

1 HARRISON J. FRAHN, IV (206822)
hfracn@stblaw.com
2 STEPHEN P. BLAKE (260069)
sblake@stblaw.com
3 SIMPSON THACHER &
BARTLETT LLP
4 2475 Hanover Street
Palo Alto, California 94304
5 Telephone: (650) 251-5000
Facsimile: (650) 251-5002

6 BROOKE E. CUCINELLA
7 (*pro hac vice* forthcoming)
brooke.cucinella@stblaw.com
8 SIMPSON THACHER &
BARTLETT LLP
9 425 Lexington Avenue
New York, New York 10017
10 Telephone: (212) 455-3070
Facsimile: (212) 455-2502

11 *Attorneys for Plaintiffs Immigrant*
12 *Defenders Law Center; Refugee and*
13 *Immigrant Center for Education and*
14 *Legal Services; South Texas Pro Bono*
15 *Asylum Representation Project, a*
16 *project of the American Bar*
17 *Association; and The Door*

18 *[Additional counsel listed below]*

19 **UNITED STATES DISTRICT COURT**
20 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
21 **WESTERN DIVISION**

22 IMMIGRANT DEFENDERS LAW
23 CENTER; *et al.*,
24
25 Plaintiffs,
26
27 v.
28
29 U.S. DEPARTMENT OF HOMELAND
SECURITY; *et al.*,
30
31 Defendants.

Case No. 2:21-cv-00395-FMO-RAO
**DECLARATION OF HANNAH P.
FLAMM IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Date: June 17, 2021
Time: 10:00 a.m.
Ctrm: 6D
Judge: Hon. Fernando M. Olguin

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KAREN C. TUMLIN (234691)
karen.tumlin@justiceactioncenter.org
ESTHER H. SUNG (255962)
esther.sung@justiceactioncenter.org
JANE BENTROTT (323562)
jane.bentrott@justiceactioncenter.org
DANIEL J. TULLY (309240)
daniel.tully@justiceactioncenter.org
JUSTICE ACTION CENTER
P.O. Box 27280
Los Angeles, California 90027
Telephone: (323) 316-0944

*Attorneys for Plaintiffs Immigrant
Defenders Law Center; Refugee and
Immigrant Center for Education and
Legal Services; and The Door*

MUNMEETH KAUR SONI (254854)
meeth@immdef.org
HANNAH K. COMSTOCK (311680)
hcomstock@immdef.org
CAITLIN E. ANDERSON (324843)
caitlin@immdef.org
IMMIGRANT DEFENDERS
LAW CENTER
634 S. Spring Street, 10th Floor
Los Angeles, California 90014
Telephone: (213) 634-7602
Facsimile: (213) 282-3133

1 I, Hannah P. Flamm, declare under penalty of perjury pursuant to 28 U.S.C.
2 § 1746 that the following is true and correct. I make this declaration based upon
3 personal knowledge and a review of records related to my position as Managing
4 Attorney for The Door’s Legal Services Center. If called as a witness, I could and
5 would testify as follows.

6 1. I am an attorney licensed to practice in the State of New York. I have
7 been Managing Attorney for The Door’s Legal Services Center since December
8 2019.

9 2. In preparing this declaration, I have reviewed relevant business records
10 and consulted with the attorneys and support staff in our Legal Services Center.

11 **I. About The Door**

12 3. Plaintiff The Door (“The Door”) is a New York-based 501(c)(3)
13 nonprofit, non-partisan corporation. Founded in 1972, our mission is to empower
14 New York City’s diverse population of disconnected youth by providing them the
15 tools they need to become successful. In service of that mission, we offer legal
16 assistance, health care, educational assistance, and other comprehensive social
17 services to the nearly 11,000 youth we serve annually.

18 4. Our Legal Services Center provides legal and case management
19 services to youth in need of immigration and other civil legal assistance. We are a
20 team of over forty attorneys, social workers, paralegals and other support staff. The
21 Legal Services Center has three teams that serve immigrant children and youth: the
22 Affirmative Team; the Removal Defense Team; and the Detained Minors Project.

23 5. The Affirmative Team provides holistic immigration services to New
24 York children and youth who are seeking immigration benefits, including Deferred
25 Action for Childhood Arrivals (“DACA”), Special Immigrant Juvenile Status
26 (“SIJS”), asylum, U Visas, T Visas, adjustment of status, and work authorization.
27 The Affirmative Team also provides holistic immigration representation to youth in
28 foster care.

