UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Valentin RUIZ VARELA,

Petitioner,

v.

Paul ARTETA, Sheriff of Orange County; LaDeon FRANCIS, in his official capacity as Acting Field Office Director of New York, Immigration and Customs Enforcement; Kristi NOEM in her official capacity as Secretary of Homeland Security; Pam BONDI, in her official capacity as Attorney General.

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner Valentin Ruiz Varela is a New Yorker and father to two U.S.-citizen sons who was stopped on the street and detained while walking to work earlier this week. His detention is part of a campaign of race-based stops and detentions in immigrant neighborhoods of New York City that result in the rapid jailing of individuals without any individualized consideration of their circumstances; flight risk; or even removability from the U.S. Respondents now purport to hold Petitioner in mandatory detention, without any recourse to bond, despite his longtime residence in the U.S. They also lied to him when he was detained, promising him that he could return to the U.S. lawfully in just six months if he agreed to accept voluntary departure.

Because his detention is unlawful, he asks this Court to grant his petition and order his immediate release.

PARTIES

1. Petitioner Valentin Ruiz Varela is resident of Queens, New York. He was detained by Respondents in Queens on January 22, 2026, and remains in their custody at Orange Count Jail.

2. Paul Arteta is named in his official capacity as the sheriff and warden of Orange County Jail. Respondent Arteta's address is 110 Wells Farm Rd, Goshen, NY 10924.

3. LaDeon Francis is named in his official capacity as the Acting Field Office Director of the New York Field Office for Immigration and Customs Enforcement ("ICE") within the United States Department of Homeland Security. The ICE New York Field Office is responsible for detentions in the greater New York City area. In this capacity, Mr. Francis is also responsible for the administration of immigration laws and the execution of detention and removal determinations and is a legal custodian of Petitioner. Respondent Francis's address is New York ICE Field Office Director, 26 Federal Plaza, 7th Floor, New York, New York 10278.

4. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Eastern District of New York; is legally responsible for pursuing any effort to remove the Petitioner; and as such is a legal custodian of the Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, 2707 Martin Luther King Jr Ave SE, Washington, District of Columbia 20528.

5. Respondent Pam Bondi is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review ("EOIR"), pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Southern District of New York and is legally

responsible for administering Petitioner's removal and custody proceedings and for the standards used in those proceedings. As such, she is the custodian of Petitioner. Respondent Bondi's office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530.

JURISDICTION

6. The federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Petitioner was detained by Respondents on January 22, 2026.

7. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

VENUE

8. Venue is appropriate in this district as Petitioner is detained at Orange County Jail in Goshen, New York.

SPECIFIC FACTS ABOUT PETITIONER

9. Mr. Ruiz Varela is a resident of the Jackson Heights neighborhood in Queens, New York. He has resided in New York for over three years. He is married to a U.S. citizen and he has two U.S.-citizen sons, ages five and seven.

10. His younger son suffers from intestinal malrotation and has already required surgery twice, most recently in November 2025 when he was hospitalized for over a week. His son requires

intensive ongoing monitoring and may require future surgeries, including on an emergency basis if his condition worsens.

11. Mr. Ruiz Varela has no criminal history in any country.

12. On January 22, Mr. Ruiz Varela was detained by four or five agents in a racially motivated stop as he walked to work in Queens, New York around 6:30 a.m. Initially two agents approached him but several more quickly followed and surrounded him. These agents used a common tactic to stop New Yorkers, which is to show a photo and ask if the individual being stopped knows the person in the photo. Agents then asked Mr. Ruiz Varela for an identification and used a mobile device to scan his face. Throughout this interaction, Mr. Ruiz Varela thought the agents were police.

13. Agents handcuffed Mr. Ruiz Varela and placed him in a car. Only then did he become aware the agents were from immigration.

14. During the time he was stopped on the street and then handcuffed sitting in the parked car, he observed agents approach or stop four or five other people on the street and question each for several minutes. All of the individuals he observed be stopped by agents were Hispanic man.

15. Agents then transported Mr. Ruiz Varela to a location in Manhattan. Once in Manhattan, Mr. Ruiz Varela was detained with around four other men, all Hispanic men detained on the street or in their cars as they went to work in Queens. One of those individuals, also detained in a street stop in Queens, was ordered released by a district court yesterday. *Tejeda Mata v. Francis*, 7:26-cv-00658-KMK (S.D.N.Y. Jan. 28, 2026) (ECF No. 6).

16. ICE agents lied to Mr. Ruiz Varela and others processed with him and pressured them to sign documents agreeing to voluntary departure without permitting them to call family or an attorney. Agents told Mr. Ruiz Varela that if he agreed to leave the U.S. that would "clean his

record" and he would be able to return lawfully in six months to a year. That is legally incorrect. *See* 8 U.S.C. § 1182(a)(9)(B)(i)(II) (providing for a ten-year bar on return given over a year of unlawful presence).

