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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF ARIZONA

12 C.M., on her own behalf and on behalf of
13 her minor child, B.M.; L.G., on her own
14 behalf and on behalf of her minor child,
15 B.G.; M.R., on her own behalf and on
16 behalf of her minor child, J.R.; O.A., on
17 her own behalf and on behalf of her
18 minor child, L.A.; and V.C., on her own
19 behalf and on behalf of her minor child,
20 G.A.,

21 Plaintiffs,

22 v.

23 United States of America,

24 Defendant.

No.

COMPLAINT

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* *Pro hac vice application forthcoming*

INTRODUCTION

1
2 1. This matter concerns an unprecedented policy issued at the highest
3 levels of the federal government to separate asylum-seeking parents from their
4 children. The government’s policy of forcibly taking children from their parents
5 caused extraordinary trauma to thousands of families, including Plaintiffs—five
6 mothers and their respective five children, who at the time of separation were between
7 five and twelve years old, and who were separated for months. The trauma suffered
8 by Plaintiffs and other parents and children was no incidental byproduct of the policy.
9 It was the very point. The government sought to inflict emotional distress in order to
10 deter parents and children from seeking asylum in this country.
11

12
13 2. Executive branch officials intended to use the trauma resulting from
14 family separations, and media reporting about that trauma, to deter future asylum
15 seekers. Federal officials at the highest levels made repeated public statements
16 acknowledging the policy’s purpose. Despite widespread condemnation and a federal
17 court injunction requiring the government to reunite separated families and stop
18 further separations, President Trump has continued to defend the policy as a deterrent
19 to migration from Central America, such as when he tweeted, “[I]f you don’t separate,
20 FAR more people will come.”¹
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25 ¹ Donald Trump (@realdonaldtrump), TWITTER (Dec. 16, 2018, 11:25 AM),
26 <https://twitter.com/realDonaldTrump/status/1074339834351759363> (emphasis in
27 original); *see also* Kimberly Kindy, Nick Miroff & Maria Sacchetti, *Trump Says*
28 *Ending Family Separation Practice Was a “Disaster” That Led to Surge in Border*
Crossings, WASH. POST, Apr. 28, 2019, <https://washingtonpost.com/politics/trump-says-ending-family-separation-practice-was-a-disaster-that-led-to-surge-in-border-crossings/2019/04/28/73e9da14-69c8-11e9-a66d-a82d3f3d96d5story.html>.

1 3. In total, the government has acknowledged that it has separated at least
2 3,800 children from their parents or guardians after they crossed the southwestern
3 U.S. border.² Additional government reporting indicates that the number of families
4 separated likely is much higher.³

6 4. After taking children from their parents, the government inflicted
7 further trauma when it delayed providing information to parents and children of each
8 other's whereabouts or well-being, failed to facilitate adequate communication
9 between the parents and children during their separation, and failed to implement any
10 system for tracking the children to ensure that the families could be reunited.

12 5. The ten Plaintiffs in this action fell victim to the Administration's policy
13 in May 2018, when federal officers forcibly separated each Plaintiff mother from her
14 child while they were detained at various immigration holding centers in Arizona.
15 Each family remained separated for more than two months. Throughout that time, the
16 government provided only limited information to each mother about her child's
17 whereabouts and well-being and afforded only minimal opportunities for each mother
18 and child to communicate, sometimes at the mother's expense. As a result of the
19
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22 ² Joint Status Report at 1, 10, *Ms. L. v. U.S. Immigration and Customs Enf't*, No. 18-
23 cv-00428 DMS MDD (S.D. Cal. Sept. 9, 2019), ECF No. 465 (the government
24 acknowledged that, for the original class, as many as 2,814 children were separated
25 from their parents, and has so far acknowledged an additional 986 children as part of
26 the expanded class); *see also* OFFICE OF THE INSPECTOR GENERAL, U.S. DEP'T OF
HEALTH & HUMAN SERVS., OEI-BL-18-00511, SEPARATED CHILDREN PLACED IN
OFFICE OF REFUGEE RESETTLEMENT CARE 11 (Jan. 17, 2019) [hereinafter HHS OIG
REPORT I].

27 ³ *See* HHS OIG REPORT I, *supra* note 2, at 1, 6, 13 (reporting that "thousands of
28 children may have been separated . . . before the accounting required by the Court [in
Ms. L.]").

1 government's actions, all Plaintiffs suffered, and continue to suffer, substantial and
2 ongoing trauma.

3
4 6. The government's family separation policy was cruel and inhumane,
5 and it was unlawful. The United States is liable for the conduct which harmed
6 Plaintiffs under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b)(1), 2671, *et seq.*
7 ("FTCA").

8
9 7. Plaintiffs bring this action under the FTCA seeking compensation for
10 the extraordinary harms they suffered at the hands of the federal government.

11 **JURISDICTION AND VENUE**

12 8. This Court has jurisdiction over the subject matter of this Complaint
13 under 28 U.S.C. §§ 1331, 1346(b).

14
15 9. On February 11, 2019, Plaintiffs submitted administrative claims to the
16 U.S. Department of Homeland Security ("DHS") and the U.S. Department of Health
17 and Human Services ("HHS"). Neither agency has made a final disposition of any
18 Plaintiff's administrative claim and, as six months have passed since Plaintiffs'
19 submission of the claims, they are deemed finally denied. 28 U.S.C. § 2675(a).
20 Accordingly, Plaintiffs have exhausted all potential administrative remedies.

21
22 10. Venue is proper in this District under 28 U.S.C. § 1402(b) as the acts
23 and omissions which are the subject of this Complaint occurred in this District.

24 **PARTIES**

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26 11. Plaintiff C.M., now 29 years old, was 27 years old at the time of the
27 forced separation described in this Complaint. She is the mother of Plaintiff B.M.,
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1 now seven years old, who was five years old at the time of the separation. C.M. and
2 B.M. are nationals of Guatemala and are presently seeking asylum in the United
3 States. They reside in the United States.
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5 12. Plaintiff L.G., now 24 years old, was 23 years old at the time of the
6 forced separation described in this Complaint. She is the mother of Plaintiff B.G.,
7 now eight years old, who was seven years old at the time of the separation. L.G. and
8 B.G. are nationals of Guatemala and are presently seeking asylum in the United
9 States. They reside in the United States.
10

11 13. Plaintiff M.R., now 35 years old, was 34 years old at the time of the
12 forced separation described in this Complaint. She is the mother of Plaintiff J.R., now
13 14 years old, who was 12 years old at the time of the separation. M.R. and J.R. are
14 nationals of Guatemala and are presently seeking asylum in the United States. They
15 reside in the United States.
16

17 14. Plaintiff O.A., now 26 years old, was 25 years old at the time of the
18 forced separation described in this Complaint. She is the mother of Plaintiff L.A.,
19 now six years old, who was five years old at the time of the separation. O.A. and L.A.
20 are nationals of Guatemala and are presently seeking asylum in the United States.
21 They reside in the United States.
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23 15. Plaintiff V.C., now 24 years old, was 23 years old at the time of the
24 forced separation described in this Complaint. She is the mother of Plaintiff G.A.,
25 now eight years old, who was six years old at the time of the separation. V.C. and
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1 G.A. are nationals of Guatemala and are presently seeking asylum in the United
2 States. They reside in the United States.

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4 16. Defendant United States of America is the appropriate defendant under
5 the FTCA. 28 U.S.C. §§ 1346(b), 2671, *et seq.*

6 17. All federal officers referenced in this Complaint were at all relevant
7 times employees of the United States, working within the scope and course of their
8 employment with federal agencies including, but not limited to, DHS, U.S.
9 Immigration and Customs Enforcement (“ICE”), U.S. Customs and Border Protection
10 (“CBP”), and HHS.

11
12 18. DHS employees were responsible for separating C.M., L.G., M.R.,
13 O.A., and V.C. from their children. DHS employees also are responsible for
14 supervising and managing detained individuals at CBP and ICE facilities, including
15 those located in Arizona, California, Nevada, and Texas where C.M., L.G., M.R.,
16 O.A., and V.C. were detained during the course of their separations from their
17 children. In addition, DHS employees are responsible for supervising and managing
18 detained individuals at the South Texas Family Residential Center in Dilley, Texas
19 (“Dilley”) where Plaintiffs were detained after they were reunited.

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22 19. HHS employees are responsible for supervising and managing the
23 detention of children the government classifies as unaccompanied, including at
24 facilities in New York and Arizona, where B.M., B.G., J.R., L.A., and G.A. were
25 detained while they were separated from their mothers.
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1 22. To that end, in July 2017, the government established a family
2 separation pilot program in CBP’s El Paso sector, through which it targeted for
3 criminal prosecution parents who crossed the border with children.⁵ It detained the
4 parents and forcibly took their children away from them, designated the children as
5 unaccompanied minors (despite their arriving with their parents), and placed the
6 children in the custody of the Office of Refugee Resettlement (“ORR”), a component
7 of HHS. Through this initiative, the government separated 281 individuals in families
8 between July and November 2017.⁶

9
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11 23. In December 2017, a month after the pilot program ended, senior
12 officials at the Department of Justice and DHS exchanged a memorandum titled
13 “Policy Options to Respond to Border Surge of Illegal Immigration.”⁷ Two of the
14 policies outlined in the memorandum were titled: “Increased Prosecution of Family
15 Unit Parents” and “Separate Family Units.” Under the prosecution policy, the
16 memorandum stated that “parents would be prosecuted for illegal entry . . . and the
17 minors present with them would be placed in HHS custody as [unaccompanied alien
18 children].” Similarly, according to the memorandum, the separation policy would call
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22 ⁵ HHS OIG REPORT I, *supra* note 2, at 3.

23 ⁶ *Id.*

24 ⁷ *Policy Options to Respond to Border Surge of Illegal Immigration*, (Dec. 16, 2017),
25 <https://www.documentcloud.org/documents/5688664-Merkleydocs2.html> (hereinafter
26 “Policy Options”); *see also* Julia Ainsley, *Trump Admin Weighed Targeting Migrant*
27 *Families, Speeding Up Deportation of Children*, NBC NEWS, Jan. 17, 2019,
28 [https://www.nbcnews.com/politics/immigration/trump-admin-weighed-targeting-](https://www.nbcnews.com/politics/immigration/trump-admin-weighed-targeting-migrant-families-speeding-deportation-children-n958811)
[migrant-families-speeding-deportation-children-n958811](https://www.nbcnews.com/politics/immigration/trump-admin-weighed-targeting-migrant-families-speeding-deportation-children-n958811) (explaining that the
December 2017 policy options draft plan was made public by the office of Senator
Jeff Merkley).

1 for an announcement that adults would be placed in adult detention while children
2 would be placed in HHS custody.⁸ The memorandum asserted that “the increase in
3 prosecutions would be reported by media and it would have substantial deterrent
4 effect.”⁹

6 24. On April 6, 2018, President Trump issued a memo entitled “Ending
7 ‘Catch and Release’ at the Border of the United States and Directing Other
8 Enhancements to Immigration Enforcement.”¹⁰ The memo, among other things,
9 directed the Secretary of Homeland Security, the Secretary of Defense, the Attorney
10 General, and the Secretary of Health and Human Services to submit a report to the
11 President detailing all of the measures their respective departments had pursued or
12 were pursuing to end “‘catch and release’ practices.”¹¹

15 25. “Catch and Release” is a simplified, misleading term that refers to a
16 federal practice that various administrations have implemented allowing asylum-
17 seekers, among other groups of immigrants, to live in the community, rather than be
18 held in government custody, while awaiting their immigration hearings.¹² This
19 practice is fully in accord with immigration law.

23 ⁸ Policy Options, *supra* note 7.

24 ⁹ *See id.*

25 ¹⁰ 83 Fed. Reg. 16,179 (Apr. 6, 2018).

26 ¹¹ *Id.*

27 ¹² Katie Benner & Charlie Savage, *Due Process for Undocumented Immigrants,*
28 *Explained*, N.Y. TIMES, June 25, 2018,
<https://www.nytimes.com/2018/06/25/us/politics/due-process-undocumented-immigrants.html>.

1 26. On the same day that President Trump issued his directive, then-
2 Attorney General Jeff Sessions announced that the government would institute a
3 “Zero Tolerance” policy, mandating the prosecution of all persons who crossed the
4 United States border between ports of entry, thereby extending to the entire southern
5 border the practices of criminal prosecution and family separation previously tested in
6 the El Paso pilot program.¹³ Consistent with its announcement, the Administration
7 promptly began separating families along the entire border.
8
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10 27. The purpose of this policy was to deter individuals from seeking asylum
11 or otherwise coming to the United States.¹⁴ The Administration intended to deter
12 immigration by harming families through the forcible separation of parents and
13 children.
14

15 28. The Administration knew that separation would cause enormous trauma
16 to the children and parents. Indeed, the Administration intended that publicity
17 concerning the trauma suffered by asylum seekers would deter other would-be asylum
18 seekers from seeking refuge in the United States for fear of suffering the same fate.
19 Administration officials at the highest levels thus planned and implemented a policy
20 of separating families both knowing that the policy would cause severe harm to the
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24 ¹³ *Attorney General Announces Zero Tolerance Policy for Criminal Illegal Entry*,
25 DEP’T OF JUSTICE (Apr. 6, 2018), <https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry>.

