

**UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

LUCAS CABRERA-HERNANDEZ,

Petitioner,

v.

BOBBY THOMPSON, Warden, South Texas
Immigration Processing Center; Sylvester M.
Ortega, Acting Director of San Antonio Field
Office, U.S. Immigration and Customs
Enforcement; **TODD LYONS**, in his official
capacity as Acting Director of Immigration and
Customs Enforcement; **KRISTI NOEM**, Secretary
of the U.S. Department of Homeland Security;
and **PAMELA BONDI**, Attorney General of the
United States, in their official capacities,

Respondents.

Case No. 5:25-cv-01094

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1) Petitioner, Lucas Cabrera-Hernandez, is a Mexican national who has lived in the United States for more than 23 years, is married to a U.S. citizen, has three U.S. citizen children, and is now being unlawfully detained at the South Texas Immigration Processing Center in Pearsall, Texas. Following a custody redetermination hearing on August 6, 2025, an immigration judge (“I.J.”) ordered Petitioner released on \$5,000 bond, finding she had the jurisdiction to do so, and that Petitioner was not a danger to persons or property, and that he was likely to appear

for his future proceedings. Ex. 1, Order of the Immigration Judge (Aug. 6, 2025); Ex. 2, Bond Memorandum of the Immigration Judge (Aug. 21, 2025).

2) Notwithstanding the immigration judge's determinations and order for release on bond, Department of Homeland Security ("DHS") officials have refused to release Petitioner and have continued to detain Mr. Cabrera-Hernandez, relying on a federal regulation that creates unilateral authority for DHS to block an I.J.'s custody order. Under that "automatic stay" regulation, 8 C.F.R. Sec. 1003.19(i)(2), if DHS disagrees with an I.J.'s custody determination, DHS can file a boilerplate notice of intent to appeal, which automatically stays the I.J.'s order. In other words, the prosecuting officials who failed to convince the I.J. to keep Mr. Cabrera-Hernandez detained in the first place can unilaterally block the I.J.'s order and force continued detention.

3) On the same day that the I.J. ordered Petitioner released upon posting bond, DHS asserted that unilateral authority to automatically stay the I.J.'s order and to continue to detain Petitioner through the filing of an EOIR-43, Notice of Intent to Appeal Custody Redetermination, without making an individualized determination of the facts in his case. In so doing, DHS has effectively overruled the I.J.'s order, exceeding its authority under the Immigration Nationality Act ("INA"), and violated Petitioner's substantive and procedural due process rights under the Fifth Amendment.

4) Mr. Cabrera-Hernandez remains deprived of his liberty, separated from his wife and children, unable to care for their physical and mental health needs and to provide for them. He will remain detained for the duration of the bond appeal, or even longer, despite a valid order mandating his release. As applied to this case, the government's use of the automatic stay regulation is an unconstitutional deprivation of due process and is *ultra vires*.

5) Petitioner seeks habeas relief under 28 U.S.C. Sec. 2241, which is the proper vehicle for challenging his unlawful detention.

6) He respectfully requests that the Court find his detention unlawful and unconstitutional and issue a Writ of Habeas Corpus pursuant to 28 U.S.C. Sec. 2241 ordering Respondents to immediately release him from custody. He respectfully requests preliminary injunctive relief, enjoining Respondents from detaining him, and in the alternative, he asks the Court order Respondents to show cause why this Petition should not be granted within three days.

CUSTODY

7) Mr. Cabrera-Hernandez is currently in the custody of the DHS at the South Texas Immigration Processing Center in Pearsall, Texas. He has been in direct custody of the DHS since July 26, 2025. He remains in the physical custody of Respondents and under the direct control of Respondents and their agents.

JURISDICTION

8) This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. Sec. 1101 *et seq.*

9) This Court has subject matter jurisdiction under 28 U.S.C. Sec. 2241 (habeas corpus), 28 U.S.C. Sec. 1331 (federal question), and Article I, Sec. 9, cl. 2 of the United States Constitution (Suspension Clause).

10) This Court may grant relief under the habeas corpus statutes, 28 U.S.C. Sec. 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. Sec. 2201 *et seq.*, and the All Writs Act, 28 U.S.C. Sec. 1651.

