

1 **Gabriel G. Leyba, Esq.**
2 **Crossroads Law Group PLLC**
3 **3200 N. Central Avenue, STE 1180**
4 **Phoenix, Arizona 85012**
5 **AZ Bar No. 026911**
6 **602-235-0279 facsimile**
7 **ggleyba@gmail.com**
8 **602-235-0111 voice**

9 **Sabrina Perez-Arleo, Esq.**
10 **Perez Law Office, PLLC**
11 **80 N. McClintock Dr., Ste. 1**
12 **Chandler, Arizona 85226**
13 **AZ Bar No. 028282**
14 **sabrinaperezarleo@gmail.com**
15 **480-785-2222 voice**
16 **Attorneys for Plaintiff**

17 **UNITED STATES DISTRICT COURT**
18 **FOR THE DISTRICT OF ARIZONA**
19 **PHOENIX, ARIZONA**

20 Jefferson Alexander Arevalo Molina;

21 Plaintiff,

22 v.

23 Kristi Noem, Secretary, U.S. Department
24 of Homeland Security (DHS); Pamela
25 Bondi, Attorney General of the United
26 States, Executive Office for Immigration
27 Review (EOIR); Joseph B. Edlow,
28 Director, U.S. Citizenship and
Immigration Services (USCIS); Natalie
Huddleston, Immigration Judge, EOIR
Florence; Christopher McGregor, Acting
Field Office Director, ICE Enforcement
and Removal Operations, Phoenix Field
Office; Luis Rosa Jr., Warden, Central
Arizona Florence Correctional Complex,

Defendants.

Case No. _____

Immigration Number: A 

**PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT TO
28 U.S.C. § 2241**

I. INTRODUCTION

1. Plaintiff Jefferson Alexander Arevalo Molina (A ), by and through undersigned counsel, respectfully requests this Honorable Court order the Department of Homeland Security ("DHS") to release him from Immigration and Customs Enforcement

1 (“ICE”) detention in Florence, Arizona. Plaintiff also requests this Court issue an order of
2 mandamus pursuant to the Administrative Procedures Act (APA) 5 U.S.C. § 706 setting aside
3 the filing of the Notice to Appear and the scheduling of merits hearing in immigration court
4 on the Plaintiff’s I-589 application for asylum. Plaintiff entered the United States as an
5 unaccompanied minor and filed an I-589 with U.S. Citizenship and Immigration Services
6 (“USCIS”). The Plaintiff has an approved I-360 petition for Special Immigrant Juvenile
7 Status (“SIJS”) and grant of deferred action. DHS violated its own regulations by detaining
8 Plaintiff, initiating removal proceedings, and setting a hearing on the merits of his asylum
9 application. None of these actions should take place prior to and without USCIS first
10 determining jurisdiction over the I-589 and providing due process on Plaintiff’s still valid
11 deferred action status. Plaintiff must be immediately released to ensure he is not detained
12 while Defendants continue to deprive him of due process by failing to follow their own
13 regulations.

14 2. Plaintiff is a 21-year-old native and citizen of El Salvador who entered the United
15 States on or about December 14, 2020, at the age of 16 as an Unaccompanied Child (“UAC”).
16 Plaintiff was detained and on January 9, 2021, the Office of Refugee Resettlement (“ORR”)
17 released him to his sponsor. The Superior Court of Arizona determined Plaintiff to have been
18 abandoned by his mother and on December 10, 2022, USCIS approved Plaintiff’s I-360
19 petition for SIJS. At that same time, USCIS granted Plaintiff deferred action. On September
20 19, 2023, the Immigration Judge in Phoenix, Arizona terminated the Plaintiff’s removal
21 proceedings. In 2025 Plaintiff was arrested for a misdemeanor offense that remains pending
22 with the Phoenix Municipal Court, and thereafter, he was taken into ICE custody and served
23 with another NTA placing him into removal proceedings before the Florence Immigration
24 Court. He remains detained for removal proceedings and the Immigration Judge has
25 scheduled a hearing on the merits of Plaintiff’s I-589 despite USCIS retaining initial
26 jurisdiction over the same.

