UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Uriel VAZQUEZ PEREZ, on his own behalf and on behalf of others similarly situated,
Petitioner-Plaintiff,

v.

Thomas DECKER, in his official capacity as New York Field Office Director for U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; Ronald D. VITIELLO, in his official capacity as the Acting Director for U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; Kirstjen NIELSEN, in her official capacity as Secretary of the U.S. DEPARTMENT OF HOMELAND SECURITY; James McHENRY, in his official capacity as Director of the EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Matthew G. WHITAKER, in his official capacity as the Acting Attorney General of the United States; UNITED STATES DEPARTMENT OF HOMELAND SECURITY; UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT; UNITED STATES DEPARTMENT OF JUSTICE; the EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; and Carl E. DUBOIS in his official capacity as the Sheriff of Orange County and the official in charge of the Orange County Correctional Facility,

Respondents-Defendants.

Case No. 18-cv-10683

CLASS PETITION FOR WRIT OF HABEAS CORPUS AND CLASS COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. The U.S. Immigration and Customs Enforcement agency ("ICE") arrests more than 1000 people each year in the New York area. Hundreds of these individuals will be released after they get to see an immigration judge ("judge"), and many will go on to win the right to remain in the United States. However, when they are arrested, ICE holds people in area jails for approximately eighty days before allowing them to see a judge and to begin their

case. While they languish in jail, these immigration detainees—including some United States citizens and lawful permanent residents ("LPRs")—are frozen in legal limbo. It is only at an immigration detainee's first appearance before a judge that a detainee is meaningfully informed of the reason for their detention; that a detainee can request immediate release on bond while their immigration case proceeds; and that a detainee can petition for release if their detention is unlawful. Those ensnared by this illegal practice suffer under harsh conditions of confinement; are separated from families, friends, and communities; and risk losing their children, their jobs, and their homes.

2. The current practice marks a dramatic deterioration from just four years ago, when initial court appearances typically occurred within eleven days of an arrest. Also in the last four years, ICE has effectively stopped releasing anyone on bond, though it has independent authority to do so. Thus, people now have no way to win release during the unprecedented period of delay before they see a judge.

3. It is imperative to bring immigration detainees to court promptly. After they see a judge, an estimated 40% of detainees will be released on bond, and others will have their cases terminated altogether after a finding that they are not removable. For indigent detainees, the first court appearance is when they are provided access to a free lawyer. Even for those not released right away, prompt hearings are important because they allow the person's immigration case to begin. The amount of time a person waits to see a judge for the first time is an entirely unproductive period that unnecessarily extends their detention and the resolution of their case.

4. Petitioner-Plaintiff Uriel Vazquez Perez ("Petitioner") is one of the many individuals currently in ICE custody who faces the prospect of months in detention before he will be

provided an opportunity to see a judge. Mr. Vazquez Perez was arrested by ICE on October 30, 2018 and is detained by ICE at the Orange County Correctional Facility in Goshen New York, where ICE rents bed space. Mr. Vazquez Perez is a long-time New Yorker, husband, and father of two children. He will likely languish in jail for months before he is brought before a judge who can release him on bond and evaluate his case.

5. Respondents-Defendants' ("Respondents") practice of failing to provide first appearances before a judge for nearly three months after an arrest violates the Fourth and Fifth Amendments to the United States Constitution and the Administrative Procedure Act ("APA"). Petitioners seek declaratory and injunctive relief to end Respondents' illegal practice and to end the enormous and unnecessary harm that this practice inflicts.

JURISDICTION AND VENUE

6. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act); 28 U.S.C. § 1361 (mandamus); 5 U.S.C. §§ 702–06 (Administrative Procedure Act); and U.S. Const., art. I, § 9, cl. 2 (Suspension Clause).

7. Venue is proper under 28 U.S.C. § 2241, 28 U.S.C. § 1391(b), and 28 U.S.C. § 1391(e) because at the time of the filing of this action the Petitioner is detained in Respondents' custody within the Southern District of New York; the federal government will prosecute his removal proceedings within this district at the Varick Court located at 201 Varick Street, New York, NY 10014 ("Varick Court"); a substantial part of the events and omissions giving rise to these claims occurred, and continue to occur, in this district; Respondent Decker's official residence is in this district; and the Respondents are officers or employees of the United States acting in their official capacities.

