

BRIAN PATRICK CONRY, P.C.
OSB #822245
1300 SW 6th AVE Ste 310
Portland, Oregon 97201
(503) 274-4430
FAX: (503) 274-0414
bpconry@gmail.com

UNITED STATES DISTRICT COURT
DISTRICT OF WESTERN WASHINGTON
SEATTLE DIVISION

Napoleon Andres Magana,
Plaintiff

v.

Kristi Noem, Secretary of the Department of
Homeland Security; US Department of
Homeland Security (DHS); Todd Lyons,
Acting Director of Immigration Customs
Enforcement; Cammilla Wamsley, Seattle
Field Office Director, Immigration and
Customs Enforcement and Removal
Operations; U.S. Immigration and Customs
Enforcement (ICE); Pete Flores, Acting
Commissioner of Customs and Border
Protection; and U.S. Customs and Border
Protection (CBP)

Case No. 25-2100

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. The U.S. Constitution requires that individuals subject to the government's unilateral power of detention, transfer, and extraordinary rendition must have the right to access counsel before any transfer or rendition. See U.S. Const. amend. V. The rule of law—and the principles embodied in the Administrative Procedure Act (APA), Immigration & Nationality Act (INA), numerous regulations, and formal federal agency policy—demands no less.

2. Recent federal agency action, however, has undermined this sacrosanct safeguard.

3. Federal agencies have adopted officially sanctioned policies, patterns, and practices designed to achieve quota deportations at all costs—even if that means violating the right to access counsel that is enshrined in the Fifth Amendment to the U.S. Constitution, in the Immigration and Nationality Act, and in our Nation's core legal traditions. See *Halvorsen v. Baird*, 146 F.3d 680, 688–89 (9th Cir. 1998) (“There is a well established tradition against holding prisoners incommunicado in the United States.”).

4. The stakes for Oregonians and putative immigrants caught up in this unlawful dragnet are high. Individuals arrested in immigration enforcement actions may not only be rapidly transferred outside of Oregon and far from their communities of support, but they can also be sent quickly to third countries—like South Sudan, Eswatini, El Salvador, or Libya—where they have never been before and where the

1 government takes the position that they are beyond the reach of this Court's
2 jurisdiction and ability to remedy any unlawful detention or transfer.

3
4 5. In recent months, Oregonians have been repeatedly denied access to counsel
5 following their immigration arrests. Rapid transfers outside of Oregon, including
6 deportations, have occurred before detained individuals have had any opportunity
7 to obtain or communicate with counsel. On information and belief, in some
8 instances Defendants have purposely transferred detained people outside the state
9 of Oregon as quickly as possible in order to thwart attorneys' efforts to offer
10 detained people legal representation and to undermine jurisdiction before the
11 Oregon federal District Court. See, e.g., E-M- v. Bostock, No. 3:25-cv-01083-SI
12 (D. Or. Aug. 12, 2025) (granting limited discovery based on "concerns and
13 skepticism about the purported timing of Petitioner's removal from the Court's
14 jurisdiction").

15
16
17
18
19 6. On October 15, 2025, Defendants launched a wave of coordinated assaults on
20 the people of Oregon with arrests that swept through the Willamette Valley.
21 Individuals caught up in these arrests were detained and swiftly transferred out of
22 state. Attorneys seeking to meet with individuals held at Defendants' Portland and
23 Eugene Field Offices were denied access. In Portland, a responding attorney
24 watched as officers loaded community members into vans with Washington plates
25 and drove them away.
26

1 7. Fundamental principles of constitutional law, statutory guarantees, and the
2 federal government's own operative guidance governing individuals detained for
3 immigration proceedings forbid the government from holding prisoners without
4 permitting them an opportunity to communicate with attorneys. Defendants may
5 not deprive Oregonians and putative immigrants of their right to counsel – nor may
6 they bar attorneys at the prison doors who seek to provide this legal assistance.
7
8

9 JURISDICTION AND VENUE 10

11 8. This Court has federal question jurisdiction under 28 U.S.C. § 1331 (federal
12 question); 28 U.S.C. § 2241 (federal habeas statute); 8 U.S.C. § 1252(e), and the
13 Suspension Clause of the United States Constitution, U.S. Const. art. I, § 9. I.
14