27 3. DHS regulation and policy requires USCIS to first determine jurisdiction over
28 Plaintiff’s I-589. DHS regulation and policy requires USCIS to make a case-by-case

1 determination prior to terminating the grant of deferred action. DHS is bound to respect its
2 own determination granting Plaintiff the benefit of deferred action.

3 4. Defendants have denied Plaintiff his due process rights under the Amendment
4 V of the U.S. Constitution by detaining him and commencing removal proceedings while the
5 USCIS grant of deferred action remains valid. Defendant Huddleston scheduled a hearing on
6 the merits of Plaintiff's I-589 in complete disregard for USCIS' initial jurisdiction over the
7 application. Defendants Huddleston and DHS have refused to acknowledge that Plaintiff
8 continues to be statutorily eligible for adjustment of status pursuant to his approved I-360
9 petition for SIJS.

10 5. Plaintiff will suffer irreparable and immediate injury from continued unlawful
11 detention unless the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 is granted.

12 **II. JURISDICTION**

13 6. This Court has jurisdiction over petitions for Habeas Corpus pursuant to 28
14 U.S.C. § 2241. The Plaintiff is in the custody of the United States.

15 7. This Court has jurisdiction over civil actions brought under 28 U.S.C. § 1331
16 because this action arises under the Constitution and laws of the United States. This Court has
17 jurisdiction pursuant to 28 U.S.C. § 1361 which authorizes actions in district court, "to compel
18 an officer or employee of the United States or agency thereof to perform a duty owed to the
19 plaintiff."

20 8. The aid of the Court is invoked under 28 U.S.C. § 2201 and 2202, authorizing
21 a declaratory judgement.

22 9. This Court has jurisdiction pursuant to the Administrative Procedures Act
23 ("APA") to set aside agency action is arbitrary, capricious, not in accordance with law,
24 without observance of procedure required by law, and compel the agency to perform a duty
25 owed to Plaintiff under 5 U.S.C. §§ 706(1), (2). *See also United States ex rel. Accardi v.*
26 *Shaughnessy*, 347 U.S. 260 (1954) ("procedures required by law include an agency's own
27 regulations and internal operating procedures, even for substantive decisions committed to
28 discretion.")

1 10. Plaintiff concurrently files a motion for a temporary restraining order and/or
2 preliminary injunction to protect his right to be protected from deprivation of liberty without
3 due process of law.

4 **III. VENUE**

5 11. Venue is asserted pursuant to 28 U.S.C. § 1391(e) because the Plaintiff is being
6 detained in Florence, Arizona, Defendants are the U.S. Government, and no real property is
7 involved in the action.

8 **IV. Exhaustion**

9 12. Exhaustion is a prudential rather than a jurisdictional requirement. *Singh v.*
10 *Holder*, 638 F.3d 1196, 1203 n. 3 (9th Cir. 2011). Waiver of exhaustion is appropriate “where
11 administrative remedies are inadequate or not efficacious, pursuit of administrative remedies
12 would be a futile gesture, irreparable injury will result, or the administrative proceedings
13 would be void.” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation
14 marks omitted).

15 13. In the instant case, USCIS approved the Plaintiff’s petition for SIJS status and
16 granted him deferred action. USCIS has initial jurisdiction over Plaintiff’s I-589 application
17 for asylum as a UAC. Defendants DHS and EOIR have detained Plaintiff and pursued
18 removal proceedings despite USCIS never terminating deferred action and despite USCIS
19 having initial jurisdiction over the I-589. By regulation, DHS and EOIR cannot adjudicate
20 Plaintiff’s I-589 without USCIS first having considered the application. Plaintiff should not
21 have to defend his case before the Immigration Court and then appeal to seek relief. Appeal
22 does not provide relief to Plaintiff because the Board of Immigration Appeal will not have
23 jurisdiction to determine the actions or inactions of USCIS regarding Plaintiff’s I-589, SIJS,
24 and deferred action. This complaint is necessary to stop DHS from violating its own
25 regulations and procedures.

