violates 'Save Haven' measure*, NJ Herald News, Feb. 20, 2008.

174. On June 11, 2007, the National Immigration Forum sent a letter to DHS Secretary, Michael Chertoff, questioning the conduct by ICE agents in New Haven home raids earlier that month. Defendant Myers responded to those allegations in a letter dated July 6, 2007, attached as Exhibit D. She acknowledged that only five of the 29 individuals arrested were fugitives. She similarly acknowledged that agents conducting residential searches and arrests routinely do not have judicially-issued warrants, and are therefore required to obtain knowing, voluntary consent before entering a home. However, according to defendant Myers, such consent was ensured simply by assigning a Spanish-speaking officer to each Fugitive Operations Team.

175. Defendant Torres had direct responsibility for the execution of fugitive operations within Operation Return to Sender. Like defendant Myers, he was made aware of unconstitutional home-raid practices by ICE agents through the media and lawsuits against him dating back to November 2006, and was specifically notified of unconstitutional home raid practices by officers under his supervision in New Haven, Connecticut. According to a memorandum obtained through the Freedom of Information Act, attached as Exhibit E, New Haven's mayor called defendant Torres in June 2007 after home raids had been executed by ICE agents in New Haven. The mayor told defendant Torres about allegations that defendant Torres's officers "barged into houses without warrants and verbally abused the people and children were manhandled." The Mayor questioned whether defendant Torres's office should continue to allow such home raids to be conducted with these allegations pending.

176. Despite being made aware of the of unconstitutional home-raid practices through lawsuits, congressional inquiries, repeated national media reports, and other

sources, defendants Myers and Torres have not conducted any meaningful investigations into the practices, or provided any specific guidelines or training to fugitive operations agents to ensure that home entries and searches are conducted within constitutional limits. Nor have they, upon information and belief, meaningfully disciplined any officer responsible for such unconstitutional conduct.

177. Moreover, defendants have contributed to such unlawful conduct by continuing to publicize, and laud as “successful,” their department’s dramatic increase in immigration arrests over the past two years, as reflected in boastful press releases touting ICE’s accomplishments. *See e.g.*, Newark ICE press releases on May 1, 2007; April 2, 2007; March 1, 2007; November 20, 2006; and October 19, 2006. These press releases all indicate that the high number of arrests were made pursuant to the nationwide interior immigration enforcement strategy announced by defendant Myers and Secretary Chertoff.

Defendants Rodriguez and Weber

178. As Directors of the Newark DRO field office, defendants Rodriguez and Weber were each directly responsible for overseeing fugitive operations and the execution of “Operation Return to Sender” in New Jersey. Each of them makes frequent reports and comments on the number of arrests made by ICE agents, and speaks publicly on behalf of ICE about the implementation of Operation Return to Sender in New Jersey. Comments to the media by each of them regarding allegations of inappropriate action by their fugitive operations personnel, including unconstitutional home raids, suggest that defendants Rodriguez and Weber at best acquiesced in, and at worst, encouraged such behavior. For example, according to a report in *The Bergen Record*, when defendant

Weber was presented with specific allegations regarding a pattern of home raids in New Jersey conducted without search warrants or consent, he responded: “I don’t see it as storming a home . . . We see it as trying to locate someone.” Elizabeth Llorente, *Immigration officials say raids on illegals are within the law*, The Record (Hackensack, N.J.), Jan. 2, 2008.

179. Upon information and belief, defendants Rodriguez and Weber each knew that ICE agents were entering and searching homes in New Jersey without search warrants and without obtaining voluntary, informed consent.

180. Upon information and belief, defendants Rodriguez and Weber did not implement any guidelines, protocols, training, oversight, or record-keeping requirements that would ensure that officers under their supervision conducted home entries and searches within constitutional limits.

