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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NAHUM GILBERTO ORTIZ; DENNY MOLINA
CANTOR; LUCAS PALACIOS ALVARADO;
JEREMIAS LOPEZ LOPEZ; ELMER MOSCOSO
GUERRA; and LUIS GONZALEZ CARBAJAL,

Plaintiffs,

v.

ORANGE COUNTY, NEW YORK; PAUL ARTETA,
Sheriff of Orange County, in his official and individual
capacity; CARL DUBOIS, former Sheriff of Orange
County, in his individual capacity; KENNETH JONES,
former Undersheriff of Orange County, in his individual
capacity; U.S. DEPARTMENT OF HOMELAND
SECURITY; U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT; and KENNETH GENALO, Acting
ICE Field Office Director, in his official capacity,

Defendants.

23 Civ. 2802 (VB)

ANSWER

Defendants the U.S. Department of Homeland Security (“DHS”), U.S. Customs and Immigration Enforcement (“ICE”), and Kenneth Genalo (collectively, the “Federal Defendants”), by their attorney Damian Williams, United States Attorney for the Southern District of New York, hereby answer the complaint of plaintiffs Nahum Gilberto Ortiz (“Ortiz”), Denny Molina Cantor (“Molina”), Lucas Palacios Alvarado

(“Palacios”), Jeremias Lopez Lopez (“Lopez”), Elmer Moscoso Guerra (“Moscoso”), and Luis Gonzalez Carbajal (“Gonzalez”), filed on April 5, 2023 (ECF No. 7), as follows:

INTRODUCTION

1. Paragraph 1 of the Complaint consists of plaintiffs’ characterization of this action, to which no response is required. To the extent a response is deemed required, deny.

2. Deny, except admit that, since 2008, ICE has contracted with Orange County for the detention and care of persons detained under the authority of the Immigration and Nationality Act (“detainees”) at the Orange County Correctional Facility, also known as Orange County Jail (“OCJ”).

3. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 3 of the Complaint, and deny the allegations contained in the remainder of the paragraph.

4. Deny, except admit that Plaintiffs are six individuals who are or recently were confined to immigration detention at OCJ.

5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Complaint, except admit that, in February 2022, plaintiffs refused the meal trays brought to their cells.

6. Deny the allegations contained in the first sentence of Paragraph 6 of the Complaint, and deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the remainder of the paragraph.

7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Complaint.

8. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first and second sentences of paragraph 8 of the Complaint. Deny the allegations contained in the remainder of the paragraph, except admit that, in July 2022, plaintiffs Molina and Palacios, as well as a number of other ICE detainees were transferred to a detention facility in Natchez Mississippi, and that on or about March 16, 2023, plaintiffs Molina and Palacios were transferred to a detention facility in Louisiana. Aver that Palacios was removed from the United States on or about October 26, 2023, and he subsequently dismissed his claims against the Federal Defendants with prejudice. (ECF No. 58). Further aver that Molina was transferred to the Buffalo Federal Detention Center in Batavia, New York on or about December 21, 2023, he subsequently dismissed his claim pursuant to the Administrative Procedure Act (“APA”), and his request for injunctive relief is moot. (*Id.*).

9. Deny, except admit that, in July 2022, plaintiffs Ortiz, Lopez, and Moscoso were moved to a different unit within OCJ, and Lopez is presently detained at OCJ. Aver that Moscoso was removed from the United States on or about April 27, 2023.

10. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 10 of the Complaint. The second sentence of Paragraph 10 consists of a legal conclusion, to which no response is required.

11. Paragraph 11 of the Complaint consists of plaintiffs’ characterization of their action to which no response is required. Aver that Moscoso is no longer at OCJ and was removed from the United States on or about April 27, 2023, and Palacios and Molina dismissed their claims under the APA, (ECF No. 58).

PARTIES

12. Admit the allegations contained in the first and second sentences of Paragraph 12 of the Complaint, and deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the remainder of the paragraph.