1 6. The Removal Defense Team represents children and youth who are
2 placed in removal proceedings, some of whom were previously in Office of Refugee
3 Resettlement (“ORR”) custody. This team represents unaccompanied children and
4 young adults who are fleeing violence and mistreatment in their home countries.
5 These young people are eligible for SIJS, asylum, and other forms of humanitarian
6 immigration relief. This team represents clients before the New York City
7 Immigration Courts and New York State Family Courts.

8 7. The Door is also an ORR-subcontracted legal service provider (“LSP”)
9 for unaccompanied children detained by ORR in three New York-area facilities
10 serving up to 350 children at a time. The team that engages in this work is called
11 the Detained Minors Project. The Detained Minors Project collaborates with other
12 organizations and pro bono attorneys to protect the rights of minors in government
13 custody. In this capacity, the Detained Minors Project provides detained
14 unaccompanied children with Know Your Rights (“KYR”) trainings and legal
15 screenings, and represents unaccompanied children in their removal proceedings, on
16 affirmative applications for relief, and where necessary, in federal court. The
17 Detained Minors Project also provides referrals to minors upon their release from
18 custody and offers ongoing representation to those released locally. This team has
19 15 staff members working full-time on behalf of detained unaccompanied children.

20 8. The Detained Minors Project is the team responsible for serving the
21 unaccompanied children at issue in this litigation. As Managing Attorney for the
22 Legal Services Center, I directly manage the 15-person Detained Minors Project
23 team and oversee all of its work. Our work is driven in part by our contractual
24 obligations as an ORR-subcontractor, as well as the express provision in the
25 Trafficking Victims Protection Reauthorization Act (“TVPRA”) to provide counsel
26 to unaccompanied children to the greatest extent possible.

27 9. Through the Detained Minors Project, we aim to meet the legal service
28 needs of all detained unaccompanied children in our geographic region. The Door’s

1 work as an ORR-subcontracted LSP is integral to this goal, as well as to the
2 organization’s broader mission of providing holistic services and zealous advocacy
3 to children and youth in the greater New York City area. We are uniquely
4 positioned to provide such integrated services given our comprehensive
5 programming and decades of experience in meeting the urgent and varied needs of
6 New York-area children and youth.

7 10. Together with pro bono partners, our attorneys handle upwards of
8 1,500 immigration matters per year. Since November 2020, the Detained Minors
9 Project has seen over 1,200 unaccompanied children arrive in ORR shelters in our
10 service area.

11 11. The Door is funded through a combination of government, institutional,
12 and private grants. Our government funding comes from federal, state, and local
13 governments. Our institutional funding comes from a variety of local and national
14 foundations. Our work is also supported through donations from individuals and
15 corporate partners.

16 12. Funding is critical to our mission and allows us to continue zealously
17 advocating for young immigrant clients. The Director of Legal Services, in
18 conjunction with our Development team, is primarily responsible for identifying and
19 seeking funding for the department through requests for proposals and individual
20 solicitations. Funding from government and institutional funders is contingent on
21 The Door achieving deliverables and reporting those achievements at least annually.
22 Deliverables may include the number of cases handled, the number of cases
23 resolved and their success rates, as well as the number of trainings conducted,
24 resources prepared, and youth and community members served.

25 **II. The Door’s Work with Children Affected by MPP**

26 13. Beginning in January or February 2020, we encountered
27 unaccompanied children in the ORR shelters mentioned above who were previously
28 involved in Migrant Protection Protocol (“MPP”) proceedings with their parents or

1 other family members.

2 14. Based on my team’s experience working with these children (“MPP-
3 unaccompanied children”), I understand that they originally entered the United
4 States with family after the Trump Administration implemented MPP in January
5 2019. The children and their families were placed in MPP proceedings whereby
6 they were expelled from the United States during the pendency of their immigration
7 proceedings. After being sent to Mexico, these children later became separated
8 from their families and presented to authorities at the U.S.-Mexico border as
9 unaccompanied minors to seek legal protection. In my experience, dire
10 circumstances—such as murder, torture, and kidnapping inflicted on the children or
11 their immediate family members in Mexico—force these children to return to the
12 United States unaccompanied.

13 15. Since December 2019, when The Door first became an ORR-
14 subcontractor, we have served approximately 10 MPP-unaccompanied children.¹
15 Four children were subject to final removal orders from their previous MPP
16 proceedings.

