IMMIGRANT DEFENDERS LAW CENTER
Alvaro M. Huerta (CA Bar No. 274787)
Carson A. Scott (CA Bar No. 337102)
Lya Ferreyra (CA Bar No. 340148)
Immigrant Defenders Law Center
634 S. Spring St., 10th Floor
Los Angeles, CA
(213) 634-0999
ahuerta@immdef.org
cscott@immdef.org
lferreyra@immdef.org

JUSTICE ACTION CENTER
Esther H. Sung (*pro hac vice*)
Karen C. Tumlin (CA Bar No. 234691)
Laura Flores-Perilla (CA Bar No. 355645)
JUSTICE ACTION CENTER
P.O. Box 27280
Los Angeles, CA 90027
(323) 450-7272
esther.sung@justiceactioncenter.org
karen.tumlin@justiceactioncenter.org
laura.flores-perilla@justiceactioncenter.org

AMICA CENTER FOR IMMIGRANT RIGHTS
Adina Appelbaum (*pro hac vice*)
Samantha Hsieh (*pro hac vice*)
Peter Alfredson (D.C. Bar No. 1780258)*
Evan Benz (*pro hac vice*)
Amica Center for Immigrant Rights
1025 Connecticut Ave., NW, Suite 701
Washington, D.C. 20036
(202) 331-3320
adina@amicacenter.org
sam@amicacenter.org
peter@amicacenter.org
evan@amicacenter.org

**pro hac vice* forthcoming
Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-CV-02847-AMO

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR A PRELIMINARY INJUNCTION AND MEMORANDUM OF POINTS AUTHORITIES IN SUPPORT THEREOF

Date: TBD
Time: TBD
Dept: TBD
Judge: Hon. Araceli Martínez-Olguín
Trial Date: TBD
Date Action Filed: March 26, 2025

NOTICE OF MOTION AND MOTION FOR A PRELIMINARY INJUNCTION

PLEASE TAKE NOTICE that, pursuant to the Court's April 1, 2025 order, in the United States District Court for the Northern District of California, 450 Golden Gate Ave., San Francisco, CA 94102 that Plaintiffs Community Legal Services in East Palo Alto, Social Justice Collaborative, Amica Center for Immigrant Rights, Estrella del Paso, Florence Immigrant and Refugee Rights Project, Galveston-Houston Immigrant Representation Project, Immigrant Defenders Law Center, National Immigrant Justice Center, Northwest Immigrant Rights Project, Rocky Mountain Immigrant Advocacy Network, and Vermont Asylum Assistance Project will, and hereby do, move this Court for a preliminary injunction pursuant to Federal Rule of Civil Procedure 65(a).

As long as congressional appropriations are available, Defendants United States Department of Health and Human Services, Office of Refugee Resettlement, and Department of the Interior are required to provide funding to legal services providers to provide direct representation to unaccompanied immigrant children under 8 U.S.C. § 1232(c)(5) and 45 C.F.R. § 410.1309(a)(4). On March 21, 2025, despite the existence of congressionally appropriated funds for this purpose, Defendants abruptly terminated long-standing funding for direct representation for unaccompanied children. On April 1, 2025, the Court issued a temporary restraining order to protect Plaintiffs until the Court rules on this motion, enjoining Defendants from "withdrawing the services or funds" Defendants provided under the TVPRA and Foundational Rule as of March 20, 2025, and precluding Defendants from "cutting off access to congressionally appropriated funding for its duration." Plaintiffs now move for a preliminary injunction preserving the status quo and extending the Court's temporary restraining order through the resolution of this case.

The motion is based upon this notice of motion; the memorandum of points and authorities in support thereof that follows; the declarations of Roxana Avila-Cimpeanu, Daniela Hernández

Chong Cuy, Jill Martin Diaz, Ana Raquel Devereaux, Marion Donovan Kaloust, Miguel Angel Mexicano Furmanska, Vanessa Gutierrez, Ashley T. Harrington, Joel Frost-Tift, Elizabeth Sanchez Kennedy, Lisa Koop, Melissa Mari Lopez, Laura Nally, Martha Ruch, and Wendy Young, filed concurrently herewith; the proposed order filed concurrently herewith; the pleadings, Plaintiffs' Motion for a Temporary Restraining Order and declarations of Roxana Avila-Cimpeanu, Daniela Hernández Chong Cuy, Jill Martin Diaz, Ana Raquel Devereaux, Marion Donovan Kaloust, Miguel Angel Mexicano Furmanska, Vanessa Gutierrez, Ashley T. Harrington, Joel Frost-Tift, Gautam Jagannath, Elizabeth Sanchez Kennedy, Lisa Koop, Melissa Mari Lopez, Laura Nally, Martha Ruch, and Wendy Young filed concurrently therewith, records, and papers on file in this action; oral argument of counsel; and any other matters properly before the Court.

DATED: April 4, 2025

Respectfully submitted,

By: */s/ Alvaro M. Huerta*

/s/ Samantha Hsieh

IMMIGRANT DEFENDERS LAW CENTER
Alvaro M. Huerta (CA Bar No. 274787)
Carson A. Scott (CA Bar No. 337102)
Lya Ferreyra (CA Bar No. 340148)
Immigrant Defenders Law Center
634 S. Spring St., 10th Floor
Los Angeles, CA
(213) 634-0999
ahuerta@immdef.org
cscott@immdef.org
lferreyra@immdef.org

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Amica Center for Immigrant Rights
1025 Connecticut Ave., NW, Suite 701
Washington, D.C. 20036
(202) 331-3320
adina@amicacenter.org
sam@amicacenter.org
peter@amicacenter.org
evan@amicacenter.org

/s/ Karen C. Tumlin

JUSTICE ACTION CENTER
Esther H. Sung (*pro hac vice*)
Karen C. Tumlin (CA Bar No. 234691)
Laura Flores-Perilla (CA Bar No. 355645)
JUSTICE ACTION CENTER

Attorneys for Plaintiffs

P.O. Box 27280
Los Angeles, CA 90027
(323) 450-7272
esther.sung@justiceactioncenter.org
karen.tumlin@justiceactioncenter.org
laura.flores-perilla@justiceactioncenter.org

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INTRODUCTION

Each year, tens of thousands of unaccompanied noncitizen children ("UCs") arrive in the United States without a parent or legal guardian and are placed in the custody of the Office of Refugee Resettlement ("ORR"). Absent intervention from legal services providers, they must navigate our country's complicated immigration processes alone. Plaintiffs are a group of legal services providers dedicated to providing legal support to these children. In furtherance of their missions, Plaintiffs provide congressionally mandated direct representation and services to UCs.

In 2008, recognizing that children navigating complicated legal proceedings need counsel, Congress directed the Secretary of Health and Human Services ("HHS") by statute to "ensure, to the greatest extent practicable . . . , that all unaccompanied alien children . . . have counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking." 8 U.S.C. § 1232(c)(5) (the "TVPRA"). Under this mandate, Congress has funded direct representation for UCs since 2012. In 2024, confirming its responsibility to provide these congressionally mandated legal services, ORR issued its Unaccompanied Children Program Foundational Rule ("Foundational Rule") and bound itself to funding legal services providers, so long as congressional appropriations are available. 45 C.F.R. § 410.1309(a)(4). Congress has appropriated funding through September 30, 2027.

Despite these congressional and regulatory mandates, on March 21, 2025, Defendants abruptly cut funding for the legal representation and other legal services work, including friend of court services assisting UCs in immigration court and efforts to refer UCs whom Plaintiffs could not represent to pro bono attorneys, in clear violation of the Administrative Procedure Act ("APA"). For brevity, Plaintiffs use "direct representation" throughout to refer to the legal services cancelled by Defendants. Defendants provided Plaintiffs no information about how Plaintiffs should address their ongoing commitments to represent UCs (including UCs with immigration

court dates in the coming days) or about how Defendants intended to comply with their obligations to provide direct representation to UCs to the greatest extent practicable.

Plaintiffs' missions are to ensure immigrants in the United States—particularly UCs—have legal support and do not face the immigration system alone. To that end, Plaintiffs collectively represent thousands of UCs through funding from Defendants mandated by the TVPRA and Foundational Rule. By refusing to fund direct representation for UCs, in violation of these mandates, Defendants put Plaintiffs in an impossible position: Plaintiffs' missions and ethical duties compel them to continue legal representation of UC clients. Although doing so without federal funding may ultimately bankrupt Plaintiffs, to do otherwise would betray their core missions and ethical obligations to their clients. The Court can (and should) redress this harm by issuing an injunction ordering Defendants to meet TVPRA and regulatory requirements to fund direct representation, as the Court temporarily did with its current TRO.

Defendants' actions contravene congressional and regulatory mandate and are arbitrary and capricious. They also violate this Court's temporary restraining order. To prevent irreparable harm to Plaintiffs, to say nothing of irreparable harm to their UC clients, this Court should issue a preliminary injunction, enjoining Defendants through the resolution of this case from cutting off funding for direct representation required under the TVPRA and Foundational Rule.