15 9. Venue is proper under 28 U.S.C. § 1391(e)(1) because Defendants are agencies
16 of the United States and federal officers of the United States acting in their official
17 capacities, and because the plaintiff is present in this district, having been
18 transferred to the Northwest Immigration Processing Center, formally known more
19 accurately as the Northwest Detention Center.
20
21

22 10. For these same reasons, divisional venue is proper under Local Rule 4.
23

24 11. This Court has the authority to grant the relief requested by Plaintiffs under the
25 Administrative Procedure Act, 5. U.S.C. § 701, et seq.; Rules 57 and 65 of the
26 Federal Rules of Civil Procedure; the Declaratory Judgment Act, 28 U.S.C. §§
2201–02; the All Writs Act, 28 U.S.C. § 1651; and the Court's inherent equitable
authority.

PARTIES

12. Plaintiff Napoleon Andres Magana. He was living at [REDACTED]
[REDACTED] when his home was broken into. He was living at the
[REDACTED] address when his home was illegally entered, searched and he was
illegally seized by law enforcement/ICE. He should be released from custody. He
is a 20 year old male with a pending asylum application whose immigration case is
currently on the non-detained docket in the Portland EOIR Court.

13. Defendant Kristi Noem is sued in her official capacity as the Secretary of the
U.S. Department of Homeland Security. Secretary Noem is responsible for the
administration of U.S. immigration laws. She directs each of DHS's components,
including the components responsible for the apprehension, detention, and removal
of noncitizens. Secretary Noem is responsible for ensuring that DHS and its
component agencies provide attorney access in accordance with law.

14. Defendant U.S. Department of Homeland Security ("DHS") is a federal
cabinet-level department of the U.S. government. DHS is an "agency" within the
meaning of the APA. 5 U.S.C. § 551(1). It is the largest federal law enforcement
agency, and it is responsible for administering U.S. immigration laws under the
Immigration and Nationality Act ("INA") and federal regulations, including those
relating to the apprehension, detention, and removal of noncitizens. Its components

1 include U.S. Immigration and Customs Enforcement (“ICE”) and U.S. Customs
2 and Border Protection (“CBP”). DHS is responsible for providing attorney access
3 in accordance with law across all of its component agencies.
4

5 15. Defendant Todd Lyons is sued in his official capacity as the Acting Director of
6 Immigration and Customs Enforcement. Acting Director Lyons oversees all ICE
7 personnel and is a supervisory official responsible for overseeing immigration
8 enforcement, including apprehension, detention, and removal of noncitizens both
9 near the border and in the interior of the United States. Acting Director Lyons is
10 responsible for ensuring that ICE and its detention facilities provide attorney
11 access in accordance with law.
12
13
14

15 16. Defendant Cammilla Wamsley is the Field Office Director for the Seattle Field
16 Office, Immigration and Customs Enforcement and Removal Operations. The
17 Seattle Field Office is responsible for local custody decisions relating to non
18 citizens charged with being removable from the United States, including the arrest,
19 detention, and custody status of noncitizens. The Seattle Field Office’s area of
20 responsibility includes Alaska, Oregon, and Washington, encompassing sites
21 including the Portland and Eugene Field Offices at issue in this complaint. Director
22 Wamsley is responsible for ensuring that the Seattle Field Office and its detention
23 facilities provide attorney access in accordance with law.
24
25
26

17. Defendant U.S. Immigration and Customs Enforcement (“ICE”) is a sub
agency of DHS and an “agency” within the meaning of the APA. 5 U.S.C. §

1 551(1). It is responsible for the apprehension, detention, and removal of
2 noncitizens both near the border and in the interior of the
3 United States. ICE is also responsible for ensuring its officers and facilities provide
4 attorney access that complies with the rule of law, including at its Field Office sites
5 at issue in this complaint.
6
7

8 18. Defendant Pete R. Flores is sued in his official capacity as the Acting
9 Commissioner of Customs and Border Protection. Mr. Flores oversees all CBP
10 personnel and is responsible for overseeing the apprehension, detention, and
11 removal of noncitizens within 100 air miles of external boundaries of the United
12 States. Acting Commissioner Flores is responsible for ensuring that CBP provides
13 attorney access in accordance with law to individuals it has detained.
14
15
16

