UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOSE L. VELESACA, on his own behalf and on behalf of others similarly situated, Petitioners-Plaintiffs, v. THOMAS R. DECKER, in his official capacity as New York Field Office Director for U.S. Immigration and Customs Enforcement; MATTHEW ALBENCE, in his official capacity as the Acting Director for U.S. Immigration and Customs Enforcement; UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT; CHAD WOLF, in his official capacity as Acting Secretary of the U.S. Department of Homeland Security; UNITED STATES DEPARTMENT OF HOMELAND SECURITY; and CARL E. DUBOIS, in his official capacity as the Sheriff of Orange County and the official in charge of the Orange County Jail, Respondents-Defendants.	Case No. 1:20-cv-1803

DECLARATION OF MARINDA VAN DALEN

Pursuant to 28 U.S.C.§ 1746, I hereby declare as follows:

1. I am Marinda van Dalen, a Senior Attorney in the Health Justice Program at New York Lawyers for the Public Interest (NYLPI). I have held this position since 2017 and contribute to the strategic direction of the program in a leadership role. I lead NYLPI's Health in Immigration Detention litigation program and contribute in a leadership role to our multi-pronged program assessing and seeking to improve access to healthcare in immigration detention facilities in the New York City area. We launched this program in May 2015.

Background on New York Lawyers for the Public Interest Health Justice Program:

2. Founded over 40 years ago, NYLPI pursues equality and justice for all New Yorkers. NYLPI's community-driven approach powers its work in the areas of civil rights and health, disability, immigrant, and environmental justice. NYLPI seeks lasting change

through legal representation and litigation, community organizing, policy advocacy, pro bono service, public education. NYLPI's Health Justice Program works to bring a racial justice and immigrant rights focus to health care advocacy in New York City and New York State. We work to: (1) challenge health disparities; (2) eliminate racial and ethnic discrimination and systemic and institutional barriers that limit universal access to health care; (3) promote immigrant and language access to health care, including representing undocumented and uninsured immigrants and people confined to immigration detention who have serious health care needs; and (4) address the social determinants of health so that all New Yorkers can live a healthy life.

3. NYLPI has a long commitment to immigrant justice and the challenges faced by immigrant communities, with work ranging from individual representation to statewide advocacy campaigns focused on access to healthcare. In 2000, NYLPI launched campaigns to improve immigrant access to health care, with a focus on the lack of language access and culturally appropriate services for immigrants. Years of individual and systemic advocacy led to State regulations in 2006 that require all private and public hospitals in New York State to provide skilled interpreters, translate important hospital forms into commonly used languages, and ensure that non-English speaking patients do not experience excessive delays because of language issues. In 2009 New York City Mayor Michael Bloomberg signed the Language Access in Pharmacies Act, drafted by NYLPI, requiring City pharmacy chains to provide translation and interpretation services, and in 2012 New York Governor Andrew Cuomo signed parallel legislation known as SafeRx, instituting the same requirements for State pharmacy and mail-order chains. In 2011 NYLPI helped lead a coalition to press the Governor to issue Executive Order 26, a statewide language access policy requiring state agencies that interact directly with the public to translate vital public documents into the most common non-English languages and provide interpretation services. NYLPI continues to monitor compliance with all of this legislation, and in 2017 secured a landmark settlement in a class action ensuring equal access for 10,000 Limited English Proficient people with disabilities who were excluded from the New York City Access-A-Ride paratransit system because it failed to provide translation and interpretation services. NYLPI is also long-standing co-counsel on *Brad H. v. City of New York*, which established the right to medical discharge planning for individuals with mental illness at Rikers Island.

4. After receiving numerous complaints from community members, immigration legal service providers, and advocates, NYLPI launched a project in May 2015 to document conditions in immigration detention and assist seriously ill immigrants in obtaining necessary medical care while detained. We interviewed advocates and affected individuals across the country to learn of patterns of harm. We uncovered a great need for focus on the conditions of confinement, and specifically access to healthcare.

5. NYLPI is a leader in the New York City area on these issues. Our work focuses on people who are detained while they are in removal proceedings and whose cases are placed at Varick Street Immigration Court.