17 **A. P.M.B.R.**

18 16. One of our clients, P.M.B.R., was expelled to Mexico in August 2019
19 under MPP. While he and his mother awaited their second MPP hearing set for
20 January 2020, gunmen attacked the shelter where they were staying in Nuevo
21 Laredo, Mexico, and P.M.B.R.’s mother was disappeared. Unfortunately, violence
22 and kidnappings in Nuevo Laredo, Mexico are not rare, and have increased as
23 asylum seekers were expelled to Mexico under MPP.²

24 _____
25 ¹ This number may be larger; identifying MPP-unaccompanied children has been
26 particularly difficult given challenges in obtaining a child’s prior notice to appear
and immigration records.

27 ² See Overseas Security Advisory Council, U.S. Department of State, Mexico, 2020
28 *Crime & Safety Report: Nuevo Laredo* (June 24, 2020),
<https://www.osac.gov/Content/Report/7e7f075c-4642-42e7-b1ed-1902835361b9>.

1 17. Following his mother’s disappearance, P.M.B.R. faced grave danger if
2 he remained in Nuevo Laredo with no one to care for him. P.M.B.R., who was only
3 16 years old, decided to present himself at the U.S. border alone in order to seek
4 asylum and safety. P.M.B.R. has not seen his mother again.

5 18. On January 21, 2020, P.M.B.R. re-entered the United States, and was
6 designated by U.S. Customs and Border Protection (“CBP”) as an unaccompanied
7 child under the TVPRA. On January 22, 2020, the Department of Homeland
8 Security (“DHS”) served P.M.B.R. a copy of a notice to appear (“NTA”) under the
9 TVPRA. The NTA he was served was technically insufficient, as it did not include
10 a date or time for his TVPRA proceedings.

11 19. The same day that P.M.B.R. entered the United States, the MPP
12 immigration judge issued an *in absentia* removal order as to P.M.B.R. for missing
13 his MPP court date. P.M.B.R. did not become aware of this removal order until
14 February 2020 when he was detained in an ORR-contracted shelter run by
15 MercyFirst in New York, served by another LSP.

16 20. Although Defendants have designated P.M.B.R. as an unaccompanied
17 child and served him with an NTA reflecting his entry as an unaccompanied child,
18 Defendants have denied P.M.B.R. access to other rights under the TVPRA. For
19 example, Defendants failed to place P.M.B.R. in INA Section 240 removal
20 proceedings. ORR also refused to release P.M.B.R. to an available sponsor.

21 21. In April 2020, ICE removed P.M.B.R. to Honduras pursuant to his *in*
22 *absentia* MPP removal order, without having first initiated INA Section 240
23 removal proceedings required by the TVPRA.

24 22. Following P.M.B.R.’s removal from the United States, The Door
25 became his legal counsel. On July 15, 2020, we filed a motion to reopen P.M.B.R.’s
26 MPP proceedings. This required approximately 100 hours for us to prepare, file,
27 and pursue.

28 23. On July 29, 2020, the motion to reopen was granted, providing

1 P.M.B.R. a legal basis to return to the United States from Honduras.

2 24. Defendant ICE, however, made it difficult for P.M.B.R. to return to the
3 United States to participate in his reopened proceedings. We spent over \$900 on
4 airfare so that one of The Door's attorneys could fly to Honduras and accompany
5 P.M.B.R. back to the United States. This money was diverted from funding that
6 would otherwise have been used to cover The Door's Legal Services Center's
7 operating costs. After nearly eight months and over 200 hours of advocacy, we
8 finally secured P.M.B.R.'s return to the United States on March 24, 2021.

9 25. We still do not know if P.M.B.R.'s NTA was filed, as required,
10 although he has a master calendar hearing scheduled for June 15, 2021, in New
11 York. We still do not know under which NTA P.M.B.R.'s reopened proceedings
12 will take place. Given the nature of P.B.M.R.'s return to the United States, he has
13 returned as a parolee and so is required to routinely report for ICE check-ins, which
14 The Door's attorneys attend with him. Additionally, his case remains on the
15 Immigration Court's detained docket, rather than the released docket, for which The
16 Door must file a motion to change venue to be placed on the proper docket.

17 26. Defendants' failure to afford P.M.B.R. his rights under the TVPRA
18 resulted in his wrongful removal from the United States and months spent in a
19 country where he faced gang and familial threats and violence and from which he
20 had previously fled. Not only has Defendants' denial of TVPRA rights
21 compounded existing trauma for MPP-unaccompanied children like P.M.B.R., but
22 also it has stretched the resources of LSPs like The Door. In P.M.B.R.'s case alone,
23 our attorneys and staff were required to expend hundreds of hours to protect
24 P.M.B.R. from harms he never would have faced had he been afforded his TVPRA
25 rights. We were stretched so thin, I needed support from other members of the
26 department, even though they were not part of the Detained Minors Project and
27 would not typically have shared in the work and were not accustomed to the typical
28 work of the Detained Minors Project.