VENUE

11) Venue is proper because Petitioner is detained at the South Texas Immigration Processing Center in Pearsall, Texas, which is in Frio County and within the jurisdiction of this District; Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to his claims occurred in this District; and Petitioner resides in this District. 28 U.S.C. § 1391(e).

HABEAS CORPUS AND REQUIREMENTS OF 28 U.S.C. § 2243

12) A petitioner is entitled to habeas relief if she demonstrates that her detention violates the United States Constitution or federal law. 28 U.S.C. § 2241.

13) The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three* days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

14) Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

15) Petitioner is a resident of San Antonio, Texas, and is a noncitizen in removal proceedings, currently detained at the South Texas Immigration Processing Center in Pearsall, Texas. He is in the custody and under the direct control of Respondents and their agents.

16) Respondent Bobby Thompson is the Warden of the South Texas Immigration Processing Center in Pearsall, Texas, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement ("ICE") to detain noncitizens. Respondent Thompson is a legal custodian of Petitioner. He is being sued in his legal capacity as the Warden of the South Texas Immigration Processing Center in Pearsall, Texas.

17) Respondent Sylvester M. Ortega is sued in his official capacity as the Acting Director of the ICE San Antonio Field Office of U.S. Immigration and Customs Enforcement. Respondent Ortega is a legal custodian of Petitioner and has authority to release him.

18) Respondent Todd Lyons is sued in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement. In this capacity, Respondent Lyons is responsible for ICE's policies, practices, and procedures, including those relating to the detention of immigrants during their removal procedures. Respondent Lyons is a legal custodian of Petitioner.

19) Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement. Respondent Noem is a legal custodian of Petitioner.

20) Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office

for Immigration Review (“EOIR”), which administers the immigration courts and the Board of Immigration Appeals (“BIA”). Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

21) Petitioner is a long-time resident of San Antonio, Texas, having moved to the city after arriving in the United States from Mexico on or around April 6, 2002, when he was 19 years old. Ex. 4, NTA dated Oct. 3, 2013. A few years after he arrived in the United States, Mr. Cabrera-Hernandez met his U.S. citizen wife and they soon after became parents to their first child in 2005, then married in 2006. *See* Ex. 2, Bond Memorandum of the Immigration Judge. Mr. Cabrera-Hernandez is now 42 years old, and he and his U.S. citizen wife have three daughters, ages 20, 18, and 15, all born in San Antonio, Texas. *Id.*

22) More than 11 years after he first entered the United States and five years after marrying his wife, Petitioner first encountered ICE enforcement officials on October 3, 2013, in San Antonio, Texas. Ex. 4. ICE officials detained Petitioner and issued a Notice to Appear (“NTA”), making factual allegations about his immigration status. *Id.* In the NTA, ICE officials marked “X” on the box indicating that he was “an alien present in the United States who has not been admitted or paroled,” and alleged that he arrived at “the United States at or near Eagle Pass, Texas on or about April 6, 2002.” *Id.*

23) Following a custody redetermination hearing with an immigration judge, Petitioner was released on \$4,500 bond on October 22, 2013. Ex. 5, Immigration Bond. On May 25, 2023, at the hearing to answer the allegations on his NTA, the immigration judge in this case dismissed Mr. Cabrera-Hernandez’s removal proceedings. Ex. 6, I.J. Order of Dismissal.

24) After the I.J. dismissed his removal proceedings, Mr. Cabrera-Hernandez and his U.S citizen wife diligently sought to pursue his legal immigration status in the United States. His wife filed an I-130 petition on his behalf. Ex. 7, I-797 Receipt for I-130 dated June 9, 2023.

25) While they were waiting for approval of their I-130 petition, Mr. Cabrera-Hernandez submitted his application for the erstwhile “Keeping Families Together” parole program for spouses of U.S. citizens, so he could adjust his status inside the United States. Ex. 8, I-797 Receipt for I-131F dated August 19, 2024. They were disappointed to learn a few months later that the program had been terminated, and USCIS would no longer process his application. Ex. 9, I-797 Notice of Administrative Closure Notice dated Feb. 8, 2025. On March 5, 2025, USCIS approved Mr. Cabrera-Hernandez’s wife’s I-130 petition. Ex. 10, I-130 Approval Notice. Mr. Cabrera-Hernandez and his wife paid the National Visa Center visa fees, and were preparing documents for his I-601A, Provisional Waiver for Unlawful Presence. Ex. 11, NVC Fee Payment Receipt.