6. We operate a volunteer network of approximately 95 medical providers (NYLPI Medical Provider Network or MPN) who advocate along with lawyers on behalf of immigrants in detention who have serious medical conditions. The network seeks to improve, among other things, the care detention centers provide and gain the release of those with unmet medical needs. The medical providers volunteering with our medical-legal-community partnership have specialties such as neurology, psychiatry, endocrinology, cardiology, obstetrics, gynecology, mental health, and family medicine. We regularly present to and train doctors, residents, and nurses across New York City, including at Bellevue Hospital, the New York City Refugees and Asylees Health Coalition, Columbia Medical Center, Montefiore Human Rights and Social Justice Residents Group, and to nursing students at SUNY Downstate. We provide support for New York Immigrant Family Unity Project (NYIFUP) attorneys and community-based organizations whose clients lack adequate medical care.

7. NYLPI also litigates civil rights cases challenging the denial of appropriate medical care. We served as lead counsel in *Charles v. Orange County* and *Charles v. United States,* two lawsuits challenging the failure of Orange County Detention Center and ICE to provide mental health discharge planning to two individuals with serious mental health conditions discharged from detention and dumped on the streets. In *Charles v. Orange County*, in May 2019, the U.S. Court of Appeals for the Second Circuit affirmed the right to mental health discharge planning under the constitution and confirmed the legal standard for a constitutional violation in immigration detention as deliberate indifference to serious medical needs. We brought claims against the U.S. under the Federal Tort Claims Act, and the district court's decision in that case sets persuasive precedent to implicate ICE in medical care breaches experienced by people in detention. Both cases subsequently settled for substantial sums for our clients.

8. NYLPI is also litigating two additional cases against Hudson County Detention Center, the contracted medical provider at the time the individuals suffered harm in detention, and individuals responsible for providing their medical care while they were confined. We brought one case on behalf of the family of an individual maltreated in detention who hemorrhaged to death within only a couple of months of being detained, and another on behalf of a person who experienced permanent health damage after approximately a year and a half in detention, deprived of the medical care he needed. Through each of these cases, NYLPI gathers additional information about conditions in detention and the

processes of providing -- or failing to provide -- healthcare to people in immigration detention.

9. Since our Healthcare in Immigrant Detention Project's founding in 2015, we have interviewed, advocated for, and/or received requests for medical provider referrals for nearly 150 people confined to immigration detention facilities in the New York-area. These individuals were detained at Hudson County Correctional Facility, Bergen County Jail, Essex County Correctional Facility, Elizabeth Detention Center, and Orange County Correctional Facility. From time to time we receive requests from outside New York City, and have been able to connect people in immigration detention to medical providers in Texas and California. Typically, we do not receive referrals for connection to a medical provider or any other assistance until the individual who is confined to immigration detention has met with an attorney or connected to a community-based organization.

10. Additionally, in February 2017 we published our findings in "Detained and Denied: Healthcare Access in Immigration Detention," based on our investigative work and research, including interviewing 47 people detained or recently detained at Hudson County Correctional Facility, Bergen County Jail, or Orange County Correctional Facility.[1] We recently completed a case file review of the nearly 100 individuals who contacted our network since this initial report and through the end of 2019. NYLPI will be publishing an updated version, "Still Detained and Denied," in Spring 2020.

11. In response to our 2017 report, New York Senator Kirsten Gillibrand, along with eleven other senators, wrote a letter to the Secretary of the Department of Homeland Security regarding access to healthcare in detention. Our work has been profiled in national journals, our team members have been interviewed and quoted in national media, and we have presented on our work and our medical-legal-community partnership to national legal audiences. Additionally, the New York City Mayor's Office of Immigrant Affairs has written in support of our project. Our staff members have testified before the U.S. Senate, the New York City Council and the New York State Assembly about the issues we have seen in our work, as detailed here.

12. The information referenced herein and that will be included in our updated report are based on interviews with people who are or have been detained, information NYLPI received in response to open records requests, and conversations with legal services providers, including the NYIFUP providers, community-based organizations, and

[1] Available at http://www.nylpi.org/wp-content/uploads/2017/02/HJ-Health-in-Immigration-Detention-Report_2017.pdf.

families of people in immigration detention. Information included from other sources, such as reports issued by other advocacy organizations, is cited accordingly. This information was collected in the ordinary course of NYLPI's investigations and related work.