PARTIES

8. Petitioner Uriel VAZQUEZ PEREZ is presently in the custody of ICE's New York Field Office ("NYFO") detained pursuant to 8 U.S.C. § 1226 within the Southern District of New York at the Orange County Correctional Facility, where ICE rents bed space. He is legally entitled a hearing in immigration court to determine whether he should be removed from the United States and whether he should be released on bond during the pendency of his removal proceedings. He has not yet been afforded an opportunity to see a judge.

9. Respondent UNITED STATES DEPARTMENT OF HOMELAND SECURITY ("DHS") is the federal agency responsible for arresting, detaining, and prosecuting individuals suspected of civil immigration violations, including Petitioners.

10. Respondent Kirstjen NIELSEN is named in her official capacity as the Secretary of DHS. ICE is subject to her control and direction, and she is responsible for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103(a). Respondent Nielsen routinely transacts business in the Southern District of New York and is a legal custodian responsible for the arrest and detention of Petitioners.

11. Respondent UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT is a subcomponent of DHS responsible for arresting, detaining, and prosecuting individuals suspected of civil immigration violations, including Petitioners.

12. Respondent Ronald D. VITIELLO is named in his official capacity as the Acting Director of ICE. ICE is subject to his control and direction, and he is responsible for the administration and enforcement of the immigration laws. Respondent Vitiello routinely

transacts business in the Southern District of New York and is a legal custodian responsible for the arrest and detention of Petitioners.

13. Respondent Thomas DECKER is named in his official capacity as the Director of the NYFO for ICE, which has jurisdiction over individuals suspected of civil immigration violations who are arrested in New York City and in Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties. Respondent Decker also has jurisdiction over the detention of individuals who are, or will be, in removal proceedings at the Varick Court. Respondent Decker's place of business is in the Southern District of New York, and he is an immediate legal and physical custodian responsible for the arrest and detention of all Petitioners and of the proposed class representative.

14. Respondent UNITED STATES DEPARTMENT OF JUSTICE ("DOJ") is the federal agency responsible for interpretation of the immigration laws and the adjudication of removal proceedings.

15. Respondent Matthew G. WHITAKER is named in his official capacity as the Acting Attorney General of the United States and is the most senior official in the DOJ. He is responsible for the interpretation of the immigration laws and the adjudication of removal proceedings, and delegates this responsibility to the Executive Office for Immigration Review ("EOIR"), which is subject to his control and direction. Respondent Whitaker is legally responsible for administering Petitioners' removal proceedings.

16. Respondent EXECUTIVE OFFICE FOR IMMIGRATION REVIEW is a federal agency and component of the DOJ and is responsible for the administration of removal

proceedings in immigration courts, including at the Varick Court, where Petitioners will appear for their removal proceedings.

17. Respondent James MCHENRY is named in his official capacity as the Director of EOIR. He is responsible for the administration of removal proceedings in immigration courts, including at the Varick Court, where Petitioners will appear for their removal proceedings.

18. Respondent Carl E. DUBOIS is named in his official capacity as the Sheriff of Orange County and the official in charge of the Orange County Correctional Facility. Respondent DUBOIS's place of business is in the Southern District of New York and he is an immediate and physical custodian responsible for the detention of the proposed class representative.

FACTS

19. Petitioner Vazquez Perez and the putative class of Petitioners are immigration detainees arrested and jailed by ICE's NYFO, who have a right to a hearing in immigration court before the United States government may remove them from this country.

Delays in Access to the Courts

20. For immigration detainees, ICE serves simultaneously as the arresting agents, jailors, and prosecutors. After ICE's NYFO chooses to arrest a person for an alleged civil immigration offense, it will detain that person pending immigration proceedings in criminal jails that contract with ICE to provide bed space. While they wait in jail, most detainees lack basic information about the charges and evidence against them, do not know the steps required to prepare to apply for bond or to defend themselves in their removal cases, and do not have lawyers. As a result, they can make no progress on their

cases. Immigration detainees must wait until they are brought before an immigration judge to seek release.