26 **V. PARTIES**

27 14. Plaintiff, Jefferson Alexander Arevalo Molina is a native and citizen of El
28 Salvador who entered the United States as UAC, and is currently detained by DHS in Central

1 Arizona Florence Correctional Complex, a CoreCivic contract facility in Florence, Arizona.
2 He is protected by the Immigration and Nationality Act, USCIS regulations, USCIS policy,
3 and District Court orders requiring USCIS provide Plaintiff due process on his I-589
4 application and grant of deferred action as the beneficiary of SIJS.

5 15. Defendant Kristi Noem is the Secretary of the DHS, responsible for overseeing
6 and directing ICE and USCIS. Plaintiff is pending agency action from both ICE and USCIS.

7 16. Defendant Pamela Bondi is the Attorney General of the United States.
8 Defendant Bondi is the head of the United States Department of Justice and responsible for
9 the entire department, which includes the Executive Office for Immigration Review (EOIR).

10 17. Defendant Joseph B. Edlow, is the Director of the USCIS. He oversees Plaintiff's
11 I-589 application, SIJS, and deferred action, all currently pending with USCIS.

12 18. Defendant Natalie Huddleston, Immigration Judge, in the EOIR Florence
13 Immigration Court is assigned to Plaintiff's removal proceedings and issued the orders setting
14 a hearing on the merits of the I-589.

15 19. Defendant Christopher McGregor, Acting Field Office Director of ICE
16 Enforcement and Removal Operations in Phoenix, Arizona, is responsible for Plaintiff's
17 custody in Florence, Arizona.

18 20. Defendant Luis Rosa Jr. is the Warden at the ICE contract facility Cental
19 Arizona Florence Correctional Complex, operated by CoreCivic. Defendant Luis Rosa Jr. is
20 responsible for Plaintiff's physical custody.

21 VI. FACTUAL ALLEGATIONS

22 21. Plaintiff is a citizen of El Salvador who, at 16 years of age, entered the United
23 States as an UAC without inspection on or about December 14, 2020.

24 22. On December 15, 2020, DHS took Plaintiff into custody and placed him into
25 removal proceedings by filing a Notice to Appear ("NTA"). On January 9, 2021, ORR
26 released Plaintiff to his sponsor.

27 23. On May 19, 2022, the Superior Court of Arizona, County of Maricopa, issued
28 SIJ finding establishing Plaintiff suffered abandonment and neglect from his mother and that

1 it was not in his best interests to be returned to his native country of El Salvador.

2 24. On May 31, 2022, Plaintiff filed an I-360 petition for Special Immigrant
3 Juvenile Status with USCIS, and the petition was approved on December 10, 2022.
4 Petitioner's priority date for his visa is May 31, 2022.

5 25. In addition to approving the I-360, also on December 10, 2022, USCIS granted
6 Plaintiff deferred action, valid until December 10, 2026. The USCIS notice states:

7 "Your Form I-360 petition has been approved, but you do not
8 yet have a visa available to file an application for adjustment of
9 status. USCIS has determined that you warrant a favorable
10 exercise of discretion to receive deferred action ... Your grant of
11 deferred action will remain in effect for a period of four years
12 from the date of this notice unless terminated earlier by USCIS."

13 26. On September 18, 2023, the Phoenix Immigration Court ordered Plaintiff's
14 removal proceedings dismissed.

15 27. On October 16, 2025, Plaintiff was arrested and charged in the Phoenix
16 Municipal Court for a class 3 misdemeanor assault (non-DV) under A.R.S. § 13-1203(A)(3).
17 This alleged offense only requires an offensive touching, does not require causing of injury,
18 and is the lowest level misdemeanor under Arizona law. *See* A.R.S. § 13-707. On October
19 18, 2025, upon being released from State custody, ICE detained Plaintiff and issued a new
20 NTA placing him into removal proceedings.

21 28. On October 22, 2025, ICE filed the NTA with the Florence Immigration Court
22 charging Plaintiff as inadmissible as a non-citizen without a valid, unexpired visa. At that
23 time, ICE did not submit any evidence to support the charge.