1 27. The diversion of attorney and staff time and financial resources to
2 address the ongoing harms from Defendants’ conduct limits our ability to serve
3 other unaccompanied children, and thus directly undermines our organizational
4 mission. When The Door represents clients like P.M.B.R. whose TVPRA rights
5 have been violated, that representation detracts from our ability to properly serve
6 other existing clients, to identify quickly time-sensitive issues in new cases, and to
7 maintain the integrity of our staffing structure, as we are required to pull attorneys
8 from other teams within our department to handle the unpredictable and intensive
9 casework specific to cases where Defendants have not followed TVPRA
10 requirements.

11 **B. A.D.R.S.**

12 28. We also represent A.D.R.S., an MPP-unaccompanied minor who has
13 been denied TVPRA rights by Defendants at multiple stages, requiring The Door to
14 divert significant resources to protect her rights.

15 29. A.D.R.S. fled Honduras in 2019 at age 14 after gunmen killed her
16 father and kidnapped, raped, and tortured her sister in the presence of a uniformed
17 Honduran police officer.

18 30. On September 15, 2019, A.D.R.S. was apprehended at the southern
19 border with her mother and sister. The next day, A.D.R.S. and her mother were
20 placed in MPP proceedings pursuant to an MPP NTA; her sister was over 18 at the
21 time and processed independently not through MPP proceedings.

22 31. On December 4, 2019, A.D.R.S. and her mother filed applications for
23 asylum and for withholding of removal (Form I-589s)—on their own behalf as part
24 of their MPP proceedings.

25 32. On January 15, 2020, the MPP immigration judge denied A.D.R.S.’s
26 and her mother’s applications for asylum and issued a removal order.

27 33. Facing devastating conditions in Mexico, A.D.R.S.’s mother made the
28 excruciating decision to send A.D.R.S. back to the United States on her own. On

1 February 7, 2020, A.D.R.S. entered the United States, was designated an
2 unaccompanied child, and was placed in ORR custody.

3 34. On February 7, 2020, A.D.R.S. was transferred to Abbott House, an
4 ORR shelter in New York served by The Door. On February 13, 2020, The Door
5 conducted our initial intake of A.D.R.S. and gave a KYR presentation.

6 35. On February 14, 2020, we became aware of A.D.R.S.’s MPP
7 proceedings and her MPP removal order. As a result, we immediately began a long
8 and taxing process of preparing and filing over 13 applications and motions in
9 immigration and federal courts to seek to protect our client’s rights.

10 36. First, we researched, prepared, and filed a motion to reopen and a
11 motion for a stay of removal on her behalf. On May 7, 2020, the immigration judge
12 denied A.D.R.S.’s motion to reopen. The following day, the New York Field Office
13 of ICE Enforcement and Removal Operations (“ERO”) signed a warrant of removal
14 (Form I-205) to execute A.D.R.S.’s MPP removal order.

15 37. However, The Door did not become aware of this warrant of removal
16 until May 11, 2020. Around 8:00 P.M., we learned through informal channels that
17 ICE intended to execute the warrant and remove A.D.R.S. that night, in time to put
18 A.D.R.S. on a 3:00 A.M. flight on May 12, 2020. We spent the following four
19 hours working under extraordinary pressure to counsel A.D.R.S., seek support from
20 other advocates, communicate with ORR and ICE senior officials, and file and
21 secure an emergency temporary restraining order (“TRO”) from the U.S. District
22 Court for the Southern District of New York. We ultimately obtained a TRO
23 preventing A.D.R.S.’s removal at 11:47 P.M. If not for the informal channel of
24 communication alerting us to ICE’s plans, our young client would have been
25 returned to Honduras—where she has no parent—without any notice to her counsel.
26 I find it extremely unusual that ICE moved to effectuate this removal before either
27 party to the removal proceedings had been served with the immigration judge’s
28 denial of A.D.R.S.’s motion to reopen. I also find the highly accelerated timeline of

1 removal particularly unusual in this case: (1) that ICE would sign the warrant of
2 removal within *one* day of the immigration judge’s denial of a motion to reopen, and
3 (2) that it occurred *four* days before that decision was served on either party to the
4 proceeding and *five* days before the decision was reflected on Executive Office for
5 Immigration Review’s (“EOIR”) website.

