

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

**PEDRO BRAVO CASTILLO AND LUIS
VASQUEZ RUEDA**

Petitioners,

vs.

WILLIAM BARR, United States Attorney
General; **CHAD WOLF**, Acting Secretary
of U.S. Department of Homeland Security;
U.S. DEPARTMENT OF HOMELAND
SECURITY; U.S. IMMIGRATION AND
CUSTOMS (ICE); **MATTHEW T.
ALBENCE**, Deputy Director and Senior
Official for ICE; **DAVID MARIN**, Field
Office Director for ICE ERO in Los
Angeles; **JAMES JANECKA**, Warden,
Adelanto ICE Processing Center

Respondents.

Case No.: 5:20-cv-00605

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

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I. INTRODUCTION

This is a Petition for a Writ of Habeas Corpus filed on behalf of Petitioners Pedro Bravo Castillo and Luis Vasquez Rueda to remedy their unlawful detention. Petitioners are long-time residents of Southern California who, like millions of others, watched in fear as the novel coronavirus became a global pandemic. As a state of emergency was declared in California and nationally, officers from Immigration and Customs Enforcement (ICE) came to Petitioners' homes to conduct immigration enforcement raids. As the Centers for Disease Control and Prevention (CDC) pleaded for people to wash their hands, stay home, and avoid close contact with others, Petitioners were forcibly removed from their homes, handcuffed and restrained by ICE officers, and held in transport vans and small rooms where close physical contact was unavoidable. Both of them were taken to Adelanto ICE Processing Center (Adelanto Detention Center), where they have been detained ever since. They live in dorms and sleep in bunk beds, sharing commons spaces and medical facilities with over 1,600 other detainees. They are in the constant presence of guards, officers, and staff who continually rotate in and out of the facility, each time risking transmission of the virus to those inside and outside the detention center. COVID-19 is highly contagious, with each person infected transmitting the virus to an average of two to three other people. A single case has the potential to overwhelm not only the Adelanto Detention Center, but also in the communities that surround it.

Respondents, who ordered and carried out the raids that brought Petitioners to Adelanto, knew better than to subject Petitioners to the risk of disease and death inherent in arrest and detention during a global pandemic. They failed to follow the basic public health protocols that have been broadcast all over the world as necessary to halt the spread of COVID-19. And Adelanto Detention Center has a

1 documented track record of uncorrected health and safety violations. Since the
2 pandemic began, jails, prisons, detention centers and the courts have taken the
3 reasonable step of releasing detained individuals in order to reduce the risk of
4 spreading COVID-19 in these confined, unhygienic spaces. The Los Angeles
5 County Sheriff has released hundreds of inmates from custody. And witnesses
6 from inside Adelanto report that the detention center began releasing some seniors
7 on March 20, 2020, followed by other detainees in the days that followed. On
8 March 23, 2020, the Ninth Circuit ordered sua sponte the release of an immigration
9 petitioner “[i]n light of the rapidly escalating public health crisis, which public
10 health authorities predict will especially impact immigration detention centers.”
11 *Xochihua-Jaimes v. Barr*, 2020 WL 1429877, No. 18-71460 (9th Cir. Mar. 23,
12 2020). This impact extends beyond detention centers to the families and contacts
13 of those who work at and visit these facilities.

14 Petitioners’ arrests and continued detention under these conditions violates
15 the guarantees of the Fifth Amendment’s Due Process Clause. It also endangers
16 Petitioners, the other people detained at Adelanto, the staff and officers who work
17 there, and all of their families and other contacts. Accordingly, Petitioners seek
18 immediate release and conveyance back to their homes under safe conditions.

19 II. JURISDICTION AND VENUE

20 1. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331,
21 1361, 2241, 2243, and the Habeas Corpus Suspension Clause of the U.S.
22 Constitution (U.S. Const. art. 1, § 9, cl. 2). This Court also has remedial authority
23 under the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*

24 2. Venue is proper in the Central District of California because a
25 substantial part of the events and omissions giving rise to this action occurred in
26 the District. 28 U.S.C. § 1391(b)(2). Petitioners were arrested, transported and
27

1 detained in Los Angeles County, California. They are currently being held at
2 Adelanto ICE Processing Center in San Bernardino County, California.

3 3. Petitioners have not previously filed any complaint or petition for
4 habeas corpus related to their detention in any court. No proceeding has been
5 held in this matter in immigration court, nor has there been any proceeding
6 related to removal, which is not the subject of this petition and complaint.

7 **III. PARTIES**

8 4. Pedro Bravo Castillo is a 58-year-old resident of Los Angeles County.
9 On March 16, 2020, ICE officers arrested him in front of his home and held him
10 in several enclosed spaces—a car, a van, small rooms—with other arrestees and
11 officers en route to Adelanto Detention Center. His arrest and transport required
12 officers to make and maintain physical contact with him, and in doing so, they
13 took few, if any, precautions to avoid spreading the virus. Pedro has lived in the
14 United States for nearly three decades and has worked in the trucking, poultry,
15 and recycling industries. He supports his partner and two U.S.-citizen
16 stepchildren. He also has had kidney stones, a hernia, and other chronic health
17 issues.

18 5. Luis Vasquez Rueda is a 23-year-old resident of Los Angeles County.
19 On March 17, 2020, ICE officers arrested him at his apartment, handcuffed him,
20 and transported him to the Los Angeles ICE Field Office and then to Adelanto
21 Detention Center, where he has remained ever since. During his arrest and
22 transport, officers touched him and breathed on him without using masks and
23 confined him in a crowded van with seven other arrestees for an hour and a half.
24 When he arrived at Adelanto, he was assigned to a dormitory that was already
25 under quarantine. Luis arrived in the United States when he was five years old
26 and attended college under the Deferred Action for Childhood Arrivals (DACA)

1 program through 2017. He was recently injured in a work accident that left him
2 with bruises and bleeding in his eye, which may require surgery. He has had no
3 opportunity to seek medical care for these injuries at Adelanto.

4 6. Respondent William Barr is Attorney General of the United States and
5 the chief law enforcement officer of the federal government. He is sued in his
6 official capacity.

7 7. The Department of Homeland Security (DHS) is a cabinet department
8 of the United States federal government that is responsible for administering and
9 enforcing the nation's immigration laws.

10 8. Respondent Chad Wolf is the Acting Secretary of DHS. He is sued in
11 his official capacity.

12 9. United States Immigration and Customs Enforcement (ICE) is an
13 agency within DHS with the primary responsibility for enforcing immigration and
14 customs laws, including by conducting operations to remove individuals from the
15 United States.

16 10. Matthew T. Albence is ICE's Deputy Director and Senior Official
17 Performing the Duties of the Director. He is sued in his official capacity.

18 11. David Marin is the Los Angeles Field Director for ICE's Enforcement
19 and Removal Operations branch. He is sued in his official capacity.

20 12. James Janecka is Warden of Adelanto ICE Processing Center. He is
21 sued in his official capacity.

22 IV. EXHAUSTION

23 13. Exhaustion is inappropriate where, as here, Petitioners are asserting
24 violations of their Fifth Amendment substantive due process rights. Because
25 Petitioners assert constitutional substantive due process claims that are beyond
26 the jurisdiction of the immigration court and Board of Immigration Appeals
27

1 (BIA), exhaustion is not required. *Garcia-Ramirez v. Gonzales*, 423 F.3d 935,
2 938 (9th Cir. 2005) (“Because the BIA does not have jurisdiction to resolve
3 constitutional challenges, . . . due process claims—other than those alleging only
4 ‘procedural errors’ within the BIA’s power to redress—are exempt” from
5 exhaustion.).

6 14. Even if exhaustion were an option here, on habeas review pursuant to
7 § 2241, exhaustion is merely prudential, rather than jurisdictional. *Arango*
8 *Marquez v. I.N.S.*, 346 F.3d 892, 897 (9th Cir. 2003). Courts retain discretion
9 over whether to require prudential exhaustion, and may exercise discretion to
10 waive a prudential exhaustion requirement where “irreparable injury will result.”
11 *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (quoting *Laing v.*
12 *Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). Requiring Petitioners to exhaust
13 administrative remedies will result in irreparable injury by subjecting them to
14 continued violation of their constitutional rights and exposing them to a
15 heightened danger of contracting COVID-19 due to Respondents’ inadequate
16 preventative measures.

17 15. Moreover, because a bond hearing is not a forum where Petitioners’
18 constitutional due process claims can be resolved and because Respondents
19 arrested and detained Petitioners under exceptional circumstances, all three
20 factors that courts consider in determining whether to waive prudential
21 exhaustion weigh in favor of waiver. *See Hernandez*, 872 F.3d at 988 (Court may
22 require prudential exhaustion when “(1) agency expertise makes agency
23 consideration necessary to generate a proper record and reach a proper decision;
24 (2) relaxation of the requirement would encourage the deliberate bypass of the
25 administrative scheme; and (3) administrative review is likely to allow the agency
26
27
28

1 to correct its own mistakes and to preclude the need for judicial review.” (quoting
2 *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007))).