BACKGROUND

Plaintiffs refer the Court to their Motion for a Temporary Restraining Order for a full factual background. *See* Dkt. 7 at 11-17. On those facts, the Court issued a temporary restraining order on April 1, 2025 (the "Order"), commanding Defendants to fund required direct representation for UCs through April 16, 2025. *See* Dkt. 33 at 1-2. Although Defendants stated they "are in receipt of the Court's order and are taking steps to comply expeditiously," Amica

Supp. Decl. ¶ 13, as of this filing, Plaintiffs are not aware of *any* actual steps Defendants have taken to comply. *Id.* ¶ 15. Plaintiffs intend to move to enforce compliance with the Order.

Further, on April 2, 2025, Defendants said they would not produce the administrative record until the latest time permitted by the Local Rules: with Defendants' answer. *Id.* ¶ 14.

Finally, Plaintiffs wish to clarify the state of the contract between Defendants and Acacia, which Defendants partially cancelled on March 21, 2025, given Defendants' incorrect indication at the April 1, 2025, hearing that there was no contract in place at all. The Cancellation Order cancelled three of the four contract "line items," leaving only the first line item ("know your rights" presentations and legal consultations). *See* Dkt. 7-15, Ex. 3. The contract was due to expire March 29, 2025, but Defendants issued a six-month extension for the first line item. *See* Dkt. 24-1 ¶ 11.

STANDARD OF REVIEW

A preliminary injunction is warranted when plaintiffs establish: (1) likelihood of success on the merits; (2) irreparable harm; (3) the balance of equities favors them; and (4) an injunction is in the public interest. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (citing *Winter v. Nat'l Res. Def. Council*, 555 U.S. 7, 20 (2008)). When the government is the defendant, the last two factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). The Ninth Circuit uses the "serious questions" test, which allows the court to evaluate the *Winter* test on "a 'sliding scale' . . . under which a party is entitled to a preliminary injunction if it demonstrates (1) 'serious questions going to the merits,' (2) 'a likelihood of irreparable injury,' (3) 'a balance of hardships that tips sharply towards the plaintiff,' and (4) 'the injunction is in the public interest.'" *Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180, 1190 (9th Cir. 2024) (citing *All. for the Wild Rockies v. Pena*, 865 F.3d 1211, 1217 (9th Cir. 2017)). This "standard is 'a lesser showing than likelihood of success on the merits.'" *Id.*

ARGUMENT

I. Plaintiffs are Likely to Succeed on the Merits

Agency action cannot stand if it is contrary to law or if it is arbitrary and capricious. Because Defendants' termination of direct representation services is contrary to the TVPRA and ORR's own regulations and is also arbitrary and capricious, Plaintiffs have, at minimum, demonstrated serious questions going to the merits and are likely to succeed on the merits.

A. Plaintiffs Have Standing to Bring Their Claims and Their Claims are Redressable.

The Court has found Plaintiffs fall within the "zone of interests" of the TVPRA and have articulated harms that can be redressed by this Court. Defendants' assertions otherwise remain meritless, and the Court can and should reject them again.

Prudential standing: As the Court already found, Plaintiffs have prudential standing because their APA claims are in the zone of interests protected by the TVPRA. *See* Dkt. 33 at 3-4. While Defendants insist the injury Plaintiffs plead is entirely financial, Plaintiffs face harms to their core activities and organizational missions, including their commitment to ensuring UCs are not left to navigate the immigration system alone. *See e.g.*, Estrella Supp. Decl. ¶ 2; ImmDef Supp. Decl. ¶ 2; FIRRP Supp. Decl. ¶¶ 3, 5. These interests are at least "'marginally related to' and 'arguably within' the scope of" the TVPRA, *E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 668 (9th Cir. 2021) (citing *Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians v. Patchak*, 567 U.S. 209, 224–-25 (2012)), as well as Congress's interest in "ensuring, to the greatest extent practicable" that all UCs receive legal "counsel to represent them in legal proceedings" and to "protect them from mistreatment, exploitation, and trafficking." 8 U.S.C. § 1232(c)(5).

Redressability: Plaintiffs' core business activities and organizational missions—which include ensuring UCs have legal representation—have been critically and irreparably harmed by Defendant's actions. The requested injunctive relief will redress these harms. While Defendants

have latitude to determine the mechanism by which they comply with the TVPRA and Foundational Rule—whether via reviving the terminated portions of the contract or another method of funding direct representation, either approach significantly increases the likelihood Plaintiffs will obtain relief from their harms. *See Meese v. Keene*, 481 U.S. 465, 476-77 (1987).

The showing required for the redressability prong of Article III standing is modest. *See Renee v. Duncan*, 686 F.3d 1002, 1013 (9th Cir. 2012). It is sufficient for Plaintiffs to demonstrate a "significant increase in the likelihood" that they will obtain relief redressing their injury as a "practical consequence" of an order from the court. *Id.* The reinstatement of required funding for direct representation to UCs significantly increases the likelihood that Plaintiffs will obtain relief, either through funding to continue their own representations or an alternative plan providing legal representation to UCs consistent with congressional appropriations, the TVPRA, and the Foundational Rule. The requested injunctive relief is extremely likely to ensure that Plaintiffs' clients maintain representation—as Plaintiffs' missions demand—without forcing Plaintiffs to divert resources from other mission critical initiatives.

The TVPRA's directive requires "ensuring, to the greatest extent practicable" that all UCs receive legal "counsel to represent them in legal proceedings" and to "protect them from mistreatment, exploitation, and trafficking." 8 U.S.C. § 1232(c)(5). Direct redress of Plaintiffs' harms is a practical consequence of enjoining "Defendants nationwide from ceasing to fund counsel to represent unaccompanied children in violation of the TVPRA and the Foundational Rule." Dkt. 1 at 39. This is true regardless of how Defendants fashion the injunctive relief.

B. This Court has Jurisdiction Over Plaintiffs' Claims.

This Court rejected Defendants' argument that the Tucker Act deprives the Court of jurisdiction over Plaintiffs' claims. Dkt. 33 at 3 (citing *Pacito v. Trump*, 2025 WL 893530, at *4–7 (W.D. Wash. Mar. 24, 2025)). The Court is correct, and Plaintiffs address this issue only briefly.

The law is clear: the Tucker Act only deprives the Court of jurisdiction of claims that are both (1) founded upon contract-based rights and (2) seek a contract-based remedy. *See United Aeronautical Corp. U.S. Air Force*, 80 F.4th 1017, 1025-26 (9th Cir. 2023).

Neither of those conditions are met here. The Tucker Act "yields when the obligation-creating statute provides its own detailed remedies, or when the [APA] provides an avenue for relief." *Me. Cmty. Health Options v. U.S.*, 590 U.S. 296, 323–24 (2020); *see also Pacito v. Trump*, 2025 WL 655075, at *17 (W.D. Wash. Feb. 28, 2025) (rejecting argument Tucker Act bars APA review). Plaintiffs' claims stem from the TVPRA, the Foundational Rule, and the APA: Defendants' refusal to fund direct representation for UCs violates their obligations under those authorities and, in turn, violates the APA and is a breach of the Accardi doctrine, and arbitrary and capricious. See Dkt. 7 at 20-24. Thus, Plaintiffs' claims do not rely on or arise from any contract.

Because Plaintiffs seek "declaratory and injunctive relief" under their statutory rights to prevent Defendants unlawfully refusing to provide any funding for counsel for UCs instead of "money in compensation for . . . losses," the Tucker Act does not apply. *Bowen v. Massachusetts,* 487 U.S. 879, 893, 895; *see also Crowley Gov't Servs., Inc. v. Gen. Servs. Admin.*, 38 F.4th 1099, 1111 (D.C. Cir. 2022) (declaratory and injunctive relief are not "specific to actions that sound in contract"); *Pacito*, 2025 WL 655075 at *17 ("[B]ecause Plaintiffs seek specific remedies, not damages," Tucker Act did not apply). As "Claims Court[s do] not have the general equitable powers of a district court to grant prospective relief," a district court is the proper venue for Plaintiffs' APA claims. *Bowen*, 487 U.S. at 905–07. That Defendants previously fulfilled their statutory and regulatory obligations by contracting does not change this analysis—were that the case, no plaintiff could challenge Defendants' illegal actions. *See, e.g.*, *Crowley*, 38 F.4th at 1107

(rejecting the "broad notion that any case requiring some reference to or incorporation of a contract" cannot be heard in district courts) (cleaned up).

C. The Cancellation Order Determines Plaintiffs' Legal Rights and Obligations and is Final Agency Action Reviewable Under the APA.

The APA "sets forth the procedures by which federal agencies are accountable to the public and their actions subject to review by the courts." *Franklin v. Massachusetts*, 505 U.S. 788, 796 (1992). Persons or organizations, like Plaintiffs here, who are "suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, [are] entitled to judicial review thereof." 5 U.S.C. § 702. "[A]gency action" includes not only agencies' affirmative acts, but also their omissions and failures to act. *Id.*; 5 U.S.C. § 551(13).

Under the APA, this Court may set aside and enjoin unlawful agency action, and compel agency action unlawfully withheld, if it is a (1) "final agency action" "for which there is no other adequate remedy in a court," so long as (2) there are no "statutes [that] preclude judicial review" and "agency action is [not] committed to agency discretion by law." 5 U.S.C. §§ 701(a), 704. Plaintiffs satisfy each of these criteria here, and APA relief is therefore proper.