26 ¹⁴ *See 60 Minutes, Chaos on the Border, Robots to the Rescue, To Kill a Mockingbird*
27 (CBS Television Broadcast Nov. 25, 2018) (revealing an un-redacted copy of the
28 memo implementing the “Zero Tolerance” policy that stated that the policy’s purpose
was deterrence); *see also* Policy Options, *supra* note 7.

1 people it affected and specifically intending that it would cause such harm.¹⁵ For
2 example:

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4 a. In September 2016, the DHS Advisory Committee on Family
5 Residential Centers issued a report that concluded that “[t]he best
6 interests of the child should be paramount in all custody decisions
7 regarding family members apprehended by DHS,” and warned that
8 “separation of families for purposes of immigration enforcement or
9 management, or detention is never in the best interest of children.”¹⁶

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11 b. Commander Jonathan White, former Deputy Director of ORR for the
12 Unaccompanied Alien Children’s (“UAC”) Program, testified before
13 Congress that, starting in February 2017, he repeatedly warned those
14 devising the policy that separating children from their parents would
15 likely harm the children, including “significant potential for traumatic
16 psychological injury to the child.”¹⁷ Administration officials ignored
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20 ¹⁵ Policy Options, *supra* note 7; see also Philip Bump, *Here Are the Administration*
21 *Officials Who Have Said that Family Separation Is Meant as a Deterrent*, WASH.
22 POST, June 19, 2018, https://www.washingtonpost.com/news/politics/wp/2018/06/19/here-are-the-administration-officials-who-have-said-that-family-separation-is-meant-as-a-deterrent/?utm_term=.6fce092b57af.

23 ¹⁶ U.S. IMMIGRATION & CUSTOMS ENF’T, DEP’T OF HOMELAND SEC., REP. OF THE
24 DHS ADVISORY COMMITTEE ON FAMILY RESIDENTIAL CENTERS 2 (2016), *available*
25 *at* <https://www.ice.gov/sites/default/files/documents/Report/2016/ACFRC-sc-16093.pdf>.

26 ¹⁷ Jeremy Stahl, *The Trump Administration Was Warned Separation Would Be*
27 *Horrorific for Children, Did It Anyway*, SLATE, July 31, 2018, <https://slate.com/news-and-politics/2018/07/the-trump-administration-was-warned-separation-would-be-horrific-for-children.html>; see also *Examining the Failures of the Trump*
28

1 Commander White's warnings up through the day he left ORR (on
2 March 15, 2018), just weeks before the policy was launched across the
3 entire southern border, and continued to disregard his warnings
4 thereafter.
5

- 6 c. In March 2017, several DHS officials told the press that the department
7 was considering a policy of separating mothers and children who cross
8 the border illegally in order to deter families from migrating to the
9 United States.¹⁸ The day after the press report, the American Academy
10 of Pediatrics responded with a statement opposing DHS's proposed
11 family separation program, warning that:
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14 Federal authorities must exercise caution to ensure that the
15 emotional and physical stress children experience as they seek
16 refuge in the United States is not exacerbated by the additional
17 trauma of being separated from their siblings, parents or other
18 relatives and caregivers. Proposals to separate children from their
19 families as a tool of law enforcement to deter immigration are
20 harsh and counterproductive. We urge policymakers to always be
21 mindful that these are vulnerable, scared children.¹⁹

- 22 29. Moreover, it is well established that forcibly separating families causes
23 severe harm to children. Scientific and medical evidence shows that the trauma
24

25 *Administration's Inhumane Family Separation Policy: Hearing Before the Subcomm.*
26 *on Oversight & Investigations of the H. Comm. on Energy & Commerce*, 116th Cong.
27 (Feb. 7, 2019) (testimony of Commander Jonathan White).

28 ¹⁸ Julia Edwards Ainsley, *Exclusive: Trump Administration Considering Separating Women, Children at Mexico Border*, REUTERS (Mar. 3, 2017),
<https://www.reuters.com/article/us-usa-immigration-children-idUSKBN16A2ES>.

¹⁹ Fernando Stein & Karen Remley, *Am. Acad. Of Pediatrics, AAP Statement Opposing Separation of Mothers and Children at the Border* (Mar. 4, 2017),
<https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/immigrantmotherschildreparation.asp>.

1 caused by separating a child from his or her parent is likely to have extraordinarily
2 harmful and long-lasting effects on the child's development. Such trauma can cause
3 permanent emotional and behavioral problems and brain damage.²⁰
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5 30. In May 2018, extensive media reporting concerning the separation
6 policy began to generate public outrage and condemnation. In the face of this
7 reaction, Administration officials attempted to change their messaging about the
8

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10 ²⁰ See, e.g., Allison Abrams, *Damage of Separating Families: The Psychological*
11 *Effects on Children*, PSYCHOL. TODAY (June 22, 2018),
12 [https://www.psychologytoday.com/us/blog/nurturing-self-](https://www.psychologytoday.com/us/blog/nurturing-self-compassion/201806/damage-separating-families)
13 [compassion/201806/damage-separating-families](https://www.psychologytoday.com/us/blog/nurturing-self-compassion/201806/damage-separating-families) (Children who are separated from a
14 parent “develop insecure/disorganized attachment and persisting high levels of
15 stress.”); *id.* (“[T]he effects of mother-child separation on children’s aggressive
16 behavior are early and persistent.”); Sarah Reinstein, *Family Separations and the*
17 *Intergenerational Transmission of Trauma*, CLINICAL PSYCHIATRY NEWS (July 9,
18 2018), [https://www.mdedge.com/psychiatry/article/169747/depression/family-](https://www.mdedge.com/psychiatry/article/169747/depression/family-separations-and-intergenerational-transmission-trauma)
19 [separations-and-intergenerational-transmission-trauma](https://www.mdedge.com/psychiatry/article/169747/depression/family-separations-and-intergenerational-transmission-trauma) (“[C]hildhood trauma is
20 associated with emotional dysregulation, aggression against self and others,
21 difficulties in attention and dissociation, medical problems, and difficulty with
22 navigating adult interpersonal relationships.”); Jeremy Raff, “*The Separation Was So*
23 *Long. My Son Has Changed So Much.*”: *U.S. Border Guards Took a 6-Year-Old*
24 *Honduran Boy from His Mother, and Ultimately Returned a Deeply Traumatized*
25 *Child*, THE ATLANTIC, Sept. 7, 2018,
26 [https://www.theatlantic.com/politics/archive/2018/09/trump-family-separation-](https://www.theatlantic.com/politics/archive/2018/09/trump-family-separation-children-border/569584/)
27 [children-border/569584/](https://www.theatlantic.com/politics/archive/2018/09/trump-family-separation-children-border/569584/) (“The trauma of separation ‘can disrupt the architecture of a
28 child’s brain[.]’ . . . Prolonged separation weaponizes a child’s fight-or-flight
response, elongating it into toxic stress that can damage health in both the short and
long term[.]”); Olga Khazan, *Separating Kids From Their Families Can Permanently*
Damage Their Brains: A Pediatrician Explains How the Trauma of Family
Separation Can Change Biology, THE ATLANTIC, June 22, 2018,
[https://www.theatlantic.com/health/archive/2018/06/how-the-stress-of-separation-](https://www.theatlantic.com/health/archive/2018/06/how-the-stress-of-separation-affects-immigrant-kids-brains/563468/)
[affects-immigrant-kids-brains/563468/](https://www.theatlantic.com/health/archive/2018/06/how-the-stress-of-separation-affects-immigrant-kids-brains/563468/) (Separating a child from his or her parents
“can permanently affect . . . children’s brains, especially if it occurs early in
childhood. . . . Studies show that high levels of cortisol[, a stress hormone induced by
separation] . . . can suppress the immune system and change the architecture of a
developing brain[.] . . . Another stress chemical, corticotropin-releasing hormone, can
damage the hippocampus, which plays a major role in learning and memory.”).

1 policy; they claimed their hardline stance on prosecuting border crossings was not
2 intended to discourage immigration, and, shockingly, they even denied the existence
3 of a family separation policy.²¹
4

5 31. These statements, however, were contradicted by the admissions of
6 numerous high-level officials that family separation was the express policy and that
7 the purpose of the policy was to harm asylum seekers arriving in the United States so
8 as to deter future asylum seekers. For instance:
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10 a. When asked about the policy by NPR on May 11, 2018, John Kelly,
11 President Trump’s then-Chief of Staff, responded that “a big name
12 of the game is deterrence. . . . It could be a tough deterrent — would
13 be a tough deterrent.”²² As for the children affected, he said: “[t]he
14 children will be taken care of — put into foster care *or whatever*.”²³
15

16 b. On June 18, 2018, on Fox News’s “The Ingraham Angle,” host
17 Laura Ingraham asked then-Attorney General Jeff Sessions, “is this
18 policy in part used as a deterrent? Are you trying to deter people
19 from bringing children or minors across this dangerous journey? Is
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22 ²¹ See Christina Wilkie, *White House Denies Separating Families Is “Policy,” but*
23 *Insists It Is Needed “to Protect Children,”* CNBC, Jun. 18, 2018,
24 [https://www.cnbc.com/2018/06/18/white-house-denies-separating-families-is-](https://www.cnbc.com/2018/06/18/white-house-denies-separating-families-is-policy.html)
25 [policy.html](https://www.cnbc.com/2018/06/18/white-house-denies-separating-families-is-policy.html); *The Way Forward on Border Security: Hearing Before the H. Comm. on*
Homeland Sec., 116th Cong. 46-47, 48 (Mar. 6, 2019) (statement of Sec’y Kristjen
Nielsen, Dep’t of Homeland Sec.).

26 ²² *Transcript: White House Chief of Staff John Kelly’s Interview with NPR*, NPR, May
27 11, 2018, [https://www.npr.org/2018/05/11/610116389/transcript-white-house-chief-](https://www.npr.org/2018/05/11/610116389/transcript-white-house-chief-of-staff-john-kellys-interview-with-npr)
of-staff-john-kellys-interview-with-npr.

28 ²³ *Id.* (emphasis added).

1 that part of what the separation is about?” Sessions replied, “I see
2 that the fact that no one was being prosecuted for this as a factor in a
3 five-fold increase in four years in this kind of illegal immigration.
4 So yes, hopefully people will get the message and come through the
5 border at the port of entry and not break across the border
6 unlawfully.”²⁴

7
8 c. On June 19, 2018, Steven Wagner, Assistant Secretary of HHS, told
9 reporters that “[w]e expect that the new policy will result in a
10 deterrence effect, we certainly hope that parents stop bringing their
11 kids on this dangerous journey and entering the country illegally.”²⁵

12
13 32. Even after a federal judge enjoined the family separation policy,
14 concluding that the separated parents would likely succeed on their claim that the
15 separations were unconstitutional,²⁶ President Trump continued to claim that the
16 separation policy, and its intended deterrent effect, was a necessary component of
17 federal immigration enforcement:
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25 ²⁴ *The Ingraham Angle* (Fox News television broadcast Jun. 18, 2018), available at
26 <https://video.foxnews.com/v/5799065216001/#sp=show-clips>.

27 ²⁵ Bump, *supra* note 15.

28 ²⁶ *Ms. L. v. U.S. Immigrations and Customs Enf't*, 310 F. Supp. 3d 1133, 1142-45,
1149 (S.D. Cal. 2018), modified 330 F.R.D. 284 (S.D. Cal. 2019).

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- a. When speaking with reporters at the White House on October 13, 2018, he said: “If they feel there will be separation, they don’t come.”²⁷
- b. On December 16, 2018, he tweeted, “[I]f you don’t separate, FAR more people will come.”²⁸
- c. And on April 28, 2019—after the family separation policy had purportedly ended—he told Fox News host Maria Bartiromo, “Now you don’t get separated, and while that sounds nice and all, what happens is . . . literally you have ten times as many families coming up because they’re not going to be separated from their children[.] . . . It’s a disaster.”²⁹

33. Accordingly, from 2017 through the time period at issue in this Complaint, senior government officials made the express choice to intentionally cause parents and children, including very small children, extraordinary pain and suffering in order to accomplish their policy objectives.

34. The government’s policy of separating children was a mandatory policy that, as implemented, required CBP and ICE agents to separate parents from their children after crossing the border, even if the parents were not targeted for

²⁷ David Shepardson, *Trump Says Family Separations Deter Illegal Immigration*, REUTERS, Oct. 13, 2018, <https://www.reuters.com/article/us-usa-immigration-trump/trump-says-family-separations-deter-illegal-immigration-idUSKCN1MO00C>.

²⁸ Donald Trump, *supra* note 1 (emphasis in original).

²⁹ Kindy, *supra* note 1.

1 prosecution—the Administration’s pretext for separation and deterrence—as was the
2 case with Plaintiffs.

3
4 **2. The Implementation of the Separation Policy and the Chaos
of Reunification**

5 35. CBP officers generally carried out separations of parents and children
6 under the family separation policy at various immigration detention sites near the
7 southwestern border.
8

9 36. Immigration officials frequently put arriving parents and children in
10 cells in short-term detention centers and told the parents that immigration officials
11 would take their children.
12

13 37. Immigration officials often told parents that they committed a crime by
14 crossing the border, even when parents crossed through official ports of entry.

