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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

18 FRESCIA GARRO PINCHI,
19 Plaintiffs-Petitioners,
20 v.
21 SERGIO ALBARRAN, Field Office Director
of the San Francisco Immigration and
22 Customs Enforcement Office; KRISTI
NOEM, Secretary of the United States
23 Department of Homeland Security; TODD
LYONS, Acting Director of United States
24 Immigration and Customs Enforcement,
acting in their official capacities; U.S.
25 DEPARTMENT OF HOMELAND
SECURITY; U.S. IMMIGRATION AND
26 CUSTOMS ENFORCEMENT,
27 Defendants-Respondents.

Case No. 5:25-cv-10831-PCP

**AMENDED COMPLAINT AND
PETITION FOR WRIT OF HABEAS
CORPUS**

Date Filed: July 3, 2025

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INTRODUCTION

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1. Petitioner Frescia Garro Pinchi (“Ms. Garro Pinchi” or “Petitioner”) hereby files this amended habeas petition in response to the Court’s Order Granting Motion to Sever, ECF 1. She filed her original pleading on July 3, 2025, the day that ICE officers arrested her following her immigration court hearing. Ms. Garro Pinchi remains a class representative plaintiff in the related APA challenge to Defendants’ Re-Detention Policy, docketed at 5:25-cv-05632-PCP.

2. Ms. Garro Pinchi is an asylum seeker who fled Peru. After she arrived in the United States on April 14, 2023, federal agents briefly detained her, determined that she was not a flight risk or danger to the community, and released her on her own recognizance with a notice to appear for removal proceedings in immigration court. Since then, she has done everything the government asked her to do: she has diligently attended every immigration court hearing and filed an application for asylum, all without the assistance of legal representation. She has no criminal history anywhere in the world. Yet on July 3, 2025, minutes after Petitioner exited the courtroom at the conclusion of a routine immigration hearing, a group of roughly four Department of Homeland Security (“DHS”) agents, some of whom were masked to conceal their identities, arrested her before she could leave the courthouse, violently separating her from her loved ones who were accompanying her in court. They did not present a warrant or tell Petitioner why they were arresting her.

3. Ms. Garro Pinchi’s arrest was part of the Trump Administration’s sweeping and unprecedented campaign to re-arrest and re-detain noncitizens living in the community—many for years—without any individualized determination that they now pose a flight risk or danger.

4. Federal immigration officials have the authority to release apprehended noncitizens pending ongoing removal proceedings. Any decision to release a noncitizen—whether on parole, bond, other supervision conditions, or their own recognizance—necessitates a finding that the specific individual poses no flight risk or danger to the community that warrants detention. For decades, federal immigration officials have adhered to a policy of not re-arresting and re-detaining noncitizens previously released from federal custody, absent an individualized determination that there had been a material change in their circumstances that rendered them a

1 danger or flight risk. This longstanding policy reflects a fundamental due process principle: When
2 the government conditionally releases an individual, it makes “an implicit promise” that their
3 liberty will not be revoked unless they fail to satisfy their conditions of release. *See Morrissey v.*
4 *Brewer*, 408 U.S. 471, 482 (1972). It also conforms with the Fourth Amendment’s prohibition on
5 repeated seizures based on the same probable cause without a material change in circumstances.

6 5. Countless noncitizens have relied on this implicit promise to build their lives.
7 While their removal proceedings remain ongoing, they have pursued relief from removal, grown
8 their families, paid taxes, invested in their education, and developed extensive community and
9 family ties. The government’s policy assured these individuals that they would retain their liberty
10 while they litigated their claims for immigration relief, so long as they continued to pose no danger
11 or flight risk, i.e., avoided criminal activity and complied with their obligations under the
12 immigration laws.

13 6. This all changed around May 2025, when Defendants initiated an aggressive new
14 campaign targeting noncitizens living in the community for re-arrest and re-detention. Most
15 visibly, Defendants have sent Immigration and Customs Enforcement (“ICE”) officers to
16 immigration courts, including San Francisco, Concord, and Sacramento Immigration Courts, to
17 arrest and detain people after they exit their immigration hearings. In addition, ICE has been re-
18 arresting noncitizens when they attend required check-ins with ICE, its co-agencies within DHS,
19 and its contractors. In other words, this campaign specifically targets noncitizens who are doing
20 exactly what the government told them to do.

21 7. These arrests and detentions continue to occur at immigration courts as well as at
22 required check-ins with ICE (including check-ins through the Intensive Supervision Appearance
23 Program, or ISAP) notwithstanding the current lapse in government appropriations.

24 8. These enforcement actions arise from a new policy (the “Re-Detention Policy”),
25 which has drastically overturned longstanding federal policies and practices by authorizing re-
26 arrest and re-detention of noncitizens untethered from any basis in—or individualized assessment
27 of—their flight risk or danger to the community.

28

1 9. Defendants' implementation of this policy in ICE's San Francisco Area of
2 Responsibility has torn apart families, interfered with people's ability to access counsel and to
3 pursue eligible claims for relief, caused trepidation and reluctance in noncitizens who otherwise
4 want to comply with their legal obligations to appear for court hearings and supervision check-ins,
5 and sown fear in immigrant communities throughout Northern and Central California.

6 10. Ms. Garro Pinchi's re-detention pursuant to the policy was unlawful. It radically
7 upended fundamental due process principles requiring an individualized determination of flight
8 risk and danger to the community prior to re-detention, and the Fourth Amendment's prohibition
9 on unreasonable seizures.

10 11. Petitioner asks the Court to exercise its habeas authority and enjoin Defendants
11 from re-detaining her in violation of the Due Process Clause and Fourth Amendment.

12 JURISDICTION AND VENUE

13 12. This Court has jurisdiction under 28 U.S.C. § 2241 (writ of habeas corpus) and 28
14 U.S.C. § 1331 (federal question) because this action arises under the United States Constitution.
15 Because this suit seeks relief other than money damages and challenges Defendants' unlawful
16 actions, the United States has waived sovereign immunity from this suit. 5 U.S.C. § 702.