26) Recently, ICE internally released “interim guidance” regarding a change in their longstanding interpretation of which noncitizens are eligible for release on bond. Ex. 12, Interim Guidance Regarding Detention Authority for Application for Admission (July 8, 2025). Specifically, ICE is now arguing that only those who have been admitted with legal entry documents to the United States are eligible to be released from custody during their removal proceedings under 8 U.S.C. Sec. 1226, and that all others are subject to mandatory detention under 8 U.S.C. Sec. 1225 and will remain detained with only extremely limited parole options *at ICE’s discretion. Id.*

27) This is a reversal from ICE’s prior position, which they held for decades, that individuals already present in the United States, who entered without inspection and were

encountered in the interior of the country long after they entered, are subject to the laws pertaining to arrest and detention at 8 U.S.C. Sec. 1226, and not subject to mandatory detention under 8 U.S.C. Sec. 1225(b). Until July 2025, ICE never previously had a policy of refusing to accept payment of bond for such individuals as they believed for decades that they were eligible for bond under 8 U.S.C. Sec. 1226(a).

28) Early in the morning on July 26, 2025, Mr. Cabrera-Hernandez was on his way to a work site when ICE officials surrounded and stopped his truck and arrested him, around the corner from his home in San Antonio. His wife and children walked over to the scene of his arrest and pleaded with no success that his removal proceedings had been dismissed, that he had an approved I-130 petition, and to not detain him.

29) After arresting Mr. Cabrera-Hernandez, ICE officials then detained Petitioner at the South Texas Immigration Processing Center. Ex. 13, NTA dated July 26, 2025. They then issued a second NTA, indicating again that he was “an alien present in the United States who has not been admitted or paroled,” and not “an arriving alien,” and again alleging that he arrived at “the United States at or near Eagle Pass, Texas on or about April 6, 2002.” *Id.*

30) Congress has granted the Attorney General discretion to decide whether to detain or release certain noncitizens pending a removal decision. See 8 U.S.C. § 1226(a). The Attorney General has delegated that authority to I.J.s. 8 C.F.R. Secs. 1003.19, 1236.1. The discretionary detention provision, 8 U.S.C. Sec. 1226(a), applies only to noncitizens without serious criminal convictions. It contrasts with the mandatory detention provision, 8 U.S.C. Sec. 1226(c), which applies to noncitizens convicted of certain criminal offenses or involved in terrorist activities and requires continued detention.

31) When a noncitizen is detained under Section 1226(a), DHS makes the initial custody determination, but the detainee can request reconsideration by an I.J. Here, DHS initially detained Mr. Cabrera-Hernandez without bond.

32) Petitioner requested custody redetermination and bond with the I.J. and submitted more than 250 pages of evidence, demonstrating his more than 23 years of physical presence in the United States, the Texas birth certificates for his wife and three daughters, his wife's approved I-130 petition, as well as his eligibility for relief from removal through cancellation of removal for certain nonpermanent residents. Ex. 2, Bond Memorandum of the Immigration Judge, at p. 4.

33) During Petitioner's August 6, 2025 bond and custody redetermination hearing, the attorney representing DHS made the novel claim that the INA at 8 U.S.C. 1225(a)(1) deprived the I.J. of jurisdiction over Petitioner because he was "an applicant for admission" subject to mandatory detention under the INA at 8 U.S.C. 1225(b). In making this argument, DHS cited to the Board of Immigration Appeals decision in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). *Id.*

34) In accordance with decades of practice and precedent, the I.J. rejected DHS's novel argument and determined she had jurisdiction to redetermine custody in Petitioner's case. Ex. 2, Bond Memorandum of the Immigration Judge, at p. 4. She stated in her written decision:

DHS "cited no legal authority in support of its interpretation of INA § 235(a)(1) but rested its argument a 'plain reading' of that section. DHS also did not claim and did not present any evidence to show that the respondent has ever been encountered while arriving at or near the border, was ever the subject to a warrantless arrest, or was ever in expedited removal or other proceedings pursuant to § 235 in the past. Likewise, DHS has not argued or presented any evidence to show that the respondent was previously paroled into the U.S. or ought to be considered an arriving alien. The Court therefore finds respondent's case distinguishable from *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025)

Id.