3 V. STATEMENT OF FACTS

4 A. COVID-19 is an Unprecedented Risk to Public Health

5 16. The disease known as COVID-19, caused by a novel coronavirus
6 never before seen in humans, has become a global pandemic. The World Health
7 Organization (WHO) first characterized the outbreak as a pandemic on March 11,
8 2020.¹ President Trump formally declared a national emergency in response to
9 the virus on March 13, 2020.²

10 17. Epidemiologists and public health experts expect cases of COVID-19
11 to grow exponentially around the globe, absent effective evidence-based public
12 health interventions. Current estimates suggest that over 200 million people in
13 the United States could be infected over the course of the pandemic, with
14 potential deaths numbering in the millions. *See* Ex. A, Declaration of Ranit
15 Mishori (Mishori Decl.) ¶ 7; *see also* Ex. B, Declaration of Katherine McKenzie
16 (adopting the Mishori declaration).

17 18. COVID-19 is an extremely contagious disease that is easily spread by
18 close person-to-person contact, and well as by respiratory droplets that can
19 survive on surfaces for a period of time. Early indications show that COVID-19
20 has an R0 (the number of people who can get infected from a single infected
21 person) of 2 to 3, twice the number of a typical flu. *Id.* ¶ 8.

23 ¹ Tedros Adhanom Ghebreyesus, *WHO Director-General's opening remarks at the media briefing on COVID-19 -*
24 *11 March 2020* (March 11, 2020), available at [https://www.who.int/dg/speeches/detail/who-director-general-s-](https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020)
[opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020](https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020)

25 ² Donald J. Trump, *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease*
(COVID-19) Outbreak (March 13, 2020), available at [https://www.whitehouse.gov/presidential-](https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/)
26 [actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/](https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/).

19. COVID-19 is also a more dangerous and serious disease than a typical seasonal flu. The disease can lead to respiratory failure, kidney failure, and death. *Id.* ¶ 9. Older patients and patients with chronic underlying conditions are at a particularly high risk for severe cases and complications. *Id.* ¶ 9. The likelihood of death is much higher from COVID-19 than from influenza. *Id.* ¶ 9. According to the most recent studies, the fatality rate of people infected with COVID-19 is about ten times higher than a severe seasonal influenza, and even countries with highly effective health care systems have had hospital capacity overrun by outbreaks of COVID-19. *Id.* ¶ 9. Where shortages occur, lifesaving interventions such as ventilators must be rationed, leading to additional deaths.³ Even the young and otherwise healthy can succumb to the disease unpredictably.⁴

COVID-19 is Spreading Throughout the Greater Los Angeles Area

20. The Los Angeles region and California as a whole have been hit hard by COVID-19, which has led Mayor Eric Garcetti, the Los Angeles County Board of Supervisors, and California Governor Gavin Newsom to take some of the most stringent preventative measures anywhere in the country to contain the spread of the disease.

21. As of March 25, 2020, California had approximately 2,853 confirmed cases of COVID-19, a total that has increased exponentially over the past several

³ Suzy Khimm, *Who gets a ventilator? Hospitals facing coronavirus surge are preparing for life-or-death decisions*, NBC News (March 18, 2020), <https://www.nbcnews.com/health/health-care/who-gets-ventilator-hospitals-facing-coronavirus-surge-are-preparing-life-n1162721>.

⁴ County of Los Angeles Public Health, *Los Angeles County Announces Three new Deaths Related to 2019 Novel Coronavirus (COVID-19)—128 New Cases of Confirmed COVID-19 in Los Angeles County* (March 24, 2020), available at <http://publichealth.lacounty.gov/phcommon/public/media/mediapubhpdetail.cfm?prid=2280> (noting the confirmed death of “a youth under the age of 18”); Pam Belluck, *Younger Adults Make Up Big Portion of Coronavirus Hospitalizations in U.S.*, N.Y. Times (March 18, 2020), available at <https://www.nytimes.com/2020/03/18/health/coronavirus-young-people.html>.

1 weeks. Los Angeles County had the highest number of cases of any county in the
2 state, with 814 confirmed cases.⁵

3 22. A growing number of these cases can be attributed to community
4 spread of the disease and are not traceable to an identifiable source of exposure.⁶
5 According to experts, community spread is an indicator of a significant number of
6 unknown cases throughout the community.⁷ California was believed to be home
7 to the first known case of community transmission of COVID-19 in the United
8 States.⁸

9 23. Since at least early March, California and Los Angeles County
10 officials have been urging citizens to practice social distancing to minimize
11 contact with others to limit potential exposure to COVID-19. Governor Newsom
12 declared a State of Emergency on March 4, 2020.⁹

13 24. Recognizing the rapidly escalating serious threat posed to the Los
14 Angeles area by COVID-19, on Sunday, March 15, 2020, Mayor Eric Garcetti
15 issued an emergency order closing all Los Angeles bars, nightclubs, restaurants
16 (with the exception of takeout and delivery), entertainment venues, and gyms.¹⁰

19 ⁵ Los Angeles Times Staff, *Tracking the coronavirus in California*, Los Angeles Times (Updated March 25, 2020),
20 available at <https://www.latimes.com/projects/california-coronavirus-cases-tracking-outbreak/>.

⁶ *Ibid.*

21 ⁷ Julia Wick, *Newsletter: What 'community spread' means for the coronavirus* Los Angeles Times (Feb. 27, 2020),
available at <https://www.latimes.com/california/story/2020-02-27/coronavirus-california-newsletter>.

22 ⁸ Soumya Karlamangla and Jaclyn Cosgrove, *California coronavirus case could be first spread within U.C.*
community, CDC says, Los Angeles Times (Feb. 27, 2020), available at
23 [https://www.latimes.com/california/story/2020-02-26/california-coronavirus-case-could-be-first-spread-in-u-s-](https://www.latimes.com/california/story/2020-02-26/california-coronavirus-case-could-be-first-spread-in-u-s-community-cdc-says)
[community-cdc-says](https://www.latimes.com/california/story/2020-02-26/california-coronavirus-case-could-be-first-spread-in-u-s-community-cdc-says).

24 ⁹ Office of Governor Gavin Newsom, *Governor Newsome Declares State of Emergency to Help State Prepare for*
Broader Spread of COVID-19 (March 4, 2020), available at [https://www.gov.ca.gov/2020/03/04/governor-newsom-](https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/)
[declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/](https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/).

25 ¹⁰ Alex Wigglesworth, et. al., *L.A. limits restaurants to takeout and delivery, closes gyms, entertainment sites over*
coronavirus, Los Angeles Times (March 15, 2020), available at [https://www.latimes.com/california/story/2020-03-](https://www.latimes.com/california/story/2020-03-15/la-me-coronavirus-california-news)
26 [15/la-me-coronavirus-california-news](https://www.latimes.com/california/story/2020-03-15/la-me-coronavirus-california-news).

25. Over the weekend of March 14 and 15, 2020, the Los Angeles County Sheriff released over 600 inmates from jail in order to prevent the spread of the outbreak.¹¹ Over 1,700 more have been released since.¹² Other jails, prisons, and detention facilities in Southern California have followed suit.¹³

26. In the subsequent days, additional measures have rapidly been implemented across Los Angeles and the entire State of California, underscoring the severity of the COVID-19 crisis in the region.

27. On March 16, 2020, the Los Angeles County Department of Public Health banned all gatherings of 50 or more people.¹⁴ On March 19, 2020, the City and County of Los Angeles issued new orders regarding community measures to limit the spread of COVID-19. With some exceptions, the City ordered all residents to remain in their homes, required all businesses to cease operations, and banned all gatherings outside a home.¹⁵

¹¹ Alene Tchekmedyan, Paige St. John, and Matt Hamilton, *L.A. County releasing some inmates from jail to combat coronavirus*, Los Angeles Times (March 16, 2020) available at <https://www.latimes.com/california/story/2020-03-16/la-jail-population-arrests-down-amid-coronavirus>.

¹² Marissa Wenzke, *1,700 jail inmates in L.A. County released over coronavirus concerns, sheriff says*, KTLA 5 (March 24, 2020), available at <https://ktla.com/news/local-news/1700-jail-inmates-in-l-a-county-released-over-coronavirus-concerns-sheriff-says>.

¹³ Teri Figueroa and Karen Kucher, *Jails to release some inmates, adjust booking criteria amid coronavirus concerns* (March 16, 2020), available at <https://www.sandiegouniontribune.com/news/public-safety/story/2020-03-16/jails-to-release-some-inmates-adjust-booking-criteria-amid-coronavirus-concerns>; Tony Saavedra and Scott Schwebke, *Early release and other precautions taken at Southern California jails wary of coronavirus* (March 19, 2020), available at <https://www.ocregister.com/2020/03/19/early-release-and-other-precautions-taken-at-southern-california-jails-wary-of-coronavirus/>.

¹⁴ County of Los Angeles Department of Public Health, *Health Officer Order for the Control of Covid-19* (March 16, 2020), available at <https://ca-times.brightspotcdn.com/4a/61/4577b422477f8d912563ff0a8725/2020-03-16-los-angeles-county-coronavirus-order.pdf>.