15 38. Many parents waited in terror as they watched immigration officials
16 take children from their parents, knowing that their children’s names might soon be
17 called.
18

19 39. In many cases, when children’s names were called, immigration officers
20 told their parents to bring the children to the showers to bathe them.

21 40. In many instances, once the parents bathed the children, immigration
22 officials told the parents to say goodbye.
23

24 41. If the parents did not willingly hand their children over to immigration
25 officials, the officials often forcibly ripped the children out of their parents’ arms.
26
27
28

1 42. Immigration officials separated children as young as infants and as old
2 as 17 from their parents, without regard to age or language ability.

3
4 43. In many cases, parents begged immigration officials not to take their
5 children, but immigration officials did so, often with callous disregard for the parents'
6 and children's anguish.

7 44. Parents often had to watch immigration officials walk their children out
8 of the cells and out of their sight.

9
10 45. Many parents watched immigration officials separate other parents and
11 children after they were separated from their own children, compounding the trauma.

12 46. In many cases, immigration officials flew children thousands of miles
13 away from their parents under the pretense that the separation was the necessary result
14 of the criminal prosecution of the parents. In an effort to create maximum chaos and
15 harm, the government took the children regardless of whether their parents were taken
16 into criminal custody, remained in criminal custody for any length of time, or were
17 even prosecuted at all.

18
19 47. After forcibly separating family units, CBP transferred many parents
20 into ICE custody.³⁰

21
22 48. The government then classified the children as "unaccompanied," even
23 though they were accompanied by their parents when they arrived in the United States
24

25
26 _____
27 ³⁰ OFFICE OF THE INSPECTOR GENERAL, U.S. DEP'T OF HOMELAND SECURITY, OIG-
28 18-84, SPECIAL REVIEW - INITIAL OBSERVATIONS REGARDING FAMILY SEPARATION
ISSUES UNDER THE ZERO TOLERANCE POLICY 2-3, 13, 15 (Sept. 27, 2018)
[hereinafter DHS OIG REPORT].

1 and remained accompanied until the government separated them from their parents
2 and transferred the children to ORR custody. ORR is responsible for the long-term
3 custodial care and placement of “unaccompanied alien children.”³¹ See 6 U.S.C. §
4 279(a).
5

6 49. As predicted by John Kelly, ORR staff then placed the children in
7 “foster care or whatever.”³² The “whatever” included placement of many children in
8 ORR facilities throughout the United States.
9

10 50. The parents and children were not told where the other was located or
11 when they would be able to see each other, or even speak to each other, again. Some
12 parents had to wait weeks before speaking to their children. In some cases, when
13 parents finally obtained contact information for their children, they were told they had
14 to pay to make phone calls, a significant obstacle for detained parents who had no
15 resources.
16

17 51. Parents suffered physically, mentally, and/or emotionally during the
18 separation from their children.
19

20 52. Likewise, children separated from their parents suffered physically,
21 mentally, and/or emotionally. This trauma was aggravated by the fact that many
22
23
24
25

26 ³¹ *Id.* at 3.

27 ³² *Transcript: White House Chief of Staff John Kelly’s Interview with NPR, supra note*
28 *22.*

1 children did not understand why they had been separated and some believed their
2 parents had abandoned them.³³

3
4 53. In implementing the separation policy, the government significantly
5 exacerbated the trauma it intended to cause by failing to take even the most basic
6 steps to record which children belonged with which parents. The government's
7 failures resulted in delays in parents' ability to locate and communicate with their
8 children, and ultimately to be reunited, causing even more anguish for separated
9 families. These failures "also contributed to children's anxiety and fear for their
10 parents' well-being."³⁴

11
12 54. The government's failure to ensure appropriate recordkeeping
13 manifested itself in many ways. For example, ICE's computer system "did not
14 display data from CBP's systems that would have indicated whether a detainee had
15 been separated from a child."³⁵

16
17 55. As a result, when ICE processed detained parents for removal, "no
18 additional effort [was made] to identify and reunite families prior to removal."³⁶

19
20
21
22 ³³ OFFICE OF THE INSPECTOR GENERAL, U.S. DEP'T OF HEALTH & HUMAN SERVS.,
23 OEI-09-18-00431, CARE PROVIDER FACILITIES DESCRIBED CHALLENGES
24 ADDRESSING MENTAL HEALTH NEEDS OF CHILDREN IN HHS CUSTODY 10 (Sept.
25 2019) [hereinafter "HHS OIG REPORT II"] ("Children who did not understand why
26 they were separated from their parents suffered elevated levels of mental distress. For
27 example, program directors and mental health clinicians reported that children who
28 believed their parents had abandoned them were angry and confused.").

³⁴ *Id.* at 10-11.

³⁵ DHS OIG Report, *supra* note 30, at 9-10.

³⁶ *Id.* at 10.

1 56. When the DHS Office of Inspector General (“OIG”) pressed ICE for
2 information that should have been available to ICE (e.g., information on the current
3 location of separated children), ICE could not provide the information, and had to
4 request it from HHS. DHS later “acknowledged to the OIG that there is no ‘direct
5 electronic interface’ between the DHS and HHS tracking systems.”³⁷

7 57. As emphasized by the Honorable Dana M. Sabraw of the Southern
8 District of California in a ruling addressing the constitutionality of the family
9 separation policy in *Ms. L. v. U.S. Immigration and Customs Enforcement*, the
10 agencies’ failure to coordinate tracking of separated families was a “startling reality”
11 given that:
12

13 The government readily keeps track of personal property of
14 detainees in criminal and immigration proceedings. Money, important documents, and automobiles, to name a few, are
15 routinely catalogued, stored, tracked and produced upon a detainee’s release, at all levels—state and federal, citizen and
16 alien. Yet, the government has no system in place to keep track of, provide effective communication with, and promptly produce
17 alien children. The unfortunate reality is that under the present system migrant children are not accounted for with the same
18 efficiency and accuracy as *property*. Certainly, that cannot
19 satisfy the requirements of due process.³⁸
20

21 58. The government compounded the harm it caused by failing to provide
22 parents and children, including Plaintiffs, with any information regarding each other’s
23 whereabouts or well-being for weeks and, in many cases, months, and by failing to
24

25
26
27 ³⁷ *Id.* at 10-11.

28 ³⁸ *Ms. L.*, 310 F. Supp. 3d at 1144 (emphasis in original).

1 facilitate adequate communication between parents and children.³⁹ The torture of not
2 knowing where their family members were, whether they were healthy and safe, and
3 when or whether they would see each other again further exacerbated the trauma
4 parents and children suffered as a result of being torn apart.⁴⁰

5
6 59. Only after the family separation policy garnered widespread
7 condemnation did President Trump, on June 20, 2018, sign an executive order (“EO”)
8 purporting to end it.
9

10
11
12
13
14 ³⁹ See, e.g., *id.* at 1136-37 (“[T]here is no genuine dispute that the Government was
15 not prepared to accommodate the mass influx of separated children. Measures were
16 not in place to provide for communication between governmental agencies
17 responsible for detaining parents and those responsible for housing children, or to
18 provide for ready communication between separated parents and children.”); Kevin
19 Sieff, *The Chaotic Effort to Reunite Immigrant Parents with Their Separated Kids*,
20 WASH. POST, June 21, 2018,
https://www.washingtonpost.com/world/the_americas/the-chaotic-effort-to-reunite-immigrant-parents-with-their-separated-kids/2018/06/21/325cceb2-7563-11e8-bda1-18e53a448a14_story.html?utm_term=.f32056f25ced (reporting that “government
21 authorities have often been unwilling to arrange phone calls between [separated
22 parents and children], or provide details about where the child is held”).

23 ⁴⁰ See, e.g., HHS OIG REPORT II, *supra* note 33, at 11 (“Adding to the challenge of
24 addressing mental health needs of separated children was the uncertainty that came
25 with a hectic reunification process for children covered by the *Ms. L v. ICE*
26 lawsuit. . . . Changing guidance resulted in uncertainty around how or when
27 reunification would happen. For example, case managers in facilities were not always
28 able to let children know when, or even if, they would be reunified with their parents,
or whether that reunification would happen in the United States. This type of
uncertainty added to the distress and mental health needs of separated children. . . .
[F]acilities reported that logistical issues introduced further uncertainty that could lead
to emotional distress. Facilities reported that some reunifications were scheduled with
little advance notice, or suddenly canceled or delayed, which increased the levels of
uncertainty and anxiety in separated children . . .”).

1 60. The EO stated that it is the “policy of this Administration to maintain
2 family unity, including by detaining alien families together where appropriate and
3 consistent with law and available resources.”⁴¹

4
5 61. The EO, however, did not explain whether or how the federal
6 government would reunify children whom the government had forcibly separated
7 from their parents. In fact, on June 22, 2018, the government admitted that it had no
8 reunification procedure in place.⁴²

9
10 62. On June 26, 2018, in *Ms. L.*, Judge Sabraw ordered the government to
11 reunify families. The class-wide preliminary injunction, among other things,
12 prohibited the government from separating parents from their minor children in the
13 future, absent a determination that the parent is unfit or presents a danger to the child;

14
15 ⁴¹ Affording Congress an Opportunity to Address Family Separation, Exec. Order No.
16 13,841, 83 Fed. Reg. 29,435 § 1 (June 20, 2018).

17 ⁴² See *Ms. L.*, 310 F. Supp. 3d at 1140–41 (citing Transcript of Status Conference at
18 29-30, *Ms. L.*, No. 18-cv-00428 DMS MDD (S.D. Cal. June 22, 2018), ECF No. 77);
19 see also U.S. GOV’T ACCOUNTABILITY OFF., GAO-19-163, UNACCOMPANIED
20 CHILDREN: AGENCY EFFORTS TO REUNIFY CHILDREN SEPARATED FROM PARENTS AT
21 THE BORDER 21 (Oct. 2018) [hereinafter GAO REPORT] (“HHS officials told [the
22 GAO] that there were no specific procedures to reunite children with parents from
23 whom they were separated at the border prior to the June 2018 court order.”). The
24 only procedure in place capable of reuniting children with their parents was the
25 procedure developed to place unaccompanied children with sponsors in compliance
26 with the Trafficking Victims Protection Reauthorization Act. *Id.* Under this
27 procedure, however, a parent could only be reunited with his or her child if the
28 government deemed them eligible to be a sponsor. *Id.* Judge Sabraw noted that this
procedure was inadequate because it was created to address “a different situation,
namely what to do with alien children who were apprehended *without their parents* at
the border or otherwise,” and further, that the procedure was not developed to address
situations such as this one where family units were separated by government officials
after they crossed the border together. *Id.* at 27 (quoting Order Following Status
Conference at 2, *Ms. L.*, No. 18-cv-00428 DMS MDD (S.D. Cal. July 10, 2018), ECF
No. 101).

1 prohibited the deportation of any detained parent before reunification with his or her
2 separated children; and ordered the government to reunify parents separated from
3 children under the age of five within fourteen days, and with children aged five and
4 older within thirty days.⁴³ Each of the parent Plaintiffs in this Complaint is a member
5 of the class in *Ms. L.*⁴⁴

6
7 63. Only after Judge Sabraw issued the injunction did the government begin
8 taking meaningful steps to reunify families.⁴⁵

9
10 64. Those efforts, however, were defined by chaos. The government
11 claimed that DHS and HHS had created a centralized database containing all relevant
12 information regarding parents separated from their children. But there was “no
13 evidence that such a database exists.”⁴⁶

14
15 65. Any data the government collected was incomplete, contradictory, and
16 unreliable.⁴⁷ Accordingly, the agencies resorted to a variety of inefficient and
17 ineffective methods to determine which children were subject to Judge Sabraw’s
18 injunction,⁴⁸ including hand-sifting through agency data looking for any indication
19 that a child in HHS custody had been separated from his or her parent,⁴⁹ and calling in
20 the Office of the Assistant Secretary for Preparedness and Response, an HHS agency
21

22
23
24 ⁴³ *Ms. L.*, 310 F. Supp. 3d at 1149-50.

25 ⁴⁴ See Order Granting in Part Plaintiffs’ Motion for Class Certification at 17, *Ms. L.*,
26 No. 18-cv-00428 DMS MDD (S.D. Cal. June 26, 2018), ECF No. 82.

27 ⁴⁵ See *Ms. L.*, 310 F. Supp. 3d at 1140-41.

28 ⁴⁶ DHS OIG REPORT, *supra* note 30, at 10.

⁴⁷ *Id.* at 11-12.

⁴⁸ GAO REPORT, *supra* note 42, at 23-25.

⁴⁹ *Id.* at 24.

1 whose normal prerogative involves responding to hurricanes and other public health
2 disasters, to review data provided by HHS, DHS, and ORR.⁵⁰

3
4 66. The method for determining which family units required reunification
5 changed frequently, sometimes more than once a day, with staff at one ORR shelter
6 reporting that “there were times when [they] would be following one process in the
7 morning but a different one in the afternoon.”⁵¹

8
9 67. Judge Sabraw criticized the agencies for their callous treatment of
10 families: “[W]hat was lost in the process was the family. The parents didn’t know
11 where the children were, and the children didn’t know where the parents were. And
12 the government didn’t know, either.”⁵²

13
14 68. Consistent with Judge Sabraw’s rulings, the government’s policy of
15 separating children from their parents in the absence of a determination that the
16 parents were unfit or presented a danger to their children and its failure to track the
17 children and promptly reunite the families once they were separated violated the
18 constitutional right to family integrity of the persons subject to the policy, including
19 Plaintiffs.⁵³

21
22

⁵⁰ *Id.* at 23.