17 19. Defendant U.S. Customs and Border Protection ("CBP") is a sub-agency of
18 DHS and an "agency" within the meaning of the APA. 5 U.S.C. § 551(1). It is
19 responsible for the apprehension, detention, and removal of noncitizens within a
20 "reasonable distance" of any external boundary of the United States, typically
21 defined as 100 air miles. CBP is responsible for ensuring that its officers provide
22 attorney access in accordance with law to individuals they have detained.
23
24
25

26 LEGAL BACKGROUND

20. Detained noncitizens have a robust right to counsel that is enshrined in the
Fifth and First Amendments to the U.S. Constitution, in the Immigration and

1 Nationality Act (“INA”), and in ICE’s own Performance Based National Detention
2 Standards (“PBNDs”).
3

4 21. Individuals subject to civil immigration detention have a right to counsel that is
5 rooted in the Due Process Clause of the Fifth Amendment to the U.S. Constitution.
6
7 *Usubakunov v. Garland*, 16 F.4th 1299, 1304 (9th Cir. 2021); *Biwot v. Gonzales*,
8 403 F.3d 1094, 1098 (9th Cir. 2005); see also *Torres v. United States Dep’t of*
9 *Homeland Sec.*, 411 F. Supp. 3d 1036, 1060-61 (C.D. Cal. 2019).
10

11 22. When the government detains individuals as part of immigration enforcement
12 efforts, it cannot impose restrictions on access to attorneys that undermine the
13 opportunity to obtain counsel or communicate with retained counsel. See *Orantes-*
14 *Hernandez v. Thornburgh*, 919 F.2d 549, 554, 565 (9th Cir. 1990); *Comm. of Cent.*
15 *Am. Refugees v. INS*, 795 F.2d 1434, 1439 (9th Cir. 1986) (recognizing that
16 impediments to communication, especially in connection with a difficult-to-access
17 facility, can constitute a “constitutional deprivation” where they obstruct an
18 “established on-going attorney-client relationship.”).
19
20

21 23. In keeping with these constitutional norms, the INA guarantees noncitizens the
22 right to counsel in connection with inadmissibility and deportability proceedings.
23
24 See 8 U.S.C. §1362; 8 U.S.C. § 1229a(b)(4)(A); see also *Immigrant Defs. L. Ctr. v.*
25 *Noem*, 145 F.4th 972, 993 (9th Cir. 2025); *Biwot v. Gonzales*, 403 F.3d 1094, 1098
26 (9th Cir. 2005); *Orantes-Hernandez*, 919 F.2d at 564; *Torres v. United States Dep’t*
of Homeland Sec., 411 F. Supp. 3d 1036, 1060-61 (C.D. Cal. 2019). This statutory

1 right to counsel is further delineated in federal regulations. See, e.g., 8 C.F.R. §
2 1003.16(b); 8 C.F.R. § 1292.1; 8 C.F.R. § 1001.1(f).

3
4 24. Defendant ICE's Performance-Based National Detention Standards
5 ("PBNDS") further govern attorney communication and access in immigration
6 detention facilities nationwide. U.S. Immigration and Customs Enforcement,
7 Performance-Based National Detention Standards 2011 (rev. Dec. 2016),
8 <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf>.

9
10 25. The PBNDS state that immigration detention facilities "may not limit a
11 detainee's attempt to obtain legal representation" and "may neither restrict the
12 number of calls a detainee places to his/her legal representatives, nor limit the
13 duration of such calls by rule or automatic cut-off, unless necessary for security
14 purposes or to maintain orderly and fair access to telephones." PBNDS 5.6(V)(E),
15 (F)(1). For attorney visitation, the PBNDS require that facilities permit "legal
16 visitation seven days a week, including holidays, for a minimum of eight hours per
17 day on regular business days (Monday through Friday), and a minimum of four
18 hours per day on weekends and holidays." PBNDS 5.7(V)(J)(2). Both the calls and
19 visits must be conducted in confidential settings. PBNDS PBNDS 5.6(V)(F)(2),
20 5.7(V)(J)(9).