Final Agency Action. An agency action is final for APA review where two conditions are satisfied: (1) "the action must mark the consummation of the agency's decisionmaking process," and (2) "the action must be one by which rights or obligations have been determined, or from which legal consequences will flow." *Bennett v. Spear*, 520 U.S. 154, 177–78 (1997) (quotation marks and citations omitted). Defendants' refusal to fund direct representation for UCs is a final agency action. *See, e.g.*, *Nat'l Council of Nonprofits v. OMB*, 2025 WL 368852, at *11 (D.D.C. Feb. 3, 2025) (attempt to "pause" funding and disbursements is final agency action); *Imm. Defs. Law Ctr. v. U.S. Dep't of Homeland Sec.*, No. 2:21-cv-00395, Dkt. 304, at *18–19 (C.D. Cal. Mar.

14, 2025) (in TVPRA context, final agency action found because policy was not tentative, decision-making was not ongoing, and legal consequences would flow from action).

Here, Defendants clearly ceased funding direct representation for UCs in violation of an express statutory mandate and their own regulatory frameworks. The Cancellation Order directed Plaintiffs to stop all work providing direct representation to UCs, including pre-existing clients. This notification is final. VAAP Decl. (Dkt. 7-7) ¶ 13; NWIRP Decl. (Dkt. 7-10) ¶ 10; RMIAN Decl. (Dkt. 7-11) ¶ 12; Estrella Decl. (Dkt. 7-14) ¶ 11.

Since the Cancellation Order and its ensuing consequences, the choices facing Plaintiffs have grown even more dire. Defendants' actions and failure to comply with the Court's Order continue to force Plaintiffs to choose between providing unfunded direct representation with extremely limited resources; cutting other vital organizational programs, laying off, furloughing, or terminating staff; and/or seeking to withdraw from their ongoing representation duties for court hearings, client meetings, and other important preparations for legal proceedings. *See e.g.*, Dkt. 7 at 10-11; ImmDef Supp. Decl. ¶ 9; Amica Supp. Decl. ¶ 3; VAAP Decl. (Dkt. 7-7) ¶ 21. The longer Plaintiffs go without funding or clarity regarding how to handle their current clients, the fewer services they can provide as they are forced to withdraw from ongoing representations, cut other core programs, and/or lay off or reassign staff. Amica Supp. Decl. ¶ 3; VAAP Decl. (Dkt. 7-7) ¶ 20–22; ImmDef Supp. Decl. ¶ 7; NWIRP Decl. (Dkt. 7-10) ¶ 14. Thus, the termination has an immediate effect on parties' rights or obligations.

No Bar to Review: Defendants' actions do not fall within the limited exceptions to judicial review under the APA. The longstanding presumption of judicial review for agency actions under the APA "may be rebutted only if the relevant statute precludes review, 5 U.S.C. § 701(a)(1), or if

the action is 'committed to agency discretion by law,' § 701(a)(2)." *Weyerhaeuser Co. v. U.S. Fish & Wildlife Serv.*, 586 U.S. 9, 23 (2018). Neither exception applies here.

First, the "well-settled" presumption of judicial review for agency actions can be overcome only by "clear and convincing evidence" of congressional intent to preclude judicial review. *See, e.g.*, *Kucana v. Holder*, 558 U.S. 233, 252-53 (2010). No statute bars review of Plaintiffs' claims here. *Bowen v. Mich. Acad. of Fam. Physicians*, 476 U.S. 667, 670–71 (1986).

Second, Defendants' refusal to fund direct representation for UCs does not fall into the "very narrow" exception for actions committed to agency discretion. *Arizona Power Pooling Ass'n. v. Morton*, 527 F.2d 721, 727 (9th Cir. 1975). This exception is "restrict[ed] to those rare circumstances where the relevant statute is drawn so that a court would have *no meaningful standard* against which to judge the agency's exercise of discretion." *Weyerhaeuser Co.*, 586 U.S. at 23 (emphasis added) (quoting *Lincoln v. Vigil*, 508 U.S. 182, 191 (1993)). The Ninth Circuit applies this exception only when "there is truly no law to apply." *Jajati v. U.S. Customs & Border Prot.*, 102 F.4th 1011, 1014 (9th Cir. 2024) (quotation marks omitted).

The TVPRA, agency regulations, and Defendants' own policies and announcements, provide "meaningful standards under which courts can review whether [Defendants'] wielded its discretion in a permissible manner." *Jajati*, 102 F.4th at 1014. As the Court noted in its Order, Defendants' actions "potentially violate[] Congress's express directive in the TVPRA and ORR's own commitments in the Foundational Rule," both "meaningful standards" under which the Court can review Defendants' actions. Dkt. 33 at 5. Both the TVPRA and ORR regulations include language describing Defendants' obligations to fund direct representations. *See* 8 U.S.C. § 1232(c)(5) (Defendants "*shall* ensure, to the greatest extent practicable," that *all* UCs receive legal "counsel to represent them in legal proceedings") (emphasis added); 45 C.F.R.

§ 410.1309(a)(4) (ORR "*shall* fund legal service providers . . . subject to ORR's discretion and available appropriations"). This language offers a clear standard to judge Defendants' actions. *See e.g.*, *Arizona Power Pooling Ass'n,* 527 F.2d at 727 (holding that statutory language instructing that the agency "shall" devise the "most feasible plan" for obtaining electronic power made it "clear that . . . the [agency did] not have unfettered discretion" and the exception for actions committed to agency discretion did not apply).

Defendants' cancellation of all funding is not the type of "lump-sum appropriation" or other judgment that is presumptively committed to agency discretion. *Weyerhaeuser Co.*, 586 U.S. at 23. In their Opposition to Plaintiffs' Motion for TRO, Defendants rely heavily on *Lincoln v. Vigil* to argue that funding for direct representation for UCs is wholly committed to agency discretion. *See* Dkt. 24 at 18; *Lincoln v. Vigil*, 508 U.S. 182 (1993). There, the Court emphasized the relevant "appropriations Acts . . . do not mention the [cancelled] Program," the relevant statutes "speak about Indian health only in general terms," and "Congress never expressly appropriated funds" for the cancelled program. *Id*. at 186, 193–94. In contrast, here, the relevant statutes point to Defendants' obligations to ensure direct representation to the "greatest extent practicable" and Congress has expressly appropriated funds for services required under the TVPRA, including provision of counsel. *See, e.g.*, Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. 119-4, Div. A Tit. I Sec. 1101(8) (2025); Further Consolidated Appropriations Act, 2024, Pub. L. 118-47, Div. D Tit. I, 138 Stat. 460, 664–665 (2024); S. Rep. 118-84, at 169.

That Defendants have some discretion in *how* to allocate funds for direct representation does not render their actions unreviewable under the APA. Even "grants [of] broad discretion to an agency" do "not render the agency's decisions completely nonreviewable . . . unless the statutory scheme, taken together with other relevant materials, provides *absolutely no guidance* as

to how that discretion is to be exercised." *Robbins v. Reagan*, 780 F.2d 37, 45 (D.C. Cir. 1985) (emphasis added). Here, both the statutory and regulatory schemes clearly provide such guidance.

D. Termination of the Direct Representation Programs Violates the TVPRA.

Under the TVPRA, Congress mandated the government "shall ensure, to the greatest extent practicable," that *all* UCs receive legal "counsel to represent them in legal proceedings" and to "protect them from mistreatment, exploitation, and trafficking." 8 U.S.C. § 1232(c)(5). Canceling funding for direct representation services to UCs when appropriations are available (as they are) violates this express congressional mandate.

The TVPRA, which requires Defendants to "ensure [UC direct representation] to the greatest extent practicable," prohibits Defendants refusing to fund direct representation so long as Defendants have available appropriations (as they do). *See, e.g.*, *Pacito,* 2025 WL 655075, at *18 (APA violated when agencies withheld appropriated funds because they were "required, 'to the extent of available appropriations,' to ensure provision of support services for resettled refugees"). Defendants terminated funding and ordered Plaintiffs to cease work without providing any other avenues of legal services for UCs—failing to "ensure, to the greatest extent practicable," that UCs have access to legal counsel. The Cancellation Order effectively ends meaningful direct representation for UCs. Amica Supp. Decl. ¶ 8; VAAP Decl. (Dkt. 7-7) ¶¶ 20–21.

Although the TVPRA grants Defendants some discretion in *how* to allocate appropriated funds for legal access, it does not grant discretion to choose *not to* allocate appropriated funds at all. Defendants cannot simply cease funding for direct representation in its entirety, as they did here. *See Pacito*, 2025 WL 655075, at *18. Further, Defendants failed to provide any guidance to Plaintiffs regarding their ongoing UC representations, or any alternative plan for carrying out their duties under the statute and applicable ethical rules. Amica Decl. (Dkt. 7-15) Ex. 3.

E. Terminating Direct Representation Programs Violates the ORR Foundational Rule.

The government is "bound by the regulations it imposes upon itself." *See United States v. 1996 Freightliner Fld. Tractor VIN 1FUYDXYB-TP822291*, 634 F.3d 1113, 1116 (9th Cir. 2011). Under the *Accardi* doctrine, parties may bring claims under the APA asserting that an agency has failed to follow its own rules and internal policies. *See, e.g.*, *Alcaraz v. I.N.S.*, 384 F.3d 1150, 1162 (9th Cir. 2004).