24 29. On November 12, 2025, Plaintiff appeared before Defendant Huddleston, who
25 found Plaintiff to have waived his right to counsel and entered pleadings on the NTA. The
26 Immigration Judge sustained the charges.

27 30. On November 19, 2025, legal counsel entered an appearance on behalf of
28 Plaintiff and on November 24, 2025, appeared with Plaintiff at a master calendar hearing
where Defendant Huddleston denied Plaintiff's motion for continuance to allow time to
prepare the case. Defendant Huddleston ordered the filing of the I-589 application setting a

1 hearing on the merits for December 10, 2025.

2 31. On November 28, 2025, Plaintiff filed a motion to dismiss arguing DHS had not
3 presented any evidence to sustain the charges, violating Plaintiff's right to due process. DHS
4 responded, filing an I-213 as evidence and filing a written opposition to Plaintiff's motion to
5 dismiss. Plaintiff replied to the DHS opposition with evidence of his approved SIJS and
6 arguing he was entitled to SIJS protections pursuant to the memorandum and order in *A.C.R.*
7 *et al. v. Noem et al.*, Case No. 1:25-cv-03962-EK-TAM, November 19, 2025 (E.D.N.Y.).

8 32. On January 2, 2025, Defendant Huddleston issued an order denying Plaintiff's
9 motion to dismiss, erroneously finding Plaintiff did not have an approved SIJS: ". . . The
10 [Plaintiff] has not shown he may be lawfully present. The [Plaintiff] has submitted evidence
11 that he is pursuing SIJS, but those documents clearly state that they do not confer any lawful
12 status."

13 33. On January 7, 2026, Plaintiff filed an I-589 application for asylum with USCIS.
14 Thereafter, Plaintiff was placed into a "cohort" due to a measles outbreak, cutting off his
15 access to legal counsel and the court hearings. On January 30, 2026, Plaintiff filed a motion
16 to continue the merits hearing, or administratively close proceedings to allow USCIS to first
17 consider Plaintiff's I-589 as a UAC in accordance with the J.O.P. Settlement Agreement
18 under *J.O.P v. DHS*, Case No. 8:19-cv-01944-SAG, July 30, 2024 (D. Md.).

19 34. Defendant Huddleston granted the motion to continue on the basis of Plaintiff's
20 segregation in a cohort due to the measles outbreak. Defendant Huddleston failed to
21 acknowledge the application of the J.O.P. Settlement Agreement to Plaintiff's case. The
22 hearing on the merits is set for March 5, 2026.

23 35. USCIS has not made any jurisdictional decisions regarding Plaintiff's I-589.

24 36. USCIS has not taken any action to revoke, deny, or terminate Plaintiff's granted
25 I-360 petition for SIJS.

26 37. USCIS has not taken any action to revoke, deny, or terminate Plaintiff's grant
27 of deferred action.

28 38. Plaintiff's arrest for misdemeanor assault does not raise or support any

1 additional charges or findings of inadmissibility under 8 U.S.C. § 1182 *et seq.* Plaintiff
 2 remains statutorily eligible for adjustment of status through his grant of SIJS under 8 U.S.C.
 3 § 1225(h). Plaintiff's I-360 has a priority date of May 31, 2022. The State Department's visa
 4 bulletin¹ for March of 2026 "final action dates" under 4th preference employment based ("EB-
 5 4") immigrant visas (which includes SIJS) shows availability for petitions with a priority date
 6 of July 15, 2021 or older. Pursuant to 8 C.F.R. §§ 245.1(g)(1), 245.2(a)(1); USCIS Policy
 7 Manual Vol. 7. Part A, Ch. 6.C.4, Ch3.D., Plaintiff would be eligible to file his application
 8 for adjustment of status with USCIS were he not in removal proceedings because the "filing
 9 dates" for EB-4 preference categories are ready for priority dates of January 1, 2023² or
 10 earlier. This means Plaintiff can immediately file an I-485 application for adjustment of status
 11 with USCIS based on his approved SIJS. This signals that Plaintiff's priority date is close to
 12 becoming current.