181. Upon information and belief, defendants Rodriguez and Weber have not conducted any substantial investigations into allegations of unconstitutional home raids of which they were made aware, or meaningfully disciplined any officer responsible for such unconstitutional conduct. Instead, they have simply continued to publicize ICE’s “successful” increase in New Jersey immigration arrests over the past two years, while allowing the unconstitutional means for many of the arrests to continue unchecked.

FIRST CLAIM:

BIVENS CLAIM FOR UNREASONABLE HOME ENTRIES IN VIOLATION OF THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION

(On behalf of all plaintiffs against defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25)

182. Plaintiffs reallege paragraphs 1 through 181, as if fully set forth herein.

183. Plaintiffs have a constitutionally protected right under the Fourth Amendment to the United States Constitution to be free from unreasonable searches and seizures, including unreasonable intrusions into their homes by government officers.

184. By entering the homes of plaintiffs Maria Argueta, Arturo Flores, Bybyana Arias, Juan Ontaneda, Veronica Covias, and Carla and Carlos Roes 1-4 without a valid search warrant, without consent, and without other circumstances (such as probable cause and exigency) that would render such intrusions reasonable, one or more of defendants John Doe ICE Agents 1-50 violated plaintiffs' Fourth Amendment rights.

185. Upon information and belief, one or more of defendants John Soe ICE Supervisors 1-25, supervisors of the John Doe ICE Agents, participated in violating plaintiffs' rights, directed the John Doe ICE Agents to violate those rights, or had knowledge of and acquiesced in the violations.

186. Upon information and belief, defendants Myers, Torres, Weber, and Rodriguez also participated in, directed, or knew of and acquiesced in the violation of plaintiffs' rights; tolerated past or ongoing misbehavior of this kind; or were deliberately indifferent to the risk that ICE officers, lacking clear training and under the pressure of sharply-increased quotas, would violate the Fourth Amendment rights of individuals suspected of being undocumented immigrants to the United States.

187. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 were intentional, malicious, reckless, and reflect a callous disregard for, or indifference to, the civil rights of plaintiffs.

188. As a result of these intrusions into their homes, plaintiffs Maria Argueta, Arturo Flores, Bybyana Arias, Juan Ontaneda, Veronica Covias, and Carla and Carlos Roes 1-4 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

189. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 give rise to a cause of action against them under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

SECOND CLAIM:

BIVENS CLAIM FOR UNREASONABLE HOME SEARCHES IN VIOLATION OF THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION

(On behalf of all plaintiffs against defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25)

190. Plaintiffs reallege paragraphs 1 through 189, as if fully set forth herein.

191. Plaintiffs have a constitutionally protected right under the Fourth Amendment to the United States Constitution to be free from unreasonable searches and seizures, including unreasonable searches of their homes by government officers.

192. By searching the homes of plaintiffs Maria Argueta, Arturo Flores, Bybyana Arias, Juan Ontaneda, Veronica Covias, and Carla and Carlos Roes 1-4 without a valid search warrant, without consent, and without other circumstances (such as

probable cause and exigency) that would render such intrusions reasonable, one or more defendant John Doe ICE Agents 1-50 violated plaintiffs' Fourth Amendment rights.

193. Upon information and belief, one or more of defendants John Soe ICE Supervisors 1-25, supervisors of the John Doe ICE Agents, participated in violating plaintiffs' rights, directed the John Doe ICE Agents to violate those rights, or had knowledge of and acquiesced in the violations.

194. Upon information and belief, defendants Myers, Torres, Weber, and Rodriguez also participated in, directed, or knew of and acquiesced in the violation of plaintiffs' rights; tolerated past or ongoing misbehavior of this kind; or were deliberately indifferent to the risk that ICE officers, lacking clear civil rights training and under the pressure of sharply increased quotas, would violate the Fourth Amendment rights of individuals suspected of being undocumented immigrants to the United States.

195. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 were intentional, malicious, reckless, and reflect a callous disregard for, or indifference to, plaintiffs' civil rights.