17. Mr. Ruiz Varela signed a voluntary departure agreement based on this affirmative misinformation. Only after he signed was he permitted to attempt to make a phone call.

18. Mr. Ruiz Varela was ultimately transported to another location in Manhattan and Orange County Jail, where he remains detained. To date, no notice to appear has been docketed with the immigration court so as to commence removal proceedings against him.

LEGAL FRAMEWORK

19. Congress has authorized civil detention of noncitizens in removal proceedings for specific, non-punitive purposes. *See Jennings v. Rodriguez*, 138 S.Ct. 830, 833 (2018); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). For individuals who are "arriving" in the U.S. or who are subject to expedited removal because they have been present under two years and meet certain other requirements, mandatory detention is authorized by 8 U.S.C. § 1225(b). For individuals who are in removal proceedings following entry without inspection and who are not subject to mandatory detention based on criminal history, detention is normally authorized by 8 U.S.C. § 1226(a). Individuals with a final order of removal may be subject to mandatory or discretionary detention pursuant to 8 U.S.C. § 1231(a).

20. Detention serves only two legitimate purposes: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *Velasco Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020).

21. In May 2025, the Board of Immigration Appeals held that "an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a

port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a)." *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025).

22. On July 8, Respondents promulgated an internal memo directing ICE attorneys to argue for an even more expansive interpretation of who is subject to mandatory detention. This memo, now leaked to the public, states that "effective immediately, it is the position of DHS that [any noncitizens who have not been admitted to the country] are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)] and may not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. § 1182(d)(5)] parole. These [noncitizens] are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration just and may not be released for the duration of their removal proceedings absent a parole by DHS."

23. In September 2025, the Board of Immigration Appeals adopted this legal interpretation as well. *See Matter of Yajure Furtado,* 29 I&N Dec. 216 (BIA 2025). As a result, immigration judges stopped granting release on bond pursuant to 8 U.S.C. § 1226(a) for individuals who entered the country without inspection.

24. Respondents' position on their own detention authority contradicts decades of settled precedent, which holds that individuals who entered the U.S. without inspection are governed by 8 U.S.C. § 1226(a). Regulations promulgated nearly thirty years ago provide that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination" under Section 1226. 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Until recently, Respondents consistently adhered to this interpretation. *See, e.g., Matter of Garcia-Garcia*, 25 I&N. Dec. 93 (BIA 2009); *Matter of D-J-*, 23 I&N. Dec. 572 (A.G. 2003); *see also*

Transcript of Oral Argument at 44:24–45:2, *Biden v. Texas*, 597 U.S. 785 (2022) (No. 21-954) ([Solicitor General]: "DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended.").

25. In November, a district court in California also held in a series of decisions that DHS's position on bond eligibility is unlawful with respect to "all noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *1 (C.D. Cal. Nov. 25, 2025); *see also Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987, at *1, *32 (C.D. Cal. Dec. 18, 2025), *judgment entered sub nom. Maldonado Bautista v. Noem*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). That judgement should be binding on Respondents nationwide, but instead Respondents have directed immigration judges to ignore the decision.

26. Since this shift, "hundreds of district court decisions have rejected Respondents' expansive interpretation of Section 1225." *Molina v. DelLeon,* No. 25-CV-06526 (JMA), 2025 WL 3718728, at *3 (E.D.N.Y. Dec. 23, 2025); *see Martinez v. Joyce*, No. 25 CIV. 10376 (GBD), 2026 WL 62019, at *2 n.1 (S.D.N.Y. Jan. 8, 2026) (collecting cases); *Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025) (collecting cases at Appendix A); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *1 (W.D. Wash. Sept. 30, 2025) ("Every district court to address this question has concluded that the government's position belies the statutory text of the INA, canons of statutory interpretation,

legislative history, and longstanding agency practice."). These courts have rejected the notion that an individual who has resided in the U.S. for years is "arriving" and falls under a statute intended for use at the nationa's borders. *See Tumba v. Francis*, No. 25-CV-8110 (LJL), 2025 WL 3079014, at *2-6 (S.D.N.Y. Nov. 4, 2025); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 486-491 (S.D.N.Y. August 13, 2025).

27. Respondents' actions in detaining individuals like Petitioner without an individualized custody determination violates the right to due process. A person's liberty cannot be infringed upon without "adequate procedural protections." *Zadvydas*, 533 U.S. at 690-91. The Second Circuit has held that the *Matthews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *Velasco Lopez*, 978 F.3d at 851 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). This test requires process sufficient to mitigate the risk of erroneous deprivation of a liberty interest.