21
22 26. Under the PBNDS, immigration detention facilities must also allow pre
23 representational visits. For such visits, attorneys need not present a signed proof of
24 appearance before the agency to access prospective clients. PBNDS 5.7(V)(J)(7).
25
26

1 27. Despite the varied sources of law making clear that noncitizens must be
2 allowed to consult with, retain, and communicate with counsel, Defendants have
3 repeatedly denied detained people access to counsel. Defendants have done so by,
4 inter alia, denying detained people the ability to communicate with their counsel;
5 denying detained people meetings with their attorneys, even when those attorneys
6 are present at the ICE field office and requesting a client meeting; turning attorneys
7 away when they arrive to an ICE field office asking to speak with a detained client
8 or prospective client; declining to speak with attorneys who are denied access to
9 detained clients or prospective clients, even when the attorney asks to speak with
10 an ICE official; transferring detained people out of Oregon before they can speak
11 with an attorney, even when an attorney is actively asking to speak with them;
12 declining to tell detained people that an attorney is trying to speak with them;
13 failing to list accurate information in the ICE Online Detainee Locator,
14 <https://locator.ice.gov/odls/#/search>; and requiring that attorneys present a signed
15 G-28—a DHS form used to indicate an attorney or other authorized party is
16 representing a person before the agency—before they can speak with a detained
17 person, even when the attorney is requesting a prerepresentational meeting with a
18 prospective client.
19
20
21
22
23
24
25
26

28. The consequences of Defendants' policy, pattern, and practice of denying
people access to counsel are grave: individuals denied the opportunity to meet with
an attorney shortly after their arrest are deprived of the legal advice they need to

properly challenge an unlawful detention or pursue any legal remedies they may have. As a result, individuals are left vulnerable to prolonged, unlawful detention; rapid transfer to remote locations where they cannot access counsel; and unlawful deportation, including to third countries where they have no ties.

Illegal Search and Seizure

29. Oregon law provides for exigent circumstances as an exception to the search warrant requirement.

“For purposes of Article I, section 9, exigent circumstances are those that “require the police to act swiftly to prevent danger to life or serious damage to property, or to forestall a suspect’s escape or the destruction of evidence.” *State v. Stevens*, 311 Or. 119, 126, 806 P.2d 92 (1991).” *State v. Wright*, 280 Or.App. 259, 381 P.3d 944, 947 (2016)

30. *State v. Wright*, at 947 states in pertinent part, under the Fourth Amendment, the exception of exigency applies:

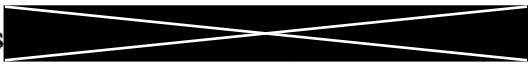
“However, the police may lawfully enter a defendant’s home without a warrant when there is probable cause to arrest the defendant for a crime and exigent circumstances, such as hot pursuit of the defendant, are present. *Cf. Steagald v. United States*, 451 U.S. 204, 221, 101 S.Ct. 1642, 68 L.Ed.2d 38 (1981) (dictum); *see also Stanton v. Sims*, ___ U.S. ___, 134 S.Ct. 3, 6, 187 L.Ed.2d 341 (2013) (“hot pursuit of a fleeing felon justifies an officer’s warrantless entry [into a home]”).”

31. The rule in *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1050-1051 (1984), states that evidence procured in violation of the Fourth Amendment shall be suppressed even in immigration proceedings, if the violation so egregious as to transgress notions of fundamental fairness.

1 32. Pretzantzin v. Holder, 736 F.3d 641 (2nd Cir. 2013) (Nighttime warrantless raid
2 of a person's home by government official may constitute an egregious violation of
3 the Fourth Amendment requiring the application of the exclusionary rule in a civil
4 deportation hearing.)
5

6 7 FACTUAL BACKGROUND

8 33. Petitioner is an applicant for asylum from Mexico. He entered the United States
9 on November 29, 2023. He filed for asylum timely on September 12, 2024, i.e.,
10 within one year. His Immigration proceedings have been on the non-detained
11 docket in the Portland Immigration Court. He has an Employment Authorization
12 Document. He had no future hearing date set in Portland after his September 4,
13 2025 Master hearing was cancelled on June 3, 2025 and Petitioner was awaiting
14 notice of his next hearing date. He had also previously appeared in the Portland
15 Immigration Court on March 20, 2025. Petitioner was appearing with three
16 siblings, Maricruz, Liliana and Juan. ICE in Portland has not moved for his
17 revocation of his release on recognizance. He had reported to ICE or the Court as
18 required and was in good standing.
19

20 34. Portland ICE had Plaintiff's address as 
21 Oregon 97233. This is the address of the home that was broken into on the
22 apparent "pretext" of a hot pursuit of a fugitive by law enforcement on October 15,
23 2025 at approximately 3:20 PM. On information and belief, counsel relying on
24 declaration of Plaintiff's sister, who was present at this location, and declaration of
25
26

1 counsel's paralegal who spoke with family including Plaintiff's mother, represents
2 that law enforcement was outside this home for more than an hour before breaking
3 the door down to execute its warrantless search and seizure. Reasonably, ICE
4 cannot be considered to be in "hot pursuit" of Israel following this hour or more
5 wait outside the home. Israel was never at this address. He had never entered this
6 address or left from this address. The occupants of the home here do not know
7 Israel. With the type of delay before entry, ICE should have proceeded with a
8 search warrant if they desired to effectuate a legal entry. They did not.