17 13. Venue is proper in the Northern District of California under 28 U.S.C.
18 § 1391(e)(1) because Petitioner resides in this judicial district; each Defendant is an agency of the
19 United States or an officer of the United States sued in their official capacity; and a substantial part
20 of the events giving rise to the claims in this action took place in this District. Venue is also proper
21 because Petitioner was detained in the custody of Respondent Albarran in this District at the time
22 she filed her petition.

23 PARTIES

24 Petitioner

25 14. Petitioner Frescia Anthuane Garro Pinchi is a 27-year-old woman who is a resident
26 of Hayward, California. After entering the country without inspection in 2023, she was placed in
27 removal proceedings under 8 U.S.C. § 1229a and charged with inadmissibility under 8 U.S.C. §
28 1182. Thereafter, DHS released her on her own recognizance pursuant to 8 U.S.C. § 1226(a) and 8

1 C.F.R. § 236.1(c)(8). Since that time, she has been working in the gig economy, studying English,
2 and caring for her household as well as sending money to her mother and daughter in Peru. She
3 has fully complied with the conditions of her release. She has no criminal history and is pursuing
4 asylum based on her fear of persecution in Peru. If her application for asylum is granted, she will
5 continue on the path to permanent residency and, eventually, U.S. citizenship.

6 **Defendants**

7 15. Defendant Sergio Albarran, sued in his official capacity, is the Field Office
8 Director of the San Francisco ICE Field Office. In this capacity, he is responsible for the
9 administration of immigration laws and the execution of immigration enforcement and detention
10 policy within ICE's San Francisco Area of Responsibility, including the previous re-arrest and re-
11 detention of Ms. Garro Pinchi. Defendant Albarran maintains an office and regularly conducts
12 business in this District.

13 16. Defendant Kristi Noem, sued in her official capacity, is the Secretary of Homeland
14 Security. As the highest-ranking officer for DHS, Defendant Noem has ultimate statutory authority
15 over the administration and enforcement of the immigration laws. *See* 6 U.S.C. § 557 (transferring
16 functions from the Attorney General).

17 17. Defendant U.S. Department of Homeland Security is a cabinet-level department of
18 the Executive Branch of the federal government. DHS includes various component agencies,
19 including Immigration and Customs Enforcement and Customs and Border Patrol. DHS, together
20 with all of its component agencies, is responsible for administering and enforcing the immigration
21 laws.

22 18. Defendant Todd M. Lyons, sued in his official capacity, is the Acting Director of
23 U.S. Immigration and Customs Enforcement. As the highest-ranking officer for ICE, Defendant
24 Lyons has authority over immigration enforcement, including arrest and detention related to civil
25 immigration matters.

26 19. Defendant U.S. Immigration and Customs Enforcement is a component agency of
27 DHS. ICE's mission includes the enforcement of civil laws related to immigration. Among other
28 things, ICE is responsible for arrest and detention related to civil immigration charges in the

1 interior of the United States and is responsible for arrest and detention related to civil immigration
2 matters.

3 **LEGAL BACKGROUND**

4 20. Two mutually exclusive provisions of the Immigration and Nationality Act
5 (“INA”) govern ICE’s authority to detain noncitizens who do not have administratively final
6 orders of removal.

7 21. 8 U.S.C. § 1225(b) sets forth DHS’s detention authority related to the “inspection”
8 process. The first subsection, § 1225(b)(1), governs the detention of noncitizens placed in
9 “expedited removal” proceedings, a fast-track form of removal that historically has applied only at
10 the border and ports of entry. The second subsection, 8 U.S.C. § 1225(b)(2), governs the detention
11 of noncitizens who are “applicant[s] for admission,” are actively “seeking admission,” and are
12 “not clearly and beyond a doubt entitled to be admitted,” but who are placed in removal
13 proceedings before an immigration judge (also known as “Section 240 proceedings” or
14 proceedings under 8 U.S.C. § 1229a rather than expedited removal).

15 22. In contrast, 8 U.S.C. § 1226 governs the detention of noncitizens “already in the
16 country pending the outcome of removal proceedings[.]” *Jennings v. Rodriguez*, 583 U.S. 281, 289
17 (2018). When Congress enacted § 1226, it issued an interim regulation making clear that the
18 statute applies to the subset of “applicants for admission” not covered by § 1225(b)(2): those “who
19 are present without having been admitted or paroled.” In other words, § 1226 applies to
20 noncitizens who “entered [the U.S.] without inspection” between ports of entry. 62 Fed. Reg.
21 10312, 10323 (Mar. 6, 1997). Section 1226(a) creates a “default rule,” which authorizes, but does
22 not require, DHS to detain noncitizens in Section 240 proceedings. A narrower subsection,
23 § 1226(c), mandates detention for certain noncitizens based on criminal conduct or terrorist
24 activity that subjects them to removability or inadmissibility. This year, Congress amended
25 § 1226(c) to also mandate the detention of noncitizens who are inadmissible not only because they
26 entered without inspection, but who also have been arrested for or convicted of certain property
27 crimes. *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c)(1)(E).

28 23. The source of DHS’s authority to release noncitizens from custody depends on

1 which detention statute applies. Section 1226(c) is the most restrictive provision and authorizes
2 release only when necessary under federal witness protection statutes. *See* 8 U.S.C. § 1226(c)(4).
3 On its face, § 1225 also offers few paths to release. Noncitizens subject to either subsection of §
4 1225 are not statutorily eligible for bond—whether by DHS or an immigration judge—or release
5 on their own recognizance. However, DHS can release them on humanitarian parole under 8
6 U.S.C. § 1182(d)(5)(A). Section 1226(a) is broader in scope. Under § 1226(a), DHS can release
7 noncitizens on bond, on their own recognizance (formally called “conditional parole”), or on
8 humanitarian parole. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 236.1(c)(8). Noncitizens who are
9 subject to § 1226(a) are also entitled to a bond hearing before an immigration judge.