35) After addressing jurisdiction and reviewing the more than 250 pages of evidence demonstrating good moral character and U.S. family and employment ties, the I.J. then found Mr. Cabrera-Hernandez not to be a danger to the community and granted release on condition of bond of \$5,000. *Id.*; Ex. 1, Order of the Immigration Judge (Aug. 6, 2025).

36) On the same day of the hearing, before Petitioner's wife could pay the bond, DHS filed a Notice of Intent to Appeal Custody Redetermination. Ex. 3, EOIR-43. In so doing, DHS blocked the order of release on bond, prevented his wife from paying the bond, and prohibited Petitioner's release. *Id.* The form that DHS submitted to deprive Mr. Cabrera-Hernandez of his liberty does not include any stated rationale for his continued detention but simply asserted authority under Title 8 of the Code of Federal Regulations, Section 1003.19(i)(2) to "automatically" prevent execution of the I.J.'s order. *Id.*

37) Mr. Cabrera-Hernandez is detained today solely at the unilateral behest of DHS, pursuant to this regulation, which was written by executive agencies and not Congress, and which exceeds the bounds of statutory authority under the INA. This regulation states, in whole:

Automatic stay in certain cases. In any case in which DHS has determined that an alien should not be released or has set a bond of \$10,000 or more, **any order of the immigration judge authorizing release (on bond or otherwise) shall be stayed upon DHS's filing of a notice of intent to appeal the custody redetermination (Form EOIR-43) with the immigration court within one business day of the order, and, except as otherwise provided in 8 C.F.R. 1003.6(c), shall remain in abeyance pending decision of the appeal by the Board. The decision whether or not to file Form EOIR-43 is subject to the discretion of the Secretary.**

8 C.F.R. § 1003.19(i)(2) (emphasis added)

38) The regulations provide that DHS's automatic stay will lapse in 90 days absent a BIA decision on the appeal. 8 C.F.R. § 100.36(c)(4). However, the likelihood that the BIA will make a decision within that time frame is unlikely, as the agency is currently experiencing a backlog of thousands of cases on appeal. *See Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL

2430025, at *11 (D. Md. Aug. 24, 2025) (“[W]hile the court appreciates that the BIA is empowered to determine whether Petitioner is to be released on bond per the IJ’s order (or not), this matter is before the court here and now; and it is common (judicial) knowledge these days that the BIA is presently drinking from a veritable firehose of hundreds of thousands of cases on appeal. And the Government’s suggestion . . . that Petitioner could seek expedited BIA review is unpersuasive, as § 6.4 of the BIA Practice Manual spells out that expedited review requests are ‘generally not favored’ and should be reserved for ‘compelling circumstances.’”).

39) There are also multiple avenues for extension of the stay. For example, if the BIA does not issue a decision in the 90-day window, DHS can then seek an additional discretionary stay from the BIA. 8 C.F.R. § 1003.6(c)(5). The automatic stay remains in effect for another 30 days while the BIA decides whether to grant a discretionary stay. *Id*

40) Likewise, even if the BIA rules in favor of Mr. Cabrera-Hernandez on appeal and authorizes his release on bond, that release is automatically stayed for five more business days to give DHS a chance to refer the case to the Attorney General. 8 C.F.R. § 1003.6(d). Then, if DHS refers the case to the Attorney General, the automatic stay is extended for another 15 days. *Id*. The Attorney General may then stay release for the pendency of the case. *Id*. There is no prescribed time limit for final resolution of the custody determination, meaning an individual may remain in detention indefinitely.

41) In sum, Mr. Cabrera-Hernandez has no way of knowing how long this unilateral automatic stay will last and has no meaningful opportunity to challenge the stay, which obliterates his due process rights. In practice, the automatic stay regulation renders the I.J.’s custody decisions ineffectual: If DHS disagrees with a custody decision, it can keep Mr. Cabrera-Hernandez detained for a minimum of 90 days, without a truly discernable end point.

42) In fact, the July 8, 2025 memo addressed to all ICE employees implies that DHS has no intention of ever releasing noncitizens such as Mr. Cabrera-Hernandez, regardless of the facts in their case. Ex. 12 (“Effective immediately, it is the position of DHS that such aliens are subjected to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole.”).