13. Admit the allegations contained in the first and second sentences of Paragraph 13 of the Complaint. Admit the allegations contained in the third sentence of Paragraph 13, except deny that plaintiff Molina remains detained at Pine Prairie and avers that plaintiff Molina is currently detained at the Buffalo Federal Detention Center in Batavia, New York. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the fourth sentence of Paragraph 13. Admit the allegations contained in the fifth sentence of Paragraph 13.

14. Admit the allegations contained in the first, second, and third sentences of Paragraph 14 of the Complaint, except deny that Palacios remains detained at Winn Correctional Center, and aver that Palacios was removed from the United States on or about October 26, 2023, and he subsequently dismissed his claims against the Federal Defendants with prejudice. (ECF No. 58). Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the fourth and fifth sentences of Paragraph 14.

15. Admit the allegation contained in the first sentence of Paragraph 15 of the Complaint, and deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second sentence of Paragraph 15.

16. Admit the allegations contained in the first and second sentences of Paragraph 16 of the Complaint, except deny that Moscoso remains detained at OCJ, and

aver that Moscoso was removed from the United States on or about April 27, 2023. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the third sentence of Paragraph 16.

17. Admit the allegations in the first, second, and third sentences of Paragraph 17 of the Complaint. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the fourth sentence of Paragraph 17.

18. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Complaint, except admit that Orange County maintains and operates OCJ, located in Goshen, New York, and since 2008, ICE has contracted with Orange County for the detention and care of detainees at OCJ.

19. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Complaint. The last two sentences of Paragraph 19 consist of conclusions of law, to which no response is required.

20. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Complaint. The last two sentences of Paragraph 20 consist of conclusions of law, to which no response is required.

21. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Complaint. The last two sentences of Paragraph 21 consist of conclusions of law, to which no response is required.

22. Admit that DHS is part of the Executive Branch, has its headquarters in Washington D.C., and that ICE is a component agency of DHS.

23. Admit that ICE is a component agency of DHS with responsibility for, among other things, enforcing federal immigration law, including the detention and

deportation of noncitizens, that ICE has promulgated National Detention Standards to be followed in facilities in which detainees are held, and that ICE contracts with governmental entities, such as OCJ, as well as private entities, that operate detention facilities to house detainees.

24. Admit the first and second sentences of Paragraph 24 of the Complaint. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the third sentence of Paragraph 24. The last sentence of Paragraph 24 consists of conclusions of law, to which no response is required.

FACTUAL ALLEGATIONS

25. The allegations contained in Paragraph 25 of the Complaint do not set forth a claim for relief or aver facts in support of a claim for relief to which a response is required. To the extent that a response is deemed required, admit that the United States operates a large immigration detention system.

26. Admit that, since 2008, ICE has contracted with Orange County for detention and care of detainees at OCJ pursuant to an Inter-Governmental Service Agreement, on a per detainee, per day, fixed rate of approximately \$134. Deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 26 of the Complaint.

27. Admit the first sentence of Paragraph 27 of the Complaint, and deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 27.

28. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of the Complaint.

29. Admit the first sentence of Paragraph 29 of the Complaint, and deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 29.

30. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30 of the Complaint, except admit that Kenneth Jones signed modifications to the Inter-Governmental Services Agreement between ICE and Orange County.

31. Admit that facilities that enter into legal agreements with ICE to house detainees must comply with applicable national detention standards, that the ICE National Detention Standards (“NDS”) 2019 for non-dedicated facilities apply to OCJ, that ICE detention standards are intended to “ensure that detainees are treated humanely; protected from harm; provided appropriate medical and mental health care; and receive the rights and protections to which they are entitled,” and respectfully refers the Court to the NDS 2019 for a complete and accurate statement of its contents. Otherwise deny knowledge or information sufficient to form a belief as to the truth of remainder of the allegations contained in Paragraph 31 of the Complaint.