13. Although the information included herein is based on case file reviews of over 140 individual experiences, many of whom were connected with a medical provider to review their medical records or perform in-person consultations, we were unable to secure permission to include details of many people's experiences in this declaration because of fear of retaliation. Even individuals who have secured immigration relief, fear action by the current administration and have chosen to not speak publicly, even anonymously, about their experience. This apprehension is shared by many immigration attorneys on behalf of their clients.

Overview of Healthcare Provision at New York City-Area Detention Facilities:

14. Immigrants detained by ICE in detention facilities are said to be held primarily to ensure that they attend future administrative hearings concerning their right to remain in the United States. In the New York City area, immigrants with removal cases in the New York City immigration court are detained in jails including Hudson County Correctional Facility in Kearny, NJ; Bergen County Jail in Hackensack, NJ; Essex County Correctional Facility in Newark, NJ; and Orange County Correctional Facility in Goshen, NY. These facilities are local county jails with which ICE contracts to provide bed space. Collectively, I refer to these facilities throughout as "the NYC-area jails."

15. ICE has signed "Non-Dedicated Inter-Governmental Service Agreements" (IGSAs) with jails across the country to house people in civil immigration detention in the same fashion that the jails house the facility's criminal defendant population. ICE pays a daily per-bed fee to the county. These county facilities then often contract with for-profit companies to provide medical services.

16. ICE has issued standards that require providing adequate medical care to people in its custody. Upon intake in a detention facility, a person is supposed to receive a full medical screening no later than 12 hours after arrival at the facility and a comprehensive health assessment within 14 days of arrival to determine individual health care needs. Each person should receive a handbook, which explains the process for requesting medical assistance at the facility.[2]

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[2] 2019 National Detention Standards Sections 6.1(I) (Handbook); 4.3(A)(1) and (D) (Screening); 4.3(E) (Health Assessment).

17. To receive medical assistance, a detained individual generally requests medical care from a kiosk in the living unit; the jails' medical unit should receive the request, and the medical staff is supposed to assess the request within 24 hours to determine priority for care. When specific treatment is needed, the facility's medical providers may submit requests to ICE for approval. When detained individuals need medical care that the facility is not equipped to provide, such as a surgery or a biopsy, they should be referred to hospitals outside of the correctional facility.[3] For example, Hudson County has formal agreements with local medical facilities for confined people to receive emergency room services. The standards also provide requirements for discharge planning and transfer of medical records.[4]

18. Since 2000, ICE has issued four sets of "Detention Standards" to address conditions of confinement for people held in detention facilities. These standards provide guidelines for hundreds of county jails and prisons throughout the United States. Each facility that holds people in ICE custody is evaluated by a designated set of standards.[5] The most robust standards were issued in 2011, referred to as the "2011 Performance Based National Detention Standards" (PBNDS), with a minimal update to non-relevant pieces in December 2016 -- yet ICE has always allowed many facilities to continue to follow the earlier and less robust iterations. In December 2019, the Trump administration issued adjustments to one of the earlier iterations, the 2000 National Detention Standards (NDS), which still applied to many facilities. The new 2019 NDS weakened many of already less robust provisions related to medical care, particularly related to oversight and accreditation.[6] The above requirements are included in all iterations.

<u>Inadequacies in Medical Care in the NYC-Area Detention Facilities</u>

19. People in immigration detention at the NYC-area jails are confined in jail-like conditions. In some circumstances, we have observed that the county facility provides services to the criminal defendant population that actually are not provided to people in immigration detention.

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[3] 2019 National Detention Standards Sections 4.3(I) (Sick Call); 4.3(A) (specialist and outside care).
[4] 2019 National Detention Standards Section 4.3 (Q)(3)(b) and (Q)(4).
[5] For a list of ICE detention facilities and the standards by which they are evaluated, please see: https://www.ice.gov/doclib/facilityInspections/dedicatedNonDedicatedFacilityList.xlsx (last accessed Feb. 19, 2020).
[6] Hudson County follows the 2008 PBNDS, Essex County follows the 2011 PBNDS, and Bergen County and Orange County now follow the 2019 NDS.

20. Because of health disparities,[7] many immigrants suffer from chronic, serious health conditions and disabilities that require specialized care. People in immigration detention disproportionately suffer from serious health conditions, such as cancer, HIV, heart disease, hypertension, diabetes, and mental illnesses. People with serious illnesses are particularly vulnerable when they are confined to immigration detention facilities, because they require consistent and comprehensive care to manage their health. Many of these individuals have access to consistent healthcare in the community through Medicaid or private insurance, but detention breaks that connection, and their treatment is subsequently controlled by the immigration detention facility and ICE. Additionally, more people who have recently arrived after experiencing extreme trauma in nations in crisis are being detained, bringing new health concerns.