9
10
11
12 35. Law enforcement not only forced their way in through the front door of his
13 home without a search warrant but also broke down a bedroom door with guns
14 drawn and a video shows weapons pulled and commands made to the occupants of
15 the bedroom by law enforcement. Lights shined from the pointed guns towards the
16 occupants. Occupants acquiesced in the directions and commands of the law
17 enforcement officers to surrender themselves. Two occupants, including Plaintiff
18 were taken from the home. Shortly after entry into the home, the video shows that
19 law enforcement learned that they did not arrest Israel but had arrested a Fernando
20 and an Arturo. Still, law enforcement continued with the illegal seizure of these
21 two individuals.

22
23
24 36. The video can be viewed at:

25 [https://www.reddit.com/r/oregon/comments/1o81qzk/ice_broke_into_this_familys](https://www.reddit.com/r/oregon/comments/1o81qzk/ice_broke_into_this_familys_home_in_portland/)
26 [home_in_portland/](https://www.reddit.com/r/oregon/comments/1o81qzk/ice_broke_into_this_familys_home_in_portland/)

1 37. Based on the statements of witnesses to this incident, this is not a matter of hot
2 pursuit. The suspect ICE was looking for was not present. ICE stood outside the
3 house for well over an hour. In that time, they could have gotten a telephone search
4 warrant in the State of Oregon. The breaking down of this man's home and his
5 illegal search, arrest and seizure is an egregious violation of the Fourth
6 Amendment.
7

8
9 38. The Oregonian October 22, 2025 article, "ICE in Oregon: Pointing rifles at
10 family, stopping teens at gunpoint, pinning man during arrest", found at
11 [https://www.oregonlive.com/politics/2025/10/ice-in-oregon-pointing-rifles-at-](https://www.oregonlive.com/politics/2025/10/ice-in-oregon-pointing-rifles-at-family-stopping-minors-at-gunpoint-laying-on-top-of-man-during-arrest.html)
12 [family-stopping-minors-at-gunpoint-laying-on-top-of-man-during-arrest.html](https://www.oregonlive.com/politics/2025/10/ice-in-oregon-pointing-rifles-at-family-stopping-minors-at-gunpoint-laying-on-top-of-man-during-arrest.html),
13 states in pertinent part:
14
15
16

17 "For more than an hour Wednesday, several armed ICE officers repeatedly
18 shouted the name of a man from the outside of a Gresham apartment.
19 Maricruz Andres, 24, and her 3-month-old baby were inside, along with her
20 stepfather and brother. None of them recognized the name that the U.S.
21 Immigration and Customs Enforcement agents were yelling, she said.
22 The family didn't come out. But the officers finally came in, pushing
23 through the apartment's locked door and then busting into the bedroom
24 where Andres and the others had taken refuge.

25 The baby's wail could be heard in the background on a video that Andres
26 took as the officers arrested the two men, leading them out of the room with
their hands on their heads.

The agents displayed no warrant, Andres said. They had rifles drawn when
they opened the room's door, the video showed...

"Police, police, get up, hands up, hands up," ICE agents shouted as they
piled into the apartment bedroom where Andres was with her family.
An agent then shouted in Spanish, "Come here, come here," while another
agent added, "Come outside with your hands up. Come outside. Don't move.
Hands up. Come outside, come outside, turnaround, turnaround."

1 They arrested her younger brother, Napoleon Andres Magaña, and her
2 stepfather, Arturo Garcia Cabrera, Andres said. Neither was the man that
3 agents were seeking, she said.

4 “Everything was very ugly and it was an injustice,” Andres said. “It made
5 me angry and sad that they treated us like that because we are not criminals.”
6 The agents didn’t ask the men for identification, she said. Both men are now
7 being held at the ICE detention center in Tacoma, she said.