¹⁵ Rong-Gng Lin II, *Here is what you can and can't do under L.A.'s new coronavirus Safe at Home order*, Los Angeles Times (March 20, 2020), available at <https://www.latimes.com/california/story/2020-03-19/coronavirus-garretti-how-safer-at-home-order-works>.

1 28. Shortly after the announcements from the Los Angeles region,
 2 California Governor Gavin Newsom followed suit and ordered all Californians to
 3 stay in their homes as much as possible.¹⁶

4 29. In the face of this rapidly unfolding public health crisis, ICE agents
 5 spent March 16 and March 17 conducting “business as usual” around the Los
 6 Angeles area, with a reporter in tow.¹⁷ During this same week, and in the wake of
 7 the extraordinary social distancing orders and emergency declarations, ICE
 8 officers conducted enforcement raids that put them in extremely close contact
 9 with Petitioners. The end result of these raids was the introduction of at least a
 10 dozen new people from a community actively fighting a COVID-19 outbreak into
 11 one of the most crowded immigration detention facilities in the country.

12 30. ICE decided to curtail to some extent immigration enforcement on
 13 March 18, 2020.¹⁸ Whether ICE keeps this promise remains to be seen.
 14 Regardless, it is too late to keep Petitioners out of harm’s way.

15 **Immigration Enforcement Raids, Processing, and Detention Can Easily**
 16 **Spread COVID-19**

17 31. According to infectious disease specialist Dr. Ranit Mishori, an expert
 18 on issues of public health among migrants and those in carceral systems,
 19 conducting immigration raids in the midst of this pandemic is an activity that
 20 severely endangers public health. Mishori Decl. ¶ 36.

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 22 ¹⁶ Tom Arango and Jill Cowan, *Gov. Gavin Newsom of California Orders Californians to Stay Home*, New York
 Times (March 19, 2020), available at [https://www.nytimes.com/2020/03/19/us/California-stay-at-home-order-](https://www.nytimes.com/2020/03/19/us/California-stay-at-home-order-virus.html)
 23 [virus.html](https://www.nytimes.com/2020/03/19/us/California-stay-at-home-order-virus.html).

24 ¹⁷ Brittny Mejia, *California coronavirus lockdown: ICE agents make arrests*, L.A. Times (Mar. 17, 2020),
[https://www.latimes.com/california/story/2020-03-17/for-ice-agents-its-business-as-unusual-day-after-sweeping-](https://www.latimes.com/california/story/2020-03-17/for-ice-agents-its-business-as-unusual-day-after-sweeping-coronavirus-order)
 25 [coronavirus-order](https://www.latimes.com/california/story/2020-03-17/for-ice-agents-its-business-as-unusual-day-after-sweeping-coronavirus-order).

26 ¹⁸ Brittny Mejia, *Facing criticism, ICE will reduce enforcement actions amid coronavirus pandemic*, Los Angeles
 27 Times (March 18, 2020), available at [https://www.latimes.com/california/story/2020-03-18/ice-will-reduce-](https://www.latimes.com/california/story/2020-03-18/ice-will-reduce-enforcement-actions-coronavirus?)
 28 [enforcement-actions-coronavirus?](https://www.latimes.com/california/story/2020-03-18/ice-will-reduce-enforcement-actions-coronavirus?)

32. Immigration enforcement raids, arrests and processing of incoming detainees require extremely close contact among numerous people. According to Dr. Mishori, when officers do not wear gloves or masks and physically touch or approach people in close contact, they are blatantly ignoring current CDC guidelines to minimize close exposure to people at this critical moment in the pandemic. *Id.* ¶ 40.

33. The result of raids is to bring new individuals into ICE vehicles, holding facilities, processing centers, and detention centers. Any one of these individuals could have been infected by asymptomatic community transmission of COVID-19 prior to their arrest. *Id.* ¶ 39. Any one of them could be incubating the disease without showing symptoms.¹⁹

34. ICE raids in the middle of this pandemic greatly increase the risk of spreading COVID-19. Raids expose healthy individuals who are detained to a far more dangerous situation than they would experience while observing the shelter-in-place conditions currently imposed in their home communities. *Id.* ¶ 43. There is “a revolving door of exposure whenever raids are conducted.” *Id.* ¶ 38.

35. The risk of transmission caused by the raids extends far beyond the individuals involved in raids. ICE officers who have had close contact with recent arrestees, detainees and detention center staff return to their communities and families following the raids. Their close contact as a result of the raids is potentially exposing other members of their community to COVID-19, even as the wider community follows California’s shelter in place orders. *Id.* ¶ 41.

People in Immigration Detention Face Severe Risks of Infection, Illness, and Death

¹⁹ World Health Organization, *Q&A on coronaviruses (COVID-19)*, Mar. 9, 2020, <https://www.who.int/news-room/q-a-detail/q-a-coronaviruses>.

1 36. “[P]risons are bacteria factories,” according to Rick Raemisch, former
2 executive director of the Colorado Department of Corrections.²⁰ When COVID-
3 19 “inevitabl[y]” arrives in prisons, “[y]ou’re going to see devastation that’s
4 unbelievable.”²¹ Dr. Mishori agrees that the risk posed by COVID-19 in
5 immigration detention centers “is significantly higher than in the community,
6 both in terms of risk of exposure and transmission and harm to individuals who
7 become infected.” *Id.* ¶ 17.

8 37. Detention centers often lack the resources necessary to identify
9 infectious diseases like COVID-19, such as sufficient testing equipment and
10 laboratories. *Id.* ¶ 19. California currently faces a statewide shortage in test kits,
11 increasing the likelihood that these resources would be unavailable when needed
12 in detention facilities.

13 38. People cannot practice social distancing as they would in the
14 community when they are imprisoned in a detention center. People in detention
15 centers are housed in tight dormitory conditions with shared sleeping, eating, and
16 bathroom spaces, which allow for the rapid spread of infectious diseases. This is
17 especially true for a disease like COVID-19, which is easily transmitted person to
18 person by droplets through coughing and sneezing. *Id.* ¶ 21.

19 39. The opportunities for transmission are far greater in close crowded
20 conditions like those in detention centers. Bathroom facilities are shared,
21 typically without disinfection between uses. Detention centers often have poorly
22 ventilated indoor spaces, which create a greater risk of rapid disease spread.

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25 ²⁰ David Montgomery, “Prisons Are Bacteria Factories”; Elderly Most at Risk,” PEW Trusts Stateline (Mar. 25,
2020), [https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/03/25/prisons-are-bacteria-](https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/03/25/prisons-are-bacteria-factories-elderly-most-at-risk)
26 [factories-elderly-most-at-risk](https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/03/25/prisons-are-bacteria-factories-elderly-most-at-risk).

27 ²¹ *Ibid.*

1 Living in these conditions drastically reduces a person's ability to take protective
2 measures to avoid exposure to infectious diseases such as COVID-19. *Id.* ¶ 21.

3 40. The close quarters exacerbate the risk that the introduction of a single
4 case of COVID-19 into a detention center could rapidly infect individuals
5 throughout the facility. *Id.* ¶ 27.

6 41. Detention centers also typically cannot provide access to appropriate
7 disease mitigation efforts, like the practices that have been mandated by state,
8 local, and federal authorities. There is limited access to resources like hand
9 sanitizer and wipes. High-touch areas of facilities are rarely cleaned with the
10 regularity that would be needed to prevent the spread of disease. *Id.* ¶ 22.

11 42. Moreover, detention centers rarely have medical facilities or staff that
12 are appropriately equipped to deal with an outbreak of infectious disease,
13 especially one as dangerous and contagious as COVID-19. *Id.* ¶ 24.

14 43. It is "inevitable" that detention centers in the United States will
15 experience an outbreak of COVID-19 in the near future. *Id.* ¶ 33. Cases of
16 COVID-19 are beginning to appear in detention centers across the country.²²

17 44. Recognizing the risk that immigration enforcement poses during a
18 global pandemic, ICE changed its policy on March 18, 2020, to limit raids to
19 high-risk individuals.²³

20 **The Health Risks to Detainees, Including Petitioners, are Particularly**
21 **Acute at Adelanto**

22 45. Concerns about the spread of COVID-19 are particularly acute in the
23 facility where Plaintiffs are currently held, the Adelanto Detention Center. This

24 ²² Justine Coleman, *First immigrant in ICE detention center tests positive for coronavirus*, The Hill (March 24,
25 2020), available at <https://thehill.com/policy/national-security/department-of-homeland-security/489312-first-immigrant-in-ice-detention>.

26 ²³ Brittny Mejia, *supra* n.18..

1 is due both to the general conditions and risks of a detention setting as well as
 2 longstanding health and safety concerns specific to the Adelanto facility, which
 3 holds over 1,600 people in detention.²⁴

4 46. Adelanto Detention Center is run by a private, for-profit corrections
 5 company called Geo Group, Inc. The company has an extremely poor track
 6 record for the health and safety of detainees. This is highly disconcerting in light
 7 of the rapid response necessary to contain the spread of COVID-19.