196. As a result of these intrusions into their homes, plaintiffs Maria Argueta, Arturo Flores, Bybyana Arias, Juan Ontaneda, Veronica Covias, and Carla and Carlos Roes 1-4 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

197. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 give rise to a cause of action against them under *Bivens, supra*.

THIRD CLAIM:

BIVENS CLAIM FOR UNREASONABLE SEIZURES IN VIOLATION OF THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION

(On behalf of plaintiffs Argueta, Flores, Arias, Ontaneda, Covias, Carla Roes 2 and 3 and Carlos Roes 2 and 4, against defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25)

198. Plaintiffs reallege paragraphs 1 through 197, as if fully set forth herein.

199. Plaintiffs have a constitutionally protected right under the Fourth Amendment to the United States Constitution to be free from unreasonable seizures.

200. By detaining plaintiffs Maria Argueta, Arturo Flores, Bybyana Arias, Juan Ontaneda, Veronica Covias, Carla Roes 2 and 3 and Carlos Roes 2 and 4 without a valid arrest warrant or other circumstances (such as probable cause and exigency) that would render such seizures reasonable, one or more of defendants John Doe ICE Agents 1-50 violated the Fourth Amendment rights of these plaintiffs.

201. By taking plaintiff Maria Argueta into custody for almost 36 hours, in spite of her lawful status and without a valid arrest warrant or other circumstances that would render such an arrest reasonable, one or more of defendants John Doe ICE Agents 1-50 further violated the Fourth Amendment rights of plaintiff Argueta.

202. Upon information and belief, one or more of defendants John Soe ICE Supervisors 1-25 participated in violating plaintiffs' rights, directed the John Doe ICE Agents to violate those rights, or had knowledge of and acquiesced in the violations.

203. Upon information and belief, defendants Myers, Torres, Weber, and Rodriguez also participated in, directed, or knew of and acquiesced in the violation of plaintiffs' rights; tolerated past or ongoing misbehavior of this kind; or were deliberately indifferent to the risk that ICE officers, lacking clear civil rights training and under the

pressure of sharply increased quotas, would violate the Fourth Amendment rights of individuals suspected of being undocumented immigrants to the United States.

204. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 were intentional, malicious, reckless, and reflect a callous disregard for, or indifference to, plaintiffs' civil rights.

205. As a result of these detentions, plaintiffs Maria Argueta, Arturo Flores, Bybyana Arias, Juan Ontaneda, Veronica Covias, Carla Roes 2 and 3 and Carlos Roes 2 and 4 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

206. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 give rise to a cause of action against them under *Bivens, supra*.

FOURTH CLAIM:

BIVENS CLAIM FOR EXCESSIVE FORCE IN VIOLATION OF THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION

(On behalf of plaintiffs Carla Roes 2 and 3 and Carlos Roe 2 against defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25)

207. Plaintiffs reallege paragraphs 1 through 206, as if fully set forth herein.

208. Plaintiffs have a constitutionally protected right under the Fourth Amendment to the United States Constitution to be free from the use of unreasonable or excessive force.

209. By pushing through the front door with their guns drawn and forcing their way into the home of Carlos Roe 2 and Carla Roe 2, aggressively shoving and grabbing Carla Roe 2, pulling her up the stairs, pushing her down onto a couch while yelling abusive language and pointing a gun at her chest, one or more of defendants John Doe

ICE Agents 1-50 used excessive force against Carla Roe 2. One or more defendant John Doe ICE Agents 1-50 also used excessive force against Carlos Roe 2 by grabbing him, placing him in handcuffs, and detaining him at gunpoint as he came out of bathroom in his underwear. These actions violated the Fourth Amendment rights of plaintiffs Carlos Roe 2 and Carla Roe 2.

210. By pushing through the front door of plaintiff Carla Roe 3's home with weapons drawn, shoving her aside upon entry, and repeatedly screaming at her, and pointing a gun at her, one or more of defendants John Doe ICE Agents 1-50 used excessive force against her, and in doing so, violated the Fourth Amendment rights of plaintiff Carla Roe 3.