10 24. Regardless of the statutory vehicle for release, a DHS officer may not release a
11 noncitizen unless the individual does not pose a risk of flight or danger to the community. *See*
12 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8) (noncitizen must “demonstrate to the satisfaction of the
13 officer that such release would not pose a danger to property or persons, and that the [noncitizen]
14 is likely to appear for any future proceeding”); *see also* 8 C.F.R. § 212.5 (humanitarian parole
15 available only when “the [noncitizens] present neither a security risk nor a risk of absconding”).

16 25. Similarly, in deciding whether to release a noncitizen on bond or their own
17 recognizance, immigration judges consider whether the individual poses a danger to the
18 community and whether they are likely to appear for future proceedings. *In Re Guerra*, 24 I. & N.
19 Dec. 37, 40 (BIA 2006).

20 26. As a result, any “[r]elease” of a noncitizen “reflects a determination by the
21 government that the noncitizen is not a danger to the community or a flight risk.” *Saravia v.*
22 *Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v.*
23 *Sessions*, 905 F.3d 1137 (9th Cir. 2018).

24 27. Statutory and regulatory provisions governing re-arrest also depend on the manner
25 of release. Under the text of the INA and federal regulations, certain DHS officials “at any time
26 may revoke a bond or [conditional] parole authorized under [§ 1226(a)], rearrest the [noncitizen]
27 under the original warrant, and detain the [noncitizen].” 8 U.S.C. § 1226(b); *see* 8 C.F.R. §
28 236.1(c)(9). Certain DHS officials may terminate humanitarian parole upon written notice when

1 they determine that the purpose for parole has been “accomplish[ed]” or when “neither
2 humanitarian reasons nor public benefit warrants the [noncitizen’s] continued presence . . . in the
3 United States[.]” 8 C.F.R. § 212.5(e)(2)(i). For decades, however, DHS has had a consistent policy
4 and practice of re-detaining noncitizens in removal proceedings only when the individual
5 circumstances related to their flight risk or danger to the community had materially changed.

6 28. DHS has placed explicit limits on re-detention under 8 U.S.C. § 1226(b) by
7 requiring authorization from a high-level official within the field office. By regulation, such
8 revocations of release from custody may only be carried out in the “discretion of the district
9 director, acting district director, deputy director, assistant district director for investigations,
10 assistant district director for detention and deportation, or officer in charge (except foreign).”
11 8 C.F.R. § 236.1(c)(9).

12 29. Additionally, despite “the breadth of [the] statutory language” in 8 U.S.C.
13 § 1226(b), the federal government’s authority is subject to “an important implicit limitation”: It
14 cannot lawfully re-arrest or re-detain someone without “a material change in circumstances.”
15 *Saravia*, 280 F. Supp. 3d at 1197; *see also, e.g., Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA
16 1981).

17 30. In the immigration context, this limitation means that a person who immigration
18 authorities released from initial custody cannot be re-arrested “solely on the ground that he is
19 subject to removal proceedings[.]” without some new, intervening cause. *Saravia*, 280 F. Supp. at
20 1196. Indeed, the Fourth Amendment, which applies to seizures by immigration authorities,
21 prohibits such re-arrests, which courts have long held could result in “harassment by continual
22 rearrests.” *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971) (Stevens, J.) (prohibiting re-
23 arrest without change in circumstances in criminal context); *see also U.S. v. Brignoni-Ponce*, 422
24 U.S. 873, 884 (1975) (applying Fourth Amendment principles from criminal context to “limit”
25 scope of immigration agents’ seizure authority); *Gonzalez v. United States Immigr. & Customs*
26 *Enf’t*, 975 F.3d 788, 817 (9th Cir. 2020) (Fourth Amendment limits apply equally to seizures in
27 criminal and civil immigration context). The same applies here.

28

1 31. This prohibition also derives from fundamental constitutional principles enshrined
2 in the Due Process Clause of the Fifth Amendment. “Freedom from imprisonment—from
3 government custody, detention, or other forms of physical restraint—lies at the heart of the liberty
4 that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). And those
5 due process protections extend to “all ‘persons’ within the United States, including [noncitizens],
6 whether their presence here is lawful, unlawful, temporary, or permanent.” *Hernandez v. Sessions*,
7 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533 U.S. at 693).

8 32. “The touchstone of due process is protection of the individual against arbitrary
9 action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the exercise of
10 power without any reasonable justification in the service of a legitimate government objective,”
11 *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). Due process requires that all forms of
12 civil detention—including immigration detention—bear a “reasonable relation” to a non-punitive
13 purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

14 33. The Supreme Court has recognized only two permissible non-punitive purposes
15 for immigration detention: ensuring a noncitizen’s appearance at immigration proceedings (or, in
16 the case of a removal order, at removal); and preventing danger to the community. *Zadvydas*, 533
17 U.S. at 690-92; *see Demore v. Kim*, 538 U.S. 510, 519-20, 527–28, 531 (2003). It has also held
18 that, in general, these purposes may not be assessed on a blanket or categorical basis. Instead,
19 immigration custody decisions generally must be based on an “individualized determination” of
20 flight risk and danger to the community. *See INS v. Nat’l Ctr. for Immigrants’ Rts., Inc.*, 502 U.S.
21 183, 194 (1991); *see also Zadvydas*, 533 U.S. at 690; *R.I.L.-R v. Johnson*, 80 F. Supp. 3d 164, 188
22 (D.D.C. 2015).

23 34. Moreover, individuals who are released from government custody have a protected
24 liberty interest in remaining out of custody. The government’s decision to release an individual
25 from custody creates “an implicit promise” that their liberty “will be revoked only if [they] fail[]
26 to live up to the . . . conditions [of release].” *Morrissey*, 408 U.S. at 482.

27 35. Accordingly, in the criminal context, the Supreme Court has repeatedly recognized
28 that re-detention after some form of conditional release requires a pre-deprivation hearing. *Young*

1 v. *Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision);
2 *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*,
3 408 U.S. 471 (1972) (same, in parole context).