13 39. Defendants hold Plaintiff detained for removal proceedings in complete
 14 disregard for his due process rights as a designated UAC or beneficiary of an approved SIJS
 15 and deferred action. Defendants continue to process Plaintiff for removal without following
 16 their own regulations and policies. Defendants continue to process Plaintiff for removal
 17 proceedings despite their own agency, USCIS, having granted Plaintiff deferred action.

18 40. Plaintiff's detention for removal proceedings places him under duress to give
 19 up his rights as a UAC, SIJ, and beneficiary of deferred action. It also puts Plaintiff at risk
 20 of removal prior to his ability to apply for adjustment of status.

21 VII. LEGAL FRAMEWORK

22 41. 8 U.S.C. § 1158(b)(3)(C) states in pertinent part: "Initial jurisdiction. An
 23

24 ¹<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>

25 ²<https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-avail>
 26 [ability-priority-dates/when-to-file-your-adjustment-of-status-application-for-family-spons](https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/when-to-file-your-adjustment-of-status-application-for-family-sponsored-or-employment-based-122)
 27 [ored-or-employment-based-122](https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/when-to-file-your-adjustment-of-status-application-for-family-sponsored-or-employment-based-122)
 28

1 asylum officer . . . shall have initial jurisdiction over any asylum application filed by an
2 unaccompanied alien child”

3 42. On July 30, 2024, the J.O.P. Settlement Agreement was issued in *J.O.P v. DHS*,
4 Case No. 8:19-cv-01944-SAG (D. Md.) binding DHS to have USCIS exercise initial
5 jurisdiction over I-589 applications filed by previously designated UAC applicants. The
6 settlement agreement continues to provide protection to designated UAC’s under the William
7 Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (“TVPRA”) Public
8 Law 110-457.

9 43. On October 30, 2025, USCIS issued a Memorandum from Brett Lassen
10 (“Lassen Memo”), Acting Chief, Asylum Division, implementing the terms of the J.O.P.
11 Settlement Agreement and it states: “In cases in which the alien is in removal proceedings and
12 CBP or ICE already determined that the alien is a UAC, asylum officers will adopt that
13 determination and USCIS will take initial jurisdiction over the asylum application.” *Id.* at
14 III.A. For an applicant previously determined to a UAC and then placed into detention as an
15 adult, “USCIS may determine that it lacks initial jurisdiction.” *Id.*

16 44. Regarding UAC designations, “USCIS cannot defer to determinations made by
17 EOIR” *Id.* at III.D.

18 45. Pursuant to both the Lassen Memo and the J.O.P. Settlement Agreement:

19 “When the asylum officer determines that USCIS lacks
20 jurisdiction over an asylum application filed by an alien
21 previously determined to be a UAC because the alien was placed
22 in adult immigration detention prior to filing the initial asylum
23 application, the asylum office will provide the alien with a
24 notice of lack of jurisdiction that includes a detailed description
25 of the information leading the asylum officer to believe that the
26 alien was placed in adult immigration detention The notice
27 of lack of jurisdiction will provide the alien with an opportunity
28 to rebut the information within 30 days (or 33 days if the notice
is served by mail). If the alien successfully rebuts the
information the asylum officer relied on to reject jurisdiction,
then the asylum office must retract the jurisdictional rejection
within 30 days of receiving the rebuttal Once the asylum
office retracts the jurisdictional rejection, the asylum office will
reopen the case and resume processing the asylum application.”

46. Defendant DHS failed to follow 8 U.S.C. § 1158(b)(3)(C), their own

1 regulations, and the J.O.P. Settlement Agreement by pursuing removal prior to a USCIS
2 determination of initial jurisdiction. Plaintiff's right to due process is further violated because
3 no communication or notices have been issued by USCIS to Plaintiff in accordance with DHS
4 regulation and policy.

5 47. Defendant Huddleston violated Plaintiff's right to due process by scheduling
6 a hearing on the merits of an I-589 in complete disregard for the statutory requirement of
7 USCIS taking initial jurisdiction. *See* 8 U.S.C. § 1158(b)(3)(C). EOIR and ICE are not at
8 liberty to move forward on the adjudication of the I-589 without USCIS first having the
9 opportunity to consider the application.