211. Upon information and belief, one or more of defendants John Soe ICE Supervisors 1-25, supervisors of the John Doe ICE Agents, participated in violating the plaintiffs' rights, directed the John Doe ICE Agents to violate those rights, or had knowledge of and acquiesced in the violations.

212. Upon information and belief, defendants Myers, Torres, Weber, and Rodriguez also participated in, directed, or knew of and acquiesced in the violation of plaintiffs' rights; tolerated past or ongoing misbehavior of this kind; or were deliberately indifferent to the risk that ICE officers, lacking clear civil rights training and under the pressure of sharply increasing quotas, would violate the Fourth Amendment rights of individuals suspected of being undocumented immigrants to the United States.

213. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 were intentional, malicious, reckless, and reflect a callous disregard for, or indifference to, plaintiffs' civil rights.

214. As a result of the use of excessive force, plaintiffs Carla Roes 2 and 3 and Carlos Roe 2 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

215. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 give rise to a cause of action against them under *Bivens, supra*.

FIFTH CLAIM:
BIVENS CLAIM FOR VIOLATIONS OF SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION

(On behalf of plaintiffs Carla Roe 2 and Carla Roe 3 against defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25)

216. Plaintiffs reallege paragraphs 1 through 215, as if fully set forth herein.

217. Plaintiffs have a constitutionally protected right under the Fifth Amendment to the United States Constitution to be free from abusive government conduct that shocks the conscience.

218. By unnecessarily shoving their guns into the chest of plaintiff Carla Roe 2 and verbally abusing her in an outrageous manner, including shouting “Fuck you!”, “You are a piece of shit!”, and “Why don’t you go back to your own country,” one or more of defendants John Doe ICE Agents 1-50 violated Carla Roe 2’s Fifth Amendment substantive due process right to be free from governmental conduct that shocks the conscience.

219. By drawing their guns during the raid on the home of plaintiff Carla Roe 3, pointing their guns at her, threatening to have her children taken away from her, and telling her that her husband would spend more than 20 years in prison, one or more of defendants John Doe ICE Agents 1-50 violated Carla Roe 3’s Fifth Amendment

substantive due process right to be free from governmental conduct that shocks the conscience.

220. Upon information and belief, one or more of defendants John Soe ICE Supervisors 1-25 participated in violating the rights of plaintiffs Carla Roe 2 and 3, directed the John Doe ICE Agents to violate them, or had knowledge of and acquiesced in the violations.

221. Upon information and belief, defendants Myers, Torres, Weber, and Rodriguez also participated in, directed, or knew of and acquiesced in the violation of the rights of plaintiffs Carla Roe 2 and 3; tolerated past or ongoing misbehavior of this kind; or, by fostering disrespect for the rights and dignity of individuals suspected of being undocumented immigrants to the United States, were deliberately indifferent to the risk that ICE officers would engage in the conscience-shocking practices that occurred in this case.

222. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 were intentional, malicious, reckless, and reflect a callous disregard for, or indifference to, the civil rights of plaintiffs.

223. As a result of defendants' conscience-shocking behavior, plaintiffs Carla Roe 2 and Carla Roe 3 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

224. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 give rise to a cause of action against them under *Bivens, supra*.

SIXTH CLAIM:

BIVENS CLAIM FOR VIOLATION OF PROCEDURAL DUE PROCESS RIGHTS TO COUNSEL UNDER THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION

(On behalf of plaintiff Carla Roe 1 against defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25)

225. Plaintiffs reallege paragraphs 1 through 224, as if fully set forth herein.

226. Plaintiffs have a constitutionally protected right under the Fifth Amendment to the United States Constitution to due process of law, including the right to consult with counsel regarding immigration proceedings.