32. Deny knowledge or information sufficient to form a belief as to the truth of remainder of the allegations contained in Paragraph 32 of the Complaint.

33. Admit that DHS’s Office for Civil Rights and Civil Liberties (“CRCL”) conducted an investigation into conditions of detention for detainees at OCJ, and respectfully refers the Court to the April 27, 2018 memorandum issued by CRCL concerning that investigation for a complete and accurate statement of its contents, and

that concerns have been raised by detainees, politicians, journalists and advocates concerning the conditions at OCJ in recent years.

34. Deny the first sentence of Paragraph 34 of the Complaint. The allegations contained in the second sentence of Paragraph 34 do not set forth a claim for relief or aver facts in support of a claim for relief to which a response is required. To the extent a response is deemed required, deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second sentence of Paragraph 34.

35. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 35 of the Complaint.

36. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36 of the Complaint.

37. Deny that plaintiff Gonzalez was denied reliable access to mental health treatment during his detention at OCJ, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 37 of the Complaint.

38. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 38 of the Complaint.

39. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 39 of the Complaint.

40. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 40 of the Complaint.

41. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 41 of the Complaint.

42. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 42 of the Complaint.

43. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43 of the Complaint.

44. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 44 of the Complaint.

45. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 45 of the Complaint.

46. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 46 of the Complaint.

47. Deny that plaintiffs' complaints made to ICE have been ignored, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 47 of the Complaint.

48. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48 of the Complaint.

49. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 49 of the Complaint.

50. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 50 of the Complaint.

51. Deny that ICE officials did not make regular visits to OCJ, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 51 of the Complaint.

52. Admit that each housing unit at OCJ where detainees are housed has a box where complaints could be made directly to ICE, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 52 of the Complaint.

53. Admit that each plaintiff filed a petition for habeas corpus while detained at OCJ, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 53 of the Complaint.

54. Admit that the NDS 2019 state that “[s]taff will not harass, discipline, punish, or disclose sensitive information about, or otherwise retaliate against a detainee lodging a complaint,” and otherwise deny the remainder of the allegations contained in Paragraph 54 of the Complaint.

55. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 55 of the Complaint.

56. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 56 of the Complaint.

57. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 57 of the Complaint.

58. Admit that plaintiff Gonzalez was referenced in a news article and accompanying radio segment dated December 2, 2021, and published by Gothamist.com, entitled “Allegations Surface About Treatment of ICE Detainees in Orange County,” deny plaintiffs’ characterization of the article is accurate, and respectfully refer the Court to the referenced article for a complete and accurate statement of its contents. Deny

knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 58 of the Complaint.

59. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 59 of the Complaint.

60. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 60 of the Complaint.

61. Admit that several immigrant and civil rights organizations submitted a group complaint to DHS dated February 17, 2022, and respectfully refer the Court to the document for a complete and accurate statement of its contents. Otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 61 of the Complaint.

62. Deny plaintiffs' characterization of the February 17, 2022 complaint, and respectfully refer the Court to the document for a complete and accurate statement of its contents.

63. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 63 of the Complaint.

64. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 64 of the Complaint.

65. Deny, and aver that plaintiffs appear to reference a letter filed by an Assistant United States Attorney in plaintiff Gonzalez's habeas corpus litigation, *see L.G.C. v. Decker et al.*, No. 21 Civ. 8800 (KPF), ECF No. 48, at 2, and respectfully refers the Court to the cited letter for a complete and accurate statement of its contents.

66. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 66 of the Complaint.

67. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 67 of the Complaint.

68. Admit that, beginning on or about February 16, 2022, several detainees at OCJ began refusing meals, which is commonly referred to as a “food boycott,” and otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 68 of the Complaint.

69. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 69 of the Complaint.

70. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 70 of the Complaint.

71. Admit that the NDS 2019 apply to OCJ, and that Standard 4.2 of the NDS 2019 concerns hunger strikes, and respectfully refers the Court to a complete and accurate statements of its contents. Otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 71 of the Complaint.

72. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 72 of the Complaint.

73. Admit that that Standard 4.2 of the NDS 2019 requires a facility to immediately notify ICE when a detainee begins a hunger strike, and that OCJ notified ICE that certain detainees were refusing meals. Otherwise deny knowledge or

information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 73 of the Complaint.

74. Admit that ICE Officer Thomas Flynn (“ICE Officer Flynn”) came to OCJ and met with plaintiffs Gonzalez and Ortiz, and arranged for plaintiff Gonzalez to speak by phone with the Assistant Field Office Director Judith Almodovar (“AFOD Almodovar”). Deny that ICE Officer Flynn did not engage with plaintiffs’ complaints, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 74 of the Complaint.

75. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 75 of the Complaint.

76. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 76 of the Complaint.

77. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 77 of the Complaint.

78. Admit that OCJ officials conducted a search of detainees’ cells and confiscated commissary food items from detainees. Deny that ICE Officer Flynn was physically present and observed any mass search of the plaintiffs’ cells, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 78 of the Complaint.

79. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 79 of the Complaint.

80. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 80 of the Complaint.

81. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 81 of the Complaint.

82. Admit ICE was informed of the referenced disciplinary actions, however, deny that ICE approved any referenced disciplinary actions, and aver that disciplinary actions are governed by OCJ's internal guidelines which do not require or involve ICE approval. Deny that ICE Officer Flynn was physically present or witnessed any cell searches, assignment of segregated confinement, or suppression of plaintiffs' ability to communicate, and aver that ICE Office Flynn was present in an ICE office co-locate at OCJ during this period. Deny that the alleged actions are part of ICE's routine practice of retaliating against detainees engaged in a hunger strike. Otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 82.

83. Admit that AFOD Almodovar visited OCJ; however, deny that her purpose was to retaliate against detainees. Admit that AFOD Almodovar met with multiple detainees to inquire as to why they were refusing meals, that AFOD Almodovar heard complaints from detainees about food and behavior of OCJ personnel, and that AFOD Almodovar promised to speak to OCJ officials; however deny that AFOD Almodovar promised improvements to the conditions at OCJ in exchange for detainees resuming eating, deny that AFOD Almodovar grew angry or suggested that detainees accept food and throw it away. Otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 83 of the Complaint.

84. Admit that AFOD Almodovar met again with multiple detainees; however, deny affirming any connection between plaintiffs' or other detainees' advocacy and punishment. Admit the second sentence of Paragraph 84 of the Complaint. Admit that AFOD Almodovar agreed to speak to OCJ officials about detainees' complaints; however, deny that AFOD Almodovar made conditional promises any to detainees. Deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 84.

85. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 85 of the Complaint.

86. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 86 of the Complaint.

87. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 87 of the Complaint.

88. Deny.

89. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 89 of the Complaint.

90. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 90 of the Complaint.

91. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 91 of the Complaint.

92. Deny the allegations contained in the first, second, and third sentences of Paragraph 92 of the Complaint, and deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 92.

93. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 93 of the Complaint.

94. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 94 of the Complaint.

95. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 95 of the Complaint.

96. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 96 of the Complaint.

97. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 97 of the Complaint.

98. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 98 of the Complaint.

99. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 99 of the Complaint.

100. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 100 of the Complaint.

101. Admit plaintiff Gonzalez was released from OCJ prior to the fall of 2022, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 101 of the Complaint.

102. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 102 of the Complaint.

103. Deny.

104. Admit plaintiff Gonzalez was released from ICE detention in August 2022, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 104 of the Complaint.

105. Deny the allegations contained in the first sentence of Paragraph 105 of the Complaint, and deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 105.

106. Admit that certain detainees were transferred to the Delta 1 Unit at OCJ; however, deny that the Delta 1 Unit was used as a disciplinary segregation unit at the time of the detainees' transfer. Deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 106 of the Complaint.

107. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 107 of the Complaint.

108. Deny that the Delta 1 Unit is used as a punitive segregation unit for detainees, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 108 of the Complaint.

109. Deny that the Delta 1 Unit is used as a punitive segregation unit for detainees, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 109 of the Complaint.

110. Deny that the Delta 1 Unit is used as a punitive segregation unit for detainees, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 110 of the Complaint.

111. Admit that ICE Officer Flynn toured the Delta 1 Unit and told detainees he would inquire as to the reason why certain detainees were moved to that unit; however, deny that he said he would try to “solve the situation,” and that the Delta 1 Unit is used as a punitive segregation unit for detainees. Deny the allegations contained in the second sentence of Paragraph 111, and aver that ICE Officer Flynn followed up with OCJ officials and obtained an explanation for the transfer of certain detainees to the Delta 1 Unit.

112. Admit that Section 2.9 of the NDS 2019, which is applicable to OCJ, requires a facility administrator to notify ICE in writing whenever a detainee has been held continuously in an form or segregation for 14 days, or 14 days out of any 21-day period, and requires a facility administrator to coordinate with ICE in considering whether a less restrictive housing or custodial option is appropriate and available, and respectfully refer the Court to the NDS 2019 for a complete and accurate statement of its contents.

113. Admit that various sections of the NDS 2019 provide that detainees may not be denied legal visitation and telephone access for calls to attorneys or other legal representatives, and that facilities shall provide a reasonable number of telephones on which detainees can make such calls without being overheard by officers, other staff, or other detainees, and respectfully refer the Court to the NDS 2019 for a complete and accurate statement of its contents.

114. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 114 of the Complaint.

115. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 115 of the Complaint.

116. Deny that plaintiff Moscoso remains at OCJ, and aver that Moscoso was removed from the United States on or about April 27, 2023. Deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 116 of the Complaint.

117. Deny the allegations contained in the first sentence of Paragraph 117 of the Complaint, and deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 117.

118. Admit only that a number of detainees were transferred from OCJ on July 26, 2022, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 118 of the Complaint.

119. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 119 of the Complaint.

120. Admit only that plaintiffs Palacios and Molina were initially transferred to Adams County Correctional Center in Natchez, Mississippi, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 120 of the Complaint.

121. Admit the allegations contained in the first sentence of Paragraph 121 of the Complaint. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 121 of the Complaint.

122. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 122 of the Complaint.

123. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 123 of the Complaint.

124. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 124 of the Complaint.

125. Aver that plaintiffs Molina and Palacios have dismissed their claims under the APA, (*see* ECF No. 58), and thus no response to Paragraph 125 of the Complaint is required. To the extent that a response is deemed required, deny and respectfully refer the Court to the cited ICE Policy 11022.1 for a complete and accurate statement of its contents.

126. Aver that plaintiffs Molina and Palacios have dismissed their claims under the APA, (*see* ECF No. 58), and thus no response to Paragraph 126 of the Complaint is required. To the extent that a response is deemed required, admit and respectfully refer the Court to the cited ICE Policy 11022.1 for a complete and accurate statement of its contents.

127. Aver that plaintiffs Molina and Palacios have dismissed their claims under the APA, (*see* ECF No. 58), and thus no response to Paragraph 127 of the Complaint is required. To the extent that a response is deemed required, admit and respectfully refer the Court to the cited ICE Policy 11022.1 for a complete and accurate statement of its contents.

128. Aver that plaintiffs Molina and Palacios have dismissed their claims under the APA, (*see* ECF No. 58), and thus no response to Paragraph 128 of the Complaint is required. To the extent that a response is deemed required, admit and respectfully refer

the Court to the cited ICE Policy 11022.1 for a complete and accurate statement of its contents.

129. Aver that plaintiff Molina has dismissed his claim under the APA, (*see* ECF No. 58), and thus no response to Paragraph 129 of the Complaint is required. To the extent that a response is deemed required, deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 129.