21. Once in detention, people face many barriers to quality healthcare, including lack of information on how to request medical assistance, institutional refusal of services, misdiagnosis, diagnosis of a less serious condition, lax oversight of their condition and/or treatment, failure to provide mental health discharge planning, and language access barriers. Confinement in immigration detention takes away a person's own ability to address their illness -- something many people we interviewed had been doing successfully for years before detention. Frequently, health problems occur and/or worsen shortly after a person is detained.

22. Additionally, many people in detention have other indicia of vulnerability, such as limited English proficiency, experiences of trauma, cognitive impairments, and/or limited education, which can create additional barriers to accessing what little care does exist in detention facilities.

23. NYLPI has documented significant and systemic problems regarding the conditions of confinement at the New York City-area facilities with respect to medical treatment and mental health care. The most serious issues include ICE and facility medical staff denying individuals vital medical treatment, such as dialysis and blood transfusions; subjecting sick people in need of surgery to unconscionable delays; altering established

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[7] According to the United States Department of Health and Human Services, a health disparity is defined as, "a difference in health outcomes across subgroups of the population. Health disparities are often linked to social, economic, or environmental disadvantages." See United States Department of Health and Human Services, *HHS Action Plan to Reduce Race and Ethnic Health Disparities*, https://minorityhealth.hhs.gov/npa/files/plans/hhs/hhs_plan_complete.pdf (last accessed Feb. 19, 2020). The American Medical Association refers to the findings of the Institute of Medicine, who state, among other things, that, "racial and ethnic disparities in healthcare occur in the context of broader historic and contemporary social and economic inequality, and evidence of persistent racial and ethnic discrimination in many sectors of American life." Institute of Medicine, *Unequal Treatment: Confronting Racial and Ethnic Disparities in Healthcare,* Report and Recommendations on Health Disparities, 2003, *available a*t https://www.ama-assn.org/delivering-care/patient-support-advocacy/reducing-disparities-health-care (last accessed Feb. 19, 2020).

treatment regimens; failing to consistently provide needed mental health services and needlessly placing people with mental health problems (and others) in solitary confinement; and ignoring repeated complaints and requests for care from people with serious symptoms, including severe pain.

24. Throughout the course of our investigations, NYLPI documented recurrent deficiencies in care. In speaking with people detained or recently detained, we documented cases where deficiencies and the harms they cause happened in the early days of detention, which could not be remedied even by release.

25. Even short periods of detention – for example the period between arrest and bond hearing – can cause serious, lasting harm, including health harm not remedied by subsequent release. For example, people may experience heightened risk of infection from even short stays in detention. Treatment regimens are disrupted twice: once as the person detained struggles to secure care in detention, and a second time upon departing detention and confronting the need to reestablish treatment relationships or reintegrate into treatment systems and supports, inform medical professionals of what has transpired while in detention, regain entry into health-related programs, etc.

26. Repeated patterns NYLPI observes throughout the New York City-area jails include the following:

27. Incomplete intake assessments: In multiple instances, ICE and its contractors failed to act on information received during intake about a newly detained individual's medical history, including extreme delays in providing medication, with dangerous consequences to the patient's health.

28. Denial of Continued Treatment Underway upon Admission: Many individuals enter detention with medical issues, including medical problems exacerbated by health disparities, that require regular treatment. People report that medication they were taking, often for years or decades, is altered or entirely discontinued once they are detained. Even with clear directions on prescription medication and its importance, ICE and jails refuse to continue proven treatment, often harming health. For seriously ill people cut off from their continuing care in their communities by virtue of being detained, interrupted treatment can have severe consequences.

29. **Unprofessional and Inadequate Recording of Medical History and Care:** In or out of detention, an individual's medical records are a lifeline for medical providers to understand their needs. The records provide a critical basis for the ability to receive care. Clinical notes are essential for continuity of care. Medical professionals have an ethical

obligation to manage medical records appropriately. NYLPI and MPN volunteer physicians, who have reviewed tens of thousands of pages of medical records from New York City-area jails, report that the medical records regularly fail to meet professional standards. Without medical records up to standards, people recently detained risk losing time vital to recovery and sustaining their health.