8 47. A 2017 Report from the U.S. Department of Homeland Security
 9 (DHS), Office for Civil Rights and Civil Liberties (CRCL) delivered a scathing
 10 assessment of the health and safety of detainees at the facility.²⁵ The report states
 11 that “[o]verall, the medical care at the Adelanto facility is inadequate and does
 12 not meet the 2011 Performance Based National Detention Standards (PBNDS)
 13 standards.”²⁶ The center has been subject to numerous substantiated complaints
 14 or grievances regarding delays or denial of care. “The wait times to see a
 15 provider for both acute illness/injury and chronic care needs are often excessively
 16 long, and this appears to be due in part to the inadequate staffing of providers
 17 (both physician and nurse practitioner).”²⁷

18 48. By 2017, two years after CRCL “clearly warned Adelanto that clinical
 19 leadership was not competent and that negligent medical care was occurring as a
 20 result,” the facility had not yet corrected “this critical failure.”²⁸

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 23 ²⁴ U.S. Imm. and Customs Enforc., “Dedicated and Non-Dedicated Facility List,” available at
<https://www.ice.gov/facility-inspections> (as of Mar. 2, 2020).

24 ²⁵ CRCL Report On Adelanto ICE Processing Center, available at
<https://www.documentcloud.org/documents/6278922-HQ-Part2-Copy.html> (as of Mar. 22, 2020).

25 ²⁶ CRCL Report On Adelanto ICE Processing Center, On-site Investigation Report at 1, available at
<https://www.documentcloud.org/documents/6278922-HQ-Part2-Copy.html> (as of Mar. 22, 2020).

26 ²⁷ *Id.* at 4.

27 ²⁸ *Id.* at 5.

49. A separate 2018 report from the DHS Office of the Inspector General found “significant health and safety risks at the facility,” including “Untimely and Inadequate Detainee Medical Care,”²⁹ indicating that the issues have persisted despite the findings and recommendations of prior investigations.

50. It is the professional opinion of experts that the history of health and safety concerns at the Adelanto facility exacerbate the risks of COVID-19 exposure—risks that are already profound at any detention center. Mishori Decl. ¶ 47. According to Dr. Mishori, “an outbreak in the facility has the potential to become a devastating public health event.” *Id.* ¶ 47.

B. Respondents Knowingly Subjected Petitioners to a High Risk of Exposure to COVID-19 During Arrest and Detention

51. While the rest of the Los Angeles region was shutting down to prevent the spread of COVID-19, ICE stepped up its enforcement efforts against low-risk immigrants in the community. Respondents subjected these individuals, including Petitioners, to risks of exposure to COVID-19 that exceed reasonability and shock the conscience. These raids took place on March 16 and 17, 2020, at a time when the federal government, State of California, and City of Los Angeles had all declared public health emergencies.³⁰ By then, the risk was clear, and ICE knew it.

²⁹ Office of the Inspector General, Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California (Sept. 27, 2018), available at <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>

³⁰ Proclamation No. 9994, 85 F.R. 15,337 (Mar. 18, 2020) (proclamation issued March 13, 2020); Governor Gavin Newsom, Proclamation of a State of Emergency (Mar. 4, 2020), available at <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>; Office of Mayor Eric Garcetti, *Mayor Garcetti Strengthens Readiness Against Coronavirus by Declaring Local Emergency* (Mar. 4, 2020), <https://www.lacity.org/highlights/mayor-garcetti-strengthens-readiness-against-coronavirus-declaring-local-emergency>.

52. Despite the clear and well-publicized guidance from the CDC and other sources to wash hands, disinfect surfaces, and keep at least six feet away from others, ICE conducted the raids without taking precautions that could have helped protect Petitioners from exposure to COVID-19. Photos of the raid that resulted in Mr. Bravo's detention show ICE officers in close proximity to one another and to arrestees.³¹ Neither the ICE officers nor the individuals under their control are wearing masks or gloves.



Figure 1: ICE officers arrest an individual on March 16, 2020, without taking precautionary measures against COVID-19.³² (Al Seib/L.A. Times)

³¹ Brittney Mejia, *With masks at the ready, ICE agents make arrests on first day of California coronavirus lockdown*, Los Angeles Times (March. 17, 2020), available at <https://www.latimes.com/california/story/2020-03-17/for-ice-agents-its-business-as-unusual-day-after-sweeping-coronavirus-order>

³² *Id.*

53. **Pedro Bravo Castillo** is a 58-year-old man who has lived in the United States for approximately 28 years. Mr. Bravo has a partner of more than two decades, with whom he has raised two stepchildren since they were very young. *See* Ex. C, Declaration of Pedro Bravo Castillo ¶ 3, ¶ 6. (“Bravo Decl.”)

54. Mr. Bravo is the primary provider of income for his family, and they rely on him to pay rent and afford other living essentials. *Id.* ¶ 5.

55. On Monday, March 16, 2020, at approximately 6 a.m., Mr. Bravo left his home to get into his truck to sell recycled scrap metal when he was approached by a group of ICE officers. Four of the officers approached Mr. Bravo, asking him about his truck and his immigration status. After identifying themselves as immigration agents, the officers arrested Mr. Bravo. *Id.* ¶¶ 7-8.

56. During the arrest, the officers had close physical contact with Mr. Bravo. Officers grabbed him, handcuffed him, and placed him in a car. The officers touched him on his shoulders, arm, and wrists. No officers were wearing masks during his arrest and were in such close proximity that Mr. Bravo could feel one officer’s breath on his neck as they handcuffed him. *Id.* ¶¶ 8-9. Despite known community transition of COVID-19 occurring in the area where Mr. Bravo was arrested, he was not offered any protective equipment, nor did any of the officers take his temperature or ask questions about his health. *Id.* ¶ 9.

57. Following their initial contact, ICE officers continued to subject Mr. Bravo to additional potential sources of exposure throughout his arrest. The officers brought Mr. Bravo with them to the scene of a second arrest, where he observed them arrest another person without taking necessary health precautions given the ongoing infectious disease pandemic. *Id.* ¶ 10.

58. The officers placed the second arrested individual in the backseat of the car alongside Mr. Bravo. Neither Mr. Bravo nor the other individual were

1 provided gloves, masks, or a way to sanitize their hands. Mr. Bravo and the other
2 man were separated by only approximately five inches in the backseat of the car.
3 Both men were handcuffed, and when the car moved or turned their arms would
4 touch. They traveled with two officers in the front seat for approximately an hour
5 together to a facility in downtown Los Angeles. *Id.* ¶ 11.

6 59. At the downtown Los Angeles facility, ICE officers held Mr. Bravo
7 by the arm as they removed him from the car. For the next nine hours, Mr. Bravo
8 was confined in a room with three other individuals, including the man whose
9 arrest he had watched. Nobody was provided gloves, masks, or hand sanitizer.
10 Nobody took Mr. Bravo's temperature or asked about his health. *Id.* ¶ 12.

11 60. In the late afternoon, all four individuals including Mr. Bravo were
12 taken into a van with two new officers who drove for approximately an hour and
13 half to the Adelanto Detention Center. One of the officers grabbed Mr. Bravo by
14 the arm while he was entering the van. The person in the seat next to Mr. Bravo
15 was about one foot away for the duration of the ride. Again, no precautions, such
16 as masks, gloves, or temperature checks were taken to protect the four individuals
17 from exposure to COVID-19. Mr. Bravo did not observe anyone clean the van,
18 and it did not smell like it had recently been cleaned. *Id.* ¶ 13.

19 61. The raid that resulted in Mr. Bravo's arrest took place the day after
20 Los Angeles Mayor Eric Garcetti ordered all dine-in restaurants, bars, and
21 entertainment venues in the city closed to avoid close person-to-person contact in
22 enclosed spaces. In carrying out this raid, ICE placed Mr. Bravo and at least
23 three other individuals in the exact type of close-contact environment that
24 officials had explicitly and repeatedly pleaded with the public to avoid. And they
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1 did so brazenly, bringing a journalist and emphasizing that they were conducting
2 “business as usual.”³³

3 62. Later in the day on March 16, 2020, the Los Angeles County
4 Department of Public Health issued further health precautions to contain the
5 spread of COVID-19.

6 63. Unfazed, ICE conducted further raids on March 17, 2020, which
7 resulted in the unsafe arrest and detention of at least eight individuals.

8 64. **Luis Vasquez Rueda** is a 23-year-old man who has lived in Southern
9 California since he was five years old. Mr. Vasquez was a Deferred Action for
10 Childhood Arrivals (DACA) recipient who graduated from Bell Gardens High
11 School and attended Cerritos College. Ex. D, Declaration of Luis Vasquez Rueda
12 ¶¶ 3-4. (“Vasquez Decl.”)