6 38. On May 12, 2020, we filed a petition for writ of habeas corpus on
7 behalf of A.D.R.S. in the U.S. District Court for the Southern District of New York
8 with pro bono law firm partner, Paul, Weiss, Rifkind, Wharton & Garrison LLP
9 (“Paul, Weiss”). On June 1, 2020, The Door and Paul, Weiss filed a Verified
10 Amended Petition for Writ of Habeas Corpus Pursuant to 8 U.S.C. § 2241 and
11 Complaint for Declaratory and Injunctive Relief (“Amended Petition”).

12 39. On June 3, 2020, we filed an appeal of the May 7, 2020, immigration
13 judge denial of A.D.R.S.’s motion to reopen with the Board of Immigration Appeals
14 (“BIA”).

15 40. On July 21, 2020, we submitted our brief in support of A.D.R.S.’s BIA
16 appeal, and on July 23, 2020, submitted a motion to stay A.D.R.S.’s removal to the
17 BIA. As of the date of this declaration, the BIA has not adjudicated A.D.R.S.’s
18 appeal or motion to stay removal.

19 41. On July 31, 2020, The Door and Paul Weiss filed a reply in support of
20 the Amended Petition and opposition to the Government’s motion to dismiss.

21 42. DHS and the Assistant U.S. Attorneys for the Southern District of New
22 York, representing DHS and other defendants in the federal litigation, opposed
23 every single one of our motions and applications described above.

24 43. On March 30, 2021, while her Amended Petition in federal court and
25 her MPP appeal at the BIA remained pending, USCIS granted A.D.R.S.’s asylum
26 application.

27 44. Even in the face of the welcome news and relief of A.D.R.S.’s grant of
28 asylum, we must continue our efforts to untangle A.D.R.S.’s case from MPP. On

1 April 15, 2021, we requested that the ICE OCC join a motion to remand, vacate, and
2 terminate A.D.R.S.’s appeal. On May 11, 2021, OCC responded requesting
3 additional information in order to conclude its review of a prospective joint motion
4 to reopen. Unless the OCC agrees to join, we must move the BIA to remand
5 A.D.R.S.’s appeal and reopen A.D.R.S.’s removal proceedings, vacate her prior
6 MPP order of removal, and terminate removal proceedings in light of her asylum
7 grant. A.D.R.S.’s habeas corpus petition was dismissed on April 23, 2021.

8 45. Because of Defendants’ failure to afford A.D.R.S. her full protections
9 under the TVPRA, The Door was required to undertake extraordinary litigation and
10 advocacy efforts to safeguard A.D.R.S.’s rights from potentially irreversible injury.
11 As documented above, we pursued duplicative and overlapping avenues for relief—
12 including, but not limited to moving to reopen MPP proceedings before the
13 immigration judge, appealing the denial of that motion to the BIA, filing for
14 affirmative asylum with USCIS, and filing an emergency petition for writ of habeas
15 corpus in federal court—to protect A.D.R.S. The Door and its partners at Paul,
16 Weiss researched and drafted dozens of motions, briefs, and applications on an
17 expedited basis. We also coordinated with community partners to pursue advocacy
18 through a variety of formal and informal channels. My team has dedicated hundreds
19 of hours to legal representation and advocacy over the 15 months that The Door has
20 represented A.D.R.S. None of these efforts would have been necessary if A.D.R.S.
21 was given the full protections under the TVPRA as a designated unaccompanied
22 child.

23 46. This model is untenable for an LSP. As a necessary but unfortunate
24 consequence of the emergency nature and volume of the work on A.D.R.S.’s case,
25 The Door has had to triage and de-prioritize other work. The unpredictable and
26 time-consuming work occasioned by Defendants’ denial of TVPRA rights to
27 unaccompanied children has prevented our attorneys and staff from serving other
28 unaccompanied children as effectively and delayed the resolution of cases for our

1 existing clients. This, in turn, has hindered The Door’s institutional mission of
2 serving unaccompanied children in the New York area.

3 **C. Other MPP-Unaccompanied Child Clients**

4 47. While A.D.R.S. and P.M.B.R. represent the most extreme examples,
5 the Door has also served several other MPP-unaccompanied children whose cases
6 have necessitated extraordinary efforts. Even when MPP-unaccompanied children
7 do not have MPP removal orders, their cases require additional outreach to, and
8 coordination with, ICE and ORR staff, as well as additional motion practice before
9 the EOIR. Based on my experience, an MPP-unaccompanied child case, regardless
10 of its posture, tends to be more complex, labor-intensive, and taxing on
11 organizational resources than a typical unaccompanied child’s case.