For an *Accardi* claim, Plaintiffs must show (1) the government violated its own regulations; and (2) Plaintiffs are substantially prejudiced by that violation. *See Al Otro Lado, Inc. v. Mayorkas*, 2024 WL 4370577, at *8–9 (S.D. Cal. Sept. 30, 2024); *see also Carnation Co. v. Sec'y of Lab.*, 641 F.2d 801, 804 n.4 (9th Cir. 1981) (the *Accardi* standard is "whether violation of the regulation prejudiced the party involved"). Defendants' actions violate their express commitment in the binding Foundational Rule to fund direct representation as long as appropriations are available. Plaintiffs are substantially prejudiced because they are mission-bound to serve their UC clients in cases formerly funded by Defendants, and there are no other government-funded legal service providers to whom Plaintiffs can transfer those cases. Amica Supp. Decl. ¶ 8; Estrella Decl. (Dkt. 7-14) ¶ 3, 16; KIND Decl. (Dkt. 7-18) ¶ 19; VAAP Supp. Decl. ¶ 2; *see also* MM Supp. Decl. ¶ 4-5; DHCC Supp. Decl. ¶ 7. Plaintiffs are spending discretionary funds to maintain representations for as long as possible because withdrawing is antithetical to their missions and, for some, impermissible under local ethics rules, particularly where no other service providers can take the cases. Without an injunction, Plaintiffs will have to choose between bankruptcy and abandoning their missions . Amica Supp. Decl. ¶ 3; GHIRP Supp. Decl. ¶¶ 3, 7–8; RMIAN Decl. (Dkt. 7-11) ¶ 14; Estrella Decl. (Dkt. 7-14) ¶ 15; *see also infra* Section II.A.

ORR has "recognize[d] that most unaccompanied children need legal services to resolve their immigration status and that representation appears to have a significant impact on both the

court appearance rate and the outcome of cases for unaccompanied children." 89 Fed. Reg. 34384, 34529 (Apr. 30, 2024); *see also Al Otro Lado*, 2024 WL 4370577, at *9 (preambles may sufficiently bind agencies under *Accardi*). Just last year, ORR stated its intention to provide "universal legal representation for unaccompanied children by FY 2027." HHS: Administration for Children & Families, *Justification of Estimates for Appropriations Committees*, at 78 (2024), https://shorturl.at/4VDSL; *see also* 89 Fed. Reg. at 34526 ("ORR strives for 100 percent legal representation of unaccompanied children."). Thus, in 2024, ORR adopted the Foundational Rule, which states in relevant part:

> To the extent ORR determines that appropriations are available, and insofar as it is not practicable for ORR to secure pro bono counsel, ORR *shall fund legal service providers* to provide direct immigration legal representation for certain unaccompanied children, subject to ORR's discretion and available appropriations.

45 C.F.R. § 410.1309(a)(4) (emphasis added). Defendants' actions on March 21, 2025, subvert these ORR commitments and regulations, violate the *Accardi* doctrine, and are both contrary to law and arbitrary and capricious under the APA. *See Torres v. U.S. Dep't of Homeland Sec.*, 411 F. Supp. 3d 1036, 1068–69 (C.D. Cal. 2019) (agency's violation of its own procedures violates the APA). Congressional appropriations are readily available until September 2027 to fund direct representation, including funds appropriated as recently as March 15, 2025, one week before Defendants' challenged actions. *See, e.g.*, Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. 119-4, Div. A Tit. I Sec. 1101(8) (2025); Further Consolidated Appropriations Act, 2024, Pub. L. 118-47, Div. D Tit. I, 138 Stat. 460, 665-666 (2024); S. Rep. 118-84, at 169. Without explanation and without a plan to replace these critical legal services for unaccompanied children, the Cancellation Order violates Defendants' obligations and has caused and will continue to cause Plaintiffs substantial hardship, as described below. *See also infra* Section II.A. Because

Defendants' actions violate their own stated policies and substantially prejudice Plaintiffs, Plaintiffs are likely to succeed on the merits of their claims.

F. Terminating Funding for Direct Representation is Arbitrary and Capricious.

Defendants' decision to stop funding any direct representation for any UCs ignores the well-documented efficacy of direct representation for UCs and is arbitrary and capricious. Defendants have refused to produce any administrative record to justify their decision until they file their answer. Amica Supp. Decl. ¶ 14. Plaintiffs and the Court are left to evaluate Defendants' justification through statements in the Stop Work Order, Cancellation Order, and filings in this action. The Stop Work Order provides no explanation, Dkt. 7-15, Ex. 1, and the Cancellation Order says only that the decision was for Defendants' "convenience," *id.* at Ex. 3. This leaves the Court with only Defendants' post-hoc justifications offered through litigation, but these are plainly insufficient. *Dept. of Homeland Sec. v. Regents of the U. of Cal.*, 591 U.S. 1, 23 (2020) (agencies cannot support their actions via "belated justifications" or "convenient litigating positions" (quotation marks and citations omitted). To the extent such reasons are properly before the Court, Defendants' proffered justifications of saving money and encouraging pro bono representation fail to address the requirements outlined above. *See* Dkt. 24-1 ¶¶ 14–15; Dkt. 24 at 8.

A court "shall" set aside agency action if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." 5 U.S.C. § 706(2)(A); *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983); *see also Humane Soc. of U.S. v. Locke*, 626 F.3d 1040, 1048 (9th Cir. 2010). Agency action should be set aside as arbitrary and capricious if the agency fails to explain the basis of its decision, fails to consider all relevant factors and articulate a "rational connection between the facts found and the choice made," or fails to offer a "reasoned analysis" for departure from preexisting policies. *Motor Vehicles Mfrs. Ass'n*, 463 U.S. at 42–43. In cases where the purported rationale for agency action is pretextual, it must be

set aside. *See, e.g.*, *Dep't of Com. v. New York*, 588 U.S. 752, 780-85 (2019); *Transportation Div. of the Int'l Ass'n of Sheet Metal, Air, Rail, & Transp. Workers v. Fed. R.R. Admin.*, 988 F.3d 1170, 1182-85 (9th Cir. 2021). Here, Defendants fail on all grounds, justifying preliminary injunctive relief (as well as ultimate relief on the merits).

1. Defendants Failed to Adequately Explain the Basis for the Decision.

A "fundamental requirement of administrative law is that an agency set forth its reasons for decision; an agency's failure to do so constitutes arbitrary and capricious agency action." *Tourus Recs., Inc. v. Drug Enforcement Admin.*, 259 F.3d 731, 737 (D.C. Cir. 2001) (quotation marks omitted); *see also SEC v. Chenery Corp.*, 332 U.S. 194, 196 (1947). Unsupported conclusions are insufficient, *see City and Cnty of San Francisco v. U.S. Citizen and Immigration Servs.*, 981 F.3d 742, 761 (9th Cir. 2020) (rejecting agency's "conclusory mantra" and lack of "detailed justification"), as are post hoc rationalizations in briefing, unsupported by an administrative record, *see Humane Soc'y of U.S.*, 626 F.3d at 1049-50.

Defendants' decision to cut all funding for direct representation they have funded for more than a decade—with appropriations available until at least September 30, 2027—came with no explanation, let alone one that can stand up to judicial scrutiny. Defendants have refused to produce any administrative record at this stage that could justify their actions. *See,* Amica Supp. Decl. ¶ 14. Even if Defendants' post-hoc justifications offered in this case could be considered, Defendants fail to address the fact that Congress has already appropriated these funds through September 2027, and offer no explanation of how a "shift" to pro bono services could fulfill their TVPRA and Foundational Rule obligations to provide counsel "to the greatest extent possible." Defendants also offer no evidence they are doing anything to facilitate a "shift," and even if they were, they created a significant shortfall in representation in the interim.

History and congressional statements show pro bono counsel alone cannot provide counsel "to the greatest extent possible," under the TVPRA. *See* Dkt. 1 ¶¶ 51–63 (citing original sources). ORR *already tried* relying solely on pro bono counsel. The idea that funding representation actually "disincentivizes the recruitment of and the volunteering of pro bono counsel" (Dkt. 24-1 ¶ 24) gets the history backward—funded representation stepped in to fill huge representation gaps left by relying only on pro bono capacity. *See also* Estrella Supp. Decl. ¶ 5 (of the 64,008 individuals Estrella served in 2024, they have only secured pro bono assistance for one). ORR's 2008 pro bono pilot program produced a report acknowledging pro bono counsel alone were insufficient to represent UCs. *See* Olga Byrne & Elise Miller, *The Flow of Unaccompanied Children Through the Immigration System*, at 22–23 (Mar. 2012), https://shorturl.at/KI3Jt. That is why ORR started funding direct representation. *See* Dkt. 1 ¶¶ 57–59.