13 65. For the past several years, Mr. Vasquez has worked at an Amazon
14 warehouse to support himself. *Id.* ¶ 5. On February 10, 2020, Mr. Vasquez had a
15 serious work related injury at the warehouse. He fell approximately twenty feet
16 from a forklift cage to the warehouse floor. As a result of the fall, he fractured
17 multiple bones in his face, including the bone at the bottom of his eye, causing
18 bleeding in the eye. He also received an open wound on his left leg that required
19 seven stitches. *Id.* ¶ 6.

20 66. Mr. Vasquez has been attending physical therapy for his injuries;
21 however, doctors expect his recovery to take several months. His face is still
22 bruised from the broken bones. He was supposed to see a specialist on March 24,
23 2020, to determine whether he needs surgery to heal his left eye. *Id.* ¶ 7.

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26 ³³ *Id.*

1 67. Mr. Vasquez had no opportunity to continue to care for his medical
2 needs and see his doctors because he was arrested by immigration officials and
3 brought into immigration detention in the midst of the global COVID-19
4 pandemic.

5 68. ICE officers entered Mr. Vasquez's home on Tuesday, March 17,
6 2020 at approximately 6:40 a.m., after being let in by his roommate. They
7 proceeded to wake Mr. Vasquez up by yelling and knocking loudly on his
8 bedroom door. Two officers subsequently grabbed Mr. Vasquez by the arm and
9 shoulder and pushed him out of his home. *Id.* ¶ 12.

10 69. The officers who removed Mr. Vasquez from his home were not
11 wearing masks. They were in such close contact with Mr. Vasquez as they
12 pushed him from his home and handcuffed him that Mr. Vasquez could feel the
13 officers' breath on him. *Id.* ¶ 13.

14 70. As the officers handcuffed Mr. Vasquez outside his home, one of
15 them asked him if he had COVID-19. Mr. Vasquez responded "no," but no
16 officers ever checked his temperature, or gave him protective equipment such as a
17 mask, gloves, or hand sanitizer at any point during his arrest. *Id.* ¶ 13, ¶ 15.
18 After he was handcuffed, Mr. Vasquez was placed in a car with an additional
19 officer as well as the two who originally handcuffed him. *Id.* ¶ 15.

20 71. After leaving Mr. Vasquez's home, the officers drove to a shopping
21 mall where they stopped to adjust Mr. Vasquez's handcuffs. At that time, the
22 same officer who originally handcuffed Mr. Vasquez touched him on his hands
23 and wrists to move his arms from behind his back to the front of his body. The
24 officer then tied chains around Mr. Vasquez's ankles. As when Mr. Vasquez was
25 first handcuffed, the officer was not wearing a mask and was in close physical
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1 proximity to Mr. Vasquez. At times, Mr. Vasquez could feel the officer's breath
2 on his face. *Id.* ¶ 16.

3 72. The officers subsequently brought Mr. Vasquez to a building in
4 downtown Los Angeles, where he was held for approximately nine hours, from 8
5 a.m. to 3 p.m. Mr. Vasquez was held in a room with eight other people, where
6 there was not enough physical space for them to be six feet away from one
7 another at all times pursuant to the suggested social distancing protocols
8 advocated around the world. Nobody in the room was offered masks, gloves, or
9 hand sanitizer. *Id.* ¶ 17. While he was detained in this facility, Mr. Vasquez
10 heard some of the people sharing his room coughing at various points throughout
11 the nine hours he was held there. *Id.* ¶ 18.

12 73. A new officer from the facility brought Mr. Vasquez and the other
13 seven people in the room breakfast and lunch. The officer was not wearing a
14 mask. Mr. Vasquez washed his hands before lunch but is not sure if the other
15 people he shared the room with washed their hands. *Id.* ¶ 18.

16 74. At approximately 3 p.m., new officers arrived and again handcuffed
17 and shackled Mr. Vasquez, touching him on the hands, wrists, and ankles. Once
18 again, the officer who touched Mr. Vasquez was not wearing a mask and was in
19 close physical proximity, at some points directly face to face. *Id.* ¶ 19. The new
20 officers directed Mr. Vasquez and the seven other people he was detained with to
21 a van with three rows of seats. The eight of them sat in the three van rows
22 together, with Mr. Vasquez and one other person in the front row, and three
23 people in each of the back two rows. Mr. Vasquez and the other person in his
24 row were seated approximately 1 or 2 feet apart. The six people sharing the back
25 seats had no option but to sit with their bodies touching side-to-side for the entire
26 ride. Nobody provided Mr. Vasquez and the other detainees masks or gloves.

1 Mr. Vasquez did not see anyone disinfect the van, nor did it smell of disinfectant
2 or cleaning supplies. *Id.* ¶ 20.

3 75. Two new officers arrived to drive the van, and they drove for
4 approximately two hours from downtown Los Angeles to the Adelanto Detention
5 Center, at which point the officers again touched Mr. Vasquez while not wearing
6 a mask to remove him from the vehicle and bring him into the detention facility.
7 *Id.* ¶ 21.

8 76. At every step of the ICE raid that brought Mr. Vasquez into custody
9 and his subsequent transportation and processing, government officials needlessly
10 and recklessly exposed Mr. Vasquez to risk of exposure to COVID-19. Experts
11 have established that there was known community transmission of COVID-19
12 occurring in Los Angeles prior to the day of Mr. Vasquez's arrest. One of the
13 officers even asked Mr. Vasquez about COVID-19 outside his home. Despite
14 this, at every stage of the day, Mr. Vasquez found himself in close contact with
15 officers and other detainees. When Mr. Vasquez asked for more information
16 about the quarantine in order to protect himself, he got nothing. ICE placed Mr.
17 Vasquez, and their own officers, in the type of close-contact situation public
18 health officials have explicitly and repeatedly pleaded with the public to avoid.

19 **C. Respondents Are Subjecting Petitioners to Severe Risk of**
20 **Contracting COVID-19 at Adelanto**

21 77. Petitioners' continued detention subjects them to a severe risk of
22 contracting COVID-19 from other individuals, including staff and officers, at
23 Adelanto Detention Center.

24 78. Mr. Bravo's experiences since arriving at the Adelanto Detention
25 Center confirm the elevated risk of exposure to diseases such as COVID-19 that
26 experts have established exist in these facilities.

1 79. Officers again had physical contact with Mr. Bravo while removing
2 him from the van upon his arrival at Adelanto. He was not provided with gloves
3 or a mask, and was held with fellow detainees in a small medical screening room
4 for approximately half an hour. Bravo Decl. ¶ 14. While Mr. Bravo was waiting
5 in this screening room, he had his temperature taken for the first time since he
6 was brought into custody nearly twelve hours earlier. He did not have a
7 temperature, but informed the person taking it that he had felt unwell since he was
8 detained earlier that morning. *Id.* ¶ 15.

9 80. During the screening process, one of the detainees (the man arrested
10 after Mr. Bravo in the morning) was moved to a different room. Later in the day,
11 that individual informed Mr. Bravo that he had been separated from the group
12 during medical screening because he had recently been sick with the flu. *Id.* ¶ 16.

13 81. Mr. Bravo had spent the day confined with this individual in different
14 vehicles and small spaces: handcuffed next to each other in the back seat of a
15 vehicle while they were brought to downtown Los Angeles, in a holding cell at
16 the Los Angeles facility, handcuffed near each other again in a van for the hour
17 and a half long ride to Adelanto, until he was isolated following a screening
18 nearly 12 hours after first having contact with Mr. Bravo and ICE officers.

19 82. On a day when much of Los Angeles took pains to remove themselves
20 from any unnecessary social contact following the Mayor's and County's new
21 orders and ongoing guidance on social distancing from the President, Governor,
22 and others, Mr. Bravo was unnecessarily and recklessly exposed to someone who
23 had recently been sick with flu-like symptoms.

24 83. Mr. Bravo is unsure what happened to the man who had been sick
25 with the flu because he was assigned to a different dormitory from Mr. Bravo. *Id.*
26 ¶ 16.

1 84. Mr. Bravo's conditions of detention put him at an unacceptably high
2 risk of contracting the disease. He is housed in a dormitory with a large common
3 space surrounded by 22 small rooms, each of which houses four people. *Id.* ¶ 17.
4 He spends his days in close proximity to upwards of 90 people, including
5 detainees and staff. Some gloves are available, but there is no requirement to use
6 them, and most people do not. *Id.* ¶ 19.

7 85. Mr. Bravo's sleeping arrangements consist of four people sharing
8 bunk beds in a small room. There is not space to leave six feet between people,
9 and they bump into each other when getting on or off the bunks or moving around
10 the room. Mr. Bravo has seen and heard his bunkmates cough and sneeze in the
11 room. His 88-person dormitory has one shower space with only six open stalls.
12 He shares an open bathroom with the four people in his bunk room. *Id.* ¶¶ 18-19.

13 86. Food is served in a common cafeteria area, where Mr. Bravo sits in
14 close proximity to other people as they eat. Mr. Bravo and the other detainees
15 walk in a tight line to and from the cafeteria in close proximity to one another.
16 Two officers are on duty at all times, and they never wear masks. *Id.* ¶¶ 20-21.

17 87. Mr. Bravo finds himself in far closer contact with a far greater number
18 of people today in Adelanto than he would at home with his wife and
19 stepchildren.