21. The amount of time immigration detainees must wait in jail before seeing a judge is growing at an alarming rate. In 2014, the median wait time between arrest and initial appearance before an immigration judge at the Varick Court was eleven days. In 2015, that number grew to eighteen days, and in 2016, it grew to thirty-seven days. By 2017, the median wait time from arrest to initial appearance before a judge ballooned to forty-two days. In 2018, the period of detention before presentment to a judge has increased precipitously. The most recent available data shows that, in July 2018, the median wait time between arrest and an immigration detainee's first opportunity to see a judge at the Varick Court was eighty days.

22. Petitioners have no effective mechanism to mitigate this delay. As explained more fully below, while ICE provides detainees with paperwork that theoretically offers a mechanism for requesting expedited proceedings, there is, upon information and belief, no difference in wait time when a detainee requests expedition. Notably, this paperwork is written in English, and most Petitioners have no interpreter or lawyer to translate or explain the paperwork before they see a judge.

23. The extensive and growing delay between when ICE detains individuals and when they are finally produced to a judge serves no legitimate purpose.

Initial Appearance Before an Immigration Judge

24. The initial appearance before a judge marks the practical beginning of the removal proceedings and the first time many immigration detainees learn basic information about their case and can meaningfully begin to assert their rights.

25. At the initial appearance, the judge, with the aid of an interpreter if necessary: (a) describes the nature of the proceeding and the allegations and charges in plain, non-technical language; (b) notifies individuals of their right to be represented and of available *pro bono* legal services; (c) has a first opportunity to assist individuals in identifying defenses to deportation; (d) advises individuals of their rights to examine and object to the evidence against them, cross examine government witnesses, and present evidence on their own behalf; and (e) observes the detainee and may determine if there are any indicia of incompetency, triggering the judge's obligation to investigate whether an individual is competent to participate in proceedings and explore necessary safeguards.

26. The initial appearance is also the judge's first opportunity to ensure that ICE properly served the charging document, known as the Notice to Appear ("NTA"), upon the detainee and to review the NTA for facial defects.

27. For individuals in removal proceedings at the Varick Court, the initial appearance is particularly valuable because New York City has created a public defender program (the New York Immigrant Family Unity Project) that offers free deportation defense counsel to all indigent detained individuals who are unrepresented when they first appear for removal proceedings. Detainees are not generally provided free counsel through this program, however, until at or after their first court appearance when they affirm on the record that they want counsel. Prior to that, most immigration detainees do not have counsel.

28. All Petitioners are also entitled to some form of custody review by a judge. At the Varick Court, the day of the initial appearance in removal proceedings is generally the earliest

point at which an individual may receive a custody determination from the immigration court and win release on bond. Approximately 40% of immigration detainees appearing at the Varick Court are ultimately released because the court determines they are eligible for bond and that they are neither a flight risk nor a danger to the community.

29. In practice, the initial appearance is also the earliest point when detainees may have the opportunity to see the evidence against them. With such evidence in hand, and after receiving linguistically-appropriate plain language notice of the charges against them, the first appearance is the first opportunity for an individual wrongfully detained by ICE to move to terminate their proceedings. Respondents' own data demonstrates that, over the past five years, 9% of individuals detained by ICE who appeared at the Varick Court ultimately had their cases terminated. Some are wrongfully arrested United States citizens, and others are LPRs whom ICE incorrectly charges as removable. While these individuals are not removable and should not be detained, they are nevertheless forced to endure months of unlawful detention while they await their first appearance before a judge.

30. Immigration detainees who are removable but wish to challenge their deportation must apply for some form of "relief" from removal—for example, asylum, adjustment of status, or cancellation of removal. The initial appearance is generally the first opportunity for individuals to learn of their potential eligibility for relief—either from their attorneys or the judge. Thus, it is the point at which a large percentage of detainees who apply for relief can begin the lengthy process of preparing their relief applications.

31. The initial appearance is also the first opportunity for individuals who have no defense to removal, or who do not wish to remain in detention to contest their removal, to accept a

removal or voluntary departure order from a judge to effectuate their return to their country of origin and their release from custody.

32. Collectively, the notices, advisals, and procedures attendant to the initial appearance provide Petitioners with their first opportunity to seek release, either by requesting bond, by contesting removability, or by accepting a removal or voluntary departure order.