43) Without relief from this court, Petitioner faces the prospect of months, or even years, in immigration custody, separated from his wife and children, unable to tend to their mental and physical well-being and to provide financially for their needs.

LEGAL FRAMEWORK

44) The Due Process Clause of the Fifth Amendment guarantees that no person in the United States shall be deprived of liberty without due process. U.S. Const. amend. V. These substantive and procedural due process protections apply to all people, including noncitizens, regardless of their immigration status. *Trump v. J.G.G.*, 604 U. S. ---145 S. Ct. 1003, 1006 (2025) (per curiam) (“‘It is well established that the Fifth Amendment entitles aliens to due process of law’ in the context of removal proceedings.” (quoting *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439 (1993))). The automatic stay of Mr. Cabrera-Hernandez’s release on bond violates his rights to substantive and procedural due process.

45) The automatic stay regulation is also an *ultra vires* regulation that unlawfully grants authority to DHS that Congress has delegated only to the Attorney General and by extension, the I.J.

A. Substantive Due Process

46) The Due Process Clause provides heightened protection against government interference with certain fundamental rights—and freedom from detention lies at the heart of the Due Process Clause’s protections. U.S. Const. amend. V. Detention by the government violates due process in civil proceedings unless “a special justification . . . outweigh[s] the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491, (2001).

47) The automatic stay regulation was originally enacted in October 2001, in response to the September 11 terrorist attacks, without any opportunity for public comment. Its enactment marked a drastic change in practice.

48) Before the automatic stay, there was only one route to stay an I.J.’s custody determination: a discretionary stay from the BIA. The Immigration and Nationality Service (DHS’s predecessor) was required to demonstrate to the BIA that it was likely to succeed on the merits and would suffer irreparable harm in the interim. The automatic stay provided a second, much easier route: simply filing a short Form EOIR-43, without any need for an adjudicator to weigh in.

49) The purported purpose of the automatic stay is to protect the public and “enhance agencies’ ability to effect removal should that be the ultimate final order in a given case.” Executive Office of Immigration Review; Review of Custody Determination, 71 Fed. Reg. 57873, 57874 (Oct. 2, 2006).

50) But in Mr. Cabrera-Hernandez’s case, DHS did not present any evidence or argument that he is a flight risk or danger to the community. *See* Ex. 2 (noting the only issue DHS reserved for appeal is the novel claim that Mr. Cabrera-Hernandez is an “applicant for admission”). After a full hearing, the I.J. determined that Mr. Cabrera-Hernandez is not a danger or substantial flight

risk. *Id.* To the extent the government has concerns about safety or flight, the I.J. already addressed them.

51) The government has no special or compelling justification to continue detaining Mr. Cabrera-Hernandez, and certainly not an interest that outweighs Mr. Cabrera-Hernandez's constitutionally protected interest in avoiding government restraint.

52) Courts that have addressed the matter of the automatic stay regulation, on similar facts, have found the government not to have a compelling justification. *See Jacinto v. Trump*, No. 4:25CV3161, 2025 WL 2402271, at *4 (D. Neb. Aug. 19, 2025) (“[T]here is not a significant governmental interest at stake in Petitioner’s detention pursuant to the automatic stay provision. The government does not set forth a potential interest, choosing to focus on its supposed authority to categorize her as an arriving alien. Even if the Court were to assume the government had asserted an interest in, for example, ensuring Petitioner’s availability for her immigration case, this interest has already been secured by the IJ’s finding that Petitioner is neither a danger nor a flight risk.”); *Gunaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 2025 WL 1459154, at *10 (D. Minn. May 21, 2025)(finding that the governmental interests in advancing novel interpretation of law do not outweigh the liberty interests of the petitioner in this case); *Leal-Hernandez v. Noem*, 2025 WL 2430025, at *13; *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1077 (N.D. Cal. 2004) (“The regulation, which permits unilateral government detention of individuals without a case-by-case determination after a reasoned finding that they do not pose threat to safety or a risk of flight, violates the Due Process Clause because no special justification exists that outweighs the individual’s constitutionally protected interest in avoiding physical restraint.”).