30. **Language access barriers:** NYLPI's investigation found that ICE's failure to provide interpretation and translation services prevented many limited English proficient people from accessing medical care while confined in immigration detention. In one situation, NYLPI and our MPN volunteer spoke to an individual who was scheduled for surgery and had it performed - without being provided with an interpreter. These actions violate ICE's stated policies, as well as the American Medical Association's Code of Medical Ethics, implicating informed consent requirements when providing medical care.

31. **Delays in medical treatment:** One of the most pervasive problems people confined to immigration detention report is the ongoing struggle for timely responses to their requests for medical care. Even when a person is seen at intake or after a complaint, most often by a nurse and not a doctor, it can be weeks or months before pain or symptoms are addressed. Individuals may meet with nurses for months on end before they see a doctor who can formally diagnose symptoms and appropriately create a treatment plan. During this delay, pain and suffering worsen and medical consequences become more dire. Further, where evaluations are finally completed, there is additional delay in carrying out medical recommendations for surgery, specialist visits, and specific medication. Failures occur at many levels: sometimes internal county jail medical or non-medical personnel caused the delays; other times, ICE is the cause of delays through its failure to make timely determinations of whether to approve medical care.

32. **Denial of off-site care:** NYLPI has interviewed many people who required off-site and specialized medical care, which ICE either did not provide or provided only after extensive delay. When a detained individual needs inpatient or outpatient services, the facility medical provider refers the request to ICE Field Medical Coordinators. ICE Field Medical Coordinators approve or deny offsite services for ICE detainees. Many people have reported that ICE often denies these requests without providing any alternative care or reason for the denial. For example:

    - One man was experiencing rectal bleeding, which under the standard of care for a person of his age should quickly be seen by a gastroenterologist because of risks of colon cancer. This never happened.
    - An individual with a variety of heart conditions was denied requests for specialist visits and simply given aspirin.

- Another person had spinal surgery and was never taken for follow-up with the neurosurgeon specialist.

33. **Failure to manage chronic conditions:** Chronic illnesses, such as diabetes, cirrhosis, chronic heart and coronary diseases, hypertension, and depression and other mental health diagnoses require regular monitoring, evaluation, and treatment. The restrictive living conditions for people in immigration detention frequently exacerbate their health and well-being, particularly for people living with chronic illness. Deterioration can happen very quickly after being detained. NYLPI and our volunteers spoke to individuals in detention diagnosed with the above-referenced illnesses. In each circumstance, the person's medical records indicated failures to provide adequate medical care addressing these chronic conditions, all of which had been maintained and controlled prior to detention. People with entirely manageable chronic illnesses have faced life-threatening complications while in immigration detention, and many have died, including an individual whose family NYLPI represents, who died about two months after being detained.

34. **Ignoring acute pain:** NYLPI's investigation found that ICE and the New York City-area facilities routinely denied pain management treatment, leaving those with residual pain from prior injuries like car accidents or assaults to suffer excruciating pain. Interviewees reported pain so severe they were unable to carry out activities such as walking down the stairs or getting down from a bunk bed. One individual reported that his complaints were ignored until his pain was so extreme he had to be taken to the emergency room.

35. **Failure to identify and manage mental health problems:** Beyond the well-established negative psychological impact that confinement has upon people with mental illnesses,[8] NYLPI's investigation found that ICE and the New York City-area facilities routinely deny basic aspects of mental healthcare to people with mental illnesses. NYLPI's investigation found that for those who enter detention with a mental health diagnosis and daily medication needs, there is inconsistent continuation of vital regimens. People reported a range of experience. While some did receive daily medication and regular, although not necessarily substantive, psychiatric visits, others experienced complete denial of treatment plans that had allowed them to manage their illnesses for years prior to detention. For people without a diagnosis prior to detention or who demonstrate new symptoms while detained, the situation can be particularly dire. NYLPI and MPN physicians spoke to many people who demonstrated obvious symptoms of mental health problems, yet their needs and requests for care and evaluation were ignored.

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[8] *See, e.g.*, M. von Werthern, K. Robjant, Z. Chui, R. Schon, L. Ottisova, C. Mason & C. Katona, "The impact of immigration detention on mental health: a systematic review" *BMC Psychiatry* volume 18, Article number: 382 (2018).