23 ⁵¹ *Id.* at 27.

24 ⁵² Transcript of Status Conference at 58, *Ms. L.*, No. 18-cv-00428 DMS MDD (S.D.
Cal. July 27, 2018), ECF No. 164.

25 ⁵³ *See Ms. L. v. U.S. Immigration and Customs Enf’t*, 302 F. Supp. 3d 1149, 1161-67
26 (S.D. Cal. 2018) (finding that plaintiffs had stated a legally cognizable claim for
27 violations of their substantive due process rights under the Fifth Amendment to the
28 United States Constitution based on their allegations that the government had
separated them from their minor children, and kept them separated from their minor
children, while they were held in immigration detention and without a showing that

1 69. As evidenced by Administration officials’ statements that the policy’s
2 purpose was to deter asylum seekers, the government’s refusal to provide parents and
3 children any information about each other’s whereabouts and well-being, and its
4 failure to track separated families and address reunification in any meaningful way
5 until a federal judge ordered it to do so, the government instituted and implemented
6 this policy to intentionally inflict emotional distress on the parents and children whom
7 it separated. It succeeded, with devastating consequences for Plaintiffs.
8
9

10 **B. C.M and B.M.**

11 **1. The Two-And-A-Half Month Separation of C.M. and B.M.**

12 70. On or around May 9, 2018, C.M. entered the United States with her then
13 five-year-old son, B.M., after fleeing life-threatening violence in Guatemala.
14

15 71. When C.M. and B.M. crossed the border at or near San Luis, Arizona,
16 immigration officers apprehended them and took them to a short-term detention
17 center commonly referred to as the “*hielera*” or “ice box” due to the very cold
18 temperature inside. C.M. and B.M. arrived at the *hielera* late at night. As soon as
19 they arrived, an immigration officer told C.M. and three other women who arrived
20

21
22
23
24
25 they were unfit parents or otherwise presented a danger to their children); *Ms. L.*, 310
26 F. Supp. 3d at 1142-46 (finding that plaintiffs were likely to succeed on the merits of
27 their substantive due process claim); *see also Smith v. Org. of Foster Families for*
28 *Equal. & Reform*, 431 U.S. 816, 845 (1977) (liberty interest in family relationships
has its source in “intrinsic human rights”).

1 with her that immigration officers would take away their children and send the
2 women back to Guatemala.⁵⁴

3
4 72. C.M. was horrified by the news. The officer laughed at her shocked
5 reaction and the reaction of women she was with and said, “Happy Mother’s Day.”

6 73. A second immigration officer asked C.M. to sign papers written in
7 English that she did not understand. Unable to read or write, she told the officer that
8 she did not know how to sign her name. The immigration officer told her to put an X
9 on the signature line.
10

11 74. The immigration officer confiscated C.M. and B.M.’s belongings,
12 including extra articles of clothing that could have helped them stay warm in the
13 *hielera*, and locked C.M. and B.M. in a cell with many other women and children.
14

15 75. There were no beds in the cell, and C.M. and B.M. received nothing to
16 eat except watered-down broth. Other distraught mothers detained in the same cell
17 told C.M. that the immigration officers had taken away their children, and that they
18 would take B.M. away as well. C.M. was terrified.
19

20 76. During C.M.’s first night in the *hielera*, an immigration officer called
21 her name and asked B.M.’s age. C.M. told the officer that B.M. was five years old. A
22 short while later, the same officer again called C.M.’s name and again told her that
23 immigration officers would take B.M. away from her and send him to a shelter
24
25

26
27 ⁵⁴ None of the Plaintiffs speak English. All referenced conversations involving a
28 Plaintiff occurred in Spanish, except conversations between C.M. and her son, B.M.,
which occurred in Mam.

1 because he was old enough to go, and that only mothers with children under four
2 years old might be released with their children. C.M. sobbed at the news.

3
4 77. Less than two days later, very early in the morning on or around May
5 11, 2018, an immigration officer told C.M. to wake her son up because the
6 immigration officers would be taking him to a shelter for children that morning.
7 When C.M. woke B.M., he saw the officer and began to cry.

8
9 78. The officer tried to take B.M. to another room so that B.M. could have a
10 bath, but, because B.M. was crying so hard, the officer told C.M. that she would have
11 to bathe B.M. The officer took C.M. and B.M. to a room where there was a shower
12 and ordered her to bathe and dress B.M. Believing she had no choice, C.M. complied.

13
14 79. Once B.M. was dressed, the officer took them to a different room and
15 told C.M. that she had to say good-bye to her son. C.M. begged the immigration
16 officer not to take her son away, stating over and over that he was only five years old
17 and he only spoke Mam, did not understand Spanish or English, and would not be
18 able to understand what anyone said to him. The officer did not relent.

19
20 80. Desperate to keep her son, C.M. asked the officer to send her back to
21 Guatemala with B.M. rather than separate them. C.M. and B.M. had fled to the
22 United States after suffering horrific abuse in Guatemala, based in part on their
23 indigenous identity. C.M. was terrified to return, but the thought of losing her son
24 was inconceivable. The officer laughed. He made fun of her indigenous accent and
25 said “it’s not that easy.”
26
27
28

1 81. C.M. continued to refuse to let her son go. Eventually, another
2 immigration officer came over and told her to hurry up because they were putting
3 B.M. on a plane, and the plane was about to take off. When C.M. continued to resist,
4 the two officers threatened to throw her son in a cell without her if she did not let
5 them take him.
6

7 82. Recognizing that the officers would take B.M. no matter what she did,
8 C.M. explained to her five-year-old son that he would be going away for a few days.
9 Despite her anguish, she tried to be positive for him and told him that he would go to
10 a shelter to play with lots of other children and that she would see him in a few days.
11

12 83. B.M. asked C.M. if she would go back to Guatemala without him. She
13 assured him that she would never leave without him. He sobbed and clutched her.
14 The immigration officers pried B.M. away by force as he cried and grabbed at C.M.'s
15 clothes.
16

17 84. Without her child, C.M. fell apart. She was extremely cold and
18 heartbroken and she cried constantly. She could not sleep because she was so
19 distraught. The government gave C.M. no information about B.M. She became
20 disoriented, unable to gauge the passage of time, had no appetite, and began to suffer
21 chronic headaches. Days after they took B.M. away, an immigration officer
22 commented that she was losing weight.
23

24 85. While C.M. stayed in the *hielera*, she watched immigration officers take
25 other children away from their parents. Through the interior window of her cell, she
26 could see fathers crying.
27
28

1 86. About four days after immigration officers took B.M. from C.M.,
2 officers moved C.M. to the Florence Staging Facility, and, one day later, to the Eloy
3 Detention Center, where she was held for approximately two days.
4

5 87. In Eloy, officers finally allowed C.M. to speak to her son—but only for
6 a matter of minutes. B.M. repeatedly asked his mother when she was coming to get
7 him. He told her he was all alone and did not know what anyone was saying to him
8 because he could not speak Spanish. Not knowing the answer, or even where B.M.
9 was, C.M. was unable to comfort him.
10

11 88. B.M. sounded terrified and heartbroken, which left C.M. more
12 traumatized than before they had spoken. She still did not know where he was being
13 held.
14

15 89. After spending a night or two in Eloy, immigration officers transferred
16 C.M. by plane to a detention center outside of Las Vegas, Nevada. During this
17 transport, officers handcuffed her and shackled her around her waist, feet, and wrists.
18 C.M. could not stop crying.
19

20 90. In Nevada, a woman being held with her tried to put water to C.M.’s
21 cracked and dry lips. Another woman tried to get C.M. to eat and encouraged her to
22 sleep. The woman also translated for her when immigration officers walked past and
23 said in English: “What’s wrong with you?”
24

25 91. Several weeks after she arrived in Nevada, C.M. was finally able to
26 speak to B.M. again. A male officer called C.M.’s name and led her to a small room
27 with a telephone. When the phone rang, he told her to answer it. When she did, she
28

1 heard B.M.'s voice for only the second time since they had been separated more than
2 a month earlier.

3
4 92. When she spoke to B.M., C.M. cried so hard that she could barely
5 speak. B.M. had difficulty speaking because he was so sad and scared. C.M. could
6 hear the fear through his voice. He could only keep asking when they would go
7 home.

8
9 93. After C.M. and B.M. spoke, a social worker told C.M. that B.M. was in
10 a shelter in New York, thousands of miles away. The social worker told C.M. that she
11 had to fight her immigration case and that she should not give up. She impressed
12 upon C.M. the urgency of the situation and told her that if she did not fight her case,
13 the government could deport her, and she might never see B.M. again. The possibility
14 of never seeing her child again horrified her.

15
16 94. While C.M. was later allowed additional phone calls with B.M. during
17 her detention in Las Vegas, B.M. was so traumatized that he was unable to say much.
18 As soon as he heard his mother's voice, B.M. would become very upset, begin to sob,
19 and repeatedly ask C.M. when they would be able to go home. Listening to B.M. cry
20 was excruciating for C.M. She could do nothing to take care of her child beyond
21 pleading with the social worker to make sure he was all right.

22
23 95. B.M. turned six while he was in the shelter in New York. C.M. spent
24 B.M.'s birthday crying in the detention center, wishing she could be with him. One of
25 the other women in the detention center tried to comfort her, but C.M. could not be
26 consoled.
27
28

1 child reported that the foster care mother had hit them both. No government official
2 or shelter staff member informed C.M. about this reported abuse.

3
4 102. Following this incident, Safe Haven staff placed B.M. with a second
5 foster care family, and he remained with that family for approximately two months,
6 until late July.

7 3. C.M. and B.M.'s Reunification

8
9 103. On or about the night of July 18, immigration officers, without
10 explanation, transported C.M. and several other mothers to the Port Isabel Detention
11 Center in Texas ("Port Isabel"). They locked C.M. again in an *hielera*. Some of the
12 other parents at Port Isabel told C.M. that they thought they were getting their
13 children back, but C.M. did not believe them. By this time, C.M. believed that
14 immigration officers would never return her son.

15
16 104. C.M. was locked in the *hielera*, which was filthy and so cold that she
17 and the other women could not sleep.

18
19 105. On the evening of July 25, 2018, immigration authorities again placed
20 B.M. on a flight across the country, to Port Isabel. On or around July 26, while C.M.
21 waited in the *hielera*, an immigration officer called C.M.'s name and escorted her
22 into a small room. She waited there for approximately thirty minutes. The officer
23 forced her to sign a form that she could not read and did not understand.

24
25 106. A few minutes after signing the form, C.M. saw B.M. and several
26 other children enter the room. She called his name and, when he saw her, he threw
27

1 his bag to the side, ran toward her, and threw himself in her arms. They sobbed with
2 relief.

3
4 107. After they were reunified, immigration officials transferred C.M. and
5 B.M. by bus to Dilley, one of ICE's family detention centers. As soon as they
6 boarded the bus, B.M. began crying. C.M. tried to comfort him, but B.M. was
7 terrified that they would be separated again.

8
9 108. C.M. and B.M. were detained at Dilley for approximately four months.
10 DHS finally released C.M. and B.M. from Dilley in November 2018, more than six
11 months after they arrived in the United States.

12 **4. C.M. and B.M.'s Harms and Losses**

13
14 109. C.M. suffered severe emotional distress as a result of the forcible
15 separation from her son by the government. From the moment of the separation,
16 when an officer laughed at C.M. while she cried in desperation, she has endured
17 palpable trauma. After they separated C.M. and B.M., immigration officers told C.M.
18 nothing about her son's well-being or whereabouts, causing her acute anxiety and
19 distress. She worried about her son constantly.

20
21 110. C.M. was so consumed with worry that she was frequently unable to
22 sleep, had no appetite, and suffered from chronic headaches. During C.M.'s forced
23 separation from B.M., immigration officers did nothing to help her locate him other
24 than arrange phone calls. This cruelty compounded C.M.'s distress.

25
26 111. C.M. continues to suffer as a result of the separation from her son. A
27 psychological evaluation confirms that C.M. suffered severe trauma tied directly to
28

1 that separation and the failure of immigration officers to provide her with information
2 about her son.

3
4 112. The clinical social worker who evaluated C.M. during her detention in
5 Dilley found that she exhibits symptoms consistent with Post-Traumatic Stress
6 Disorder (“PTSD”).

7
8 113. C.M.’s concern about her son’s well-being dominated her every waking
9 hour. She now has difficulty sleeping and suffers from chronic headaches. She suffers
10 flashbacks of the separation which cause her extreme anxiety and an acute feeling that
11 she is losing control. C.M. remains traumatized by the thought of her son spending
12 his sixth birthday scared and alone.

13
14 114. B.M. experienced similar fear and mental anguish when he was taken
15 from his mother. After DHS separated him from C.M., he was detained in an
16 unfamiliar place, far from his mother, where he was unable to communicate with
17 anyone because of his indigenous Mam language. He did not know what was
18 happening or when he would see his mother again.