ICE's Post-Arrest Charging and Custody Determinations

33. Petitioners are all individuals detained by ICE's NYFO pursuant to 8 U.S.C. § 1226 who have a statutory right to go through removal proceedings in immigration court. However, prior to their initial appearance in front of a judge, ICE's post-arrest charging and custody determination procedures do not afford immigration detainees any meaningful way to challenge the legality or necessity of the extended detention they will face before seeing a judge.

34. For individuals arrested within the jurisdiction of the NYFO, ICE's post-arrest processing generally occurs at the ICE offices at 201 Varick Street, New York, NY 10014 or at 26 Federal Plaza, New York, NY 10278 or, sometimes, at location in Newburgh, NY. However, ICE provides no neutral or meaningful process to identify individuals who should be released on bond or who are not in fact removable.

35. ICE does not obtain judicial warrants prior to making civil immigration arrests. Nor does ICE seek post-arrest impartial review of their unilateral decision to arrest someone. Instead, pursuant to the arrest authority set forth in the Immigration and Nationality Act ("INA"), ICE may arrest and detain Petitioners either (1) pursuant to a document referred to as an administrative "warrant," which is signed by an ICE officer, without impartial review, and contains no particularized facts; or (2) without an administrative "warrant" if

an ICE officer has "reason to believe" that the individual is a noncitizen who is violating U.S. immigration law and "is likely to escape before a warrant can be obtained." 8 U.S.C. § 1357(a)(2). "Reason to believe" under the INA is equivalent to the constitutional requirement of "probable cause."

36. Whether arrests are made with or without an administrative warrant, initial determinations about removability are made by ICE officers without any process in which arrestees can meaningfully participate. These determinations are sometimes, but not always, reviewed by an additional officer.

37. This evaluative process happens quickly. Either before arresting a person or within forty-eight hours of arrest, ICE is required to decide whether to refer the person to an immigration court for removal proceedings and what civil immigration charge to lodge. ICE's charging decisions are memorialized on the NTA, which is served on the individual and eventually filed with the court. The immigration court's jurisdiction over removal proceedings vests when ICE files the NTA.

38. The legal scheme created by Congress and the Respondents is founded on a general expectation that removal proceedings for immigration detainees should be initiated and proceed expeditiously. However, in some instances, ICE does not even file the NTA—the charging document that vests the court with jurisdiction—until weeks after an individual has been arrested and detained.

39. The NTA contains a signature line that allows an individual to request an "immediate hearing" before a judge. Upon information and belief, however, signing this request does not impact scheduling or when an individual will have their first appearance before a judge.

40. At some point after ICE files the NTA with the immigration court, EOIR will schedule an initial appearance. However, detainees are not generally notified when the NTA is filed with the immigration court or when their initial appearance is scheduled, though some learn the date of their appearance when it becomes available on a public, automated EOIR hotline.

41. During the post-arrest processing period, ICE is also required to make an initial custody determination, which will dictate whether an individual remains detained awaiting their first court appearance or may be released on bond or their own recognizance. In practice, however, ICE's NYFO refuses to set bond for individuals detained under 8 U.S.C. § 1226. As a result, Petitioners remain detained at least until their first appearance before the court.

42. ICE memorializes its custody decision on Form I-286, Notice of Custody Determination, which is served on the detainee. Immigration detainees can check a box on the Form I-286 to "request an immigration judge review of this custody determination." Upon information and belief, checking this box does not affect when an individual will be presented to a judge.

43. At no point in ICE's post-arrest processing or custody review is there a meaningful opportunity for detainees to participate or to contest their charges or custody status. Petitioners do not receive access to the underlying evidence against them, and there is no hearing or other opportunity to avail themselves of the assistance of counsel to challenge ICE's charging and custody determinations. After ICE makes its charging and custody determinations, which are memorialized in the NTA and Form I-286, ICE does not

provide immigration detainees with any means to seek further administrative review from ICE of those determinations.

Harms of Extended Detention Without Access to the Courts

44. Extended detention without access to a judge subjects immigration detainees to a variety of harms. Most critically, delayed access to a judge delays an individual's ability to win release from custody, whether on bond, as the result of termination, after a grant of relief, or even after the entry of a removal or voluntary departure order.