53) Finally, a less-restrictive means exists through which DHS can obtain a stay: the discretionary stay regulation requiring DHS to seek an emergency stay from the BIA. 8 C.F.R. § 1003.19(i)(1). That regulation protects DHS's interest in obtaining a stay without unduly infringing on Mr. Cabrera-Hernandez's liberty. *See, e.g., Dep't of State v. Munoz*, 602 U.S. 899, 910 (2024) ("When a fundamental right is at stake, the government can act only by narrowly tailored means that serve a compelling state interest.").

54) The government's application of the automatic stay regulation and continued detention of Mr. Cabrera-Hernandez violate his substantive due process rights.

B. Procedural Due Process

55) Due process requires an opportunity to be heard at a meaningful time and in a meaningful manner. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Mr. Cabrera-Hernandez received no such opportunity: Although he received a full bond hearing in front of the I.J., the prosecutor's unilateral stay of the I.J.'s order rendered that hearing meaningless and thus obliterated Mr. Cabrera-Hernandez's right to be heard in a meaningful manner.

56) To determine whether government conduct violates procedural due process, the Court weighs three factors in *Mathews* for courts to weigh: (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures. *Id.* at 335.

Private Interest

57) Mr. Cabrera-Hernandez's private interest is the right to be free from government detention. Being free from physical detention by the government is at the core of due process

protection, and “is the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). In our country, “liberty is the norm, and detention without trial “is the carefully limited exception.” *Id.*

58) Mr. Cabrera-Hernandez’s interest in being free from government detention is magnified by his need to fulfill his responsibilities in supporting and parenting his three U.S. citizen children and being in their physical company. Similarly, Mr. Cabrera-Hernandez’s desire to maintain his marital relationship and support his U.S. citizen wife heightens his liberty interest in being free from detention.

59) In detention at the South Texas Immigration Processing Center in Pearsall, Texas, Mr. Cabrera-Hernandez’s family members must drive 55 miles from San Antonio, Texas, and are limited to one-hour visitations between 10 a.m. and 3 p.m. Ex. 14, U.S. IMMIGR. CUSTOMS ENFORCEMENT, S. TEX. ICE PROC. CENTER. During visitations, Mr. Cabrera-Hernandez and his wife and children are separated by a glass barrier that prevents them from touching and hugging one another. While detained, Mr. Cabrera-Hernandez has been unable to financially provide for his family members, who are now suffering financial difficulties.

60) Following his bond and custody redetermination hearing, Petitioner was expecting to be reunited with his wife and children, when the I.J. ordered his release on bond, but instead he and his wife and children continue to suffer separation and hardships associated with his detention.

61) Furthermore, in detention, Mr. Cabrera-Hernandez has no freedom of movement and is under guard at all times. He has no privacy and must share his cell with strangers. He cannot eat the food that he wants, sleep in his own bed, or earn income for his family.

62) The private interest here is fundamental: freedom from detention. It weighs heavily in the consideration of the *Mathews* factors.

Risk of Erroneous Deprivation

63) The second factor—the risk of erroneous deprivation of Mr. Cabrera-Hernandez’s liberty—is likewise substantial. Mr. Cabrera-Hernandez prevailed at the bond redetermination hearing. The stay is not based on any new evidence, finding of legal error, or finding of likelihood of success on appeal.

64) The unilateral automatic stay preventing Petitioner’s release in the face of an order to the contrary from the delegated authority, permits prosecuting officials who participated in the adversarial process—and lost—to unilaterally override the adjudicator’s decision. “Such a rule is anomalous in our legal system,” and it represents a basic conflict that has been disapproved of in this context and others. *Günaydin*, 2025 WL 1459154, at *8; *see also Marcello v. Bonds*, 349 U.S. 302, 305–06, 75 S. Ct. 757 (1955) (holding that officer adjudicating immigration case cannot undertake prosecutorial role in the same matter); *Leal-Hernandez v. Noem*, 2025 WL 2430025, at *13 (“Invocation of the automatic stay per 8 C.F.R. § 1003.19(i)(2) renders the IJ’s custody redetermination order an ‘empty gesture’ As such, the automatic stay results in Petitioner’s arbitrary detention violative of Petitioner’s substantive due process rights guaranteed by the Fifth Amendment.”). When procedural protections are almost non-existent, it markedly increases the risk of erroneous deprivation of Petitioner’s liberty interests. *See Black v. Dir. Thomas Decker*, 103 F.4th 133, 152 (2d Cir. 2024).