12 **III. The Door’s Challenges Representing Children Impacted by MPP**

13 **A. The Door’s Organizational Model**

14 48. As set forth above, The Door provides a wide array of services to its
15 clients and the immigrant community in New York, including direct legal services,
16 general legal and KYR presentations, case management, and assistance with social
17 services.

18 49. We first contracted with the Vera Institute of Justice to provide services
19 to unaccompanied children in December 2019. As an ORR-subcontracted LSP, we
20 are responsible for up to 350 unaccompanied children in ORR custody at any given
21 time. As part of this work, we inform unaccompanied children in our service area of
22 their rights and represent them in their legal proceedings.

23 50. When we began serving unaccompanied children, we built our practice
24 on the expectation that all unaccompanied children were to be given special
25 protections under the TVPRA and that the government would abide by the statutory
26 and regulatory requirements and its internal policies related to this vulnerable group.
27 Among the processes we created to serve unaccompanied children were: a KYR
28 training and legal screening within 10 days of a child’s arrival; a system to monitor

1 the juvenile detained docket at the Immigration Court and children’s cases venued in
2 other jurisdictions; and a system for assigning attorneys on an ongoing, non-
3 emergency basis (e.g., depending on court proceedings, length of stay in custody,
4 and eligibility for legal relief).

5 51. As one example, when considering the scope and period of
6 representation, The Door expected that our detained clients’ cases would follow a
7 predictable pattern and timeline. That is because the TVPRA includes a variety of
8 safeguards that prevents most immediate threats of removal for unaccompanied
9 children. *See generally* 8 U.S.C. § 1232.

10 52. Additionally, when considering staffing needs, The Door expected that
11 its attorneys would formally represent clients in only a subset of cases, such as when
12 an unaccompanied child remained in the New York area, had a prior order of
13 removal (typically *in absentia* orders where the child entered ORR after
14 apprehension within the United States), or had reached an advanced stage of their
15 TVPRA proceedings. As a result, we ensured that our Detained Minors Project was
16 adequately staffed to support cases progressing according to the pattern described
17 above.

18 53. While we expected that a fraction of cases involving unaccompanied
19 children with prior removal orders might require emergency motion practice, such
20 cases are generally easily identifiable—either using the nature of apprehension and
21 date of original entry to the United States or through communications with ORR
22 shelter staff—leaving us with ample notice to file protective motions on an
23 expedited basis. Outside of this small percentage of cases, we did not anticipate the
24 need for emergency motion practice or practice in multiple venues, including in
25 federal court, as part of our representation of unaccompanied children. Instead, we
26 expected that TVPRA protections would allow us to work with a high volume of
27 unaccompanied children, with very few cases requiring significant resources on an
28 emergency basis. As a result, we did not incorporate a federal litigation or an

1 emergency motion practice unit within our Detained Minors Project staff, the only
2 team at The Door trained in detained work. Thus, this team currently lacks capacity
3 to engage in such practice and requires securing pro bono counsel to provide our
4 clients with attorneys possessing the necessary experience.

5 54. Defendants' refusals to give MPP-unaccompanied children the same
6 protections as other unaccompanied children have forced us to modify our existing
7 practice. This has caused a significant burden on our organization and a diversion
8 of our resources away from other unaccompanied child clients in order to prioritize
9 the protection of MPP-unaccompanied child clients from imminent and catastrophic
10 harm.

11 **B. The Door Has Had to Expand Our Initial Screening Process**

12 55. As we learned that MPP-unaccompanied children were being denied
13 TVPRA protections and that Defendants appeared to be prioritizing the execution of
14 MPP removal orders for children still in ORR custody, we realized our existing
15 screening process had to change to allow our attorneys and staff to quickly identify
16 and advocate for children in these precarious circumstances.

17 56. Ascertaining whether an unaccompanied child was previously in MPP
18 can be difficult. There is no formal system for informing The Door of MPP cases
19 upon a child's arrival at one of the ORR shelters we serve. Young children are often
20 unable to articulate the circumstances of their prior entry or the procedural posture
21 of their cases. They often do not know whether they have been placed in MPP or
22 whether they are subject to a prior removal order. This general lack of knowledge is
23 typical for all children, but is exacerbated for younger children.

24 57. Compounding these difficulties, we observed that unaccompanied
25 children were often not served proper NTAs. When our staff attempted to ascertain
26 that information, the government has often refused to cooperate in providing this
27 information. Although a limited number of ORR shelter staff have made efforts to
28 advise The Door of potential MPP cases, these staff members are not attorneys and

1 have limited understanding of the legal meaning or implications of the information
2 that they convey. The information that they relay is often inadvertently inaccurate or
3 incomplete due to their lack of familiarity with removal proceedings and MPP.