45. The extended loss of physical liberty caused by Respondents also has a devastating physical, emotional, and financial impact on detainees and their families. Most individuals arrested by ICE's NYFO for removal proceedings have lived in this country for long periods of time and are deeply integrated into local communities and families. On average, Petitioners have lived in the United States for sixteen years when ICE arrests them, and almost a third (30%) are LPRs. Approximately half (47%) have children who live with them in the United States. Such parents have, on average, two children and report that 86% of those children have some form of legal status, primarily U.S. citizenship.

46. Approximately two-thirds (64%) of individuals arrested by ICE's NYFO for removal proceedings report that they were employed at the time of their arrest by ICE, and many are primary breadwinners for their families. Extended detention deprives individuals of their ability to earn a living and can result in a loss of pre-existing employment and income to support their families.

47. Following arrest by ICE, individuals detained by the NYFO are separated from their families and generally held at one of three county jails that contract with ICE to provide

bed space: Hudson County Correctional Facility in New Jersey; Bergen County Jail in New Jersey; and Orange County Correctional Facility in New York (collectively "ICE's New York City-area facilities"). In these jails, immigration detainees are held under the same restrictions as individuals held on criminal charges or serving criminal sentences. The conditions are worse, however, because immigration detainees lack access to some of the services available to the individuals detained on criminal charges. Contact with families through phone calls and visits at these facilities are limited and prohibitively expensive for some.

48. The medical and mental health care available at ICE's New York City-area facilities is grossly inadequate and has led to severe negative consequences for detainees' health and, in some cases, has even led to death. Hudson County Jail, where many putative class members are held, has reported six inmate deaths since June 2017 alone, including four suicides. The serious inadequacies in ICE's New York City-area facilities' medical and mental health care has been recognized and documented by multiple local and national nonprofit organizations as well as by Respondent DHS's own Inspector General.

49. ICE's New York City-area facilities have a documented track record of denying detainees access to vital medical treatment, such as dialysis and blood transfusions; subjecting detainees to weeks- and months-long delays in providing access to necessary medications, care, and even vital surgeries; ignoring repeated complaints and requests for care from detainees with serious symptoms or acute pain, including individuals recovering from car accidents and gunshot wounds; refusing to continue effective treatments that detainees were receiving prior to detention, including for individuals with chronic conditions such as HIV, cancer, or diabetes; and failing to provide interpretation

and translation services for detainees with limited English proficiency who seek medical care.

50. Collectively, the deficiencies in the medical and mental health care provided at ICE's New York City-area facilities subject Petitioners to the risk of serious and even life-threatening medical complications during the months before they have any possibility to seek release from a judge.

Facts Pertaining to Petitioner-Plaintiff Uriel Vazquez Perez

51. Petitioner Uriel Vazquez Perez has lived in New York for nearly twenty years. He was arrested on October 30, 2018 by ICE's NYFO. Upon information and belief, ICE detained Mr. Vazquez Perez pursuant to 8 U.S.C. § 1226 and, consistent with its general practice, refused to release him on bond. Accordingly, he will remain detained by ICE at least until he can see a judge. Mr. Vazquez Perez is currently detained by ICE at the Orange County Correctional Facility, a local county jail where ICE rents bed space, in Goshen, New York. Mr. Vazquez Perez has not yet been scheduled for his initial appearance before the immigration court, and will likely wait months to see a judge. Once he appears before a judge, Mr. Vazquez Perez is eligible for and will seek release on bond and assert defenses to removal.

52. Prior to being detained by ICE, Mr. Vazquez Perez lived with his wife and two children, all of whom are members of their local church. His youngest child is in sixth grade and is a United States citizen. Now, while Mr. Vazquez Perez waits to see a judge, he is separated from his family and detained in the same conditions and with the same restrictions imposed on criminal defendants.

CLASS ACTION ALLEGATIONS

53. Petitioner brings this representative habeas action pursuant to 28 U.S.C. § 2241, or in the alternative, class action pursuant to Fed. R. Civ. P. 23(a), (b)(1), and (b)(2) on behalf of himself and all other persons similarly situated.

54. The proposed class is defined as follows:

> All individuals who are, have been, or will be arrested by ICE's NYFO and detained under 8 U.S.C. § 1226 for removal proceedings before an immigration judge, and who have not been provided an initial hearing before an immigration judge.