28. Numerous courts in this circuit and across the country have held that these detentions violate not only the Immigration and Nationality Act but also the due-process clause. *See, e.g.*, *Tejeda Mata v. Francis*, 26-CV-658 (KMK) (S.D.N.Y. Jan. 28, 2026) (ECF No. 6); *Lopez Benitez*, 795 F. Supp. 3d at 491-496; *Cuy Comes v. DeLeon*, No. 25 CIV. 9283 (AT), 2025 WL 3206491, at *5 (S.D.N.Y. Nov. 14, 2025); *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 at *4 (S.D.N.Y. June 18, 2025); *Padilla Molina v. Deleon*, No. 25-CV-06526 (JMA), 2025 WL 3718728, at *5 (E.D.N.Y. Dec. 23, 2025); *Hyppolite v. Noem*, No. 25-cv-4304, 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025). Their reasoning is simple: there is no greater interest than one's liberty, yet Respondents' complete lack of individualized process creates an enormous risk of erroneous deprivation—that is, nededless detention. The detention of individuals who pose neither flight

risk nor danger does not serve the public interest, particularly not where such detention separates minor U.S.-citizen children from their parents and deprives them of a breadwinner as it does here.

29. Finally, ICE officers' authority to conduct warrantless arrests is prescribed in 8 U.S.C. 1357(a)(2). That statute requires that officers have "reason to believe" a person is in the U.S. in violation of laws *and* "is likely to escape before a warrant can be obtained for his arrest." That assessment must be individualized.

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

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

31. Petitioner's detention violates both the substantive and procedural components of the Due Process Clause. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

32. Because "[i]n this country liberty is the norm and detention 'is the carefully limited exception,'" *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (*quoting United States v. Salerno*, 481 U.S. 739, 755 (1987)), a reasoned, individualized determination is essential to ensure that detention is not an unnecessary—and thus erroneous—deprivation. Petitioner was not accorded sufficient process prior to his sudden detention by ICE. On information and belief, he received neither notice nor an opportunity to be heard as to whether detention was warranted. *See Martinez*, 2026 WL 62019, at *3 (finding a due-process violation where the "Government offers

no justification for why" petitioner, a longtime U.S. resident, "was detained without an initial determination as to eligibility and without a bond hearing"); *Cuy Comes*, 2025 WL 3206491, at *5 (ordering immediate release where "ICE summarily detained Cuy Comes without making an individualized determination as to his risk of flight or his danger to the community, let alone affording him notice or opportunity to be heard").

33. Respondents now contend that Petitioner is ineligible for bond under *Matter of Yajure Furtado*, 29 I&N Dec. 216 (BIA 2025). Petitioner's mandatory detention, following a summary apprehension that failed to consider his individualized circumstances, violates his right to due process.

34. Petitioner's detention also violates his right to substantive due process. Substantive due process "prevents the government from engaging in conduct that 'shocks the conscience.'" *Martinez v. McAleenan*, 385 F. Supp. 3d 349, 356 (S.D.N.Y. 2019) (quoting *Rochin v. California*, 342 U.S. 165, 172, 72 S.Ct. 205, 209, 96 L.Ed. 183 (1952)). Petitioner is a longtime U.S. resident with U.S.-citizen children, including a five-year-old who recently underwent surgery, and whose detention poses no lawful purpose. Moreover, Respondents lied to him upon his detention, promising him that an agreement to voluntary departure would "clean his record" and allow his return in six months. This coercive lie occurred in the context of Petitioner's sudden arrest and incomunicado detention, as Respondents also failed to offer him a legal call or indeed any call. *See Mercado v. Noem*, 800 F. Supp. 3d 526, 578 (S.D.N.Y. 2025) (finding restrictions on access to legal calls at 26 Federal Plaza likely to violate the First and Fifth Amendments).

35. Respondents' actions violate Petitioner's right to due process.

COUNT TWO
VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

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

37. The Administrative Procedure Act prohibits agency action which is arbitrary and capricious; contrary to constitutional right; not authorized by statute; or taken "without observance of procedure required by law." 5 U.S.C. § 706(2).

38. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

39. Respondents' current construction of its detention authority, including the treatment of Petitioner as subject to mandatory detention, also violates the Immigration and Nationality Act and therefore the Administrative Procedure Act. Moreover, Respondents' decision to detain Petitioner and to maintain him despite no change in circumstance nor suggestion he poses a danger or flight risk is arbitrary and capricious

40. In addition, ICE officers' authority to conduct warrantless arrests is prescribed in 8 U.S.C. 1357(a)(2). That statute requires that officers have "reason to believe" a person is in the U.S. in violation of laws *and* "is likely to escape before a warrant can be obtained for his arrest." That assessment must be individualized.