19
20 115. During his time in Dilley, B.M. continued to be extremely sad and
21 repeatedly asked his mother why they were there and why they were locked up. He
22 had little appetite and suffered from nightmares.

23
24 116. The severe emotional distress B.M. suffered during the separation
25 continues today. He refuses to talk about his time in the shelter in New York. He
26 continues to eat very little.

1 117. After they were reunited, B.M. told his mother that he thinks she
2 brought him to the United States to give him away. C.M. worries that their
3 relationship may never recover.
4

5 118. To this day, whenever C.M. leaves the house, B.M. asks whether she is
6 coming back. Despite her reassurances, C.M. perceives that B.M. does not believe
7 her.
8

9 **C. L.G. and B.G.**

10 **1. The Two-Month Separation of L.G. and B.G.**

11 119. On or around May 16, 2018, L.G. and her then-seven-year-old daughter,
12 B.G., fleeing horrific violence and threats of violence in Guatemala, entered the
13 United States near San Luis, Arizona.
14

15 120. CBP officers escorted L.G. and B.G. through what L.G. believed was an
16 official port of entry, where L.G. told the officers that she feared for her safety and the
17 safety of her daughter.
18

19 121. The CBP officers transferred L.G. and B.G. to an *hielera* located in or
20 near Yuma, Arizona.
21

22 122. Shortly after L.G. and B.G. arrived at the *hielera*, immigration officers
23 told L.G. that the law had changed, and that the U.S. government was going to take
24 B.G. away from her. L.G. was horrified.
25

26 123. Even though L.G. and B.G. had entered through what L.G. perceived to
27 be an official port of entry, the immigration officers told her that she had entered the
28

1 country illegally and accused her of using B.G. as a free ride to gain entry to the
2 United States.

3
4 124. The immigration officers put L.G. and B.G. in a cell with approximately
5 100 other women and children. The cell was over-crowded. It had no beds. The
6 women and children slept on the floor with only aluminum foil sheets. There was
7 only one toilet and one sink for everyone. There was no soap or bathing facility.

8
9 125. Other women in the cell told L.G. that immigration officers had taken
10 their children. Many of these women were crying and praying. L.G. watched as the
11 immigration officers ignored these mothers when they pleaded for information about
12 their sons and daughters.

13
14 126. L.G. was unable to sleep that night. Instead she cried, holding her
15 daughter in her arms.

16
17 127. The next morning, on or around May 17, 2018, an immigration officer
18 called L.G.'s name and told her that they would be taking B.G. to a "better place," but
19 did not give her any details. L.G. began to cry.

20
21 128. Later that day, in the afternoon, two immigration officers entered the
22 cell and began calling the names of children. L.G. and B.G., along with everyone else
23 in the cell, watched as immigration officers took children away from their mothers.
24 Many people were crying.

25
26 129. One young boy, who was about five or six years old, cried and clung to
27 his mother after one of the immigration officers called his name. Because the boy
28

1 refused to let go, an immigration officer forcibly yanked the boy from his mother's
2 arms. Watching this further traumatized L.G.

3
4 130. After L.G. witnessed immigration officers taking the boy by force, an
5 immigration officer called B.G.'s name. B.G. looked at her mother and the officer
6 ordered B.G. to come to him. He told L.G. and B.G. to say good-bye.

7
8 131. L.G. told her daughter to be strong and that they would not be apart
9 long. B.G. was confused and terrified. She did not want to leave her mother. As the
10 immigration officer escorted her away, B.G. turned around and caught her mother's
11 eye. L.G. sobbed as she watched the immigration officers take away her child.

12
13 132. L.G. witnessed approximately six or seven other children being taken
14 away with B.G. These children ranged in age from approximately five to
15 approximately sixteen years old.

16
17 133. After taking their children, the immigration officers did not give L.G.
18 and the other women any information about where their children were going or when
19 the mothers would speak to their children again.

20
21 134. L.G. remained in the holding cell for several more days. Almost every
22 day, and sometimes more than once a day, immigration officers entered the cell and
23 forcibly separated children from their mothers.

24
25 135. L.G. had to watch these separations and re-live the trauma of having
26 been separated from her own daughter again and again.

27
28 136. Every day, L.G. and the other mothers asked the immigration officers
about their children. The officers never answered their questions.

1 137. On or around May 25, 2018, approximately one week after they took
2 her daughter, immigration officers transported L.G. and some of the other women in
3 handcuffs and shackles to the Florence Staging Facility and, one day later, to the
4 Santa Cruz County Jail. L.G. remained in the jail for several days.

6 138. On or around May 28, 2018, immigration officers transported L.G. back
7 to the Florence Staging Facility in handcuffs and shackles. The following day, on or
8 around May 29, 2018, immigration officers again handcuffed and shackled L.G. and
9 other women and, without providing them any information, took them on a bus to an
10 airport. L.G. was crying and distraught. She was convinced that she was going to be
11 deported without her daughter.

13 139. Upon arriving at the airport, immigration officers instructed L.G. and
14 the other women to board a plane. It was only once the plane had left the ground that
15 a woman, who may have been a flight attendant, told the women that the plane was
16 going to California.

18 140. Upon arrival in California, the immigration officers loaded L.G. and the
19 other women, still in handcuffs and shackles, into a van and took them to an
20 immigration detention center near Los Angeles.

22 141. The following day, on or around May 30, 2018, immigration officers
23 again put L.G. and the other women in handcuffs and shackles and transported them
24 to the James A. Musick Facility (“Musick”) near Irvine, California.

26 142. L.G. had been transferred to multiple facilities since leaving the *huelera*
27 where she last saw her daughter. Despite repeatedly asking immigration officers at
28

1 each of these facilities for information about her daughter, she still had no information
2 about B.G.'s whereabouts or well-being. When L.G. asked if she could have a phone
3 call with B.G., an immigration officer told her that the immigration authorities could
4 not set up a call with B.G. because then they would have to set up calls for every
5 mother who had been separated from her child.
6

7 143. On or around June 15, 2018, still having heard nothing about her
8 daughter, L.G. was taken to an immigration court where she saw an immigration
9 judge. The immigration judge told her that she would be deported.
10

11 144. L.G. became more distraught. She told the judge that she had a
12 daughter in the United States, and that she could not be deported without her. The
13 judge ordered L.G.'s removal that day and handed L.G. a piece of paper in English.
14

15 145. L.G. was not deported after the hearing, likely due to the injunction
16 issued by Judge Sabraw on June 26, 2018 prohibiting DHS from deporting parents
17 separated from their children. Instead, L.G. remained at Musick for more than a
18 month after her hearing. During this time, L.G. lived in constant fear that she would
19 be deported without B.G. She still had no idea where B.G. was, or how B.G. was
20 doing. L.G. had asked immigration officers in every place she had been detained for
21 information about her daughter. They had all ignored her or refused to answer her
22 questions.
23

24 146. After L.G. made repeated written requests to speak with her daughter
25 and for information about her daughter's whereabouts, immigration officials finally
26 informed L.G. that B.G. was in Arizona.
27
28

1 147. L.G. was finally able to speak to B.G. by telephone in late June, after
2 approximately six weeks of separation.

3
4 148. L.G.'s joy upon hearing her daughter's voice did not last long. B.G.
5 gave L.G. one-word answers and began crying partway through the conversation.
6 The social worker ended the call after a few minutes because B.G. was so upset.

7 149. Hearing her daughter in such distress, and knowing that she was unable
8 to do anything to help her, L.G. was filled with anguish and despair.

9
10 150. Approximately one to two weeks later, L.G. had another brief telephone
11 call with B.G. Again, B.G. did not speak much. L.G. tried to engage her daughter
12 and told her not to be sad.

13
14 151. These were the only telephone calls L.G. had with B.G. during the
15 entirety of their two-month separation. Although L.G. asked for and received the
16 number for the social worker during her second call with B.G., L.G. could not afford
17 to make any calls from the jail, which charged by the minute.

18
19 **2. B.G.'s Separation From Her Mother**

20 152. After immigration officials forcibly separated B.G. from her mother on
21 May 17, 2018, government officials took B.G. to Hacienda Del Sol, a Southwest Key
22 facility, in Youngstown, Arizona.

23 153. Upon arrival, B.G. asked to speak to her family, but none of the staff at
24 the facility had any information about her mother. In fact, officials at Hacienda Del
25 Sol had no information about and no contact with B.G.'s mother until on or around
26 June 25, 2018, well over a month after B.G. arrived at the shelter.
27

1 154. B.G. spent over two months alone at a shelter without her family and
2 with very little contact—only two brief phone calls—with her mother.

3
4 **3. L.G. and B.G.’s Reunification**

5 155. On or around July 17, 2018, immigration officers handcuffed and
6 shackled L.G., and transported her from Musick to Port Isabel in Texas.

7 156. Approximately one week later, around midnight on or about July 24,
8 after more than two months of separation, L.G. and B.G. were reunited at Port Isabel.

9
10 157. L.G. was relieved to be with B.G. again. They hugged each other and
11 cried.

12 158. Immigration officers then transferred L.G. and B.G. to Dilley.

13 159. During the time that the government detained L.G. and B.G. at Dilley,
14 an asylum officer interviewed B.G. and determined that B.G. had a credible fear of
15 persecution in Guatemala. This threshold finding allows B.G. to pursue asylum
16 before an immigration court.
17

18 160. Following the credible fear interview, DHS finally released L.G. and
19 B.G. in November 2018, after four months at Dilley and more than six months after
20 L.G. and B.G. were first detained.

21
22 **4. L.G. and B.G.’s Harms and Losses**

23 161. L.G. suffered severe emotional distress as a result of the forcible
24 separation from her daughter by the government. L.G. continues to experience
25 symptoms of distress to this day.
26
27
28

1 162. Immigration officers failed to provide L.G. with information regarding
2 her daughter's well-being or whereabouts for more than six weeks, which increased
3 her acute anxiety and distress.
4

5 163. L.G. cried constantly for the duration of her separation from her
6 daughter. She was so overwhelmed by feelings of loss, despair, fear, and grief that
7 she was unable to sleep, had no appetite, and began to suffer migraines so severe that
8 they caused her nausea and sensitivity to light and noise.
9

10 164. L.G. worried and continues to worry about her child constantly. She
11 continues to have difficulty sleeping and to suffer from migraines.

12 165. L.G. remains afraid that B.G. will be separated from her again. This
13 constant fear is a source of ongoing stress and anxiety for L.G., and makes her
14 extremely sad.
15

16 166. A medical doctor conducted a psychological evaluation of L.G. at
17 Dilley and confirmed that L.G. suffered trauma as a result of the separation from
18 B.G., as well as from the accompanying lack of information concerning B.G.'s safety,
19 well-being, and whereabouts after the immigration officers took B.G. from her.
20

21 167. The doctor further concluded that L.G. exhibited features of PTSD,
22 Generalized Anxiety Disorder, and Major Depressive Disorder.

23 168. Medical personnel at Dilley also examined B.G. at L.G.'s request. The
24 psychologist who examined B.G. told L.G. that B.G. was suffering from severe stress.
25

26 169. Since being reunited with her mother, B.G. has continued to experience
27 severe emotional distress resulting from the separation.
28

1 170. L.G. has noticed that her daughter has changed as a result of the
2 separation. B.G. is afraid to leave her mother, even to go to school. Seeing police
3 officers makes B.G. anxious. B.G. is terrified that she and her mother will be
4 separated again. B.G. has trouble falling asleep unless her mother holds her.
5

6 **D. M.R. and J.R.**

7 **1. The Two-and-a-Half Month Separation of M.R. and J.R.**

8 171. On or around May 8, 2018, M.R. and her then twelve-year-old son, J.R.,
9 entered the United States near San Luis, Arizona, after fleeing life-threatening
10 violence in Guatemala.
11

12 172. When M.R. and J.R. entered, immigration officers took them to an
13 *hielera*. During this encounter, an immigration officer told M.R. that she would be
14 separated from her son and taken to jail.
15

16 173. At the *hielera*, M.R. and J.R. were locked in a crowded cell with
17 approximately twenty people, where they remained for two days.

18 174. The only food they were given was cold instant soup.
19

20 175. Despite the extremely cold temperatures inside the cell, immigration
21 officers provided only a single foil sheet for M.R. and J.R., which M.R. gave to her
22 son.
23

24 176. There was no bed or bedding in the cell, and M.R. and J.R. were forced
25 to sit on the cold floor.

26 177. The cell was so crowded that it was impossible to lay down, and they
27 sat all night with their legs pulled in because there was so little space in the room.
28

1 178. M.R. did not sleep the first night because she was afraid for the well-
2 being of her son.

3 179. M.R. and J.R. overheard an immigration officer telling mothers that
4 they would be separated from their children, which scared them both.
5

6 180. Several times, J.R. said to his mother that he wanted to leave because he
7 was frightened and could not understand why they were detained. M.R. told him they
8 could not leave because the door was locked.
9

10 181. The *hielera* was often filled with the sounds of crying children.

11 182. On M.R. and J.R.'s second day of detention, an immigration officer
12 came to their cell and yelled at the mothers, "why did you bring your children here?"
13

14 183. The officers told the mothers that they would take the mothers' children
15 away and that the mothers would not know where to find them.