Funding legal services providers like Plaintiffs *increases* pro bono representation of UCs, because Plaintiffs oversee and mentor large networks of pro bono attorneys—non-experts in immigration who could not represent UCs without the aid of immigration professionals. *See, e.g.,* Dkt. 7-4 ¶¶ 11, 44; Dkt. 7-7 ¶ 2; NWIRP Supp. Decl. ¶ 7. When Plaintiff "ImmDef has worked with pro bono attorneys to provide legal representation for children, [they] have found that even licensed attorneys who are not specialized in this area of law need intensive training [from ImmDef] and support to be able to effectively represent their clients." Dkt. 7-8 ¶ 11. "[P]ro bono attorneys do not generally have immigration expertise," most do not speak the languages UCs speak, many "are unwilling to commit to the timeframe of children's immigration cases or with the special care needed when working with children," and pro bono attorneys need experts to "train and support [them]." Dkt. 7-6 ¶ 12; *see also* RMIAN Supp. Decl. ¶ 9 ("The vast majority of RMIAN's volunteer attorneys do not have immigration law experience and would never consider

taking an immigration case without RMIAN's [support.]"); Amica Supp. Decl. ¶ 11; VAAP Supp. Decl. ¶ 8; DHCC Supp. Decl. ¶ 7; Public Counsel Supp. Decl. ¶ 5; NIJC Supp. Decl. ¶¶ 6–8; KIND Supp. Decl. ¶ 7. The Cancellation Order cut funding for this essential mentorship and training. Amica Supp. Decl. ¶ 8. And Plaintiffs cannot sustain their representations (or take new ones) without funding. *See, infra,* at 20–22; ImmDef Supp. Decl. ¶ 7–12. Defendants' post hoc "shift" justification is contradicted by facts and history—and by what funding Defendants chose to cut.

Defendant's attempt to justify this as a cost-saving measure is likewise unavailing. Dkt. 24-1 ¶ 18. The TVPRA and the Foundational Rule require Defendants to fund direct representation to the "greatest extent practicable" with appropriated funds. *See, supra*, at 11, 13. And Congress has ordered Defendants to spend appropriated funding to provide funded representation for UCs. For example, in 2022, the House Appropriations Committee, in support of "the continued expansion of independent legal services for unaccompanied children," directed that funded representations should "be made available to children *up to funded capacity*." H. Rep. 117-403, at 200 (emphasis added). An administration's "policy" of cutting spending is simply not a legally cognizable reason to refuse to spend appropriated funds: the Executive cannot withhold or delay disbursement of appropriated funds, even if it "has policy reasons . . . for wanting to spend less than the full amount appropriated by Congress for a particular project or program." *See In re Aiken Cnty*, 725 F.3d 255, 261 n.1 (D.C. Cir. 2013) (plurality).

Because even these post hoc reasons offered in litigation fall apart under the slightest scrutiny, the decision is arbitrary and capricious. *See Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2125 (2016) ("Where the agency has failed to provide even a minimal level of analysis" for its decision, "its action is arbitrary and capricious.").

2. Defendants Failed to Consider All Relevant Factors and Articulate a Rational Connection Between the Facts Found and the Choice Made.

To survive arbitrary and capricious review, an agency must have "demonstrated a rational connection between the facts found and the choice made." *Wawszkiewicz v. Dep't of Treasury*, 670 F.2d 296, 301 (D.C. Cir. 1981) (quotation marks and citations omitted). Courts "do not defer to the agency's conclusory or unsupported suppositions." *Standing Rock Sioux Tribe v. U.S. Army Corps of Engs.*, 255 F. Supp. 3d 101, 121–22 (D.D.C. 2017) (quotation marks and citations omitted). Even crediting Defendants' 'shift to pro bono' rationale, Defendants have not offered any analysis or findings that could show that such a "shift" is justified and could provide counsel "to the greatest extent practicable." And significant evidence demonstrates that ending funding for direct representation will decrease the number of pro bono representations as well. *See, supra*, at 16–17. Where, as here, "no findings and no analysis . . . justify the choice made," the APA "will not permit" a court to accept the agency's decision. *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 167 (1962). Because Defendants "should have considered those matters but did not," their "failure was arbitrary and capricious in violation of the APA." *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 33 (2020).

3. Defendants Failed to Offer a Reasoned Explanation for Their Policy Reversal.

When the government reverses its own established policy, it has an even greater burden to justify its actions. The agency must "acknowledge and provide an adequate explanation for its departure from established precedent, and an agency that neglects to do so acts arbitrarily and capriciously." *Jicarilla Apache Nation v. U.S. Dep't of the Interior*, 613 F.3d 1112, 1119 (D.C. Cir. 2010) (quotation marks and citations omitted); *see also Encino Motorcars*, 579 U.S. at 221–22 (an agency cannot depart from prior policy without "explaining its changed position").

Defendants' refusal to fund *any* direct representation for UCs is a reversal of more than a decade of funding direct representation, continued year after year by congressional reports directing Defendants to fund direct representation and to *expand* such funding. By cancelling

funding with no explanation—or at most an insufficient and pretextual explanation—Defendants have acted arbitrarily and capriciously. *See Jicarilla Apache Nation*, 613 F.3d at 1119.

4. To the Extent Defendants Offer Any Reasons, Those Reasons Are Pretextual.

Defendants' two purported reasons for cutting off required funding are pretextual—Defendants want to substitute the Executive's policy goals for Congress's own considered policies that it expressed in the TVPRA and following appropriations bills and reports. *See*, *supra*, at 13, 17. Defendants have twice tried to stop funding legal representation for UCs. The February 18, 2025, Stop Work Order gave no reason and, to the contrary, stressed to Acacia that the order had *nothing* to do with "poor performance" of the funded services. *See* Dkt. 7-15, Ex. 1. The March 21, 2025, Cancellation Order also gave no reason—it simply cited "the Government's convenience." *See id*. at Ex. 3. Recent court filings reveal the Cancellation Order was issued shortly after a Department of Government Efficiency ("DOGE") staffer was detailed to the HHS department overseeing ORR "to identify waste, fraud, and abuse" under the DOGE Executive Order and given access to the extremely sensitive database of information about unaccompanied children. *See Am. Fed. Of Labor and Congress of Indus. Orgs. v. Dept. of Labor*, No. 1:25-cv-00339-JDB, Dkt. 73-2 at 11-12 (D.D.C.). Defendants now admit the decision was made because of "this Administration's policy goals," Dkt. 24-1 ¶ 18, and offer two pretextual justifications for those goals. But "[a]bsent congressional authorization, the Administration may not redistribute or withhold properly appropriated funds in order to effectuate its own policy goals." *City & Cnty. of San Francisco v. Trump*, 897 F.3d 1225, 1235 (9th Cir. 2018). That is what happened here, and Defendants have declined to produce a record that could show otherwise.

II. Plaintiffs Satisfy the Remaining Requirements for a Preliminary Injunction

A. Plaintiffs Face Irreparable Harm

A preliminary injunction is appropriate where, as here, the moving party shows that it faces irreparable harm—harm which is (1) "immediate", *Caribbean Marine Servs. Co. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988), and (2) "for which there is no adequate legal remedy." *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014).

The Court correctly found Plaintiffs "are likely to suffer irreparable harm in the absence of preliminary relief." Dkt. 33 at 5. Defendants have not complied with the Court's Order, making the requested injunctive relief all the more critical. Defendants' termination of funding for direct representation directly interferes with Plaintiffs' missions, immediately impeding their ability to provide legal representation that is at the heart of Plaintiffs' missions. FIRRP Supp. Decl. ¶¶ 5–8; GHIRP Supp. Decl. ¶¶ 3, 7–8; ImmDef Supp. Decl. ¶ 7–12; VAAP Supp. Decl. ¶¶ 4, 7; Estrella Supp. Decl. ¶ 4; RMIAN Decl. (Dkt. 7-11) ¶ 22; VAAP Decl. (Dkt. 7-7) ¶¶ 21–22; NWIRP (Dkt. 7-10) ¶¶ 13–15; NIJC Supp. Decl. ¶ 9. There is no question ceasing funding for direct representation for UCs and terminating existing services causes imminent and irreparable harm to Plaintiffs and their missions. FIRRP Supp. Decl. ¶ 5; FIRRP Decl. (Dkt. 7-4) ¶ 37; NIJC Supp. Decl. ¶ 9. The Cancellation Order prevents Plaintiffs from providing thousands of UCs the direct representation required by the TVPRA and the Foundational Rule, frustrating Plaintiffs' primary missions of ensuring UCs are supported by legal counsel, including by representing these children as contemplated by Congress and the TVPRA. *See, e.g.*, FIRRP Supp. Decl. ¶ 5; ImmDef Decl. ¶ 2. If this occurs, "'there can be no do over and no redress.'" *League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 9 (D.C. Cir. 2016) (quoting *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014)).

Plaintiffs relied on Congress's and Defendants' assurances that funding would remain available. Amica Decl. (Dkt. 7-15) ¶ 11; RMIAN Decl. (Dkt. 7-11) ¶ 18. Cutting off funding threatens immediate and irreparable harm to Plaintiffs' missions and existence. *See, e.g.*, CLSEPA Decl. (Dkt. 7-16) ¶ 13; VAAP Decl. (Dkt. 7-7) ¶¶ 22–24; KIND Decl. (Dkt. 7-18) ¶¶ 16–19. For example, on April 1, 2025, ImmDef had to lay off twenty-four staff funded under the Unaccompanied Children's Program in response to the Cancellation Order; these staff losses threaten its ability to continue representing its 1,900 UC clients. ImmDef Supp. Decl. ¶¶ 3–4; ImmDef Decl. (Dkt. 7-8) ¶¶ 20–22. Since their initial declaration in this matter, VAAP has had to terminate 25% of their staff. VAAP Supp. Decl. ¶ 3. Amica Center has been unable to fill vacancies and expects it will only be able to fund representation of UC clients another 2 months, at most, before it materially limits other mission-driven work. Amica Supp. Decl. ¶ 3. Estrella del Paso has 324 cases and predicts the loss of funding will require layoffs and increase caseloads for its staff. Estrella Decl. (Dkt. 7-14) ¶ 6. The Galveston-Houston Immigration Representation Project expects to lay off most of their Immigrant Children and Youth staff within four weeks. GHIRP Decl. (Dkt. 7-17) ¶ 23. Sustaining these services, in accordance with its mission but without this funding, will cost the Northwest Immigrant Rights Project $200,000 a month. NWIRP Decl. (Dkt. 7-10) ¶ 13. Private providers and other organizations predict devastating financial consequences, including the potential for bankruptcy. DHCC Decl. (Dkt. 7-5) ¶ 20; MM Decl. (Dkt. 7-19) ¶ 18; *see also* KIND Supp. Decl. ¶ 4 ("[O]n March 27, 2025, KIND laid off over 240 staff members in legal services psychosocial services, and other program support roles"). These losses do not account for the organizational knowledge at risk of being lost. Estrella Decl. (Dkt. 7-14) ¶ 6; FIRRP Decl. (Dkt. 7-4) ¶ 38; Amica Decl. (Dkt. 7-15) ¶ 25; ImmDef Decl. (Dkt. 7-8) ¶ 21.