36. **Failure to provide basic accommodations to individuals with physical and mental health disabilities:** In our investigation we have seen disregard for the needs of people with disabilities. For example, one client was refused access to his wheelchair during an extended intake process, resulting in pain, anguish, and embarrassment. We have also spoken to people who were not provided aids for their visual or auditory disabilities, and our medical network volunteers have noted the ways in which detention and lack of care can cause individuals with mental health disabilities to decompensate, or that detention itself can cause mental health trauma to those without diagnoses.

37. **Deportation by detention:** NYLPI has also seen individuals in immigration detention accept deportation, giving up potential claims to stay in the United States, because of how much they are suffering in detention.

38. NYLPI is not the only organization to document widespread medical concerns at the New York City-area facilities.

39. In response to inadequate official inspections, Detention Watch Network (DWN) conducted an inspection in March 2016 of Hudson County Correctional Facility.[9] In "Hudson County Correctional Facility: Immigrant Detention Inspection Series," DWN interviews revealed "delays in medical care, inconsistencies with medical records and subsequent treatment, and inappropriate responses to health needs," such as being told by medical providers to "drink water for serious pain" or being given eyedrops for an ear infection. On May 10, 2016, Community Initiatives for Visiting Immigrants in Confinement (CIVIC)[10] filed a complaint against DHS, ICE, and Hudson County officials on behalf of 61 men and women detained by ICE at Hudson County Correctional Facility alleging substandard medical care.[11] In February 2018, Human Rights First released a similar report highlighting deplorable access to physical and mental healthcare for the people detained at Hudson County Correctional Facility.[12] In June 2018, Human Rights Watch released a report focused on the numerous deaths in immigration

[9] Detention Watch Network, *Hudson County Correctional Facility: Immigrant Detention Inspection Series* (2016), *available at* https://www.detentionwatchnetwork.org/sites/default/files/Hudson%20Inspection_DWN_2016.pdf (last accessed Feb. 19, 2020).
[10] Since filing this complaint, CIVIC has changed its name to Freedom for Immigrants.
[11] The complaint is available at https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5a9db03153450a5c990951d3/1520283698321/New_Jersey_Medical_Complaint_Final.pdf (last accessed Feb. 19, 2020).
[12] Human Rights First, *Ailing Justice—New Jersey: Inadequate Healthcare, Indifference, and Indefinite Confinement in Immigration Detention* (2018), *available at* https://www.humanrightsfirst.org/press-release/new-report-documents-physical-mental-health-care-deficiencies-new-jersey-detention (last accessed Feb. 19, 2020).

detention.[13] In October 2019, the Center for American Progress published a report about failures and dangers related to women's health access in immigration detention.[14]

40. The United States government itself has also concluded medical care appeared delayed and was not properly documented in NYC-area facilities, particularly Hudson County Detention Center, in a December 2017 Department of Homeland Security Office of Inspector General report.[15] Additionally, in March 2019 the U.S. Department of Homeland Security received complaints about failure to provide adequate medical and mental health care and oversight at ICE-run detention facilities, including Elizabeth Contract Detention Center in New Jersey. That investigation is ongoing.[16]

41. The deep deficiencies in medical care provided to immigrants confined in detention can have serious and even life-threatening results very quickly after detention, as illustrated tragically by the case of Carlos Bonilla.[17] As reported by Human Rights Watch in "Code Red: The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention" and set forth in NYLPI's pending lawsuit,[18] Mr. Bonilla, a father of four, fatally hemorrhaged after approximately two months after being taken into civil immigration detention. He had cirrhosis, a chronic liver disease that, if left untreated, can cause deadly complications. Prior to ICE's arresting him, Mr. Bonilla had been receiving medical treatment for years, including prescriptions for medications necessary to prevent and manage complications of cirrhosis. Mr. Bonilla reported his history of cirrhosis when he arrived at immigration detention, but the facility and medical providers did not evaluate the progression of Mr. Bonilla's illness and provide treatment for cirrhosis and cirrhosis complications. Mr. Bonilla bled for at least three days before he -- tragically and preventably -- hemorrhaged to death. He was transported by ambulance to the hospital on the very date that he was scheduled to appear before an immigration judge to determine whether he would be released on bond to his family and community.