20 88. Mr. Bravo is 58 years old and has had several health issues, including
21 kidney stones, arthritis, and a hernia. *Id.* ¶ 6. His age makes him more susceptible
22 to serious complication from the coronavirus and COVID-19, such as respiratory
23 failure, kidney failure, and death. Mishori Decl. ¶ 9. The ICE raid that brought
24 him into custody has exposed an older man to immense risk that should and could
25 have been easily foreseen by government officials.

1 89. Mr. Vasquez's current confinement in the Adelanto Detention Center
2 likewise leaves him in much greater danger of exposure to COVID-19 than he
3 would have experienced at home. Mr. Vasquez's experiences since arriving at
4 Adelanto serve to further confirm the elevated risk of exposure to diseases such as
5 COVID-19 that experts have stated exist in these facilities.

6 90. Upon entering the Adelanto Detention Center, Mr. Vasquez was
7 brought to a nurse's station immediately on the other side of the door through
8 which he entered into the building. The nurse asked if he was sick, and he
9 explained his serious work-related injuries. The nurse then took his temperature,
10 the first time it had been taken since he came into contact with ICE officers at
11 approximately 6:40 a.m. The nurse was wearing both gloves and a mask, but did
12 not provide a mask, gloves, hand sanitizer, or directions to wash hands to Mr.
13 Vasquez or any of the other detainees. Vasquez Decl. ¶ 22.

14 91. Following the medical check, Mr. Vasquez and the other seven
15 individuals were brought into a new room for processing. Another new officer
16 was present in the room, again not wearing a mask. The processing room did not
17 allow for six feet of space between the occupants. They were in the room for
18 approximately an hour. *Id.* ¶ 23.

19 92. After processing, Mr. Vasquez was brought to his dormitory area,
20 called Holding Area 10, which he soon learned was under quarantine. He was
21 informed of this quarantine by other detainees in the facility. Mr. Vasquez asked
22 the supervisor why the area was under quarantine, but did not receive an answer
23 other than that the area was "on lockdown." *Id.* ¶ 24. During the quarantine, Mr.
24 Vasquez and other occupants of his dormitory were not allowed in the cafeteria or
25 the yard and had to spend the whole day in their holding area. Officers wearing
26 gloves and masks would bring food in to-go containers with plastic-wrapped
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1 utensils directly to their holding area and each dorm room would get food one at a
2 time. *Id.* ¶ 25. These quarantine procedures were in place upon Mr. Vasquez's
3 arrival at the facility, and they remained in effect through Friday, March 20, 2020.
4 During that time, all the staff members who came in and out of his holding area
5 wore masks and gloves. *Id.* ¶ 26. Although the masks were deemed necessary
6 for officers to enter the area, no masks were provided to the people who were
7 living in the area.

8 93. On Saturday, March 21, 2020, the quarantine was lifted. The staff
9 stopped wearing masks in Mr. Vasquez's holding area. No one informed Mr.
10 Vasquez why the quarantine was initially in effect or why it was removed. Mr.
11 Vasquez and his fellow detainees were not even formerly informed that the
12 quarantine was lifted, but they assume this is the case since everyone is now
13 allowed to use the cafeteria and the yard area. *Id.* ¶ 26.

14 94. Mr. Vasquez's holding area houses approximately 60-70 people.
15 Within the larger area, people sleep in smaller dorm rooms with four to eight
16 people each. *Id.* ¶ 24. He shares a dorm room with six other people. The seven
17 people total in his room sleep in four bunk beds. The room is not large enough to
18 maintain six feet distance between occupants, and Mr. Vasquez must be in close
19 proximity to his dorm mates just to move around his bed. The seven people in his
20 dorm also share a toilet and sink that they must clean themselves. They use a
21 spray that is shared with everyone in the holding area. When the spray runs out,
22 they need to wait for guards to bring more in order to clean their bathroom area.
23 *Id.* ¶ 27. There is a common area in the holding area with tables and seats that is
24 shared by all detainees. *Id.* ¶ 28.

25 95. Now that the quarantine is over, all 60 to 70 people from Mr.
26 Vasquez's holding area eat in the cafeteria at the same time. They line up in close
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1 proximity to one another, with only a few inches of space between one another in
2 line. Cafeteria workers do not wear masks as they serve meals. *Id.* ¶ 31.

3 96. Nobody has provided Mr. Vasquez or his fellow detainees with hand
4 sanitizer or masks. Gloves are available, but there are no requirements to use
5 them and most people do not. *Id.* ¶ 28. At least one guard is supervising the
6 holding area, and multiple guards rotate through the area over the course of the
7 day, switching four or five times each day. The guards wore masks during the
8 quarantine period, but they do not presently wear masks. *Id.* ¶ 29.

9 97. Mr. Vasquez is extremely concerned about his health and well being
10 in this detention facility during the midst of the global COVID-19 pandemic. In
11 light of his ongoing work-related injuries, Mr. Vasquez is particularly concerned
12 about the lack of medical care he is receiving while in detention. *Id.* ¶¶ 32-35.

13 98. Due to Respondents' actions, Mr. Vasquez was recklessly and
14 unnecessarily taken from his home, where he had plans to visit his doctor and
15 receive recommendations for medical treatment of his serious injuries, and
16 subsequently placed in a detention setting that exposes him to great risk of
17 infection of COVID-19. The close proximity he experiences every day with those
18 in his dorm and holding area are dangerous conditions at this moment of the
19 COVID-19 outbreak.

20 99. The risks of introducing a new person into a detention setting, both for
21 that person, for fellow detainees, and for ICE officers and guards was widely
22 known by experts and could and should have been easily avoided if government
23 officials had not carried out the irresponsible raids that brought Mr. Vasquez into
24 custody.

25 100. At all times during Petitioners' arrests and detention, neither
26 Respondents nor Petitioners could know whether they had been infected with the
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1 virus that causes COVID-19. The incubation period—the time between catching
 2 the virus and beginning to have symptoms of the disease—ranges from 1 to 14
 3 days and is most commonly around five days.³⁴ In the absence of testing, which
 4 Respondents have not made available to Petitioners, there is no way to know
 5 whether they have COVID-19.

6 101. On Wednesday, March 18, 2020, ICE announced that it would curtail,
 7 to some extent, its enforcement raids in light of the COVID-19 outbreak.³⁵

8 102. On March 20, 2020, officials at Adelanto Detention Center began
 9 releasing elderly detainees from custody. Ex. E, Declaration of Debbie Allen
 10 Decl. ¶ 4. By March 22, 2020, younger individuals detained in the facility were
 11 also being released. *Id.* ¶ 5.

12 103. Petitioners have not been released from Adelanto Detention Center.

13 14 V. CAUSES OF ACTION

15 COUNT ONE

16 FIFTH AMENDMENT– STATE-CREATED DANGER

17 104. Petitioners repeat and incorporate by reference each and every
 18 allegation contained in the preceding paragraphs as if fully set forth herein.

19 105. The Due Process Clause provides that no person shall “be deprived of
 20 life, liberty, or property, without due process of law.” U.S. Const. amend. V. Its
 21 protections extend to “every person within the nation’s borders,” regardless of
 22 immigration status. *Lopez-Valenzuela v. Arpaio*, 770 F.3d 772, 781 (9th Cir.
 23 2014); *id.* (“Even one whose presence in this country is unlawful, involuntary, or

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 25 ³⁴ World Health Organization, *Q&A on coronaviruses (COVID-19)*, Mar. 9, 2020, <https://www.who.int/news-room/q-a-detail/q-a-coronaviruses>.

26 ³⁵ Brittny Mejia, *Ibid.*

transitory is entitled to that constitutional protection.” (quoting *Mathews v. Diaz*, 426 U.S. 67, 77 (1976)).

106. The government violates an individual’s right to due process when it (1) “affirmatively place[s] [the] individual in danger,” (2) by “acting with ‘deliberate indifference to [a] known or obvious danger.’” *Kennedy v. City of Ridgefield*, 439 F.3d 1055, 1062 (9th Cir. 2006) (quoting *Munger v. City of Glasgow*, 227 F.3d 1082, 1086 (9th Cir. 2000) and *L.W. v. Grubbs*, 92 F.3d 894, 900 (9th Cir. 1996)).

107. When the government’s actions leave an individual “in a situation that [is] more dangerous than the one in which [it] found him,” the government has affirmatively placed that individual in danger. *Hernandez v. City of San Jose*, 897 F.3d 1125, 1133 (9th Cir. 2018) (quoting *Munger*, F.3d at 1086). The critical inquiry is thus whether the government’s actions “create[d] or expose[d] an individual to a danger which he or she would not have otherwise faced,” *Kennedy*, 439 F.3d at 1061. *Cf. J.P. v. Sessions*, No. Civ. 18-06081, 2019 WL 6723686, at *36 (C.D. Cal. Nov. 5, 2019) (federal government “‘acted with deliberate indifference to a known or obvious danger’ by implementing the [family separation] policy with awareness of the potential harm it would cause and intending to use that as a basis to deter future attempts by those similarly situated to enter the United States” (internal brackets omitted) (quoting *Hernandez*, 897 F.3d at 1137, and *Kennedy*, 439 F.3d at 1062)).