8 “They just grabbed them and took them,” she said.

9 Andres and the men are from Michoacán, Mexico, and are trying to gain
10 legal status, she said.

11 A senior Homeland Security official on Friday confirmed that the agents
12 weren’t looking for either Andres Magaña and Garcia Cabrera that day. The
13 official didn’t clearly address why the two were arrested, other than referring
14 to them as “aliens from Mexico.”

15 The officers were conducting an operation in Gresham to target a “violent”
16 man from Mexico who had been previously deported and whose criminal
17 history included assault and harassment, said the official, who did not give a
18 name.

19 The man had fled on foot after ramming into a postal vehicle and dashed
20 into an apartment – and the agents believed it was the apartment where
21 Andres and her family lived, the official said in an email. The man escaped
22 and remains at-large, the official said.

23 Andres said the door to their apartment was locked and she saw no one in
24 the apartment except her family.

25 CLAIMS FOR RELIEF

26 COUNT I

27 Violation of the Fifth Amendment to the U.S. Constitution 28 Right to Access to Counsel 29 (On Behalf of Plaintiff Against All Defendants)

30 39. Plaintiff realleges and incorporates by reference each allegation contained in
31 the preceding paragraphs as if set forth fully herein.

32 40. Individuals detained by Defendants have the right to hire and consult with
33 attorneys. Due process also requires that detained people have adequate

1 opportunities to obtain counsel and to visit and communicate with counsel once
2 counsel is retained.

3
4 41. Defendants have a policy, pattern, and practice of denying detained people the
5 ability to retain, consult, communicate with, and meet with their counsel. This lack
6 of access to counsel has severe consequences. Detained people are forced to
7 interact with federal immigration officials without the benefit of legal advice even
8 though it is readily available.
9

10
11 42. Defendants' actions violate the Fifth Amendment.

12
13 COUNT II

14 Violation of the First Amendment to the U.S. Constitution
15 Right to Hire, Consult, and Communicate with Counsel

16 43. Plaintiff realleges and incorporates by reference each allegation contained in
17 the preceding paragraphs as if set forth fully herein.
18

19 44. The First Amendment guarantees individuals the right to hire, consult, and
20 communicate with an attorney. See *Immigrant Defs. L. Ctr. v. Mayorkas*, No. 20
21 CV-9893 (JGB), 2023 WL 3149243, at *34 (C.D. Cal. March 15, 2023) ("The First
22 Amendment protects the right to hire and consult with counsel.") (citing
23 *Mothershed v. Justices of Supreme Court*, 410 F.3d 602, 611 (9th Cir. 2005), as
24 amended on denial of reh'g (9th Cir. July 21, 2005)) and *Eng v. Cooley*, 552 F.3d
25 1062, 1069 (9th Cir. 2009)).
26

45. The government may not unreasonably restrict this right.

1 46. Defendants' actions violate the First Amendment.

2
3 COUNT III

4 Violation of the First Amendment
5 Right to Advise Potential and Existing Clients

6 47. Plaintiff realleges and incorporates by reference each allegation contained in
7 the preceding paragraphs as if set forth fully herein.
8

9 48. The First Amendment protects legal service providers from government
10 interference when they are "advocating lawful means of vindicating legal rights."
11 Button, 371 U.S. at 437. Pro bono legal assistance to immigrants in removal
12 proceedings falls within this zone of protection. Nw. Immigrant Rights Project v.
13 Sessions, No. C17-716 RAJ, 2017 WL 3189032 at *3 (W.D. Wash. July 27, 2017).
14

15 49. The protection afforded by the First Amendment extends to advising potential
16 clients of their rights. See, e.g., In re Primus, 436 U.S. 412, 431–32 (1978); Nw.
17 Immigrant Rights Project, 2017 WL 3189032, at *2–3.
18

19 50. The protection afforded by the First Amendment also includes providing legal
20 assistance to existing clients. See, e.g., Legal Servs. Corp. v. Velazquez, 531 U.S.
21 533 (2001); In re Primus, 436 U.S. 412; Button, 371 U.S. 415; Torres v. DHS, 411
22 F. Supp. 3d 1036 (C.D. Cal. 2019).
23
24

25 51. Defendants' actions violate the First Amendment.
26

COUNT IV

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)
Not in Accordance with Law and in Excess of Statutory Authority