130. Aver that plaintiff Palacios has dismissed all of his claims against the Federal Defendants with prejudice, (*see* ECF No. 58), and thus no response to Paragraph 130 of the Complaint is required. To the extent that a response is deemed required, deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 130.

131. Aver that plaintiffs Molina and Palacios have dismissed their claims under the APA, (*see* ECF No. 58), and thus no response to Paragraph 131 of the Complaint is required. To the extent that a response is deemed required, deny the first sentence of Paragraph 131, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 131.

132. Aver that plaintiffs Molina and Palacios have dismissed their claims under the APA, (*see* ECF No. 58), and thus no response to Paragraph 132 of the Complaint is required. To the extent that a response is deemed required, deny and respectfully refer the Court to the cited ICE Policy 11064.3 for a complete and accurate statement of its contents.

133. Aver that plaintiffs Molina and Palacios have dismissed their claims under the APA, (*see* ECF No. 58), and thus no response to Paragraph 133 of the Complaint is

required. To the extent that a response is deemed required, deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 133.

134. Aver that plaintiffs Molina and Palacios have dismissed their claims under the APA, (*see* ECF No. 58), and thus no response to Paragraph 134 of the Complaint is required. To the extent that a response is deemed required, deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 134.

135. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 135 of the Complaint.

136. Deny the allegations contained in the first sentence of Paragraph 136 of the Complaint, and respectfully refer the Court to the Inter-Governmental Services Agreement between ICE and Orange County for a complete and accurate statement of its contents; deny the second sentence of Paragraph 136, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 136.

JURISDICTION AND VENUE

137. Paragraph 137 of the Complaint consists of plaintiffs' characterization of this action and legal conclusions as to jurisdiction, to which no response is required.

138. Paragraph 138 of the Complaint consists legal conclusions as to jurisdiction, to which no response is required.

139. Paragraph 139 of the Complaint consists of a legal conclusion as to venue, to which no response is required.

CLAIMS FOR RELIEF

140. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 140 of the Complaint.

141. Deny.

142. Aver that plaintiffs Molina and Palacios have dismissed their claims under the APA, (*see* ECF No. 58), and thus no response to Paragraph 142 of the Complaint is required. To the extent that a response is deemed required, deny.

143. Aver that plaintiffs Molina and Palacios have dismissed their claims under the APA, (*see* ECF No. 58), and thus no response to Paragraph 143 of the Complaint is required. To the extent that a response is deemed required, deny.

REQUEST FOR RELIEF

144. The unnumbered paragraph following Paragraph 143, beginning with “WHEREFORE,” consists of plaintiffs’ request for relief to which no response is required. To the extent a response is required, the Federal Defendant deny that plaintiffs are entitled to the requested relief or any relief whatsoever.

DEFENSES

Any allegations not specifically admitted, denied, or otherwise answered are hereby denied. For further defenses, the Federal Defendants allege as follows:

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Plaintiffs lack standing to assert some or all of the claims and requests for relief in the Complaint.

THIRD DEFENSE

Some or all of plaintiffs' claims are moot.

FOURTH DEFENSE

The conduct of the Federal Defendants was at all times lawful, reasonable and proper.

FIFTH DEFENSE

The Federal Defendants did not violate plaintiffs' rights under the First Amendment.

SIXTH DEFENSE

Plaintiffs are not entitled to a jury trial on their claims against the Federal Defendants.

* * *

The Federal Defendants may have additional defenses which are not known at this time, but which may become known through the course of this action. Accordingly, the Federal Defendants reserve the right to assert each and every affirmative or other defense that may be available.

WHEREFORE, the Federal Defendants respectfully request that this Court dismiss the Complaint with prejudice, enter judgment in favor of Federal Defendants, award costs for defense of this action, and grant such other relief as may be just and equitable.

Date: New York, New York
February 7, 2024

Respectfully submitted,

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