The harm to Plaintiffs and their clients is imminent, irreparable, and ongoing, particularly given Defendants' failure to comply with this Court's Order. The March 21, 2025, Cancellation Order terminated funding immediately, but provided no guidance as to how Plaintiffs could meet their existing obligations, including immigration court hearings scheduled for that week. DHCC Decl. (Dkt. 7-5) ¶ 15; Amica Decl. (Dkt. 7-15) ¶ 20; ImmDef Decl. (Dkt. 7-8) ¶ 24. Plaintiffs have ethical obligations to their clients and cannot immediately withdraw from representations; most attorneys require court permission to withdraw. FIRRP Decl. (Dkt. 7-4) ¶ 39. Plaintiffs and their clients are already experiencing irreparable harm far exceeding the mere loss of funding, including because they have had to furlough or layoff staff and increase the caseloads of staff who can stay on. *See e.g.* ImmDef Decl. (Dkt. 7-8) ¶¶ 20–22; Amica Supp. Decl. ¶ 3–4; NWIRP Supp. Decl. ¶ 5; Estrella Supp. Decl. ¶ 3. After reserves run out, ImmDef will be forced "to take drastic action to terminate staff across all positions funded under this contract." ImmDef Decl. (Dkt. 7-8) ¶ 21. Children's immigration cases "are complex, often take years to complete, and require highly skilled attorneys to competently handle them." *Id.* at ¶ 23. Impacted staff have years of individualized experience with clients, making replacing them impracticable.

Harms to children will be swift and severe, further frustrating Plaintiffs' missions to ensure as many noncitizens as possible receive legal support. For example, "if a child at one of the ORR-subcontracted facilities we serve is identified as having an urgent legal need such as an outstanding removal order, Amica Center—the only legal provider with access to the ORR-subcontracted facility—would not be funded to provide the necessary legal service to protect the child from imminent removal." Amica Decl. (Dkt. 7-15) ¶ 21; Amica Supp. Decl. ¶ 8 (to their knowledge "*no* children in the ORR-subcontracted facilities with which [they] work have successfully obtained pro bono representation since March 21."). This is even more troubling in light of policies

increasing the need for legal services, including notices on March 21, 2025 (the day of the Cancellation Order) that "DHS would begin serving Notices to Appear (NTAs) 'imminently' on children in ORR custody and that those Master Calendar Hearings were expected to take place 'in the coming days and weeks.'" Amica Supp. Decl. ¶ 76; FIRRP Supp. Decl. ¶¶ 5–8; NIJC Supp. Decl. ¶¶ 4, 9. Without funding or guidance, Plaintiffs will not be able to fulfill their missions and represent UCs in these proceedings. *See* RMIAN Supp. Decl. ¶ 6–7. As Plaintiff ImmDef explains, "[a]t this very moment, there are children in ORR custody who need our representation who are not receiving it. This means that children who want voluntary departure will have their return home unacceptably delayed, victims of trafficking will not be able to access the protections they deserve, and children fleeing persecution will not be able to have their day in court." ImmDef Decl. (Dkt. 7-8) ¶ 25. Absent a preliminary injunction, Plaintiffs will suffer irreparable harm.

B. The Balance of Equities

Finally, in considering whether to grant a preliminary injunction, the Court should "balance the competing claims of injury and . . . consider the effect on each party of the granting or withholding of the requested relief." *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 866 (9th Cir. 2017) (quoting *Winter*, 555 U.S. at). Where an injunction will not "substantially injure the other [interested] parties," the balance of equities tips in plaintiffs' favor. *Nken*, 556 U.S. at 434. Here, the balance of the equities "tip[] sharply in the [Plaintiffs'] favor," supporting a preliminary injunction. *Cottrell*, 632 F.3d at 1135.

Defendants will not be harmed by a preliminary injunction: as the Court found, "[t]he Government fails to convince that it would suffer harm" from injunctive relief. Dkt. 33 at 6. The Government "cannot suffer harm from an injunction that merely ends an unlawful practice." *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013); *cf. Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983). Instead, "there is a substantial public interest in having governmental agencies

abide by the federal laws that govern their existence and operations." *State v. Azar*, 385 F. Supp. 3d 960, 985 (N.D. Cal. 2019), *vacated on other grounds and remanded sub nom. California ex rel. Becerra v. Azar*, 950 F.3d 1067 (9th Cir. 2020) (quoting *Newby*, 838 F.3d at 12) (cleaned up).

Terminating funding for direct representation for UCs, without any plan to ensure current representations are not interrupted, violates Congress's directive in the TVPRA and ORR's own commitments in the Foundational Rule. And as the Court found, "the maintenance of funding for direct legal representation services furthers the critical public interests of ensuring children have access to legal representation and protection from human trafficking." Dkt. 33 at 6. Maintaining "funding of legal representation for unaccompanied children promotes efficiency and fairness within the immigration system." *Id.*; *see also* Dkt. 28 (former immigration judges explaining the importance of continued funding); 89 Fed. Reg. at 34528-29 (recognizing benefit of UC representation to the immigration system generally); *see also* Dkt. 7 at 29.

Because Defendants do not face any injury from the issuance of an injunction to stop their illegal action and Plaintiffs and the public have a substantial interest in maintaining legal representation, the balance of equities weighs heavily in favor of issuing a preliminary injunction. Defendants' failure to comply with this Court's Order only further weighs in favor of a preliminary injunction here.

III. A Nationwide Injunction is Appropriate

While injunctive relief must be tailored to the scope of the case, "there is no bar against . . . nationwide relief in federal district or circuit court when it is appropriate," such as when nationwide "breadth is necessary to give prevailing parties the relief to which they are entitled." *Bresgal v. Brock*, 843 F.2d 1163, 1170–71(9th Cir. 1987). A number of factors counsel in favor of a nationwide injunction here. **First**, APA injunctions are often nationwide, because when Defendants violated the APA, they did so without geographic limitation. *See E. Bay Sanctuary*

Covenant, 993 F.3d at 680-81 (cleaned up). **Second**, nationwide injunctions are also common in cases like this that involve immigration policy set by Congress, because "a fragmented immigration policy would run afoul of the constitutional and statutory requirement for uniform immigration law and policy." *Washington v. Trump*, 847 F.3d 1151, 1166–67 (9th Cir. 2017). **Third**, plaintiffs are located throughout the country, and "[d]ifferent interpretations of executive policy across circuit or state lines will needlessly complicate agency and individual action," *see E. Bay Sanctuary Covenant*, 993 F.3d at 681, and piecemeal injunctive relief for the more than 80 providers nationwide would be impractical to administer. *See HIAS, Inc. v. Trump*, 985 F.3d 309, 326–27 (4th Cir. 2021). The only complete and manageable relief is a nationwide injunction. *See Califano v. Yamasaki*, 442 U.S. 682, 702 (1979).

IV. The Court Should Not Require an Injunction Bond

Courts have broad discretion in determining whether a bond should be required under Federal Rule of Civil Procedure 65(c). *Walczak v. EPL Prolong, Inc.*, 198 F.3d 725, 733 (9th Cir. 1999). And a district court may "dispense with the security requirement" entirely, or "request mere nominal security," if "requiring security would effectively deny access to judicial review." *Cal. ex rel. Van De Kamp v. Tahoe Reg'l Planning Agency*, 766 F.2d 1319, 1325 (9th Cir.1985); *see also Nat'l Council of Nonprofits*, 2025 WL 597959 at *19. The Court found no injunction bond was necessary under Rule 65(c) to issue a temporary restraining order, Dkt. 33 at 7, and it should reach the same conclusion for a preliminary injunction—where the analysis is the same.

CONCLUSION

Defendants' actions violate the APA. Because this conduct causes Plaintiffs immediate and irreparable harm, this Court should grant provisional nationwide relief enjoining Defendants' illegal actions and preserving the status quo pending a final judgment. The Court should tailor its relief in light of Defendants' failure to comply with the temporary restraining order.