16 184. Late that night, immigration officers started entering the room and
17 reading children's names from a sheet of paper, starting with the youngest.
18

19 185. A few at a time, the children were taken to shower, and then dressed in
20 identical blue uniforms and blue shoes.

21 186. The officers ordered the mothers to take the younger children to the
22 showers and bathe them.
23

24 187. The older children were ordered to shower on their own and their
25 mothers were not allowed to go with them because, according to the immigration
26 officers, they were old enough to be alone. The children never returned to the cell
27
28

1 after showering, but they were visible to the mothers through a window, before they
2 were taken away.

3
4 188. J.R. was asleep on the floor when the officers called his name very early
5 in the morning. M.R., who had been too afraid to sleep during the night, woke her
6 son and told him that the officers were calling him to be taken away.

7
8 189. In an effort to comfort her terrified son, M.R. told J.R. not to cry, to eat
9 well, and that it would not be long until they were reunited.

10 190. After J.R. was sent to shower alone, M.R. watched from the cell as her
11 son—now dressed in blue shoes and a blue uniform—was lined up with other children
12 and taken away. She was despondent. M.R. asked the immigration officers where
13 they would take J.R., but they would not tell her.

14
15 191. M.R. also asked the immigration officers what was going to happen
16 next. An immigration officer told M.R. that she would be deported and that her son
17 would stay in the United States.

18
19 192. M.R. told the immigration officer that she did not want to leave her son
20 in the United States alone, and that she wanted to wait for him in the United States.
21 When the immigration officer told M.R. that would not happen, M.R. was distraught
22 and feared that she would never see her son again.

23
24 193. Although M.R. did not know it at the time, immigration officials took
25 J.R. to the airport to be sent on a plane to New York, thousands of miles away from
26 her.

1 194. In the early evening of the day that M.R. and J.R. were forcibly
2 separated, immigration officers shackled M.R. by her waist, hands and feet, and
3 transferred her to a detention center in Eloy.
4

5 195. Every day that she was in the detention center, M.R. asked immigration
6 officers where her son was and when she would be with him again, but they did not
7 give her any information about her son.
8

9 196. M.R. was so anxious and consumed with worry for J.R. that she could
10 not eat. She began to suffer from debilitating headaches.

11 197. After approximately two weeks at Eloy, an immigration officer escorted
12 M.R. to a room with a telephone where she was able to speak to J.R. for the first time.
13 The call lasted five minutes.
14

15 198. J.R. cried during the call, which caused M.R. to cry as well. When she
16 began crying, the immigration officers laughed at her and shook their heads.

17 199. M.R. learned from other women at the facility that the immigration
18 officers would frequently laugh as crying mothers spoke with their separated children.
19

20 200. Over approximately the next month, immigration officers repeatedly
21 ignored M.R.'s written requests to call her son. On the few occasions when she was
22 able to call her son, using money her brother-in-law had placed into an account for
23 her, no one answered the phone.
24

25 201. Nearly a month went by before M.R. finally spoke to J.R. again. M.R.
26 tried to reassure J.R. that they would soon be reunited. J.R. spoke little and, when
27

1 M.R. asked how he was feeling, J.R. told his mother that he did not want to talk about
2 it.

3
4 202. After this call, M.R. went several more weeks without speaking to J.R.
5 because her phone calls continued to go unanswered. On one occasion, a woman
6 answered the phone and gave M.R. a different phone number to try. When M.R.
7 called that number, a woman answered and told her she had the wrong number, and
8 that there were no children there.

9
10 203. M.R. felt panicked, as well as worried for J.R.'s safety and losing what
11 little contact she had with her son.

12
13 204. M.R. appeared before an immigration judge twice while detained at
14 Eloy. At her first hearing, the immigration judge asked her whether she had anyone
15 who could sponsor her for her release, but M.R. did not have anyone. The
16 immigration judge then continued her case.

17
18 205. On or about June 21, 2018, M.R. appeared before an immigration judge
19 for the second time. An officer posted a sign on the hearing room door that instructed
20 M.R. that she could not say anything to the judge other than "yes" or "no" in response
21 to the judge's questions.

22
23 206. Although she tried her best, M.R. could not focus on what the judge was
24 saying. All M.R. could think about was asking the judge whether her son was safe,
25 but she did not believe she was permitted to talk to the judge about J.R. The
26 immigration judge ordered M.R.'s deportation.

1 207. Approximately a week after this hearing, an immigration officer told
2 M.R. that she needed to sign some papers. The officer instructed M.R. to sign a
3 statement that she wanted to be deported with her child, and told her that signing the
4 statement was the only way for M.R. to be reunited with J.R. M.R. began to panic,
5 and to ask questions about what would happen to her and her child, but the officer
6 would not answer her questions.
7

8 208. She finally signed the papers because she believed that she would only
9 be reunited with her son if she did so.
10

11 **2. J.R.’s Separation From His Mother**

12 209. After immigration officials forcibly separated J.R. from his mother, they
13 put him on a plane to New York, thousands of miles away from her.
14

15 210. It was J.R.’s first time on an airplane. He took two separate flights to
16 New York. He was scared and sad, and thought he would never see his mother again.
17

18 211. Immigration officers later transferred J.R. to the Cayuga Centers in New
19 York (“Cayuga”), a facility contracts with ORR to provide foster care programs for
20 unaccompanied noncitizen children.⁵⁶ ORR staff subsequently placed him in foster
21 care, where he remained for over two months.
22

23
24 ⁵⁶ See *Cayuga Centers Awarded Expanded Grants by U.S. Office of Refugee*
25 *Resettlement*, CAYUGA CENTERS (Mar. 21, 2017)
26 [http://cayugacenters.org/news/2017/03/cayuga-centers-awarded-expanded-grants-us-](http://cayugacenters.org/news/2017/03/cayuga-centers-awarded-expanded-grants-us-office-refugee-resettlement/)
27 *office-refugee-resettlement/*; see also *Cayuga Centers Provides Foster Care and*
28 *Services for Unaccompanied Children*, CAYUGA CENTERS (Jun. 21, 2018),
[http://cayugacenters.org/news/2018/06/cayuga-centers-provides-foster-care-and-](http://cayugacenters.org/news/2018/06/cayuga-centers-provides-foster-care-and-services-unaccompanied-children/)
[services-unaccompanied-children/](http://cayugacenters.org/news/2018/06/cayuga-centers-provides-foster-care-and-services-unaccompanied-children/).

1 212. J.R. did not speak to his mother until two weeks after immigration
2 authorities separated them. During that first call, he cried the entire time and spoke
3 little.
4

5 213. On July 26, 2018, immigration authorities again placed J.R. on two
6 flights from New York to Arizona.

7 **3. M.R. and J.R.'s Reunification**

8 214. On or about July 25, 2018, immigration officers told M.R. that she
9 would be leaving Eloy that day. M.R. was terrified that she would be deported
10 without her son, who was turning thirteen years old the next day. She asked the
11 officers, but they told her only that she would receive more information when she
12 arrived at her destination.
13

14 215. M.R. was devastated and began to cry. She wanted desperately to hug
15 her son, to comfort him, and to be with him on his birthday.
16

17 216. M.R. did not know that Judge Sabraw had issued the injunction in *Ms.*
18 *L.* on June 26, 2018, forcing the government to reunite M.R. and J.R.
19

20 217. The immigration officers placed her in shackles and put her in a van
21 which took her to an *hielera*.

22 218. After a long and sleepless night in the *hielera*, on July 26, 2018,
23 immigration officers escorted M.R. to another room. J.R. was waiting in the room.
24 M.R. was overjoyed to hug her son again. M.R. had not seen her son for two-and-a-
25 half months during their forced separation.
26

27 219. Immigration officials then transferred M.R. and J.R. to Dilley by bus.
28

1 220. M.R. was constantly nervous when J.R. went anywhere without her at
2 Dilley. When he would leave for the children’s classroom, M.R. worried that he
3 would not return. When a group of mothers, including M.R., went to an officer at
4 Dilley and asked how much longer they would be detained, the officer responded by
5 saying that they should stop asking or he would take their kids away again.
6

7 221. During the time that the government detained M.R. and J.R. at Dilley,
8 an asylum officer re-interviewed M.R. and determined that M.R. had a credible fear
9 of persecution in Guatemala. This threshold finding permits M.R. to pursue asylum
10 before an immigration court.
11

12 222. DHS finally released M.R. and J.R. from Dilley on November 30, 2018,
13 after almost four months at Dilley and more than six months after they arrived in the
14 United States.
15

16 **4. M.R. and J.R.’s Harms and Losses**

17 223. M.R. suffered severe emotional distress as a result of the forcible
18 separation from her son by the government. She continues to experience symptoms of
19 distress to this day.
20

21 224. Immigration officers failed to provide M.R. with information regarding
22 her son’s well-being or whereabouts during their months-long separation, which
23 increased her acute anxiety and distress.
24

25 225. Throughout M.R.’s detention, particularly during the extended periods
26 in which she was unable to speak with J.R., she was extremely anxious. M.R.
27
28

1 struggled to think clearly or concentrate on even basic tasks, and she was easily
2 startled when anyone would try to speak to her.

3
4 226. Also during the time she and J.R. were separated, M.R. suffered from
5 persistent insomnia, and the sleep deprivation and stress triggered excruciating
6 headaches and pain in her eyes. She had no interest in eating and lost weight.

7
8 227. Even after being reunited with her son, M.R. continued to suffer from
9 headaches and insomnia, and she had difficulty concentrating.

10 228. M.R. vomited regularly as a result of her acute anxiety.

11 229. A medical professional working at the medical clinic at Dilley told her
12 that these were symptoms of stress and her continued anxiety and fear that she would
13 be separated from her son again.

14
15 230. Following a mental health evaluation at Dilley, a psychologist
16 diagnosed M.R. with PTSD, finding that after the forced separation from her son,
17 M.R. lived “in a constant state of fear and worry.” To this day, M.R. continues to
18 experience symptoms consistent with PTSD, such as problems with memory and
19 concentration, and painful headaches at least once or twice a week.

20
21 231. J.R. also manifests symptoms stemming from the trauma of his forced
22 separation from his mother.

23
24 232. While at Dilley, J.R. often refused to eat and would become suddenly
25 and inexplicably angry, sometimes storming out of the room when M.R. tried to talk
26 to him about their separation.

1 233. More than a year after their forced separation, J.R. still experiences
2 severe emotional distress as a result of his separation from his mother. J.R. is still
3 unable to speak at length or in any detail with his mother about their separation or his
4 time at Cayuga. He becomes angry when asked to discuss the separation. J.R.
5 continues to have a decreased appetite and has lost weight.
6

7 234. M.R. has also noticed that J.R. spends much more time indoors and he
8 is angrier and more rebellious than before the separation.
9

10 **E. O.A. and L.A.**

11 **1. The Four-Month Separation of O.A. and L.A.**

12 235. On or around May 11, 2018, O.A. entered the United States with her
13 then-five-year-old daughter, L.A., after fleeing horrific violence and threats of further
14 violence in Guatemala.
15

16 236. After O.A. and L.A. entered Arizona, immigration officers apprehended
17 them and took them into immigration custody. The immigration officers escorted
18 O.A. and L.A. to an *hielera* in or near Yuma, Arizona, where the officers locked them
19 in a cell with approximately 30 mothers, plus their children.
20

21 237. O.A. had a bag of clothing that would have helped keep her and L.A.
22 warm, but the immigration officers confiscated the bag and gave them only aluminum
23 foil sheets, which did not provide warmth.
24

25 238. The only food O.A. and L.A. were given all day was two bowls of cold,
26 instant soup that was barely edible.
27
28

1 239. Shortly after arriving at the short-term detention center, immigration
2 officers took O.A. and L.A. from the locked cell and ushered them into another room
3 where they met with two other uniformed immigration officers, both men. At this
4 time, O.A. told the immigration officers that she feared for her and L.A.'s safety if
5 they returned to Guatemala.
6

7 240. L.A. was asked to move about 10 steps away from O.A. so that she
8 would not hear what the immigration officers were about to tell her mother. The
9 officers then informed O.A. that they would take L.A. away from her and send her to
10 another facility for a couple of days.
11

12 241. O.A. insisted that the officers could not take her daughter from her. The
13 officers responded that, in fact, they could take L.A. away because O.A. had
14 committed a crime. This caused O.A. tremendous anxiety and anguish.
15

16 242. O.A. begged the officers not to separate L.A. from her. Despite her fear
17 for her and L.A.'s safety if they returned to Guatemala, the prospect of being
18 separated from her daughter was so alarming that O.A. offered to leave the United
19 States if she could do so with her daughter. The officers refused and reacted to O.A.'s
20 increasing distress by becoming hostile and screaming at her to be quiet.
21

22 243. L.A. was not far away from the conversation and could hear the officers
23 berating her mother. She understood that the officers were going to take her away,
24 and she began to cry.
25

26 244. O.A. and L.A. were brought back to the locked cell with the other
27 women and children. O.A. tried to calm her daughter, but L.A. could not stop crying.
28

1 245. That night, O.A. and L.A. barely slept. There were no beds in the cell.
2 There were some mats, but not enough for everyone. There were no blankets, only
3 the foil sheets that did not provide warmth. O.A. slept on a trash bag, the only thing
4 separating her from the cold, concrete floor. L.A. laid on her mother's arm, the two
5 nearly touching the strangers lying next to them in the packed cell.
6

7 246. In the morning, O.A. and L.A. were still lying on the floor when O.A.
8 heard the immigration officers open the door and begin calling out children's names.
9 O.A. and L.A. were terrified. When a child's name was called, O.A. and L.A. saw the
10 child desperately clutch his or her mother as the two cried.
11

12 247. The officers, both men, would then order the child to line up against the
13 wall with the other children. The officers said the children would be taken to shower.
14 O.A. and L.A. watched and waited in horror for L.A.'s name to be called. As they
15 waited, O.A. tried to calm her daughter, telling her she would get to play with other
16 kids and have something better to eat than the cold soup.
17

18 248. L.A.'s name was called. She grabbed O.A. tightly and begged her
19 mother not to allow the strangers to take her away. O.A. again tried to soothe her
20 daughter, assuring her that the officers were just taking L.A. to play.
21

22 249. The immigration officer called L.A.'s name again, this time yelling it
23 angrily. Two officers, both men, then approached O.A. and L.A. They roughly
24 grabbed L.A.'s arm and pulled her away from her mother. O.A. begged the officers to
25 let her give L.A. some juice before they took her away because her lips were dry from
26
27
28

1 thirst. The officers refused to let her, yelling that they needed to hurry up because an
2 airplane was waiting for the children.