108. The government acts with deliberate indifference to a known or obvious danger when it “recognize[s] an unreasonable risk and actually intend[s] to expose [the plaintiff] to such risks without regard to the consequences to [the plaintiff].” *Hernandez*, 897 F.3d at 1135 (internal brackets omitted) (quoting *Patel v. Kent Sch. Dist.*, 648 F.3d 965, 974 (9th Cir. 2011)). An unreasonable risk

1 includes future harm caused by conditions of confinement. *See Helling v.*
2 *McKinney*, 509 U.S. 25, 33 (1993).

3 109. First, Respondents have affirmatively placed Petitioners in danger by
4 forcing them into a position more dangerous than it found them. Mishori Decl. ¶
5 37; *see also Coleman v. Schwarzenegger*, 922 F. Supp. 2d 882, 888 (E.D. Cal.
6 2009) (recognizing that crowding in prisons makes “vulnerable outbreaks of
7 communicable disease”). Respondents made the affirmative decision to conduct
8 immigration raids, which were intended to lead to the arrest and detention of
9 individuals such as Petitioners, amidst government-mandated restrictions aimed at
10 reducing community transmission of COVID-19 through social distancing. From
11 the moment officers arrived at Petitioners’ doors, Petitioners were actively
12 deprived of the ability to take these basic self-protective measures. Respondents
13 conducted those raids and arrested, transported, and detained Petitioners without
14 taking necessary precautions to reduce the risk of COVID-19 transmission
15 between Respondents, Petitioners, and other detainees. Respondents have thus
16 exposed Petitioners to a greater risk of contracting COVID-19 than they would
17 have otherwise faced.

18 110. Respondents continued to actively disregard the threat of the
19 pandemic while they processed Petitioners through the system using effectively
20 the same procedures they would have on a normal day. Petitioners are detained in
21 conditions that expose them to a heightened risk of contracting COVID-19.
22 Respondents are confining Petitioners in close proximity to other detainees and
23 ICE officers, rendering Petitioners entirely unable to practice necessary social
24 distancing. Respondents are not providing masks or hand sanitizer to Petitioners
25 and other detainees. ICE officers are failing to take necessary precautions, such as
26 wearing masks, to avoid transmitting COVID-19 to Petitioners, detainees, and
27

1 other officers. Respondents' ongoing detention of Petitioners thus continues to
2 expose them to a greater risk of contracting COVID-19 than they would face if
3 they were not in detention and were able to take necessary precautions to protect
4 themselves.

5 111. As the virus continues its potentially exponential spread, it is all but
6 certain to find its way into Adelanto, if it has not already. There it will find a
7 tinderbox of involuntary crowding and underpreparedness. See *Hernandez v. Cty.*
8 *of Monterey*, 110 F. Supp. 3d 929, 942–43 (N.D. Cal. 2015) (finding fact that
9 jail's practices regarding tuberculosis did not confirm to the standards of the CDC
10 and others to "strongly indicate[] deliberate indifference" and granting TRO).

11 112. If the spark ignites, the consequences will be dire for everyone at the
12 facility. Detention facilities in general are not appropriately equipped to deal with
13 an outbreak of a disease as dangerous and contagious as COVID-19. Mishori
14 Decl. ¶ 23. Adelanto in particular has been cited for the inadequacy of its medical
15 facilities. See CRCL Report On Adelanto ICE Processing Center, On-site
16 Investigation Report at 1, 4-5, available at
17 <https://www.documentcloud.org/documents/6278922-HQ-Part2-Copy.html> (as of
18 Mar. 22, 2020). Petitioners could at any moment exhibit symptoms of COVID-19,
19 and it is extremely likely they will if left in Adelanto until the virus is already
20 running rampant. And if they do contract the disease, they will have no way of
21 knowing or controlling whether it will progress to life-threatening respiratory
22 symptoms, as it can in people of all ages.

23 113. Second, Respondents have acted, and continue to act, with deliberate
24 indifference to the known and obvious risk of COVID-19 transmission.
25 Respondents conducted the raids and arrested, transported, and detained
26 Petitioners at a time when the federal government, State of California, and City of
27

Los Angeles had all declared public health emergencies, *supra* ¶ 27. Despite being well-aware of both the risks of community transmission of COVID-19 and the preventive measures necessary to slow that transmission, Respondents acted without regard to the consequences to Petitioners by engaging in these enforcement activities without taking precautions necessary to protect them. Mishori Decl. ¶ 36 (“[C]onducting these raids was a reckless decision by the government that unnecessarily put countless people at risk of exposure to the coronavirus.”); *id.* ¶ 40 (ICE’s actions “blatantly ignore[d] current CDC guidelines to minimize any exposure at this critical moment in the pandemic”). Recognizing the unreasonable risks to Petitioners, Respondents affirmatively chose to prioritize an immigration enforcement campaign designed to punish sanctuary cities and terrorize the immigrant communities therein over Petitioners’ safety. *See ‘Flood the Streets’: ICE Targets Sanctuary Cities With Increased Surveillance* N.Y. Times (Mar. 5, 2020), <https://www.nytimes.com/2020/03/05/us/ICE-BORTAC-sanctuary-cities.html>; *cf. J.P. v. Sessions*, No. LA CV18-06081 JAK, 2019 WL 6723686, at *36 (C.D. Cal. Nov. 5, 2019) (federal government “‘acted with deliberate indifference to a known or obvious danger’ by implementing the [family separation] policy with awareness of the potential harm it would cause and intending to use that as a basis to deter future attempts by those similarly situated to enter the United States” (internal brackets omitted) (quoting *Hernandez*, 897 F.3d at 1137, and *Kennedy*, 439 F.3d at 1062)).

114. Even as Respondents have acknowledged the need to curb their enforcement activities “[t]o ensure the welfare and safety of the general public,”³⁶

³⁶ Mejia, *supra* n.18.

1 Respondents continue to detain Petitioners in conditions that expose them to a
 2 heightened risk of contracting COVID-19 without regard to the consequences to
 3 Petitioners, *supra* ¶¶ 77-103; Mishori Decl. ¶¶ 44-52.

4 115. For these reasons, Petitioners' detention violates the Fifth Amendment
 5 Due Process Clause.

6 COUNT TWO

7 FIFTH AMENDMENT – SPECIAL RELATIONSHIP

8 116. Petitioners repeat and incorporate by reference each and every
 9 allegation contained in the preceding paragraphs as if fully set forth herein.

10 117. The Fifth Amendment's Due Process Clause applies to all "persons"
 11 within the United States, including persons whose presence here is unlawful,
 12 temporary, or permanent. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

13 118. When the government takes custody of a person, the government
 14 creates a "special relationship" that entails assuming responsibility for the
 15 person's safety and well-being. *See, e.g., Henry A. v. Willden*, 678 F.3d 991, 998
 16 (9th Cir. 2011). The government violates the Due Process Clause when it takes
 17 custody of a person "and at the same time fails to provide for his basic human
 18 needs – e.g., food, clothing, shelter, *medical care*, and *reasonable safety*."
 19 *DeShaney v. Winnebago Cty. Dep't of Soc. Servs.*, 489 U.S. 189, 200 (1989)
 20 (emphasis added). Due process for civil detainees, like those held in immigration
 21 facilities, "requires more than minimal necessities." *Jones v. Blanas*, 393 F.3d
 22 918, 931 (9th Cir. 2004); *Unknown Parties v. Nielsen*, No. CV-15-00250-TUC-
 23 DCB, 2020 U.S. Dist. LEXIS 27890, at *8 (D. Ariz. Feb. 19, 2020).

24 119. To state a claim under the special relationship doctrine, a plaintiff
 25 must show: "(i) the defendant made an intentional decision with respect to the
 26 conditions under which the plaintiff was confined; (ii) those conditions put the
 27

1 plaintiff at substantial risk of suffering serious harm; (iii) the defendant did not
 2 take reasonable available measures to abate the risk, even though a reasonable
 3 official in the circumstances would have appreciated the high degree of involved .
 4 . . . ; and (iv) by not taking such measures, the defendant caused the plaintiff's
 5 injuries.” *Gordon v. Cty. of Orange*, 888 F.3d 1118, 1124-25 (9th Cir. 2018); *see*
 6 *also Martinez v. Geo Grp., Inc.*, No. EDCV 18-1125-R, 2019 U.S. Dist. LEXIS
 7 143217, at *7-9 (C.D. Cal. Apr. 30, 2019) (applying *Gordon* to claims about
 8 Adelanto Detention Center's failure to attend to a detainee's medical needs); *J.P.*
 9 *v. Sessions*, No. LA CV18-06081 JAK (SKx), 2019 U.S. Dist. LEXIS 217560, at
 10 *88-89 (C.D. Cal. Nov. 5, 2019) (applying *Gordon* to claims about conditions of
 11 confinement in civil immigration detention).