Violation of Right to Counsel in Immigration and Nationality Act

52. Plaintiff realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

53. Under the Administrative Procedure Act (“APA”), a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction, authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

54. The INA guarantees noncitizens the right to counsel in connection with inadmissibility and deportability proceedings. 8 U.S.C. §1362; 8 U.S.C. § 1229a(b)(4)(A); *Immigrant Defs. L. Ctr. v. Noem*, 145 F.4th 972, 993 (9th Cir. 2025); *Biwot v. Gonzales*, 403 F.3d 1094, 1098 (9th Cir. 2005); *Orantes Hernandez*, 919 F.2d at 564; *Torres v. United States Dep't of Homeland Sec.*, 411 F. Supp. 3d 1036, 1060-61 (C.D. Cal. 2019).

55. The same substantive standards that protect the Plaintiffs’ right to counsel under the Due Process Clause apply to their statutory rights under the INA. See *Biwot v. Gonzales*, 403 F.3d 1094, 1098 (9th Cir. 2005) (“The right to counsel in immigration proceedings is rooted in the Due Process Clause and codified at 8 U.S.C. § 1362 and 8 U.S.C. § 1229a(b)(4)(A).”); *Agyeman v. INS*, 296 F.3d 871, 877 (9th Cir. 2002) (“If a[] [noncitizen] is prejudiced by a denial of any of the applicable procedural protections, he is denied his constitutional guarantee of due process.”).

1 56. As described supra, Plaintiff is harmed by Defendants' violations of the
2 statutory right to counsel enshrined in the INA.
3

4 57. Defendants' policy, pattern, and practice of denying detained individuals access
5 to legal advice in violation of the INA is "final agency action" that is in excess of
6 statutory authority. See 5 U.S.C. §§ 704, 706(2)(C).
7
8

9
10 COUNT V

11 Violation of Fourth Amendment Right to be Free from Warrantless Searches

12 58. Plaintiff realleges and incorporates by reference each allegation contained in
13 the preceding paragraphs as if set forth fully herein.
14

15 59. Plaintiff moves to suppress any evidence the arresting officers gained as a
16 product of their illegal entry into Plaintiff's home and then into a bedroom in his
17 home suppression should include but not limited to:
18

19 A) any statements made by Plaintiff,
20

21 B) any physical evidence taken from Plaintiff,
22

23 C) any evidence including his fingerprints, if taken, after he was in the
24 custody of the ICE officer(s)

25 60. Accordingly, Plaintiff requests that he be released from custody and be returned
26 to the non-detained docket in Portland as his presence at the Tacoma Northwest
Detention Center is the illegal fruit of his illegal, egregious seizure by law
enforcement.

PRAYER FOR RELIEF

Plaintiffs pray that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Declare that Defendants' denial of access to counsel violates the Due Process Clause of the Fifth Amendment to the United States Constitution;
- (3) Declare that Defendants' denial of access to counsel violates the First Amendment to the United States Constitution;
- (4) Declare that Defendants' policy and practice of denying access to counsel violates the statutory right to counsel enshrined in the Immigration and Nationality Act;
- (5) Issue a preliminary and permanent injunction enjoining further violations of Plaintiffs' rights by requiring Defendants to provide meaningful access to counsel for petitioner held in their civil immigration custody by prohibiting Petitioner's transfer outside of the District of Western Washington;
- (6) Release of Plaintiff of his incarceration in the Northwest Detention Center as his incarceration there is fruit of the poisonous tree of his illegal seizure which followed the illegal search of his home, Wong Sung v. United States, 371 U.S. 471 (1963).
- (7) Vacate Defendants' unlawful policies and practices that violate statutory and regulatory law under the APA;

- 1 (8) Award Plaintiffs costs of suit and reasonable attorneys' fees and expenses
2 pursuant to any applicable statute or regulation; and
3
4 (9) Grant such further relief as the Court deems just, equitable, and proper.
5

6
7 Dated this 26th day of October, 2025

8 Respectfully Submitted,

9 /s/Brian Patrick Conry

10 Brian Patrick Conry

11 Attorney for Plaintiff

12 1300 SW 6th AVE Ste 310

13 Portland, Oregon 97201

14 503 274 4430

15 bpconry@gmail.com
16
17
18
19
20
21
22
23
24
25
26