4 36. These principles apply with at least equal force to people released from civil
5 immigration detention. After all, noncitizens living in the United States have a protected liberty
6 interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. And, “[g]iven
7 the civil context [of immigration detention], [the] liberty interest [of noncitizens released from
8 custody] is arguably greater than the interest of parolees.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963,
9 970 (N.D. Cal. 2019).

10 FACTUAL ALLEGATIONS

11 I. For decades, Defendants required a material change in circumstances before 12 invoking 1226(b)’s re-detention authority.

13 37. For decades, federal immigration officials have adhered to a policy of not re-
14 arresting and re-detaining noncitizens who have been released pending removal proceedings,
15 absent an individualized determination that there has been a material change with respect to
16 whether a particular person poses a flight risk or danger to the community.

17 38. As far back as 1981, the Board of Immigration Appeals made clear that the
18 government could not re-arrest and re-detain a noncitizen released by an immigration judge on
19 bond “absent a change of circumstance” warranting detention. *Matter of Sugay*, 17 I. & N. Dec.
20 637, 640 (BIA 1981); *see also Panosyan v. Mayorkas*, 854 F. App’x 787, 788 (9th Cir. 2021).

21 39. Federal immigration officials reiterated this policy on numerous occasions. For
22 example, the head of the Immigration and Naturalization Service (ICE’s predecessor agency)
23 stated in a 1995 memorandum that: “[w]hen a[] [noncitizen] has been released from INS custody
24 under bond, such bond can be revoked by the district director . . . but only based upon ‘a change of
25 circumstances.’ . . . As such, INS must be able to justify any revocation decision, future detention
26 or release condition.” *Demore v. Kim*, 2002 WL 34705774 (U.S. Aug. 29, 2002), (No. 01-1491),
27 Joint Appendix at 57.

28 40. As a matter of policy and longstanding practice, DHS and its predecessor agencies
applied the same rule to release decisions made by federal immigration officers, including ICE

1 officers. As DHS previously represented to a court in this District, the government historically re-
2 arrested previously released noncitizens only after “a material change in circumstances” as to
3 whether they are a flight risk or dangerous. *Saravia*, 280 F. Supp. 3d at 1197; Federal Defendants’
4 Supplemental Brief at 1, *Saravia v. Sessions*, No. 3:17-cv-03615-VC, (N.D. Cal. Nov. 3, 2017),
5 Dkt. No. 90. Since then, courts in this District and nationwide have repeatedly acknowledged the
6 existence of DHS’s prior policy and practice. *See, e.g., U.S. v. Cisneros*, No. 19-CR-00280-RS-5,
7 2021 WL 5908407, at *3-4 (N.D. Cal. Dec. 14, 2021); *Rosado v. Figueroa*, No. CV-25-02157-
8 PHX-DLR (CDB), 2025 WL 2337099, (D. Ariz. Aug. 11, 2025); *Dos Santos v. Noem*, No. 1:25-
9 CV-12052-JEK, 2025 WL 2370988, at *9 (D. Mass. Aug. 14, 2025).

10 41. Under DHS’s prior policy and practice, and across presidential administrations,
11 ICE officers in the San Francisco Area of Responsibility generally would not re-arrest or re-detain
12 a non-detained noncitizen in removal proceedings without conducting an individualized
13 assessment and determining that their flight risk or danger to the community had materially
14 changed since their release or their last check-in appointment. This policy and practice applied
15 regardless of whether a noncitizen had previously been released on bond, conditional parole, or
16 humanitarian parole.

17 42. For example, if a noncitizen became involved with the criminal justice system,
18 violated a condition of ICE supervision, or violated a condition of the Intensive Supervision
19 Appearance Program (ISAP), which is run by a private contractor, ICE generally would set an
20 appointment and interview the non-citizen about the changed circumstance before making an
21 individualized decision as to whether re-detention was warranted. If the noncitizen affirmatively
22 sought to remedy the violation or returned to compliance, ICE often would not re-detain the
23 noncitizen.

24 43. Countless noncitizens released pending removal proceedings, including Petitioner,
25 have relied on the government’s policy against indiscriminate re-arrest and re-detention to plan
26 their lives. So long as they complied with their legal obligations to attend immigration proceedings
27 and avoid criminal activity, noncitizens could confidently assume they would be able to litigate
28 their right to remain in the United States while living in the community and with their families,

1 rather than from detention. This meant they could access and consult with legal representatives,
2 enter into leases for residential housing, seek work authorization and lawful employment, invest in
3 their education, develop community ties, participate in religious life, and grow and take care of
4 their families (including U.S. citizen family members).

5 **II. Around May 2025, Defendants adopted and implemented the Re-Detention**
6 **Policy, which abandoned their longstanding policy and practice.**

7 44. In or around May 2025, Defendants reversed this longstanding policy and adopted
8 the Re-Detention Policy, which authorizes re-arrest and re-detention of previously released
9 noncitizens without any individualized assessment of a person’s flight risk or danger—indeed,
10 without any individualized justification at all.

11 45. The Re-Detention Policy does away with the previous policy’s requirement that,
12 *before* a person previously released from immigration custody on recognizance, parole, or bond
13 can be re-arrested and re-detained, DHS must conduct an individualized determination of
14 materially changed circumstances (*e.g.*, danger to the community and/or flight risk) to justify the
15 re-arrest and re-detention. In fact, the government has admitted in some cases that there was *no*
16 change in circumstance justifying re-detention. *See, e.g., Maklad v. Murray*, No. 1:25-cv-00946
17 JLT SAB, 2025 WL 2299376, at *3 (E.D. Cal. Aug. 8, 2025) (“[T]he government conceded that
18 [prior to her re-detention] there were no changes in circumstances since the original determination
19 that Ms. Maklad does not pose a flight risk or a danger to the community[.]”).

20 46. ICE has implemented its new policy in an unprecedented campaign of re-arrests at
21 immigration courthouses, ICE offices, and myriad other locations within this District, the broader
22 region, and nationwide. These re-arrests have targeted individuals, like Petitioner, who have not
23 had any material change in circumstances with respect to whether they posed a flight risk or
24 danger to the community since their release from DHS custody. On the contrary, these individuals
25 complied with the requirements that the government imposed on them, including attending
26 immigration court hearings and ICE supervision check-ins.