227. One or more of defendants John Doe ICE Agents 1-50 violated the Fifth Amendment procedural due process rights of plaintiff Carla Roe 1 by preventing her from contacting her attorney.

228. Upon information and belief, one or more of defendants John Soe ICE Supervisors 1-25 participated in violating the rights of plaintiff Carla Roe 1, directed the John Doe ICE Agents to violate those rights, or had knowledge of and acquiesced in the violations.

229. Upon information and belief, defendants Myers, Torres, Weber, and Rodriguez also participated in, directed, or knew of and acquiesced in the violation of Carla Roe 1's rights; tolerated past or ongoing misbehavior of this kind; or, by permitting and/or encouraging ICE agents to impede attempts by individuals suspected of being undocumented immigrants to the United States to contact attorneys to assist them, were deliberately indifferent to the risk that ICE officers would violate the Fifth Amendment due process rights of individuals suspected of being undocumented immigrants to the United States.

230. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 were intentional, malicious, reckless, and reflect a callous disregard for, or indifference to, the civil rights of plaintiff Carla Roe 1.

231. As a result of defendants' obstruction of her attempts to contact her attorney, plaintiff Carla Roe 1 suffered harms, including but not limited to loss of liberty and emotional distress.

232. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 give rise to a cause of action against them under *Bivens, supra*.

SEVENTH CLAIM:
BIVENS CLAIM FOR VIOLATION OF EQUAL PROTECTION OF THE LAWS
UNDER THE FIFTH AMENDMENT TO THE UNITED STATES
CONSTITUTION

(On behalf of plaintiff Ontaneda against defendants Myers, Torres, Weber, Rodriguez,
John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25)

233. Plaintiffs reallege paragraphs 1 through 232, as if fully set forth herein.

234. Plaintiffs have a constitutionally protected right under the Fifth Amendment to the United States Constitution to due process of law, which includes equal protection of the laws.

235. Upon request, plaintiff Juan Ontaneda provided to one or more of defendant John Doe ICE Agents 1-50 a valid driver's license, and defendants had no reason to suspect that Mr. Ontaneda had committed any crime or was not a United States citizen. In spite of this utter lack of individualized suspicion, one or more of the John Doe ICE Agents arrested Mr. Ontaneda, apparently for no other reason than his race or

ethnicity, in violation of Mr. Ontaneda's Fifth Amendment right to equal protection of the laws.

236. Upon information and belief, one or more of defendants John Soe ICE Supervisors 1-25 participated in violating the rights of plaintiff Ontaneda, directed the John Doe ICE Agents to violate those rights, or had knowledge of and acquiesced in the violations.

237. Upon information and belief, defendants Myers, Torres, Weber, and Rodriguez also participated in, directed, or knew of and acquiesced in the violation of the rights of plaintiff Ontaneda; tolerated past or ongoing misbehavior of this kind; or, by permitting and/or encouraging ICE agents to engage in the type of racial profiling that occurred in this case – *i.e.*, the detention of individuals on the basis of their race or ethnicity, without any reason to suspect them of any illegal activity – were deliberately indifferent to the risk that ICE officers would violate the Fifth Amendment equal protection rights of individuals suspected of being undocumented immigrants to the United States.

238. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 were intentional, malicious, reckless, and reflect a callous disregard for, or indifference to, the civil rights of plaintiff Ontaneda.

239. As a result of his arrest on the basis of his race or ethnicity alone, plaintiff Juan Ontaneda suffered harms, including but not limited to loss of liberty, humiliation and emotional distress.

240. The actions of defendants Myers, Torres, Weber, Rodriguez, John Doe ICE Agents 1-50, and John Soe ICE Supervisors 1-25 give rise to a cause of action against them under *Bivens, supra*.