4 58. In an effort to address this information deficit, and to reduce the
5 likelihood of injury to an MPP-unaccompanied child, we revised our screening tool
6 and trained staff in how to identify potential MPP-unaccompanied children. We
7 also incorporated attorney review earlier into the legal screening process in response
8 to the compressed time available to take action should any MPP case be identified.

9 **C. The Door Must Carry Out an Extended Investigatory Process for**
10 **Each MPP-Unaccompanied Child**

11 59. After the initial screening, our staff must try to piece together the
12 procedural posture for each MPP case we discover. Our investigation includes
13 (1) checking any MPP-unaccompanied child's Alien Number ("A-Number") in the
14 ORR UAC Portal and EOIR Automated Case Information Portal; (2) calls with
15 ORR shelter staff and ORR Federal Field Specialists to gather as much information
16 as possible on the child's immigration history; (3) attempting to find contact
17 information for the child's parents or other family to understand the child's
18 immigration matter procedural history; and (4) contacting the New York ICE OCC
19 for confirmation as to whether the child has a second A-Number or has been placed
20 in MPP.

21 60. These investigatory efforts are further complicated when a child's
22 parent or caregiver remains in Mexico and is difficult or impossible to reach.
23 Without the ability to speak with an unaccompanied child's family about the child's
24 immigration history, we are forced to seek that information elsewhere. As noted
25 above, one such avenue is ICE OCC, but it is also fraught with risk. In the absence
26 of an imminent removal, we would not bring a child's case to ICE's attention
27 because it could have a prejudicial effect on the processing of their removal case,
28 such as by causing the NTA to be filed or a master calendar hearing scheduled more

1 quickly than it otherwise would be.

2 61. In aggregate, these additional investigatory steps that must be taken for
3 unaccompanied children can require anywhere from five to hundreds of additional
4 hours of work for each MPP-unaccompanied child beyond the work that is required
5 for an unaccompanied child in a typical case.

6 **D. MPP-Unaccompanied Children Require Immediate Representation**

7 62. Once we identify an MPP-unaccompanied child, we offer the child
8 immediate representation. Immediate representation is not part of The Door's
9 planned service model or our current service model for other unaccompanied
10 children, but it is offered to MPP-unaccompanied children in order to lower the risk
11 of erroneous removal based on former ties to MPP. The eventual need to withdraw
12 from these cases adds additional wasteful burden on staff. As an example, when we
13 learn that an unaccompanied child has an MPP individual hearing in a consolidated
14 case with a parent, we enter representation on the child's behalf in the MPP case and
15 move for severance and a change of venue. Once the change of venue has been
16 effectuated (often after months of following up with the court), the child is typically
17 discharged from the ORR shelter we serve to a sponsor outside our New York
18 service area. As a result, we must then withdraw from representation and substitute
19 counsel for the unaccompanied child. In a non-MPP case, The Door and other local
20 LSPs work collaboratively to have a child's case venued in New York without the
21 need to enter representation (or to withdraw thereafter) and without an individual
22 hearing being scheduled in the vast majority of cases.

23 **E. The Door Must Engage in Emergency Motion Practice**

24 63. When The Door discovers an MPP-unaccompanied child, we
25 immediately work to prevent the child's possible imminent removal. By contrast,
26 most other unaccompanied children are placed in INA Section 240 removal
27 proceedings in the venue in which they reside, are not in immediate danger of
28 removal, and thus do not require emergency motion practice.

1 64. The type and number of motions we must prepare and file on behalf of
2 an MPP-unaccompanied child client depends on the procedural posture of the
3 child’s MPP case. The Door has represented MPP-unaccompanied children both
4 with and without final MPP removal orders, and has engaged in emergency
5 litigation before EOIR and federal courts.

6 65. When a child does not have a final removal order, we typically file
7 motions to sever the former MPP proceedings along with motions for a change of
8 venue. These motions are unnecessary for children who receive TVPRA protections
9 because they are placed in new Section 240 removal proceedings.

10 66. Extra motions to sever and to change venue drain our organization’s
11 limited resources. Similarly, we face an additional strain when entering and
12 withdrawing an appearance to file these motions: most MPP proceedings require
13 entry of representation in immigration courts outside of New York and such courts
14 often take months to adjudicate any motion, often requiring onerous, repeated
15 follow-up with the Court. A single case for an MPP-unaccompanied child without a
16 pending removal order typically requires the time and resources that The Door
17 would dedicate to 10 to 20 non-MPP-unaccompanied children’s cases. In other
18 words, in my best estimate, we could serve between 10 and 20 other unaccompanied
19 children in the time it takes to serve a single MPP-unaccompanied child who is not
20 at risk of an *in absentia* removal order.