Respectfully submitted,

April 4, 2025

/s/ Alvaro M. Huerta

IMMIGRANT DEFENDERS LAW CENTER
Alvaro M. Huerta (CA Bar No. 274787)
Carson A. Scott (CA Bar No. 337102)
Lya Ferreyra (CA Bar No. 340148)
Immigrant Defenders Law Center
634 S. Spring St., 10th Floor
Los Angeles, CA
(213) 634-0999
ahuerta@immdef.org
cscott@immdef.org
lferreyra@immdef.org

/s/ Karen C. Tumlin

JUSTICE ACTION CENTER
Esther H. Sung (*pro hac vice*)
Karen C. Tumlin (CA Bar No. 234691)
Laura Flores-Perilla (CA Bar No. 355645)*
JUSTICE ACTION CENTER
P.O. Box 27280
Los Angeles, CA 90027
(323) 450-7272
esther.sung@justiceactioncenter.org
karen.tumlin@justiceactioncenter.org
laura.flores-perilla@justiceactioncenter.org

/s/ Samantha Hsieh

AMICA CENTER FOR IMMIGRANT RIGHTS
Adina Appelbaum (*pro hac vice*)
Samantha Hsieh (*pro hac vice*)
Peter Alfredson (D.C. Bar No. 1780258)*
Evan Benz (*pro hac vice*)
Amica Center for Immigrant Rights
1025 Connecticut Ave., N.W., Suite 701
Washington, D.C. 20036
(202) 331-3320
adina@amicacenter.org
sam@amicacenter.org
peter@amicacenter.org
evan@amicacenter.org

**pro hac vice* forthcoming
Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-CV-02847-AMO

[PROPOSED] PRELIMINARY INJUNCTION

AND NOW, this ___ day of _____, 2025, upon consideration of Plaintiffs' Motion for Preliminary Injunction, the memorandum and evidence in support thereof, Defendants' response thereto, and Plaintiff's reply, it is **HEREBY ORDERED** that Plaintiffs' Motion is **GRANTED** as follows:

> Defendants are **ENJOINED** from withdrawing the services or funds provided by the Office of Refugee Resettlement ("ORR") as of March 20, 2025, under the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), 8 U.S.C. § 1232(c)(5), and ORR's Foundational Rule, 45 C.F.R. § 410.1309(a)(4), particularly ORR's provision of funds for direct legal representation services to unaccompanied children. This injunction precludes cutting off access to congressionally appropriated funding for its duration.

This injunction takes effect immediately, replacing the Court's April 1, 2025 temporary restraining order (Dkt. 33), and will remain in place until a final judgment on Plaintiffs' claims. Defendants will provide a status update to the court 3 business days from this order to report on compliance with the injunction. Non-compliance or delayed compliance may result in a contempt finding and sanctions.

_____
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF DANIELA HERNÁNDEZ CHONG CUY (LAW OFFICE OF D. H. CH. C.) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF DANIELA HERNÁNDEZ CHONG CUY FOUNDER, DIRECTING ATTORNEY AND OWNER OF THE LAW OFFICE OF DANIELA HERNÁNDEZ CHONG CUY

I, Daniela Hernández Chong Cuy, make the following statements on behalf of myself and the Law Office of Daniela Hernández Chong Cuy. I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-5) as if fully set forth herein.

2. My name is Daniela Hernández Chong Cuy and I am the founder, owner and Directing Attorney of the Law Office of Daniela Hernández Chong Cuy, a Professional Corporation. ("Law Office of D. H. CH. C."). Based in Pasadena, California, the Law Office of D. H. CH. C. provides comprehensive legal representation to unaccompanied immigrant children formerly in the custody the Office of Refugee Resettlement ("ORR") in Los Angeles, San Bernadino, Ventura, and Riverside counties. We are also the sole legal service provider for two ORR long-term foster care facilities ("LTFC"): Building Bridges Foster Family Agency in Ontario, CA, and MarSell Wellness in Montebello, CA.

3. My office currently represents around 60 children under the ORR contract. As of this date, I have not withdrawn representation for any case, but I am preparing to do so, for the reasons stated below.

4. My office faces the prospect of having to furlough and shut down operations by July 2025 if funding for the representation is not restored. On April 1, 2025, I retained Ethics Counsel, at my law firms' expense, to be able to ethically withdraw from cases before that date. I am currently preparing, with advice from my Ethics Counsel, an internal policy for withdrawing from cases, identifying which cases to withdraw from, and the timeline and procedures that would apply to those withdrawals.

5. As of this date, I have been unable to withdraw from any cases due to the number of court hearings and filing deadlines I have had to comply with in the weeks since the contract termination. In total, for the month of April 2025, my office has seven court hearings (in Immigration Court and State Court), one asylum interview, and one USCIS deadline to respond to for clients retained under the ORR contract. We had three additional asylum interviews for this month that we moved to reschedule for a later date, including one for a one-year-old LTFC client. Just today, April 2, 2025, we appeared for two cases in the detained juvenile docket in immigration court for clients in Long Term Foster Care. Tomorrow, April 3, 2025, we have an asylum interview in the Asylum Office for another client retained under the ORR contract.

6. Due to the imminency of those hearings and legal deadlines, we could not ethically withdraw from the cases without prejudicing our clients, so we have continued to represent them at our own expense. To give a minor example, our time and travel to the Asylum office, around 80 miles round trip from our office location, is no longer going to be reimbursed by the contract. The expenditure of human resources, time, and materials required to represent existing clients under the ORR contract does not allow a small office like mine to pivot finding additional sources of income.

7. I was advised by my Ethics Counsel to not seek non-immigration *pro bono* counsel to place cases, as I did not have the capacity to train them and supervise them, which could lead to inadequate representation and ethical violations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 2 of April 2025, in Pasadena, California.

Daniela Hernandez Chong Cuy
Directing Attorney/Owner
Law Office of Daniela Hernández Chong Cuy
UCP Legal Service Provider

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF MARTHA RUCH (CLSEPA) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF MARTHA RUCH
LEAD IMMIGRATION MANAGING ATTOREY FOR CLSEPA

I, Martha Ruch, make the following statements on behalf of myself and Community Legal Services in East Palo Alto (CLSEPA). I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-16) as if fully set forth herein.

2. My name is Martha Ruch, and I am the Lead Managing Attorney of the Immigration Program at Community Legal Services in East Palo Alto ("CLSEPA"). I have been an immigration attorney with CLSEPA for five and a half years, since September 2019. CLSEPA is a non-profit legal aid organization that serves residents of San Mateo County and Santa Clara County, California. CLSEPA has offices in the city of East Palo Alto, San Francisco, and Mountain View. CLSEPA is one of the primary organizations dedicated to providing free immigration legal services to low-income immigrants in San Mateo County and Santa Clara County, California, including indigent unaccompanied immigrant children who are residing with sponsors in the San Francisco Bay Area after their release from Office of Refugee Resettlement ("ORR") custody.

3. CLSEPA represents 23 children in their immigration matters whose cases were funded by U.S. Department of Health and Human Services ("HHS"). One client's case is still in administratively closed deportation proceedings in immigration court. Since the termination of funding on March 21, 2025, CLSEPA attorneys have received one pending referral from Catholic Charities Santa Clara County for a new potential client. Due to the loss of funding from HHS that supports our legal representation of unaccompanied immigrant children, CLSEPA has been unable to accept new referrals.

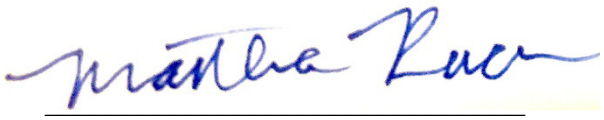
4. The financial impact of the loss of this funding is difficult for our organization. HHS provided long-term funding that potentially could cover the full cost of the case. HHS provided sustainable funding that would allow for long-term representation that is required for these children, whose cases may remain in process for months or years into the future based on current processing times and policy. Without this funding, we must reconsider whether we have enough funding to cover the costs of representation in the future.

5. CLSEPA provides legal services in the areas of housing, workers' rights, and reentry, in addition to immigration. We assist all residents of San Mateo and Santa Clara Counties, no matter their race, ethnicity, age, national origin, veteran status, or language. HHS funding is one piece of our budget puzzle, but it is a critical piece that supports our work with our most vulnerable clients – children who are in foster care or ORR facilities and who face

deportation. This work is time-consuming and requires high levels of competency with immigration law and with working with children. Our budget is always tight, and without this funding, we cannot backfill open positions on our immigration team. Each of CLSEPA's attorneys are now responsible for more clients since HHS abruptly cut the funding for our direct legal representation work and left us unable to rehire.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 3rd of April 2025, in San Francisco, California



Martha Ruch
Lead Managing Attorney, Immigration Program
CLSEPA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF MELISSA MARI LOPEZ (ESTRELLA) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF MELISSA MARI LOPEZ
EXECUTIVE DIRECTOR, ESTRELLA DEL PASO

I, Melissa Mari Lopez, make the following statements on behalf of myself and Estrella del Paso. I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-14) as if fully set forth herein.

2. My name is Melissa Mari. Lopez, and I am the Executive Director at Diocesan Migrant & Refugee Services doing business as Estrella del Paso ("Estrella del Paso"). Estrella del Paso is the largest provider of free immigration legal services in West Texas and New Mexico. Estrella del Paso is based out of El Paso, Texas but provides legal services to populations living anywhere in West Texas and the state of New Mexico who have removal proceedings venued in the El Paso, Texas before the El Paso Non-Detained Immigration Court, the El Paso Detained Immigration Court, or the Otero Detained Immigration Court. Estrella del Paso is the primary organization in West Texas and New Mexico providing legal services to indigent, unaccompanied immigrant children who are not in detention as well as those detained in Office of Refugee Resettlement (ORR) custody in El Paso County.