10 48. 8 U.S.C. § 1101(a)(27)(J), 8 C.F.R. § 204.11, provides Special Immigrant
11 Juvenile Status to an immigrant when: 1) a juvenile court in the United States has declared
12 them unable to reunify with at least one parent due to abuse, neglect, or abandonment; 2) the
13 juvenile court determined that it is not in the best interests of the non-citizen to be returned
14 to their country of nationality and; 3) DHS has consented to the grant of special immigrant
15 juvenile status.

16 49. Pursuant to 8 U.S.C. §§ 1255(a), (h), those granted SIJS will be treated as
17 having been paroled in to the United States for purposes of adjustment of status and may
18 adjust status when the visa priority date becomes immediately available.

19 50. On March 7, 2022, USCIS issued Policy Alert PA-2022-10 providing guidance
20 for USCIS to "consider granting deferred action on a case-by-case basis to noncitizens
21 classified as SIJs who are ineligible to apply for adjustment of status solely due to unavailable
22 immigrant visa numbers."

23 51. In 2025, USCIS attempted to rescind the policy of providing deferred action to
24 non-citizens granted SIJS. On November 19, 2025, in *A.C.R., et al., v. Noem, et al.*, Case No.
25 1:25-cv-03962-EK-TAM, (E.D.N.Y.), the District Court filed a memorandum and order
26 finding DHS had rescinded the policy and denied deferred action to SIJS recipients in likely
27 violation of the APA and *Accardi* Doctrine. The District Court found "much like DACA,
28 SIJS-DA [2022 Policy Alert] 'was more than a non-enforcement policy' – it was a 'program

1 conferring affirmative immigration relief.” *Id.* at pg. 18, *Citing Dep’t of Homeland Sec. v.*
2 *Regents of the Univ. of Cal.*, 591 U.S. 1, 18-19, 140 S.Ct. 1891, 1906, (2020).

3 52. “If USCIS previously granted deferred action to an alien with SIJ classification
4 in the exercise of discretion, the alien’s deferred action remains valid for the authorized
5 period, unless terminated by USCIS, on a case-by-case basis, as a matter of discretion.”
6 USCIS Policy Manual Vol. 6, Part J, Ch. 4.G.1.

7 53. District Courts have previously enforced rules and settlement agreements
8 requiring DHS to provide notice, reasoning, and an opportunity to respond prior to revoking
9 deferred action under the DACA and SIJS policies. *See Inland Empire et al. v. Nielson et al.*
10 Case No. 5:17-cv-02048, February 26, 2018 (C.D. Ca.) (Finding revocations of DACA
11 without notice and opportunity to respond to be illegal); *Saravia v. Barr et al.*, Case No. 3:17-
12 cv-03615, September 17, 2020 “Saravia Settlement Agreement” (N.D. Ca.) (Requiring
13 USCIS to provide notice and an opportunity to respond before terminating deferred action for
14 SIJS recipients accused of gang affiliation). These cases directly affected the detention of
15 non-citizens previously granted deferred action.

16 54. Defendants through EOIR, ICE, and USCIS withhold agency action required
17 by regulation and law when they failed to acknowledge, allow, and require USCIS to exercise
18 initial jurisdiction over Plaintiff’s I-589 application for asylum.

19 55. Defendant Noem, Secretary of DHS, oversees both ICE and USCIS. Plaintiff
20 was accorded deferred action by USCIS, and it remains valid. It is arbitrary, capricious, and
21 not in accordance with DHS regulations to detain Plaintiff for removal proceedings prior to,
22 and without seeking to terminate the USCIS grant of deferred action. This constitutes a *de*
23 *facto* termination of deferred action protections without due process. DHS cannot with one
24 arm, ICE, pursue removal while with the other arm, USCIS, provides valid deferred action.
25 Deferred action should be given force and meaning. The Plaintiff relies on this “affirmative
26 immigration relief,” the benefits of which should not be taken away without notice and an
27 opportunity to respond.