3
4 250. Until that moment, O.A. had assumed L.A. would be moved to a facility
5 nearby. It was the first time she realized that her five-year-old daughter, who did not
6 speak English and had never been on an airplane, would be taken so far away from
7 her. O.A. asked where L.A. was being sent. The officers did not answer her.

8
9 251. Shortly after the officers forcibly ripped L.A. from her mother's arms, a
10 woman, whom O.A. believed to be a social worker, brought L.A. to the showers. A
11 few moments later, an officer called O.A. from the cell and explained that L.A. had
12 refused to let anyone but her mother shower her. O.A. went into the showers, washed
13 her daughter, quietly gave her some juice, and said good-bye.

14
15 252. Once the children were showered, a man and a woman, whom O.A.
16 understood to be social workers, told a group of mothers that they would now be
17 taking the children away. The social workers told the mothers not to worry because
18 the children would be taken care of and given toys to play with.

19
20 253. The female social worker also told the mothers that their children would
21 be boarding an airplane. O.A. asked her where the children were going, but the
22 woman did not tell her.

23
24 254. During this conversation with the social worker, the children were in the
25 area, off to the side. It was the last time O.A. saw L.A. before the social workers took
26 L.A. away. O.A. would not see L.A. again for four months and one day.

1 255. After officers forcibly separated O.A. and L.A., O.A. spent two more
2 days at the short-term detention center, sleeping on the floor at night. She asked
3 immigration officers several times about her daughter, but they gave her no answers.
4

5 256. O.A. was moved to the Santa Cruz County Detention Center in Arizona
6 (“Santa Cruz”), where she was held for approximately one to two weeks.
7

8 257. During her time at Santa Cruz, despite O.A.’s repeated inquiries, no one
9 told her anything about L.A.’s whereabouts or well-being.
10

11 258. O.A. was next transferred to the Nevada Southern Detention Center in
12 Pahrump, Nevada (“Nevada Southern”), where immigration officers held her for
13 approximately two months. O.A. regularly asked officers at Nevada Southern about
14 her daughter, but they gave her no information.
15

16 259. While detained at Nevada Southern, O.A. had a conversation with a
17 woman who had been separated from her granddaughter. The woman gave O.A. the
18 telephone number of a social worker at a shelter in New York where immigration
19 authorities had taken her granddaughter. O.A. gave the number to her brother, who
20 was living in Florida, and asked him to contact the social worker, in hopes that the
21 social worker might be able to locate L.A. O.A.’s brother contacted the social
22 worker, who was able to locate L.A. at Cayuga.
23

24 260. Weeks after immigration authorities forcibly separated them, O.A. and
25 L.A. were finally able to speak to each other on the telephone. L.A. cried and said she
26 did not want to be there. She asked her mother where she was, too young to
27 understand that she was thousands of miles away.
28

1 261. From the time that immigration authorities forcibly separated O.A. and
2 L.A. until the time of their first telephone call weeks later, no immigration officer
3 provided O.A. with any information about her daughter's whereabouts or well-being,
4 or assisted her in locating L.A.
5

6 262. Instead, O.A., from her detention center in Nevada, located L.A. based
7 on information from another detained woman and the help of her brother in Florida
8 and a social worker in New York.
9

10 263. A social worker at Cayuga informed O.A. that if the government
11 deported O.A., L.A. might remain at Cayuga. Frightened at the idea of L.A. being left
12 alone in a shelter, O.A. arranged to have her brother apply to ORR for permission to
13 sponsor L.A. and bring her to live with him in Florida.
14

15 264. In late June 2018, an asylum officer conducted an initial screening of
16 O.A.'s asylum claim by conducting a credible fear interview in English through an
17 interpreter. The interview ended before O.A. finished explaining her claim. The
18 asylum officer then determined that O.A. did not establish a credible fear of
19 persecution in Guatemala.
20

21 265. In early July, immigration authorities released L.A. to O.A.'s brother,
22 who brought L.A. to live with him in Florida.
23

24 266. In mid-July 2018, an immigration judge, limited to the record before the
25 asylum officer, sustained the asylum officer's determination that O.A. had not
26 established a credible fear of persecution, therefore subjecting O.A. to expedited
27 removal.
28

1 267. One night in mid-August, immigration officers woke O.A. in her cell
2 and instructed her to pack her belongings. The officers informed her that she was
3 being transferred to Arizona for immediate deportation.
4

5 268. The officers shackled O.A.s' hands and ankles and put her on a bus with
6 other detained individuals.

7 269. O.A. was initially brought to a facility in Las Vegas, Nevada. There,
8 she pleaded with a male officer not to deport her because her daughter was still in the
9 country. The officer responded by scolding O.A. for bringing her daughter to the
10 United States.
11

12 270. An officer handed O.A. documents with her picture attached and asked
13 if it was her. After O.A. said yes, the officer told her to sign the documents. An
14 officer removed O.A.'s handcuffs so that she could sign the documents, but O.A.
15 refused because she did not know what the documents said, as they were written in
16 English.
17

18 271. A female officer, armed with a taser, pushed O.A., still shackled at the
19 ankles, against a wall and threatened to tase her if she did not sign.
20

21 272. Not wanting to sign a document she could not read, O.A. drew a line
22 above the signature line instead of her signature. Officers then put O.A. on a bus to
23 the airport where she was escorted onto a flight to Arizona.
24

25 273. When O.A. arrived in Arizona, immigration officers transported her to
26 the Eloy Detention Center and then, shortly after, to the Florence Correctional Center.
27
28

1 274. At the Florence Correctional Center, officers brought O.A. and other
2 detained individuals to a trailer and told them they would spend the night there before
3 being deported in the morning. Again, O.A. pleaded with the officers not to deport
4 her without L.A.
5

6 275. After O.A.'s persistent pleas, one of the immigration officers finally
7 allowed her to call her brother in Florida. O.A.'s brother contacted O.A.'s
8 immigration attorney, who promptly sought a stay of O.A.'s removal in court.
9

10 276. The court temporarily stayed O.A.'s deportation.

11 277. In late August or early September, O.A. was transferred back to the
12 Eloy Detention Center in Arizona. She stayed there for approximately one week
13 before she was transferred to the Henderson Detention Center in Henderson, Nevada.
14

15 278. In addition to housing individuals on behalf of ICE, Henderson also
16 houses individuals charged with criminal offenses.

17 279. O.A. was terrified and treated harshly at Henderson. At one meal, an
18 inmate pushed her causing her to drop her tray. A prison guard told O.A. that she
19 would be tased if she dropped her tray again.
20

21 280. At Henderson, after a visit from her immigration attorney, a jail guard
22 strip-searched O.A., ordering her to remove all her clothing—including her
23 underwear—bend over, and cough. O.A. was humiliated.
24

25 **2. L.A.'s Separation From Her Mother**

26 281. While her mother was suffering traumatic experiences in a variety of
27 detention centers, L.A. experienced her own trauma on the other side of the country.
28

1 After immigration officers forcibly separated L.A. from her mother on or about May
2 12, 2018, government employees took five-year-old L.A. to Cayuga in New York.

3
4 282. L.A. arrived at Cayuga after midnight on May 15, 2018. Cayuga staff
5 started their intake interview of L.A. at approximately 2:30 a.m. L.A. was crying and
6 asked for her mother. No one at Cayuga told her where her mother was or when she
7 would see her again.

8
9 283. During her time at Cayuga, L.A. became extremely ill. On or about
10 June 13, 2018, L.A. was sent to an onsite medical clinic because she had a rash on her
11 face, a bloody nose and a cough. The notes from the visit indicate that L.A.
12 “continues to express discomfort and is not adjusting well to the program.” The staff
13 also noted that L.A. “misses her mother and wants to be with her.” Staff also
14 recorded that it “attempted to help [L.A.] contain her emotions, but minor is not
15 coping well,” and that L.A. did not appear “stable and engaged when discussing all
16 the questions asked, because she is in distress and cries for her mother.” Observations
17 by Cayuga staff also included references to L.A. crying often.

18
19
20 284. On June 15, 2018, L.A. told Cayuga staff that she was still feeling pain
21 and discomfort. Cayuga staff escorted L.A. back to the medical clinic. Records
22 reflect that Cayuga staff noted the same observations from her June 13, 2018 visit to
23 the clinic, namely that L.A. did not appear “stable and engaged,” that she cried often
24 for her mother, and was in a state of distress. During her June 15, 2018 visit to the
25 clinic, L.A. was prescribed antibiotics.

1 285. On or about June 18, 2018, Cayuga staff noted that L.A. had not been
2 given the antibiotics prescribed to her on June 15, 2018. Cayuga staff again brought
3 L.A. to the clinic because staff “observed minor bleeding through her nose, pus
4 coming out of her ear, and crying.” On June 18, 2018, L.A. finally was given
5 ibuprofen, Amoxicillin and other antibiotics. This was five days after the clinic first
6 became aware of her symptoms.
7

8 286. On or about June 26, 2018, an insect bit L.A. L.A. did not receive
9 proper treatment and an infection developed on her arm, requiring her to be taken to
10 an urgent care facility.
11

12 **3. L.A. and O.A.’s Reunification**

13 287. On or about September 13, 2018, DHS transferred O.A. to Dilley.
14

15 288. The same day O.A. arrived at Dilley, O.A.’s brother brought L.A. to be
16 with her. Four months and one day after the government forcibly separated them,
17 O.A. and L.A. were finally reunited and able to hug each other.
18

19 289. When L.A. entered the room, she turned to an officer and said, “please
20 don’t take my mommy away.”
21

22 290. In October 2018, immigration authorities agreed to re-screen O.A.’s
23 asylum claim. After having the opportunity to tell her entire story, the asylum officer
24 determined that O.A. had established a credible fear of persecution.
25

26 291. DHS released O.A. and L.A. from Dilley on or about November 15,
27 2018, after more than two months there, and more than six months after they arrived
28 in the United States.

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4. O.A.’s and L.A.’s Harms and Losses

292. As a result of the government’s actions described above, O.A. suffered, and continues to suffer, severe emotional distress.

293. The terrifying circumstances of the forced separation, not knowing L.A.’s whereabouts or about her well-being for weeks, the very limited communication with her daughter, and the four-month separation—during which she narrowly escaped being deported without L.A.—have tormented O.A.

294. O.A. was so consumed with worry while she was detained that she was frequently unable to sleep and suffered nightmares when she did.

295. While detained, O.A.’s appetite diminished, and she lost weight.

296. O.A. also suffered from chronic headaches, experienced dizzy spells, and started losing her hair during her detention.

297. O.A. received occasional physical check-ups from detention center medical staff; however, on at least two occasions she filled out paperwork to see a doctor about her symptoms, and no one at the detention center ever answered those requests.

298. L.A. also has experienced severe emotional distress, fear, and mental anguish as a result of being forcibly separated from her mother for over four months.

299. During the approximately two months that she was separated from her mother while detained at Cayuga, L.A. received no information about her mother. L.A. had no idea what would happen to her or her mother.

1 300. L.A. also received inadequate medical care while detained at Cayuga,
2 which exacerbated her already distressed state.

3
4 301. L.A. has continued to suffer severe emotional distress since her release
5 from detention.

6 302. L.A. experiences nightmares. O.A. is often woken by her daughter in
7 the middle of the night, still asleep and sweating, screaming, “mama, mama.”

8
9 303. On occasion, L.A. will say to her mother, unprompted, “don’t let them
10 take me away again.”

11 **F. V.C. and G.A.**

12 **1. The Two-And-A-Half Month Separation of V.C. and G.A.**

13 304. On or around May 8, 2018, V.C. entered the United States with her then
14 six-year-old son, G.A., after fleeing horrific violence and threats of violence in
15 Guatemala.

16
17 305. When V.C. and G.A. crossed the border from Mexico into Arizona,
18 immigration officials apprehended them and brought them to one of the short-term
19 detention facilities, an *hielera*, in Florence, Arizona.