27 47. This campaign substantially materialized in the form of aggressive enforcement
28 actions at immigration courts, including the San Francisco, Concord, and Sacramento Immigration
Courts. Since May 2025, ICE has arrested noncitizens who, like Petitioner, are in removal

1 proceedings, as they leave routine immigration court hearings. Generally, DHS attorneys make an
2 oral motion to dismiss the proceedings—without any notice to the affected individual—in advance
3 of a re-arrest. Although DHS regulations do not permit such motions to dismiss absent a showing
4 that the “[c]ircumstances of the case have changed,” 8 C.F.R. § 239.2(a)(7), (c), DHS attorneys do
5 not conduct any case-specific analysis of changed circumstances before filing these motions to
6 dismiss or offer case-specific reasons for dismissal. ICE agents then re-arrest noncitizens, often as
7 they leave the courtroom, regardless of whether the immigration judge grants the motion.

8 48. This “coordinated operation” is “aimed at dramatically accelerating deportations”
9 by re-arresting people like Petitioner, many of whom have pending applications for asylum or
10 other relief, while they are attending immigration court hearings in their cases.¹ In addition,
11 Defendants’ sweeping re-arrest and re-detention campaign has expanded past its initial targeting of
12 people at or near immigration courthouses to sweep up people at numerous other locations. For
13 example, many noncitizens have regularly attended “check-in” appointments with ICE or its
14 contractor ISAP for months or years while they pursue their immigration cases. Like immigration
15 court hearings, these previously routine appointments have become hotbeds for re-arrest and re-
16 detention. When noncitizens arrive at their local ICE Field Office or ISAP office, rather than
17 conducting the regular “check-in,” Defendants instead have begun to re-arrest and re-detain them.
18 Like the re-arrests at immigration courthouses, Defendants conduct arrests at these check-in
19 appointments without requiring or considering any change in the individual circumstances of the
20 noncitizen.

21 49. Additionally, on information and belief, the Re-Detention Policy allows the re-
22 arrest and re-detention of non-citizens released pursuant to 8 U.S.C. § 1226(a) without the
23 authorization of “the district director, acting district director, deputy district director, assistant
24

25 ¹ Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in*
26 *Trump’s Deportation Push*, Wash. Post, May 23, 2025,
27 <https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>;
28 *see also* Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE is Seeking to Ramp Up*
Deportations Through Courthouse Arrests, N.Y. Times, May 30, 2025,
<https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>; Dani Anguiano,
Mother Arrested at LA Court Alongside Six-Year-Old Son with Cancer Sues ICE, Guardian, June
27, 2025, <https://www.theguardian.com/us-news/2025/jun/27/honduras-mother-ice-arrest-lawsuit>.

1 district director for investigations, assistant district director for detention and deportation, or
2 officer in charge,” as is required by 8 C.F.R. § 236.1(c)(9).

3 50. Defendants adopted and implemented the Re-Detention Policy amid a nationwide
4 push to dramatically increase immigration arrests and detention, regardless of the individual
5 circumstances of the people arrested and detained.

6 51. For example, in late May 2025, the White House and the Department of Homeland
7 Security imposed a “goal” on federal immigration agencies of 3,000 immigration-related arrests
8 per day—with “consequences for not hitting arrest targets.”²

9 52. In order to reach these targets, White House Deputy Chief of Staff Stephen Miller
10 directed high-level officials to change their approach to stops and arrests in the field. Agents and
11 officers, according to him, should no longer conduct targeted operations based on investigations.
12 Instead, they should “just go out there and arrest [unauthorized noncitizens]” by rounding up
13 people in public spaces like “Home Depot” and “7-Eleven” convenience stores.³ Agents received
14 instructions that arrests were “all about the numbers, not the level of criminality.”⁴

15 53. In a May 28, 2025 interview with Fox News, Mr. Miller stated that “[u]nder
16 President Trump’s leadership, we are looking to set a goal of a minimum of 3,000 arrests for ICE
17 every day, and President Trump is going to keep pushing to get that number up higher each and
18 every single day.”⁵

19 54. Re-arrests and re-detentions without any individualized assessment of changed
20 circumstances related to flight risk or danger have skyrocketed because of these enforcement
21 operations. Since May 2025, dozens of people, including Ms. Garro Pinchi, have been detained at
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23 ² Elizabeth Findell, et al., *The White House Marching Orders That Sparked the L.A. Migrant*
24 *Crackdown*, The Wall Street Journal (June 9, 2025), <https://www.wsj.com/us-news/protests-los-angeles-immigrants-trump-f5089877>.

25 ³ *Id.*

26 ⁴ Ted Hesson & Kristina Cooke, *ICE’s Tactics Draw Criticism as it Triples Daily Arrest Targets*,
27 Reuters, June 10, 2025, <https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/>; Alayna Alvarez & Brittany Gibson, *ICE Ramps Up Immigration*
28 *Arrests in Courthouses Across the U.S.*, Axios, June 12, 2025,
<https://www.axios.com/2025/06/12/ice-courthouse-arrests-trump>

⁵ *See, e.g., Vasquez Perdomo v. Noem*, 148 F. 4th 656, 665 n. 2 (9th Cir. 2025).

1 the San Francisco Immigration Court following their routine immigration hearings and without
 2 any assertion that an individualized material change in circumstances justified their detention.⁶ In
 3 addition to these courthouse arrests, dozens more have been detained since May 2025 at ICE and
 4 ISAP check-ins without any assertion of materially changed circumstances. These arrests have
 5 extended to other Northern California immigration courthouses too, including at least several
 6 dozen arrests at the Sacramento Immigration Court⁷ and, at minimum, four more arrests within a
 7 single day at the Concord Immigration Court.⁸ On information and belief, ICE arrests at these
 8 immigration courts and at ICE and ISAP check-ins in the San Francisco Area of Responsibility
 9 have increased by more than 500% since May 2025. These re-arrests and re-detentions would not
 10 have been permissible under DHS's prior policy.