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[13] Human Rights Watch, *Code Red: The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention,* June 20, 2018, *available at* https://www.hrw.org/report/2018/06/20/code-red/fatal-consequences-dangerously-substandard-medical-care-immigration (last accessed Feb. 19, 2020).

[14] Center for American Progress, *Immigration Detention Is Dangerous for Women's Health and Rights*, October 21, 2019, *available at* https://www.americanprogress.org/issues/women/reports/2019/10/21/475997/immigration-detention-dangerous-womens-health-rights/ (last accessed Feb. 19, 2020).

[15] United States Department of Homeland Security, Office Inspector General, *Concerns about ICE Detainee Treatment and Care at Detention Facilities* (2017), *available at* https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf (last accessed Feb. 19, 2020).

[16] United States Department of Homeland Security, Office of Civil Rights and Civil Liberties, March 20, 2019, *available at* https://www.documentcloud.org/documents/6575024-ICE-Whistleblower-Report.html (last accessed Feb. 19, 2020).

[17] NYLPI represents Mr. Bonilla's family in federal litigation, *Bonilla v. Hudson County*, United States District Court for the District of New Jersey, Case No 19:13137 (2019).

[18] *Id.; supra* note 8.

42. Mr. Bonilla's death is one of at least 17 reported at Hudson County Correctional Facility since 2013.[19] The deaths prompted the Hudson County Freeholder Board to approve a resolution for a medical review board to analyze the deaths[20] and to terminate its contract with health provider CFG Health Systems, LLC. Nonetheless, Essex County Correctional Facility continues to contract with CFG for healthcare services.[21] In response to public outcry, including expressions of outrage after the death of Carlos Bonilla, in December 2018 Hudson County officials proposed to end their contract with ICE, although they included an option to renew.[22] No other New York City-area detention jails have taken similar action.

43. NYLPI's client Geurys Sosa also received egregiously inadequate medical care while confined by ICE to civil immigration detention for seventeen months at Hudson County Correctional Center.[23] Prior to being detained, Mr. Sosa was receiving appropriate and uninterrupted treatment for two serious autoimmune diseases. Despite the medical staff knowing of Mr. Sosa's diagnoses, he was wrongly denied essential medical treatment, including specialty care and medications he desperately required. As a result, Mr. Sosa's health rapidly deteriorated, resulting in needless pain and suffering and contributing to permanent injury.

44. There are numerous other examples of how people with serious medical conditions are often unable to get appropriate—and sometimes life-saving—medical care until after they are released from detention:

    a. For Mr. Gomez, Mr. Golden, and Mr. Xe, all detained at Hudson County Detention Facility, a consulting board-certified endocrinologist evaluated their medical records and found that, under the current regime overseen by ICE, all three people were at risk of infections and diabetic complications such as retinopathy, renal failure, heart attack or strokes—even while on their insulin

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[19] *Id.* at Dkt No. 1 (Complaint) para 8.

[20] Terrence T. McDonald, The Jersey Journal, *Hudson County to pay $70k to probe deaths of jail inmates* (Aug. 11, 2017), *available at* https://www.nj.com/hudson/index.ssf/2017/08/hudson_county_to_pay_70k_to_probe_deaths_of_jail_i.html (last accessed Feb. 19, 2020).

[21] CFG Health Systems, LLC, *Client Locations*, available at https://cfghealthsystems.com/client-locations/ (last accessed Feb. 19, 2020).

[22] Alfaro, Maria, *Democrats Battle Over a New Jersey Jail's Contract With ICE*, New York Times, August 31, 2018, *available at* https://www.nytimes.com/2018/08/31/nyregion/new-jersey-jails-ice.html (last accessed Feb. 19, 2020); *see also* Alvarado, Monsey, *Hudson County is looking for other revenue so it can end contract to house ICE detainees*, December 27, 2019, *available at* https://eu.northjersey.com/story/news/new-jersey/2019/12/27/hudson-nj-seeking-other-revenue-so-can-end-contract-house-ice-detainees/2749774001/ (last accessed Feb. 19, 2020).