21 67. These harms are further exacerbated when an MPP-unaccompanied
22 child has a removal order from prior MPP proceedings. Currently, The Door’s
23 biggest fear is that a child with an MPP removal order will be removed without
24 notice. As discussed above, this almost happened to A.D.R.S. The Door never
25 received formal notice that ICE intended to execute a removal order. In fact, The
26 Door was not even aware that A.D.R.S.’s immigration judge denied her motions to
27 reopen and to stay removal or that ERO issued a warrant of removal immediately
28 following that denial—both The Door and ICE OCC only received formal notice of

1 the immigration judge’s order four-to-five days after ICE intended to remove
2 A.D.R.S. The Door was only able to prevent A.D.R.S.’s removal based on a tip
3 from informal channels and late-night, emergency federal motion practice in the
4 hours before A.D.R.S. was to be removed.

5 68. Defendants’ conduct requires emergency action by senior staff at The
6 Door, with consequences for all other aspects of our practice. When MPP-risk-of-
7 removal cases arise, all other work must be put aside. Attorneys and support staff
8 are pulled off other cases—and from other teams—to help with the emergency
9 effort. The case requires extensive attention for weeks, not just from me as the
10 managing attorney of The Door’s Detained Minors Project, and the other attorneys
11 and staff on my team, but also from the managing director of The Door’s Legal
12 Services Center. In other intensive MPP-unaccompanied child cases, The Door’s
13 Detained Minors Project lacks capacity to represent the unaccompanied child. In
14 order to take on these cases, like P.M.B.R.’s, The Door diverts attorneys from other
15 teams within the department who are not experienced in detained representation to
16 assist in client counseling and emergency motion practice. That representation, in
17 turn, limits the number of other cases that they can handle from their standard
18 docket under other grants and contracts.

19 69. Outside of MPP-related cases, our organization generally is not forced
20 to engage in emergency motion practice or federal litigation on behalf of
21 unaccompanied children. These non-MPP unaccompanied children are offered the
22 benefits of applying for affirmative asylum, are placed in Section 240 removal
23 proceedings, and are routinely released to sponsors without the need for
24 extraordinary advocacy or litigation.³ Then, after their release to a sponsor and over
25 a period of months, we can undertake the lengthy process of investigating and

26 _____
27 ³ Even in instances where children enter ORR facilities served by The Door with a
28 prior order of removal, we are typically aware of that order immediately and can
take any action necessary to prevent our client’s removal.

1 formulating the best argument for relief possible for the child. This extended time is
2 necessary to gather information and evidence that may not be readily available, and
3 to determine which avenues of relief are most appropriate for the child. By contrast,
4 for MPP-unaccompanied children, we must file many complex motions and
5 applications—often in several jurisdictions—on an expedited basis in an attempt to
6 minimize the chances that our client is removed.

7 70. Overall, filing motions and appeals to prevent the immediate removal
8 of a child with a prior removal order can take upwards of 200 hours. We do not
9 have the organizational capacity to dedicate this amount of time and resources to a
10 single child.

11 **F. The Door’s Mission Has Been and Remains Burdened**

12 71. Defendants’ actions have increased the burden on our Legal Services
13 Center and hindered our mission. Because of the government’s treatment of MPP-
14 unaccompanied children, we have had to shift our resources from serving all
15 unaccompanied children to prioritize those who face imminent and erroneous
16 removal because of MPP.

17 72. We have struggled under the weight of the enhanced screenings and
18 investigations and the increased motions and appeals required for MPP-
19 unaccompanied child cases. Our staff is required to work excessive hours to meet
20 the pressing needs in these cases, including preparing emergency motions and
21 affirmative applications for relief.

22 73. Thousands of people formerly in MPP continue to remain in Mexico.
23 Based on my experience working with MPP-unaccompanied children, I expect that
24 children formerly subject to MPP proceedings may continue to enter the United
25 States on an unaccompanied basis. I therefore anticipate that we will continue to
26 divert time and resources to serving the unique needs of our existing MPP-
27 unaccompanied child clients and potentially new MPP-unaccompanied children.
28 Two such minors with likely MPP removal orders entered in this month alone. As

1 long as The Door serves MPP-unaccompanied children impacted by Defendants’
2 unlawful conduct, the organization’s ability to manage its resources and prioritize
3 cases of unaccompanied children will be undermined.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 11 th day of May, 2021 in New York, New York.

By 

Hannah P. Flamm