EIGHTH CLAIM:

42 U.S.C. § 1983 CLAIM FOR UNREASONABLE HOME ENTRY IN VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION

(On behalf of plaintiff Carla Roe 3 against defendants John Loe Penns Grove Officers 1-10)

241. Plaintiffs reallege paragraphs 1 through 240, as if fully set forth herein.

242. Plaintiffs have a constitutionally protected right under the Fourth Amendment to the United States Constitution to be free from unreasonable searches and seizures, including unreasonable intrusions into their homes by government officers.

243. By entering the home of plaintiff Carla Roe 3 without a valid search warrant, without consent, and without other circumstances (such as probable cause and exigency) that would render such intrusion reasonable, one or more of defendant John Loe Penns Grove Officers 1-10 violated the Fourth Amendment rights of plaintiff Carla Roe 3.

244. As a result of this intrusion into her home, plaintiff Carla Roe 3 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

245. The actions of defendants John Loe Penns Grove Officers were intentional, malicious, reckless, and reflect a callous disregard for, or indifference to, the civil rights of plaintiff Carla Roe 3.

NINTH CLAIM:

42 U.S.C. § 1983 CLAIM FOR UNREASONABLE HOME SEARCH IN VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION

(On behalf of plaintiff Carla Roe 3 against defendants John Loe Penns Grove Officers 1-10)

246. Plaintiffs reallege paragraphs 1 through 245, as if fully set forth herein.

247. Plaintiffs have a constitutionally protected right under the Fourth Amendment to the United States Constitution to be free from unreasonable searches and seizures, including unreasonable intrusions into their homes by government officers.

248. By searching the home of plaintiff Carla Roe 3 without a valid search warrant, without consent, and without other circumstances (such as probable cause and exigency) that would render such an intrusion reasonable, one or more of defendant John Loe Penns Grove Officers 1-10 violated the Fourth Amendment rights of plaintiff Carla Roe 3.

249. As a result of this search of her home, plaintiff Carla Roe 3 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

250. The actions of defendants John Loe Penns Grove Officers were intentional, malicious, reckless, and reflect a callous disregard for, or indifference to, the civil rights of plaintiff Carla Roe 3.

TENTH CLAIM:

42 U.S.C. § 1983 CLAIM FOR UNREASONABLE SEIZURE IN VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION

(On behalf of plaintiff Carla Roe 3 against defendants John Loe Penns Grove Officers 1-10)

251. Plaintiffs reallege paragraphs 1 through 250, as if fully set forth herein.

252. Plaintiffs have a constitutionally protected right under the Fourth Amendment to the United States Constitution to be free from unreasonable seizures.

253. By detaining plaintiff Carla Roe 3 without a valid arrest warrant or other circumstances (such as probable cause and exigency) that would render such seizure reasonable, one or more of defendant John Loe Penns Grove Officers 1-10 violated the Fourth Amendment rights of plaintiff Carla Roe 3.

254. As a result of her detention, plaintiff Carla Roe 3 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

255. The actions of defendants John Loe Penns Grove Officers were intentional, malicious, reckless, and reflect a callous disregard for, or indifference to, the civil rights of plaintiff Carla Roe 3.

ELEVENTH CLAIM:

**42 U.S.C. § 1983 CLAIM FOR EXCESSIVE FORCE IN VIOLATION OF THE
FOURTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES
CONSTITUTION**

(On behalf of plaintiff Carla Roe 3 against defendants John Loe Penns Grove Officers 1-10)

256. Plaintiffs reallege paragraphs 1 through 255, as if fully set forth herein.

257. Plaintiffs have a constitutionally protected right under the Fourth Amendment to the United States Constitution to be free from the use of unreasonable or excessive force.

258. By pushing through the front door of plaintiff Carla Roe 3's residence with their weapons drawn, shoving her aside upon entry, pointing a gun at her, and repeatedly screaming at her, one or more of defendants John Loe Penns Grove Officers 1-10 used excessive force against her, and in doing so, violated her Fourth Amendment rights.