65) The automatic stay runs counter to the typical judicial process. A stay is an extraordinary remedy. In the civil context, a stay is never granted as of right. Rather, the party seeking the stay—in this case the government—must show a likelihood of success on the merits,

a risk of irreparable injury, and that the balance of interests tips in the movant's favor. In contrast, the automatic stay regulation does not require the government to make any showing to an adjudicator—in fact, the government failed to make such a showing before the I.J. And here, the risk is greater than an ordinary civil case. Detention is at issue. Mr. Cabrera-Hernandez has lost his liberty.

66) Mr. Cabrera-Hernandez also has no method to challenge the automatic stay decision. He is at the whim of DHS with no meaningful opportunity for review. Under these procedures, the risk of erroneous deprivation is great.

67) At the same time, there is a readily available substitute procedure that could ameliorate these risks: DHS could seek an emergency discretionary stay from the BIA pursuant to 8 C.F.R. § 1003.19(i)(1).

Government Interest

68) The government's interest here carries little weight in comparison.

69) The stated purpose of the automatic stay provision is to prevent the noncitizen from fleeing and protect the public from potential harm. But the government presented no argument or evidence that either of those concerns are present for Mr. Cabrera-Hernandez. After a full hearing and presentation of evidence, the I.J. made specific findings that Mr. Cabrera-Hernandez is not a flight risk nor a danger to the community. To the extent the government has concerns about safety or flight, the I.J. already addressed them. *Jacinto v. Trump*, 2025 WL 2402271, at *4 (“The governmental interest in the continued detention of these least-dangerous individuals, in contravention of the order of a neutral fact-finder, does not outweigh the liberty interest at stake.”).

70) On balance, the private interests affected and the risk of erroneous deprivation under the current procedures greatly outweigh the government's interest in ensuring that Petitioner appear. Process is not meaningful when a prosecutor who loses in front of an I.J. can unilaterally override the I.J.'s decision. *See Leal-Hernandez v. Noem*, 2025 WL 2430025, at *13 (“Invocation of the automatic stay per 8 C.F.R. § 1003.19(i)(2) renders the IJ's custody redetermination order an ‘empty gesture’ absent demonstration of a compelling interest or special circumstance left unanswered by IJ Bailey. As such, the automatic stay results in Petitioner's arbitrary detention violative of Petitioner's substantive due process rights guaranteed by the Fifth Amendment.”).

C. *Ultra Vires*

71) An agency act is *ultra vires* when it “go[es] beyond what Congress has permitted it to do”). *City of Arlington v. FCC*, 569 U.S. 290, 298, 133 S.Ct. 1863, 185 L.Ed.2d 941 (2013)

72) The automatic stay regulation, 8 C.F.R. Sec. 1003.19(i)(2) exceeds the authority given to the Attorney General by Congress and unlawfully eliminates the I.J.s’ discretionary authority to make custody determinations.

73) Congress gave the Attorney General discretion to decide whether to release detained noncitizens pending removal proceedings if they have not been convicted of certain criminal offenses and are not linked to terrorist activities. *See* 8 U.S.C. § 1226(a), (c). The Attorney General has delegated this authority to I.J.s, who have discretion to determine whether to release these noncitizens on bond. 8 C.F.R. §§ 1003.19, 1236.1; *see also* 28 U.S.C. § 510 (permitting the Attorney General to delegate her function to officers or employees within the Department of Justice).

74) Congress has not delegated this authority to DHS. There is no statutory authority for DHS to unilaterally stay an I.J.'s bond determination. DHS's use of the automatic stay is an unlawful use of the discretionary power granted to the Attorney General and "has the effect of mandatory detention of a new class of aliens, although Congress has specified that such individuals are not subject to mandatory detention." *Jacinto v. Trump*, WL 2402271, at *5 (quoting *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1079 (N.D. Cal. 2004); see also *Leal-Hernandez v. Noem*, 2025 WL 2430025, at *15 (stating that the automatic stay regulation at 8 C.F.R. § 1003.19(i)(2) "renders both the discretionary nature of Petitioner's detention and the IJ's authority a nullity" and is *ultra vires*).

75) Here, the I.J. determined that Mr. Cabrera-Hernandez is not a danger to the community or a sufficient flight risk and ordered DHS release him on bond.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment – Substantive Due Process

76) Mr. Cabrera-Hernandez realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

77) The U.S. Constitution establishes the right to due process for all persons within the United States, including noncitizens, whether their presence here is lawful or unlawful.