11 55. These same trends have materialized nationwide. In New York City, for example,
 12 "ICE agents [] apprehended so many people showing up for routine appointments . . . that the
 13 facilities" were "overcrowded[.]" with "[h]undreds of migrants . . . sle[eping] on the floor or
 14 sitting upright, sometimes for days[.]"⁹

15 _____
 16 ⁶ Sarah Ravani, *ICE Arrests Two More at S.F. Immigration Court, Advocates Say*, S.F. Chron.,
 17 June 12, 2025, <https://www.sfchronicle.com/bayarea/article/sf-immigration-court-arrests-20374755.php>; Margaret Kadifa & Gustavo Hernandez, *Immigrants fearful as ICE Nabs at least 15 in S.F., Including Toddler*, Mission Local, June 5, 2025, <https://missionlocal.org/2025/06/ice-arrest-san-francisco-toddler/>; Tomoki Chien, *Undercover ICE Agents Begin Making Arrests at SF Immigration Court*, S.F. Standard, May 27, 2025, <https://sfstandard.com/2025/05/27/undercover-ice-agents-make-arrests-san-francisco-court/>; Mariana Garcia, *ICE Makes Largest Single-Court Arrest in S.F., Detaining 8*, MISSION LOCAL, Sept. 12, 2025, <https://missionlocal.org/2025/09/ice-arrests-8-asylum-seekers-at-s-f-immigration-court-most-ever-in-single-morning/>.

20 ⁷ Sharon Bernstein, *Sacramento Courthouse Immigration Stops, Some Violent, Detailed in Legal Filing*, Sept. 29, 2025, <https://www.sacbee.com/news/local/article312274458.html>.

21 ⁸ Megan Cassidy & Jessica Flores, *S.F. East Bay Immigration Courts Abruptly Shut Down After ICE Arrests*, June 10, 2025, <https://www.sfchronicle.com/sf/article/ice-arrest-courthouse-immigration-trump-20370459.php>.

22 ⁹ Luis Ferré-Sadurní, *Inside a Courthouse, Chaos and Tears as Trump Accelerates Deportations*, N.Y. Times, June 12, 2025, <https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html>; Jasmine Garsd, *In Recorded Calls, Reports of Overcrowding and Lack of Food at ICE Detention Centers*, NPR, June 6, 2025, <https://www.npr.org/2025/06/05/nx-s1-5413364/concerns-over-conditions-in-u-s-immigration-detention-were-hearing-the-word-starving> (estimating ICE is at 125% capacity and reporting nation-wide "overcrowding, illness and hunger in detention facilities"); Luis Ferré-Sadurní, *Deportation of 6-Year-Old Puts Spotlight on ICE's Detention of Families*, N.Y. Times, Aug. 20, 2025, <https://www.nytimes.com/2025/08/20/nyregion/ice-6-year-old-nyc.html> (reporting that immigration authorities have detained about 50 children and deported at least 38 in the New York City area since January).

1 56. Indeed, in part because of these operations, ICE’s arrests nationwide of noncitizens
2 with no criminal record have increased more than 1,100% since before January.¹⁰ 79 percent of
3 ICE’s weekly non-custodial arrests involved people with no criminal convictions, up 23
4 percentage points from January.¹¹ ICE arrests in total have increased 123 percent since 2024.¹²

5 57. At the same time as it has increased immigration arrests, the Administration has
6 moved forward with radically increasing immigration detention capacity nationwide.

7 58. On July 4, 2025, President Trump signed the “Big Beautiful Bill” into law. The
8 legislation makes U.S Immigration and Customs and Enforcement the largest federal law
9 enforcement agency, giving it \$45 billion for building new detention centers in addition to \$14
10 billion for deportation operations. In addition, the legislation includes \$3.5 billion for
11 reimbursements to state and local governments for costs related to immigration-related
12 enforcement and detention.¹³

13 59. In explaining the need for the legislation, “border czar” Tom Homan told reporters
14 that the bill needed to pass so the federal government could buy more detention beds because “the
15 more beds we have, the more bad guys we arrest.”¹⁴ The Trump administration has already opened
16 new immigration detention facilities, such as the South Florida Detention Facility—nicknamed
17 Alligator Alcatraz.¹⁵ In California, the administration has repurposed a former state prison in
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20 ¹⁰ David J. Bier, *ICE Is Arresting 1,100 Percent More Noncriminals on the Streets Than in 2017*,
Cato at Liberty Blog, June 24, 2025, <https://www.cato.org/blog/ice-arresting-1100-percent-more-noncriminals-streets-2017>.

21 ¹¹ *Id.*

22 ¹² Albert Sun, *Immigration Arrests Are Up Sharply in Every State. Here Are the Numbers.*, N.Y.
23 TIMES, June 27, 2025, <https://www.nytimes.com/interactive/2025/06/27/us/ice-arrests-trump.html>.

24 ¹³ Lauren-Brooke Eisen, *Budget Bill Massively Increases Funding for Immigration Detention*,
25 Brennan Center for Justice, July 3, 2025, <https://www.brennancenter.org/our-work/analysis-opinion/budget-bill-massively-increases-funding-immigration-detention>.

26 ¹⁴ Juliana Kim, *How Trump’s tax cut and policy bill aims to ‘supercharge’ immigration enforcement*, NPR, July 3, 2025, <https://www.npr.org/2025/07/03/g-s1-75609/big-beautiful-bill-ice-funding-immigration>.

27 ¹⁵ *Florida’s Secretive Immigration Detention Center, Explained*, August 15, 2025,
28 <https://www.aclu.org/news/immigrants-rights/floridas-secretive-immigration-detention-center-explained>.