259. The actions of defendants John Loe Penns Grove Officers 1-10 were intentional, malicious, reckless, and reflect a callous disregard for, or indifference to, the civil rights of plaintiff Carla Roe 3.

260. As a result of this excessive force, plaintiff Carla Roe 3 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

TWELTH CLAIM:

42 U.S.C. § 1983 CLAIM FOR VIOLATION OF SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

(On behalf of plaintiff Carla Roe 3 against defendants John Loe Penns Grove Officers 1-10)

261. Plaintiffs reallege paragraphs 1 through 260, as if fully set forth herein.

262. Plaintiffs have a constitutionally protected right under the Fourteenth Amendment to the United States Constitution to be free from abusive state government conduct that shocks the conscience.

263. By drawing their guns on plaintiff Carla Roe 3, threatening to have her children taken away from her, and telling her that her husband would spend more than 20 years in prison, one or more of defendant John Loe Penns Grove Officers 1-10 violated plaintiff Carla Roe 3's Fourteenth Amendment substantive due process right to be free from state government abuse that shocks the conscience.

264. As a result of defendants' conscience-shocking behavior, plaintiff Carla Roe 3 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

265. The actions of defendant John Loe Penns Grove Officers were intentional, malicious, reckless, and reflect a callous disregard for, or indifference to, the civil rights of plaintiff Carla Roe 3.

THIRTEENTH CLAIM:

CLAIM FOR UNREASONABLE HOME ENTRY IN VIOLATION OF ARTICLE I, PARAGRAPH 7 OF THE NEW JERSEY CONSTITUTION

(On behalf of plaintiff Carla Roe 3 against defendants John Loe Penns Grove Officers 1-10)

266. Plaintiffs reallege paragraphs 1 through 265, as if fully set forth herein.

267. Plaintiffs have a constitutionally protected right under Article I, paragraph 7 of the New Jersey Constitution to be free from unreasonable searches and seizures, including unreasonable intrusions into their homes by government officers.

268. By entering the home of plaintiff Carla Roe 3 without a valid search warrant, without consent, and without other circumstances (such as probable cause and exigency) that would render such an intrusion reasonable, one or more of defendants John Loe Penns Grove Officers 1-10 violated the rights of plaintiff Carla Roe 3 under New Jersey Const., Art. I, ¶ 7.

269. As a result of this intrusion into her home, plaintiff Carla Roe 3 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

FOURTEENTH CLAIM:

CLAIM FOR UNREASONABLE HOME SEARCH IN VIOLATION OF ARTICLE I, PARAGRAPH 7 OF THE NEW JERSEY CONSTITUTION

(On behalf of plaintiff Carla Roe 3 against defendants John Loe Penns Grove Officers 1-10)

270. Plaintiffs reallege paragraphs 1 through 269, as if fully set forth herein.

271. Plaintiffs have a constitutionally protected right under Article I, paragraph 7 of the New Jersey Constitution to be free from unreasonable searches, including unreasonable searches of their homes by government officers.

272. By searching the home of plaintiff Carla Roe 3 without a valid search warrant, without consent, and without other circumstances (such as probable cause and exigency) that would render such an intrusion reasonable, one or more of defendants John

Loe Penns Grove Officers 1-10 violated the rights of plaintiff Carla Roe 3 under New Jersey Const., Art. I, § 7.

273. As a result of this search of her home, plaintiff Carla Roe 3 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

FIFTEENTH CLAIM:
**CLAIM FOR UNREASONABLE SEIZURES IN VIOLATION OF ARTICLE I,
PARAGRAPH 7 OF THE NEW JERSEY CONSTITUTION**
(On behalf of plaintiff Carla Roe 3 against defendants John Loe Penns Grove Officers 1-10)

274. Plaintiffs reallege paragraphs 1 through 273, as if fully set forth herein.

275. Plaintiffs have a constitutionally protected right under Article I, paragraph 7 of the New Jersey Constitution to be free from unreasonable seizures.