28 56. Although DHS retains the discretion under 8 U.S.C. § 1252(g) to initiate

1 removal proceedings, DHS does not have the discretion to do so in disregard for their own
2 policies and regulations. DHS must provide due process and seek to properly terminate the
3 USCIS grant of deferred action in order to seek Plaintiff's detention and removal. The
4 USCIS Policy Manual Vol. 6, Part J, Ch. 4(G)(1) requires deferred action remain valid unless
5 they conduct an individualized "case-by-case" analysis to terminate. This analysis is not
6 optional. The Agency must take this step before terminating the benefits of deferred action.
7 The case-by-case analysis necessitates notice, reasoning, and an opportunity for Plaintiff to
8 respond.

9 57. The APA and *Accardi* doctrine protect Plaintiff and provide this Court
10 jurisdiction to order Plaintiff's release, set aside the agency action of filing the NTA, and
11 compel USCIS to provide Plaintiff with due process in accordance with their own regulations
12 and policy.

13 **VIII. CLAIMS FOR RELIEF**

14 58. Plaintiff realleges paragraphs 1 through 57 herein as fully set forth, and
15 Plaintiff's continued detention is a violation of Due Process rights under Amendment V, U.S.
16 Constitution and not in accordance with the INA, DHS regulations, and DHS policies.

17 59. Pursuant to the APA, USCIS' failure to assume initial jurisdiction is agency
18 action unlawfully withheld and not in accordance with law.

19 60. Pursuant to the APA, DHS detaining Plaintiff for removal proceedings while
20 DHS' own grant of deferred action remains valid is arbitrary, capricious, and not in
21 accordance with law.

22 61. Defendants detaining Plaintiff for removal proceedings prior to and without
23 initiating a process for USCIS to terminate Plaintiff's deferred action is a failure to follow
24 their own regulations and policies. Defendants are bound to follow their own regulations.

25 62. DHS regulations and policy require USCIS to provide Plaintiff notice,
26 reasoning, and an opportunity to respond prior to terminating deferred action.

27 63. Pursuant to the INA, EOIR cannot exercise jurisdiction over Plaintiff's UAC
28 designated I-589 prior to USCIS making a determination on the application.

1 64. Plaintiff is eligible for payment of attorney's fees, related expenses, and costs
2 pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

3 **IX. PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays that the Court grant the following relief:

- 5 (1) Assume jurisdiction over this cause pursuant to 28 U.S.C. § 2241;
6 (2) Restrain Defendants from adjudicating Plaintiff's I-589 in Immigration Court prior to
7 USCIS exercising jurisdiction over the same;
8 (3) That the Court grant the petition for habeas corpus and order Defendants to
9 immediately release Plaintiff while the USCIS grant of deferred action remains valid;
10 (4) Declare Plaintiff is protected by the J.O.P. Settlement Agreement;
11 (5) Set aside the NTA while Plaintiff's deferred action remains valid;
12 (6) That the Court order payment of Plaintiff's attorney's fees and costs pursuant to EAJA;
13 (7) That the Court grant further relief as this Court deems proper under the circumstances.

14 RESPECTFULLY SUBMITTED, this day 2nd day of March, 2026,

15 Perez Law Office, PLLC

CROSSROADS LAW GROUP PLLC

16 s/ Sabrina Perez-Arleo

s/ Gabriel G. Leyba, Esq.

17 Sabrina Perez-Arleo
Attorneys for Plaintiff

Gabriel G. Leyba

18 **LIST OF ATTACHMENTS**

19 Exhibit Description

- 20 A January 9, 2021, ORR UAC Release Form
21 B December 11, 2022, USCIS Notice of I-360 SIJS Approval and Grant of Deferred
22 Action.
23 C September 18, 2023, EOIR Order Dismissing Removal Proceedings
24 D October 18, 2025, Notice to Appear
25 E January 2, 2026, EOIR Order Denying Plaintiff's Motion to Dismiss
26 F February 2, 2026, EOIR Order to Continue Merit Hearing

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