41. On information and belief, no individualized assessment of flight risk was conducted for petitioner. Nor did officers have sufficient evidence of his alienage to detain him.

42. Instead, his detention was part of an operation to stop, question and detain Hispanic New Yorkers based solely on their race. Respondents' policy and practice of making warrantless arrests without the required individualized flight risk analysis is "final agency action" that violates the Administrative Procedure Act. *See Escobar Molina,* 2025 WL 3465518, at *2 ("enjoin[ing] preliminarily defendants from continuing any policy or practice of conducting warrantless civil immigration arrests in the District without making individualized probable cause determinations as to each arrestee's risk of escape, as required by 8 U.S.C. § 1357(a)(2)").

43. Accordingly, their policy of making warrantless arrests without the statutorily required individualized flight risk analysis, under which they arrested Petitioner, is ultra vires and therefore contrary to law.

COUNT THREE
VIOLATION OF THE FOURTH AMENDMENT

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

45. "The Fourth Amendment applies to all seizures of the person." *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975). Except at the border and its functional equivalents, the Fourth Amendment prohibits Respondents from conducting a detentive stop to question a person without reasonable suspicion that a person is a noncitizen unlawfully in the United States. *Id.* at 884. The Government bears the burden of providing "specific and articulable facts" to support reasonable suspicion. *See Terry v. Ohio*, 392 U.S. 1, 21 (1968). The race of an individual cannot itself create reasonable suspicion, even for a temporary stop. *United States v. Brignoni-Ponce*, 422 U.S. 873, 887 (1975); *Noem v. Vasquez Perdomo*, No. 25A169, --- S.Ct. ----, 2025 WL 2585637, at *3 (Sep. 8, 2025) (Kavanaugh, J., concurring). Officers lacked reasonable suspicion to approach and question Petitioner.

46. A search or seizure requires probable cause to believe a noncitizen "is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained." 8 U.S.C. § 1357 (a)(2). "Though 8 U.S.C. § 1357(a)(2) uses the phrase 'reason to believe; as the standard for executing warrantless civil immigration arrests, 'aliens in this country are sheltered by the Fourth Amendment in common with citizens,' and therefore, to avoid running afoul of the Fourth Amendment, this statutory phrase is 'considered the equivalent of probable cause.'" *Escobar Molina*, 2025 WL 3465518, at *13 (quoting *Au Yi Lau v. U.S. Immigr. & Naturalization Serv.*, 445 F.2d 217, 222-23 (D.C. Cir. 1971)); *see also United States v. Rodriguez*, 532 F.2d 834, 838 (2d Cir. 1976) (recognizing that arrests under 8 U.S.C. § 1357(a)(2) require probable cause); *English v. Sava*, 571 F. Supp. 1029, 1034 (S.D.N.Y. 1983) (construing 8 U.S.C. § 1357(a)(2) to require probable cause). Officers lacked probable cause to seize Petitioner.

47. Respondents' actions violated Petitioner's rights under the Fourth Amendment.

COUNT FOUR
RELEASE PENDING ADJUDICATION

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

49. Pursuant to *Mapp v. Reno*, this Court has the "inherent authority" to set bail pending the adjudication of a habeas petition when the petition has raised (1) substantial claims and (2) extraordinary circumstances that (3) "make the grant of bail necessary to make the habeas remedy effective." 241 F.3d 221, 226 (2d Cir. 2001).

50. As the overwhelming consensus among district courts confirms, Petitioner presents substantial claims. He also presents extraordinary circumstances: his arrest was the result of an unlawful race-based stop, an alarming breach of constitutional norms, and he now finds himself

detained for no reason. His detention has separated him from his family, including two young U.S.-citizen children.

51. He requests immediate release pending adjudication of the instant petition.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Enjoin Petitioner's removal from the United States and the Southern District of New York pending adjudication of the instant petition;
3. Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;
4. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and the Administrative Procedure Act;
5. Grant a writ of habeas corpus ordering Respondents to immediately and unconditionally release Petitioner from custody, without GPS monitoring;
6. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
7. Grant such further relief as this Court deems just and proper.

Dated: Jan. 29, 2026

/s/ Paige Austin
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CERTIFICATE OF SERVICE

I certify that on January 29, 2026, I electronically filed the attached the foregoing Petition for Writ of Habeas Corpus and accompanying Exhibits with the Clerk of the Court for the United States District Court for the Southern District of New York using the CM/ECF system. Service will therefore be effected by the CM/ECF system.

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Attorney for Petitioner

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

I am submitting this verification on behalf of the Petitioner because Make the Road New York represents him in the instant petition for habeas corpus. On information and belief, I hereby verify the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: January 29, 2026 /s/Paige Austin