12 120. The government's failure to take reasonable available measures to
 13 abate risk must be “objectively unreasonable” in order to violate due process—“a
 14 test that will necessarily turn on the facts and circumstances of each particular
 15 case.” *Castro v. Cty. of Los Angeles*, 833 F.3d 1060, 1071 (9th Cir. 2016)
 16 (quoting *Kingsley v. Hendrickson*, 135 S. Ct. 2466, 2473-74 (2015)).

17 121. Inadequate health and safety measures at a detention center cause
 18 cognizable harm to every inmate. *See Parsons v. Ryan*, 754 F.3d 657, 679 (9th
 19 Cir. 2014). As the Supreme Court observed in the context of the California
 20 prison system, “all prisoners [] are at risk so long as the State continues to provide
 21 inadequate care.” *Brown v. Plata*, 563 U.S. 493, 532 (2011). Those who are not
 22 yet sick are not “remote bystanders”—they are the “next potential victims.” *Id.*
 23 In the case of COVID-19, even those who do not appear to be sick may already
 24 be infected. Mishori Dec. ¶ 8.

25 122. When Respondents arrested and detained Petitioners, they created a
 26 special relationship that required them to provide Petitioners with medical care
 27

1 and reasonable safety. Respondents made the intentional decisions to conduct
2 immigration enforcement raids against Petitioners during a deadly pandemic with
3 local community spread, placing Petitioners at continued risk of suffering serious
4 harm. *See Parsons v. Ryan*, 754 F.3d 657, 679 (9th Cir. 2014) (recognizing that
5 inadequate health and safety measures at a detention center cause cognizable
6 harm to every inmate). Petitioners were subjected to close physical contact with
7 ICE officers, Adelanto staff, and other detainees without providing them with
8 masks, gloves, hand sanitizer, distance, or other measures mandated by experts,
9 government officials, and the CDC to protect people from infection; and continue
10 to hold Petitioners in detention while releasing others back to their communities.

11 123. According to experts, as well as government officials and the CDC,
12 these conditions put Petitioners at significant risk of exposure to COVID-19,
13 which in turn subjects them to risk of serious illness and death.

14 124. Respondents did not take reasonable available measures to abate the
15 risk of exposure to COVID-19, such as delaying immigration enforcement raids
16 until after the outbreak, taking precautionary measures recommended by experts
17 during arrests and detention, and providing the necessary supplies and space for
18 Petitioners to avoid exposure while detained. The failure to take these measures
19 was objectively unreasonable in light of the local, state, and federal guidance on
20 the pandemic that was widely publicized at the time of the raids and throughout
21 Petitioners' detention.

22 125. By failing to take these measures, Respondents subjected and continue
23 to subject Petitioners to a substantial risk of contracting COVID-19. *See Parsons*,
24 754 at 679 (discussing the harms inherent in inadequate public health and medical
25 care provisions in detention); *Xochihua-Jaimes v. Barr*, 2020 WL 1429877, No.
26 18-71460 (9th Cir. Mar. 23, 2020) (sua sponte ordering release of a detainee in
27

light of the current “rapidly escalating public health crisis, which public health authorities predict will especially impact immigration detention centers”). The risk is augmented by Adelanto Detention Center’s well-documented health and safety failures at the best of times, and by the reported presence of several cases of the virus at the facility.

126. For these reasons, Petitioners’ detention violates the Fifth Amendment Due Process Clause.

COUNT THREE

FIFTH AMENDMENT – PUNITIVE DETENTION

127. Petitioners repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

128. When the federal government detains an immigrant, the immigrant is considered a civil detainee, even if they have a prior criminal conviction. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As civil detainees, immigrants are afforded greater protection by the Fifth Amendment’s Due Process Clause than convicted prisoners or even pretrial criminal detainees. Unlike a convicted prisoner, who may be punished as long as the punishment is not “cruel and unusual,” *Pierce v. Cty. of Orange*, 526 F.3d 1190, 1205 (9th Cir. 2008), a civil detainee may not be punished at all prior to an adjudication of guilt. *Bell v. Wolfish*, 441 U.S. 520, 535 (1970); *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004). And civil immigration detainees “must be afforded more considerate treatment” than criminal pretrial detainees. *See Unknown Parties*, No. CV-15-00250-TUC-DCB at *12 (citing *Youngberg v. Romeo*, 457 U.S. 307, 321-22 (1982)).

129. To establish a violation of the Due Process Clause, Petitioners need not show that Respondents intended to subject them to punishment. *See Pierce*,

526 F.3d at 1205. A restriction is “punitive” if it is “excessive in relation to [its non-punitive purpose]” or is ‘employed to achieve objectives that could be accomplished in so many alternative and less harsh methods.’” *Jones*, 393 F.3d at 933-34 (alteration in original) (quoting *Demery v. Arpaio*, 378 F.3d 1020, 1028 (9th Cir. 2004); *Hallstrom v. City of Garden City*, 991 F.2d 1473, 1484 (1993)). A presumption of punishment arises when a civil detainee is held in similar or more restrictive conditions than his criminal counterparts. *See Jones*, 393 F.3d at 932; *see also Torres v. U.S. Dep’t of Homeland Sec.*, 411 F. Supp. 3d 1036, 1065 (C.D. Cal. 2019) (finding a presumption of punitiveness where plaintiffs “allege[d] conditions at Adelanto and policies by ICE that are not ‘more considerate’ than at criminal facilities”). To rebut this presumption, the government must show that its actions are not excessive in relation to a legitimate, nonpunitive purpose. *King v. Cty. of Los Angeles*, 885 F.3d 548, 558 (9th Cir. 2018).

130. Even assuming Respondents have a legitimate, nonpunitive interest in continuing to enforce the immigration laws, the arrest and detainment of Petitioners is excessive in relation to that interest. A presumption of punishment arises because Petitioners are subjected to worse conditions than many convicted prisoners. Across the country—including in the Central District of California—decisionmakers are releasing convicted prisoners to prevent them and surrounding communities from suffering bodily harm or death from COVID-19. *See US Jails Begin Releasing Prisoners to Stem Covid-19 Infections*, BBC News (Mar. 19, 2020), <https://www.bbc.com/news/world-us-canada-51947802>; Shelly Insheiwat, *L.A. County Releases 1,700 Inmates to Lessen Jail Population Due to COVID-19 Crisis*, Fox 11 L.A. (Mar. 24, 2020), <https://www.foxla.com/news/l-a-county-releases-1700-inmates-to-lessen-jail-population-due-to-covid-19-crisis>.

1 131. To rebut the presumption of punitiveness, a “bare assertion of the
2 requirement of keeping [] detainees . . . will not suffice.” *Torres*, 411 F. Supp. 3d
3 at 1065 (alteration in original) (quoting *Jones*, 393 F.3d at 934) (rejecting
4 defendants’ proposed justification that they were “required by statute to maintain
5 a secure facility for certain immigrants, pending the outcome of their
6 proceedings”). But even if Respondents could articulate a legitimate, nonpunitive
7 interest, endangering the lives and wellbeing of Petitioners and surrounding
8 communities is excessive in relation to that interest. Detention itself exposes
9 Petitioners to an unacceptable risk of contracting COVID-19 and suffering bodily
10 harm or death as a result. Respondents have confined Petitioners in close quarters
11 with many other individuals, any of whom could already be infected even if
12 asymptomatic. The virus spreads rapidly in close quarters, often severely
13 infecting not only older individuals or those with preexisting conditions but also
14 younger, previously healthy people. Moreover, if COVID-19 begins to spread in
15 Adelanto, there is no indication that the facility has adequate equipment, staff, or
16 resources to treat large numbers of severely ill detainees.

17 132. Since arresting Petitioners, ICE has subverted its ordinary
18 immigration enforcement procedures by curtailing its raids and releasing
19 detainees in order to stop the spread of COVID-19. There is no legitimate reason
20 to arrest and detain Petitioners under these circumstances—circumstances that, in
21 ICE’s view, outweigh the usual imperatives of immigration enforcement. And no
22 risk to the community justified the arrest and detention of these particular
23 individuals under these conditions. Mr. Bravo and Mr. Vasquez have been in the
24 United States for approximately 28 and 18 years, respectively, and each has only
25 one minor, years-old criminal incident to his name.

133. Respondents' arrest and continued detention of Petitioners violates the Fifth Amendment's protection against punitive detention.

VI. PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

(1) Issue a Writ of Habeas Corpus requiring Respondents to release Pedro Bravo Castillo and Luis Vasquez Rueda;

(2) Enter a judgment declaring that Respondents' detention of Pedro Bravo Castillo and Luis Vasquez Rueda is unauthorized by statute and contrary to law;

(3) Provide Petitioners with testing for COVID-19 and any materials and supplies necessary to help them maintain self-isolation for at least 14 days.

(4) Alternatively, issue an order to Respondents to show cause as to why this Petition for a Writ of Habeas Corpus should not be granted.

(5) Award Petitioners reasonable costs and attorneys' fees; and

(6) Grant any other and further relief that this Court deems fit and proper.

Dated: March 25, 2020

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