276. By detaining plaintiff Carla Roe 3 without a valid arrest warrant or other circumstances (such as probable cause and exigency) that would render such a seizure reasonable, one or more of defendants John Loe Penns Grove Officers 1-10 violated rights of plaintiff Carla Roe 3 under New Jersey Const., Art. I, § 7.

277. As a result of this detention, plaintiff Carla Roe 3 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

SIXTEENTH CLAIM:
**CLAIM FOR USE OF EXCESSIVE FORCE IN VIOLATION OF ARTICLE I,
PARAGRAPH 7 OF THE NEW JERSEY CONSTITUTION**
(On behalf of plaintiff Carla Roe 3 against defendants John Loe Penns Grove Officers 1-10)

278. Plaintiffs reallege paragraphs 1 through 277, as if fully set forth herein.

279. Plaintiffs have a constitutionally protected right under Article I, paragraph 7 of the New Jersey Constitution to be free from the use of excessive force by government officers.

280. By pushing through the front door of plaintiff Carla Roe 3's residence with their weapons drawn, shoving her aside upon entry, pointing a gun at her, and repeatedly screaming at her, one or more of defendants John Loe Penns Grove Officers 1-10 used excessive force against her, and in doing so, violated the rights of plaintiff Carla Roe 3 under New Jersey Const., Art. I, ¶ 7.

281. As a result of the use of excessive force, plaintiff Carla Roe 3 suffered harms, including but not limited to loss of liberty, humiliation and emotional distress.

SEVENTEENTH CLAIM:
CLAIM FOR VIOLATION OF FUNDAMENTAL FAIRNESS AND DUE
PROCESS OF LAW PROVIDED BY ARTICLE I, PARAGRAPH 1 OF THE NEW
JERSEY CONSTITUTION
(On behalf of plaintiff Carla Roe 3 against defendants John Loe Penns Grove Officers 1-10)

282. Plaintiffs reallege paragraphs 1 through 281, as if fully set forth herein.

283. Article I, Paragraph 1 of the New Jersey Constitution provides that “[a]ll persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.”

284. The actions of one or more of defendants John Loe Penns Grove Officers 1-10 in unlawfully entering and searching plaintiff Carla Roe 3's home, and seizing her, violated her right to be free from unjust, fundamentally unfair, and arbitrary government action.

285. By drawing their guns during the raid of plaintiff Carla Roe 3's home, pointing a gun at her, threatening to have her children taken away from her, and telling her that her husband would spend more than 20 years in prison, one or more of

defendants John Loe Penns Grove Officers 1-10 further violated plaintiff Carla Roe 3's N.J. Const., Art. I, ¶ 1 substantive due process right to be free from government abuse.

286. As a result of the conduct of defendants John Loe Penns Grove Officers 1-10, plaintiff Carla Roe 3 suffered harms, including but not limited to loss of liberty, humiliation, and emotional distress.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request judgment against defendants as follows:

- (a) Compensatory and consequential damages in an amount to be determined at trial;
- (b) Punitive damages on all claims allowed by law, in an amount to be determined at trial;
- (c) Attorney's fees and costs associated with this action;
- (d) Any further relief as this Court deems just and proper and any other relief as allowed by law.

Plaintiffs demand a trial by jury.

Dated: April 3, 2008

Respectfully submitted,

By: /s/ Baher Azmy
Baher Azmy, Esq
Bassina Farbenblum, Esq.
Scott Michelman, Esq.
SETON HALL SCHOOL OF LAW
CENTER FOR SOCIAL JUSTICE
833 McCarter Highway
Newark, New Jersey 07102-5210
(973) 642-8709
Attorneys for Plaintiffs

R. Scott Thompson, Esq.
Scott L. Walker, Esq.
Heather Bishop, Esq.
LOWENSTEIN SANDLER PC
Attorneys At Law
65 Livingston Avenue
Roseland, New Jersey 07068
(973) 597-2500
Attorneys for Plaintiffs