78) Substantive due process asks whether a person's life, liberty, or property is deprived without sufficient purpose. There is no question that Mr. Cabrera-Hernandez has been deprived of his liberty.

79) The government's continued detention of Mr. Cabrera-Hernandez is not supported by any special interest or compelling justification that outweighs his liberty interest. The application of the automatic stay violates Mr. Cabrera-Hernandez's substantive due process rights.

SECOND CAUSE OF ACTION

Violation of Fifth Amendment – Procedural Due Process

80) Mr. Cabrera -Hernandez realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

81) Due process requires the opportunity to be heard at meaningful time and in a meaningful manner. Mr. Cabrera-Hernandez has not received that opportunity here.

82) The constitutional due process sufficiency of procedures is determined by weighing 1) the private interest affected by the official action, 2) the risk of erroneous deprivation of that interest through the procedures available and 3) the Government's interest, including the burden that substitute procedures would entail. *Mathews v. Eldridge*, 424 U.S. at 335.

83) Mr. Cabrera-Hernandez's liberty interest is significant and at the core of the Fifth Amendment protections. The risk of erroneous deprivation is extremely high given that the Immigration Judge already weighed the evidence and determined that he was eligible for release on bond. Those factors far outweigh the government's interest in continued detention. There is also an alternative process available that allows the government to request a stay from the BIA. The application of the automatic stay violates Mr. Cabrera-Hernandez's procedural due process rights.

THIRD CAUSE OF ACTION

Ultra Vires Regulation

84) Mr. Cabrera-Hernandez realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

85) Congress gave the Attorney General authority to detain or release noncitizens, pending their removal proceedings under the INA, 8 U.S.C. Sec. 1226(a). The Attorney General has delegated that authority to I.J.s.

86) The automatic stay regulation, created by Agency authority, 8 C.F.R. Sec. 1003.19(i)(2), purports to give DHS the authority to unilaterally override the I.J.'s decision. However, no authority for this overreaching power rests with the INA. For this reason, it is unlawful and *ultra vires*.

PRAYER FOR RELIEF

87) Petitioner Lucas Cabrera-Hernandez respectfully requests this Court grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Grant a preliminary injunction enjoining Respondents from continuing to detain Petitioner under 8 C.F.R. Sec. 1003.19(i)(2);
- (4) Order the immediate release of Petitioner pending these proceedings, pursuant the Court's inherent power;
- (5) If Petitioner is not immediately released, order Respondents not to transfer Petitioner out of this District during the pendency of these proceedings, to preserve jurisdiction;

- (6) Declare that Petitioner's detention violates the Fifth Amendment and is *ultra vires*;
- (7) Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. Sec. 2241 and order Respondents to immediately release Petitioner from custody in accordance with the bond order from IJ Larsen, or, in the alternative, order Respondents to show cause why this Petition should not be granted within three days;
- (8) Award Petitioner reasonable attorneys' fees and costs; and
- (9) Grant any further relief the Court deems just and proper.

Respectfully submitted,

Lucas Cabrera-Hernandez
PETITIONER

By: /s/ Analisa Nazareno
Analisa Nazareno
Texas Bar No. 24096708
Attorney at Law
Nazareno Law, PLLC
926 Chulie Drive
San Antonio, Texas 78216
Tel: (210) 396-9873
analisa@nazarenolaw.com

Counsel for Petitioner

Dated: September 2, 2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Lucas Cabrera-Hernandez, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 2d day of September, 2025.

s/Analisa Nazareno
Attorney Name

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

Lucas Cabrera-Hernandez

(b) County of Residence of First Listed Plaintiff Bexar
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Analisa Nazareno; Nazareno Law, PLLC; 926 Chulie Drive, San Antonio, Texas 78216; (210)396-9873

DEFENDANTS

BOBBY THOMPSON, Warden, South Texas Immigration Processing Center, et al.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutional of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. § 2241, 28 U.S.C. § 2243

Brief description of cause:

Petition for writ of habeas corpus for unlawful detention, application to show cause, and request for preliminary injunction

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

Sep 2, 2025

SIGNATURE OF ATTORNEY OF RECORD

Analisa Nazareno

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.