1 California City as an ICE detention center.¹⁶ California City Detention Facility is now the largest
2 immigration detention center in the state, with over 2,500 beds.¹⁷

3 60. Government officials have also suggested their motivation in their massive
4 detention efforts is to pressure individuals to give up their right to contest removal and agree to
5 deportation, rather than either of the two constitutionally permissible bases for detention:
6 preventing flight risk or danger to the community. For instance, Secretary Noem in discussing how
7 the administration has opened detention facilities in seemingly treacherous locations, indicated the
8 administration's goal of ensuring that people know "if they are detained, they [wi]ll be removed"
9 and offered that detention is an effective strategy to encourage people, including those with
10 meritorious claims for immigration relief, to deport themselves "voluntarily."¹⁸

11 **III. Petitioner now faces re-detention under Defendants' unlawful Re-**
12 **Detention Policy.**

13 61. The Re-Detention Policy has resulted in the sudden, no-notice re-detention of
14 countless noncitizens whom the government has already determined are neither dangerous nor
15 flight risks, without any individualized consideration of whether any new facts exist to justify a
16 different determination. Indeed, the facts show that the people caught up in the new policy
17 overwhelmingly lack any criminal history and have a proven record of compliance with
18 immigration check-ins and court appearances. Through their conduct, they have shown that the
19 government's initial assessment of them was accurate—they are neither dangerous nor flight risks.
20 Nevertheless, they now face arbitrary re-arrest and indefinite re-detention. Petitioner's case
21 illustrates these very concerns.

22 62. Ms. Garro Pinchi is an asylum seeker who fled Peru and entered the United States
23 without inspection on or around April 14, 2023. After entering the country, she encountered

24 ¹⁶ U.S. Immigration and Customs Enforcement, California, Detention Facilities, California City
25 Detention Facility, <https://www.ice.gov/detain/detention-facilities/california-city-detention-facility> (Last Updated Sep. 5, 2025).

26 ¹⁷ Tyche Hendricks, *California's Newest Immigration Facility Is Also Its Biggest. Is It Operating Legally?*, Sep. 4, 2025, <https://www.kqed.org/news/12054544/californias-newest-immigration-facility-is-also-its-biggest-is-it-operating-legally>.

27 ¹⁸ Nicole Sganga, *Kristi Noem says "Alligator Alcatraz" to be model for ICE state-run detention centers*, CBS News, Aug. 4, 2025, <https://www.cbsnews.com/news/alligator-alcatraz-model-kristi-noem-homeland-security/>.

1 federal agents and turned herself in. The agents briefly detained her, determined that she was
2 subject to discretionary detention under 8 U.S.C. § 1226(a) and that she was not a flight risk or
3 danger to the community, and released her on her own recognizance pursuant to 8 C.F.R. §
4 236.1(c)(8), with a notice to appear for removal proceedings in the San Francisco immigration
5 court. On the Notice to Appear, DHS classified her as “an alien present in the United States who
6 has not been admitted or paroled” and did not classify her as an “arriving alien.” DHS charged her
7 as inadmissible only under 8 U.S.C. § 1182(a)(6)(A)(i), which applies to noncitizens physically
8 present in the country without admission or parole.

9 63. DHS agents issued Ms. Garro Pinchi an “Order of Release on Recognizance”
10 using a standard DHS form, setting forth the conditions of Ms. Garro Pinchi’s conditional parole.
11 Among other requirements, the form stated that Ms. Garro Pinchi must attend “any hearing or
12 interview” required by DHS or the immigration court, comply with state and federal laws, and
13 report to supervision appointments. The order also states that Ms. Garro Pinchi would remain
14 released on her own recognizance as long as she “compl[ied]” with the listed conditions. The order
15 states that “[f]ailure to comply with the conditions of this order may result in revocation of your
16 release and your arrest and detention by [DHS],” but includes no other possible reasons for which
17 Ms. Garro Pinchi could have been re-detained.

18 64. Ms. Garro Pinchi relocated to Hayward, California and built her life there. After
19 her initial release from custody, she did everything immigration authorities required her to do—all
20 without the assistance of counsel. She updated her address with the immigration court as required,
21 and in April 2024, she filed an application for asylum, withholding of removal, and protection
22 under the Convention Against Torture with the immigration court, which remains pending. She
23 has no criminal history.

24 65. On July 3, 2025, Ms. Garro Pinchi attended a master calendar hearing at the San
25 Francisco Immigration Court. Without any warning, the DHS attorney orally moved to dismiss her
26 case.

27 66. The immigration judge gave Ms. Garro Pinchi time to file a response and
28 continued the hearing until July 31, 2025. Although the immigration judge had continued the

1 hearing, he told Ms. Garro Pinchi “I probably won’t see you then”—suggesting that he expected
2 that she would be arrested pursuant to DHS’s new policy.

3 67. ICE officers arrested her minutes after she exited the courtroom. The government
4 then detained her without any individualized basis or claim that her re-detention was justified to
5 prevent flight risk or danger to the community. Absent this Court’s orders mandating her release,
6 she would have remained in detention, and she remains at risk of re-detention absent final court
7 intervention. Dkt. Nos. 6, 33.

8 68. In connection with her re-arrest, ICE issued a Form I-200 “Warrant for Arrest of
9 Alien” purporting to authorize her arrest under 8 U.S.C. § 1226 and 8 U.S.C. § 1357. The
10 document is dated July 3, 2025. The sole basis for arrest identified on the warrant is “the pendency
11 of ongoing removal proceedings” against Ms. Garro Pinchi. In the space for a signature from an
12 “Authorized Immigration Officer,” the warrant bears the signature of “S 3602 RILI – SDDO.”
13 “SDDO” stands for “Supervisory Detention and Deportation Officer.”

14 69. Following her release from custody pursuant to this Court’s Order, ICE agents
15 required Ms. Garro Pinchi to attend a check-in the next day. ICE imposed conditions of release,
16 including an annual check-in with ICE and in-person check-ins with ISAP, a private contractor.
17 Ms. Garro Pinchi has complied with all conditions of release. Soon after her initial check-in, ICE
18 de-escalated her supervision from in-person check-ins to weekly monitoring by phone. She has
19 continued to comply with every requirement. Nevertheless, in December 2025, she was informed
20 that her supervision would again be escalated and would require monthly, in-person check-ins with
21 ISAP.