[23] NYLPI represents Mr. Sosa in federal litigation, *Sosa v. Hudson County*, United States District Court for the District of New Jersey, Case No 2:20-cv-00777 (2020). The case is co-counseled with Quinn Emanuel Urquhart & Sullivan LLP and Neighborhood Defender Service of Harlem.

regimen. Hudson County only provided the detainees with a diet full of excessive complex carbohydrates including pasta, white bread, white rice, potatoes and cookies, all foods extremely detrimental to their health. Further, ICE refused to provide dentures to two people who, because of their diabetes, were suffering from gum disease and losing their teeth. ICE also refused to provide them with glasses despite their deteriorating vision, another type of diabetic complication. One individual reported rashes all over his body and pain in his leg and foot region that if left untreated could have led to amputation. All three individuals were eventually released on bond by an Immigration Judge based partly upon evidence of inadequate healthcare.

b. Mr. Ahmed suffers from second-degree heart atrioventricular block, a condition in which the normal electrical conduction in the heart that allows for a regular heart rate and rhythm is disrupted. He uses a pacemaker to treat his condition. Pacemakers need regular monitoring and maintenance to detect malfunctioning, preserve normal cardiac function, and prevent potentially life-threatening arrhythmias. Beginning in 2015, Hudson County Correctional Facility failed to monitor his pacemaker and put his life in jeopardy. Several times while feeling chronic symptoms of distress, Mr. Ahmed requested to see a specialist. ICE and Hudson County Correctional Facility repeatedly refused these requests. During an immigration hearing, Mr. Ahmed was so obviously in bad health, weak, and short of breath that the presiding judge called paramedics to take him to a hospital. At the hospital, doctors performed emergency surgery to replace his pacemaker battery. When he returned to detention, Mr. Ahmed experienced symptoms suggesting that his pacemaker was malfunctioning, including fatigue, shoulder pain and swelling, cramps in his foot, heart palpitations at night, difficulty breathing, dizziness, and inability to swallow. ICE and Hudson County Correctional Facility again refused to permit him to see a specialist who would have the technology needed to test whether the pacemaker was working properly.

c. Mr. Lugo was detained at Hudson County Correctional Facility and is the primary caregiver for his elderly partner who suffers from several chronic conditions. At the time of his detention, Mr. Lugo was diagnosed with Stage III Chronic Kidney Disease, a serious medical condition which requires close monitoring by a nephrologist (a doctor who specializes in diseases of the kidneys) because it can progress to kidney failure; which is life-threatening. Mr. Lugo was also diagnosed with diabetes and other collateral ailments such as cataracts disease, which poses a risk of blindness. Prior to his detention, Mr. Lugo regularly met with a nephrologist who closely monitored his disease. However, in the first five months of Mr. Lugo's detention, he had bloodwork performed only once, and

there was no indication that a nephrologist reviewed the results. In the same period, Mr. Lugo was not provided necessary medication or seen by an ophthalmologist to treat and monitor his eye disease. Further, while detained, the jail did not provide Mr. Lugo with meals that accommodated his diabetes or kidney disease; as a result, he was unable to eat and lost 18 pounds in the course of one week.

Impact of ICE's Refusal to Release on the Health of Detained Individuals

45. ICE has the authority to release an individual on recognizance, on administrative bond, or on "humanitarian parole" for health-related reasons. But despite zealous advocacy by legal advocates, it is extremely difficult to secure the release of sick individuals from detention. In fact, NYLPI has found that virtually no one is released by ICE, even when ICE is clearly failing to meet medical needs. ICE frequently does not even respond to advocates' requests for better care for clients.

46. NYLPI's experience and our collaborations with legal service providers demonstrate that individuals in immigration detention risk severe damage to their health if they are not released back into their communities. NYLPI frequently connects individuals to medical providers to provide supporting letters to Immigration Judges outlining the lack of medical care at the detention facilities, which have helped people confined to immigration detention receive a reasonable bond and release. In recent years, NYLPI has coordinated numerous in-person consultations between volunteer medical providers and people in detention. Through these visits providers are able to gain greater insight into the client's health conditions, and also observe general impressions, such as how detention itself harms mental health.

47. We have found that, even where an advocate has succeeded in securing the release of an individual with unmet medical needs, serious and possibly irreversible damage to the person's health often has already occurred. As seen through the above examples, delay in care, improper care, and denial of care can result in needing emergency services, extensive hospitalizations, intensive care upon an individual's release back into the community and permanent health damage – all for health issues that, if treated appropriately, could have reduced or averted injury, pain, and even death.

I declare under penalty of perjury that the foregoing is true and correct.

Executed March 10, 2020

Marinda van Dalen