55. Like Petitioner, all other proposed class members are, have been, or will be confined in the legal and physical custody of Respondents within the Southern District of New York and, even if subsequently housed elsewhere, will remain detained in the legal and physical custody of Respondents during the pendency of their removal proceedings.

56. The proposed class is so numerous, and membership in the class so fluid and transitory, that joinder of all members is impracticable. In the first seven months of 2018, the Varick Court—which only serves individuals detained under the jurisdiction of the NYFO—received 896 new NTAs, or new removal cases. There are currently over one hundred individuals detained by the NYFO who have not yet seen a judge. Annually, there are more than one thousand such individuals.

57. Moreover, absent class certification, individual immigration detainees would face a series of barriers to accessing the relief sought. The majority of detainees are unrepresented prior to their first appearance before a judge. As set forth above, they do not receive any translation or explanation of legal documents during this time period. Access to legal materials in detention is severely limited. A large percentage of detainees do not speak and/or cannot read or write in English. Many detainees have limited educational

backgrounds. A significant class of detainees suffers from physical or mental impairments.

58. Petitioner's claims are typical of those of the proposed class. All proposed class members are entitled to challenge whether they are subject to removal and to obtain some form of custody review before a judge. However, members of the proposed class are subject to extended detention without prompt access to a judge to challenge their detention and deportation.

59. Petitioner will fairly and adequately protect the interests of the proposed class. Petitioner has no interests separate from those of the class with respect to the claims and issues in this case and seeks no relief other than the relief sought by the class. He is unaware of any conflicts that would preclude fair and adequate representation.

60. Common questions of law or fact exist as to all proposed class members, including but not limited to the following: (a) whether the Respondents' policy and practice of failing to promptly provide class members with access to an immigration judge violates due process; (b) whether the Respondents' policy and practice of failing to provide class members with prompt post-deprivation hearings before a neutral adjudicator violates the Fourth Amendment; and (c) whether the Respondents' policy and practice of unreasonably delaying the first appearance of class members before a judge violates the APA.

61. The claims of Petitioner are typical of the claims of the class as a whole because Petitioner and the class members are, have been, or will be similarly detained by ICE's NYFO without an opportunity to promptly access a judge to challenge their detention and removal. Moreover, Petitioner and proposed class members will be directly injured by

Respondents' policy and practice of excessive delays that result in months of unjustified and unnecessary detention.

62. Counsel for Petitioner are experienced in complex class action, civil rights, and immigrants' rights litigation.

63. The fact that vulnerable class members are unlikely to be able to challenge their pre-presentment detention individually, as well as considerations of judicial economy, also militate in favor of class certification.

CAUSES OF ACTION

FIRST CLAIM
VIOLATION OF DUE PROCESS

64. Respondents' actions violate the rights of Petitioners under the Due Process Clause of the Fifth Amendment.

SECOND CLAIM
VIOLATION OF FOURTH AMENDMENT

65. Respondents' seizure of Petitioners without any probable cause determination by an immigration judge or other impartial adjudicator is unreasonable and violates the Fourth Amendment.

THIRD CLAIM
VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

66. Respondents' unreasonable delays violate the APA. Respondents DHS, ICE, Nielsen, Vitiello, and Decker's policy of universally denying bond without individualized determinations further violates the APA.

PRAYER FOR RELIEF

WHEREFORE, PETITIONER respectfully requests that the Court:

67. Assume jurisdiction over this matter;

68. Certify this action as a class action on behalf of the proposed class, appoint Petitioner as a class representative, and appoint the undersigned counsel as class counsel;

69. Declare that the Respondents' actions, practices, policies, and/or omissions violate the Fourth and Fifth Amendments to the United States Constitution and the APA;

70. Provide appropriate equitable relief as is necessary to remedy Respondents' violations of the Fourth and Fifth Amendments to the United States Constitution and the APA;

71. Order that Petitioner not be transferred to any facility outside the jurisdiction of the NYFO or the Court;

72. Order regular and complete reporting on the petitioner class to class counsel;

73. Award reasonable attorneys' fees and costs for this action; and

74. Grant any further relief that the Court deems just and proper.

Respectfully submitted,

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Dated: November 15, 2018
New York, NY

* Application for admission to the S.D.N.Y. forthcoming
** Law Student Intern Appearance Forms forthcoming
*** Law school graduate; application for admission to the bar forthcoming