22 70. After her release from custody, Ms. Garro Pinchi secured counsel for her removal
23 proceedings and filed a written opposition to the government’s motion to dismiss. The
24 immigration judge denied the motion to dismiss, and her removal proceedings are ongoing.

25 71. Defendants detained Ms. Garro Pinchi pursuant to the unlawful Re-Detention
26 Policy despite her posing no danger or flight risk – the two principal justifications for immigration
27 detention recognized by the Supreme Court. *See Zadvydas*, 533 U.S. at 690-92; *Demore*, 538 U.S.
28 at 519-20, 527-28, 531. The government previously released Ms. Garro Pinchi on her own

1 recognizance because she did not pose sufficient risk of flight or danger to the community to
2 warrant detention.

3 72. None of that has changed. Ms. Garro Pinchi has no criminal record, and there is no
4 basis to believe that she poses any public-safety risk. Nor is Ms. Garro Pinchi, *who was arrested*
5 *while appearing in court for her immigration case*, conceivably a flight risk. Ms. Garro Pinchi's
6 detention is not related to any permissible purpose under these circumstances and deprived her of a
7 protected interest in her ongoing liberty without sufficient procedural protections.

8 **IV. Re-Detention imposes extraordinary and irreparable harm on Petitioner.**

9 73. Detention caused Ms. Garro Pinchi significant harm. She suffers from serious
10 medical conditions for which she requires frequent medication. When she was re-detained, she did
11 not have access to her medication and experienced withdrawal symptoms, including shakes and
12 shortness of breath. Before she was re-detained, she underwent an operation, which continues to
13 be monitored and requires medication to prevent recurrence. She also has a medical condition that
14 requires her to follow a strict dietary regimen prescribed by a doctor, and had an appendectomy
15 last year. All of these serious conditions require care and monitoring that were unavailable to her
16 while detained.

17 74. The risk that Defendants will again re-detain Ms. Garro Pinchi causes her extreme
18 mental distress. She remains afraid to leave the house because she fears being arrested by ICE
19 again. She experiences intrusive memories of being detained and feels flooded with terror, making
20 it hard to sleep or concentrate. She feels panicked when she has to check in with ICE and ISAP.

21 **CLAIMS FOR RELIEF**

22 **FIRST CLAIM FOR RELIEF**

23 **Violation of the Fifth Amendment to the United States Constitution**
24 ***Petitioner's Detention Violates Substantive Due Process***

25 75. Petitioner repeats and re-alleges the allegations contained in the preceding
26 paragraphs of this Petition as if fully set forth herein.

27 76. The Due Process Clause of the Fifth Amendment protects all "person[s]" from
28 deprivation of liberty "without due process of law." U.S. Const. amend. V. "Freedom from

1 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
2 the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

3 77. Immigration detention is constitutionally permissible only when it furthers the
4 government’s legitimate goals of ensuring a noncitizen’s appearance during removal proceedings
5 and preventing danger to the community.

6 78. Ms. Garro Pinchi was previously released on their own recognizance (“conditional
7 parole”) by Defendants. These previous releases constituted a determination by Defendants that
8 she was neither dangerous to the community nor a flight risk.

9 79. Ms. Garro Pinchi has not become a danger or flight risk since their release from
10 custody. Her re-detention thus does not serve a legitimate goal. Accordingly, her re-detention
11 would violate the Due Process Clause.

12 **SECOND CLAIM FOR RELIEF**

13 **Violation of the Fifth Amendment to the United States Constitution**
14 ***Petitioner’s Detention Violates Procedural Due Process***

15 80. Petitioner repeats and re-alleges the allegations contained in the preceding
16 paragraphs of this Petition as if fully set forth herein.

17 81. The Fifth Amendment guarantees noncitizens present in the country with due
18 process rights, including the right to not be deprived of a liberty or property interest without notice
19 and a hearing before a neutral decision-maker.

20 82. Ms. Garro Pinchi has already been determined not to pose a flight risk or danger to
21 the community. She has a protected liberty interest in her continued freedom from detention and is
22 entitled to due process before the government can deprive her of her liberty by re-detaining her.
23 The Due Process Clause prohibits her re-detention without a pre-deprivation hearing before a
24 neutral decision-maker in which the government bears the burden of demonstrating that she poses
25 a flight risk or danger to the community.
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THIRD CLAIM FOR RELIEF

**Violation of the Fourth Amendment to the United States Constitution
*Petitioner's Re-Arrest Constitutes an Unreasonable Seizure***

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83. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

84. The Fourth Amendment protects the right of all persons present in the United States to be free from unreasonable seizures by government officials. Petitioner therefore has the right to be free from unreasonable seizures.

85. As a corollary to that right, the Fourth Amendment prohibits re-arrest on the same charge without a material change in circumstances.

86. Ms. Garro Pinchi was re-arrested on the same charge without a material change in circumstances. Her re-arrest violated the Fourth Amendment.

PRAYER FOR RELIEF

Petitioner respectfully requests that the Court grant the following relief:

- a. Issue an order pursuant to the All Writs Act, 28 U.S.C. § 1651, to protect this Court's jurisdiction over the litigation by barring Defendants from deporting Petitioner to a jurisdiction different from the one in which she is presently detained, pending the duration of these proceedings;
- b. Declare that Petitioner's re-arrest violates the Fourth Amendment;
- c. Declare that Petitioner's re-detention violates the Fifth Amendment;
- d. Issue a writ of habeas corpus prohibiting Defendants from re-arresting or re-detaining Petitioner without an order from this Court finding that a material change in individual circumstances related to her flight risk or danger to the community justifies her re-arrest and re-detention, *or in the alternative* issue a writ of habeas corpus prohibiting Defendants from re-arresting or re-detaining Petitioner unless her re-detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear and convincing evidence, that she is a flight risk or danger to the community;

- 1 e. Award Petitioner reasonable attorney's fees and costs; and
- 2 f. Grant any other and further relief as the Court deems just and equitable.

3 Dated: December 23, 2025

KEKER, VAN NEST & PETERS LLP

4
5 By: /s/ Erin E. Meyer

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28 JUDY RABINOVITZ
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