20
21 306. Shortly after V.C. and G.A. arrived at the *hielera*, immigration officers
22 told V.C. that because she did not enter through an official port of entry, the U.S.
23 government would detain her for years, take G.A. away from her, and send him to a
24 shelter.

25
26 307. The immigration officers put V.C. in a cell with other women, and put
27 G.A. in a different cell with other young children.

1 308. V.C. was terrified. She could not see or hear G.A. from her cell.

2 309. At night, the immigration officers brought the parents to the children's
3 cell.
4

5 310. V.C. and G.A. spent two days and nights like this—apart during the day
6 and together only at night.

7 311. During those two nights, V.C. tried to explain to G.A. that immigration
8 officers would take him to a shelter for a while, and that she would see him again
9 soon. G.A. cried hearing the news.
10

11 312. On their second morning in the *hielera*, on or around May 10, an
12 immigration officer told V.C. and the other mothers to get up because they were
13 sending their children to a shelter that day.
14

15 313. V.C. witnessed immigration officers take groups of approximately 10
16 parents and 10 children to another room.

17 314. When an immigration officer called their names, V.C. and G.A. joined a
18 small group of other mothers, fathers, and children. The immigration officer took
19 them to a room with a shower and told the parents to line up to bathe their children.
20

21 315. V.C. witnessed parents and children crying as they waited in line to use
22 the shower.

23 316. The immigration officer said laughingly: "Don't cry today, today is a
24 happy day. It's Mother's Day."
25

26 317. V.C. knew the officer was taunting the parents about taking their
27 children away. V.C. was upset and traumatized by the officer's mockery.
28

1 318. After bathing G.A., V.C. dressed him and waited for the other parents to
2 do the same.

3
4 319. The immigration officer then led the parents and children back to the
5 children's cell, where he told the parents to say good-bye.

6 320. The officer called the children's names one by one and told them to line
7 up against the wall of the cell.

8
9 321. Officers told the parents to remain in a line against the other wall. V.C.
10 and G.A. clung to each other and cried.

11 322. V.C. watched as an officer forcibly ripped a child from his mother's
12 arms.

13
14 323. V.C. tried to comfort G.A., but she was sobbing so much she could
15 barely speak.

16 324. A woman who identified herself as a social worker told V.C. not to
17 worry, that her son was going to a shelter in New York, and that she should get a
18 lawyer and fight her case in order to stay in the country with her son.

19
20 325. The social worker's comments provided little comfort to V.C. She
21 could not afford a lawyer and had no idea how long it would be before she saw G.A.
22 again.

23
24 326. G.A. did not want to leave his mother. The immigration officer called
25 his name, and, sobbing, G.A. got into line with the other children.

1 327. Without any words of comfort and without the slightest show of
2 compassion, the immigration officer led G.A. and the other children out of the room
3 and closed the door.
4

5 328. After taking their children, the immigration officer did not give V.C.
6 and the other parents any information about where their children were going or when
7 the parents would speak to their children again.
8

9 329. Instead, the immigration officer took the parents back to the holding
10 cells as if nothing had happened.

11 330. V.C. remained in the holding cell with nearly 80 other women for
12 approximately four more days. The cell was over-crowded. It had no beds, and the
13 women slept on the floor with only sheets of aluminum for warmth. There was only
14 one toilet and one sink for all of the women.
15

16 331. On or around May 14, four days after the government took away V.C.'s
17 son, immigration officers put V.C. and the other women in handcuffs and shackles
18 and took them on a bus to the Santa Cruz County Jail.
19

20 332. Upon arrival at the jail, officers forced V.C. and the other women to
21 strip naked and submit to a search. While V.C. was naked, a female officer at the
22 center told V.C. to bend over and cough three times. V.C. did as she was told, but felt
23 distraught and humiliated.
24

25 333. Approximately four days later, immigration officers again put V.C. and
26 the other women in shackles and made them board another bus.
27
28

1 334. The officers told the women that they were going to an airport to be
2 deported. Everyone began crying. V.C. was terrified that she was being sent back to
3 Guatemala without G.A.
4

5 335. When the women protested, an officer said callously, “So, why did you
6 come into this country?”
7

8 336. At the airport, V.C. and the other women, still in shackles, boarded the
9 plane, along with the immigration officers.

10 337. During the flight, a woman on the plane who may have worked for the
11 airline, told the women not to cry, that the plane was going to Las Vegas, not
12 Guatemala. She told the women that she understood their fear because she was a
13 mother herself.
14

15 338. While V.C. wanted to believe the woman, she thought she was just
16 trying to make them feel better. It was not until the plane was landing and she saw a
17 sign on the ground with the words “Las Vegas” that V.C. realized they were still in
18 the United States.
19

20 339. In Las Vegas, the immigration officers loaded V.C. and the other
21 women, still in handcuffs and shackles, onto another bus and took them to the Nevada
22 Southern Detention Center.
23

24 340. When V.C. arrived there, immigration officers told her and the other
25 women that they would go before a judge and that if they won their cases, they could
26 remain in the United States, but if they lost, they would be deported.
27
28

1 341. On or about June 5, immigration officers took V.C. to a room in the
2 detention center where she spoke to a judge via videoconference. V.C. begged the
3 judge not to deport her without her son. Nevertheless, the judge told her that he was
4 ordering her deportation.
5

6 342. When V.C. returned to her cell, she received a paper in English from an
7 immigration officer. A woman in the cell who spoke English told V.C. that it was her
8 deportation order. V.C. was certain that the U.S. government would send her back to
9 Guatemala without G.A., and that she would never see her son again.
10

11 343. Approximately a week after V.C.'s immigration hearing, a member of
12 the Guatemalan consulate contacted her and told her that she was scheduled to board a
13 plane back to Guatemala that afternoon. When V.C. asked about her son, the
14 Guatemalan official told her that it might take as long as six months for the U.S.
15 government to locate G.A. and send him back to Guatemala.
16

17 344. The consular official told V.C. that if she stayed in the United States,
18 she would have to spend six more months in jail. Because V.C. was so fearful of
19 being deported without G.A., she readily agreed to stay in detention for six months.
20

21 345. The consular official, however, replied that V.C. did not have a choice
22 and she would be deported that day. V.C. was terrified.
23

24 346. For reasons unknown to V.C., she was not deported as planned, and she
25 remained in the detention center for a total of approximately two months.
26

27 347. While in detention, V.C. cried every day. She barely ate or slept. She
28 had headaches and toothaches. During this time, other mothers detained with V.C.

1 were deported without their children. V.C. was constantly terrified that she would be
2 deported without her son.

3
4 348. During her two months in Nevada, V.C. repeatedly asked for
5 information about G.A. A caseworker in the detention center spoke Spanish, and she
6 helped V.C. and other women draft a petition asking the immigration officers to let
7 them speak to their children. The petition, which the women presented to
8 immigration officers at the detention center, had no impact.

9
10 349. G.A. turned seven while V.C. was in Nevada. He spent his seventh
11 birthday separated from his mother.

12
13 350. On G.A.'s birthday, V.C. was beside herself. She spent the day crying
14 at the thought that her little boy was somewhere turning seven, all by himself.

15
16 351. By early July, V.C. had been separated from G.A. for almost two
17 months. She had not spoken to G.A., and she had no idea where he was. Finally, on
18 July 6, an immigration officer called V.C.'s name and took her to a telephone to speak
19 to G.A.

20
21 352. As soon as G.A. heard his mother's voice, he started to cry. He cried
22 throughout the phone call, which lasted about ten minutes.

23
24 353. During the call, V.C. also spoke to the social worker at Cayuga, the
25 facility in New York where immigration authorities had transferred G.A. V.C.
26 understood from the social worker that G.A. was not eating and would not get out of
27 bed, and that he spent all his time crying. This report from the social worker made
28 V.C. more distressed.

1 354. About a week later, immigration officers allowed V.C. to call G.A. a
2 second time. Again, G.A. cried for the duration of the call.

3
4 **2. G.A.'s Separation From His Mother**

5 355. After immigration officials forcibly separated G.A. from his mother,
6 G.A. was put on an airplane for the first time in his life and flown to New York,
7 thousands of miles away from his mother.

8 356. G.A. spent two and a half months in ORR custody. Immigration
9 authorities placed G.A. at Cayuga.

10 357. ORR staff sent G.A. to stay with a foster family on weekends, even
11 though his mother was in the United States and desperately asking to be reunited with
12 him.
13

14 358. G.A. waited almost two months before he was permitted to speak to his
15 mother. He cried when he heard her voice on the phone.
16

17 **3. V.C. and G.A.'s Reunification**

18 359. The government was forced to reunite V.C. and G.A. after Judge
19 Sabraw issued the injunction in *Ms. L.* on June 26, 2018. To that end, on or around
20 July 18, immigration officers took V.C. from the detention center in Nevada and sent
21 her to Port Isabel in Texas. Again, the immigration officers handcuffed and shackled
22 V.C. during the transfer. In Port Isabel, immigration officers told V.C. that she would
23 be reunited with her son.
24

25 360. Finally, a week later, on or around July 25, after two and half months of
26 separation from his mother, G.A. arrived in Port Isabel.
27
28

1 361. V.C. and G.A. were so relieved to be reunited that they both cried.

2 362. Immigration officers then transferred V.C. and G.A. to Dilley.

3
4 363. During the time that the government detained V.C. and G.A. at Dilley,
5 an asylum officer interviewed G.A. and determined that G.A. had a credible fear of
6 persecution in Guatemala. This threshold finding allowed G.A. to pursue his asylum
7 claim before an immigration court.

8
9 364. Following the credible fear interview, DHS finally released V.C. and
10 G.A. at the end of November 2018, after four months in Dilley and more than six
11 months in detention.

12 **4. V.C. and G.A.'s Harms and Losses**

13 365. V.C. suffered severe emotional distress as a result of the forcible
14 separation from her son by the government, and she continues to experience
15 symptoms of distress to this day.

16 366. Immigration officers failed to provide V.C. with information regarding
17 her son's well-being or whereabouts for months, which increased her acute anxiety
18 and distress.

19 367. V.C. worried about her child constantly.

20 368. V.C. cried all the time.

21 369. V.C. was so overwhelmed by feelings of loss, despair, fear, and grief
22 that she was unable to sleep, had no appetite, and suffered from chronic headaches.

23 370. V.C. even lost her ability to recall words and speak normally, which
24 increased her feelings of helplessness.

1 371. During her time at Dilley, V.C. continued to experience headaches and
2 wanted to sleep all day. She did not have energy to do anything else.

3
4 372. V.C.'s emotional distress was, and is, all the more severe because the
5 separation inflicted long-term harm on her son, and on V.C. and G.A.'s relationship.

6 373. During their time at Dilley, G.A. told V.C. on several occasions that she
7 was not his mother anymore because V.C. allowed G.A. to be taken away from her.

8
9 374. V.C. was heartbroken when she heard this; she did not believe that she
10 would ever be happy again, or that her son would ever again feel safe.

11 375. Medical personnel at Dilley examined V.C. and prescribed medication.
12 No one provided V.C. with the name of the medication.

13
14 376. Eventually, the medication helped lessen the severity of V.C.'s
15 headaches and lack of energy; however, she still suffers from headaches caused by the
16 stress she experienced in immigration detention.

17 377. A clinical social worker conducted a psychological evaluation of V.C. at
18 Dilley and confirmed that V.C. suffered trauma as a result of the separation from
19 G.A., as well as from the accompanying misinformation and lack of information
20 concerning G.A.'s safety, well-being, and whereabouts after the immigration officers
21 took G.A. from her.

22
23 378. The clinical social worker further concluded that V.C. exhibited
24 symptoms consistent with PTSD.

25
26 379. Medical personnel at Dilley also examined G.A. because he appeared
27 angry and easily frustrated.

28

1 intent to cause, or a reckless disregard of the probability of causing, Plaintiffs to suffer
2 severe emotional distress.

3
4 388. As a direct and proximate result of that conduct, Plaintiffs suffered
5 severe emotional distress.

6 389. Under the Federal Tort Claims Act, the United States is liable to
7 Plaintiffs for intentional infliction of emotional distress.

8
9 **COUNT II**
10 **NEGLIGENCE**

11 390. The federal officers referenced above had a duty to Plaintiffs to act with
12 ordinary care and prudence so as not to cause harm or injury to Plaintiffs.

13 391. By engaging in the acts alleged herein, the federal officers referenced
14 above failed to act with ordinary care and breached their duty of care owed to
15 Plaintiffs.

16
17 392. As a direct and proximate result of the referenced conduct, Plaintiffs
18 suffered substantial damages.

19 393. Under the Federal Tort Claims Act, the United States is liable to
20 Plaintiffs for negligence.

21
22 **PRAYER FOR RELIEF**

23 **WHEREFORE**, Plaintiffs respectfully request:

- 24 A. Compensatory damages;
25 B. Attorneys’ fees and costs pursuant to, among other provisions, the Equal
26 Access to Justice Act, 28 U.S.C. § 2412; and
27

1 C. Such other and further relief as the Court deems just and appropriate.

2 RESPECTFULLY SUBMITTED this 19th day of September, 2019.

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* *Pro hac vice application forthcoming*