3. Despite the Temporary Restraining Order (TRO) being in effect since yesterday, the Office of Refugee Resettlement ("ORR") has not yet provided any updates as to the status of the termination. As a result, we have 22 staff members who remain on furlough despite the court's order. We have had shelters in our region reach out to let us know that they were provided notice by ORR that the funding for Long-Term Foster Care had been restored; however, this information has yet to be communicated to Estrella del Paso. We have kept all furlough employees on health insurance to ensure continuity of their medical care; however, because of ORR's failure to provide clarification regarding the continuation of work, Estrella del Paso is currently incurring the full cost of the medical insurance. There is grave concern on our part about the need for our furlough staff members to soon begin seeking other jobs. At present, all team members are highly trained and have been with the organization for more than one year. If these employees find alternative employment, this will have an incredible impact on our ability to reinstate the services previously terminated. Instead, we would have to focus numerous resources on hiring and training new employees.

4. The termination of funding has also had a tremendous impact on the children in ORR shelters. One child was not able to sleep the night before his court hearing on March 28 because he was so fearful of going to court and going to court without anyone there to assist him. Typically, our team would have met with him in advance of court to explain the

process and what to expect, and we would have accompanied him to court in at minimum a Friend of the Court capacity. Instead, this child had to attend court alone. On March 28, 2025, 25 children appeared before the El Paso Immigration Court without the benefit of Friend of Court services. On April 4, 2025, 20 children appeared before the El Paso Immigration Court without the benefit of Friend of Court services. On April 11, 2025, 11 children appeared before the El Paso Immigration Court without the benefit of Friend of Court services. Finally, 11 children are currently in need of representation before the Texas State Family courts to pursue their immigration benefits and are unable to do so.

5. As noted in my original declaration Paragraph 7, El Paso has almost no pro bono service providers. In 2024, Estrella del Paso provided services to 64,008 individuals; however, we were only able to secure pro bono assistance for one case. In that case, the pro bono attorney only agreed to represent the unaccompanied child before the Family Court in El Paso but would not undertake representation of the immigration matter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 3rd of April 2025, in El Paso, Texas.

Digitally signed by Melissa M. Lopez
Date: 2025.04.03 16:17:18 -06'00'

Melissa M. Lopez
Executive Director
Estrella del Paso

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF ROXANA AVILA-CIMPEANU (FIRRP) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF ROXANA AVILA-CIMPEANU, DEPUTY DIRECTOR, THE FLORENCE IMMIGRANT AND REFUGEE RIGHTS PROJECT

I, Roxana Avila-Cimpeanu, make the following statements on behalf of myself and The Florence Immigrant and Refugee Rights Project. I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-4) as if fully set forth herein.

2. My name is Roxana Avila-Cimpeanu. I am a licensed attorney and a member in good standing in the State Bar of Arizona. I am currently employed as Deputy Director of the Florence Immigrant & Refugee Rights Project ("Florence Project" or "FIRRP"). I joined the Florence Project on September 6, 2016, and have served in my current role since September 2024. Before I assumed my current position, I previously served as Children's Legal Program Manager, Managing Attorney for the Children's Pro Bono Program, Pro Bono Mentor, Staff Attorney, and Law Graduate with the Florence Project's Children's Legal Program serving unaccompanied immigrant children in Arizona. During my time at the Florence Project, I have personally provided free legal services, including friend of court services, direct representation, legal orientation and education, and pro bono mentorship, to at least 140 children. Additionally, as Children's Legal Program Manager and Deputy Director I have supervised attorneys, pro bono volunteer attorneys, law graduates, accredited representatives, legal assistants, intake specialists, and social workers who have provided free legal services, both direct representation and pro se services, to thousands of individuals detained in Office of Refugee Resettlement "ORR" and ICE custody in Arizona.

3. Since filing the Motion for Temporary Restraining Order (TRO) on March 27, 2025, the Florence Project has continued to provide services to our clients, drawing on funding from other sources and fundraising to ensure that we are able to provide legal representation, pro bono placement and mentoring, additional legal services, court preparation, and friend of court services to unrepresented children in keeping with our mission for as long as we can responsibly financially manage to do so. Since the termination order on March 21, 2025, Florence Project staff have provided over 500 hours of programmatic services that would have fallen under terminated portions of the UCP, including meeting with clients, preparing necessary applications and filings, preparing individuals for upcoming hearings and interviews, attending Immigration Court hearings, attending juvenile court hearings necessary for children who have been abandoned, abused, or neglected to seek immigration relief, and collecting and tracking necessary data and documentation for case management.

4. FIRRP attorneys have several important and imminent hearings for clients, for which withdrawal of representation would cause great harm to the children's cases and lives. FIRRP staff have at least eleven EOIR hearings and fourteen state court hearings scheduled for clients in the coming weeks. The hearings are essential to avoid removal while the children seek relief, including state court predicate orders for abused, abandoned, or neglected children.

5. The significant harms to our clients and our organizational mission that will take place if we are unable to continue our representation and other legal services are being exacerbated by current government policies that are accelerating the speed and need for immediate legal services. For example, in the Tucson Immigration Court, we have seen a return to so-called "rocket dockets," in which the government is rapidly scheduling a child to appear in court, moving them quickly into removal proceedings, even knowing that many such children are likely to reunify with sponsors outside of Arizona and should have their cases scheduled in those other locations. Indeed, in the Tucson Immigration Court children's names are being added to the docket before their Notice to Appear, the official charging document, is even formally filed, raising serious due process concerns. Rocket dockets historically have been used to pressure children to accept removal orders quickly before they have an opportunity to feel settled and supported and often undermine due process for children. Rocket dockets not only increase the speed at which Florence Project attorneys have to prepare cases of clients we are representing, but also create an increased need for Friend of Court services that have been cut under the UCP termination. Since the Florence Project began serving children in 2000, a central tenet of our mission has been that no child should have to stand alone in court. As Friend of Court, Florence Project staff meet that mission even when we cannot represent a child, by being present to stand with the child and help the Court understand key facts that are relevant to assess the appropriate next steps in the case, such as reunification status, best language, and potential forms of relief. As of the date of signing, Florence Project is aware of at least eleven cases moving forward next week on the rapid docket in Tucson, including four clients we already represent and seven children who do not have counsel, but to whom we would provide Friend of Court services. In two of these cases, the children who are on the court's docket do not appear to have a properly filed and served Notice to Appear.

6. The UCP contract termination also has aligned with increased need for legal services on a short timeframe in the context of children's asylum cases. Specifically, on or about March 27, 2025, Florence Project staff began to receive notices from USCIS of asylum office interviews being scheduled in cases with pending asylum applications. As of April 2, 2025, Florence Project staff have received asylum interview notices for at least seven clients, many with less than two-weeks' notice to prepare. Florence Project attorneys did not get any prior notice that an asylum office circuit ride – the term used when asylum officers come to Arizona to do many asylum interviews at one time – was planned prior to receiving

notice of the scheduled interviews. Due to this asylum office circuit ride, Florence Project attorneys have had to quickly reach out to clients to schedule client meetings, conduct final preparation and supplemental briefing for interviews, and otherwise coordinate the logistics for an asylum interview including identifying and contracting with interpreters – in asylum interviews, the petitioner must provide a competent interpreter, which is also a cost that typically is paid for through now terminated provisions of the UCP. Asylum interviews are very traumatic for children and careful preparation and attention must be paid to avoid re-traumatization and to prepare children to talk about the worst days of their lives with a complete stranger. Additionally, attorneys must prepare updated, supplemental briefings in order to support their client's claim, which often requires translation of documents and evidence from the client's country of origin. With the loss of UCP-funded interpreter services, it has been extremely challenging to prepare the children, prepare the supplemental briefing, and schedule an interpreter for the hearing. This is further complicated by the fact that many FIRRP child clients speak rare Mayan indigenous languages, or unique dialects of less common languages for which interpreters are not readily available. Although a TRO has been entered in this case, the Florence Project has yet to receive any guidance about whether interpretation services are again available under the UCP and is currently paying for these services through other funding.

7. Six Florence Project clients also will be turning 18 in the month of April, and do not have any current sponsorship options. In such cases, Florence Project attorneys and social workers routinely work to identify safe, viable placements for these children to help ensure that children are placed in the least restrictive setting, as required under law[1], rather than sending these vulnerable youth to adult detention. Many such clients may be eligible for the Unaccompanied Refugee Minor program ("URM"), however children need support both in applying for the program and finding interim housing options since the URM program has been at capacity for the past 6 months. While this work historically was partially supported through the UCP, Florence Project is currently drawing on other funds to try to ensure that children who turn 18 in custody have options for release and do not experience the trauma of being moved to adult immigration detention. Furthermore, the Florence Project had received referrals for children ORR is intending to potentially transfer to the local Unaccompanied Refugee Minor Program, and FIRRP would be unable to offer representation to children in the program, resulting in a potential loss of counsel for the children.

8. Additionally, last week, five clients were targeted under DHS' so-called "missing children" visits, despite the children having active cases at USCIS and not actually being missing. In every case, Florence Project attorneys have had to work with our clients and their sponsors

[1] *See* Garcia Ramirez v. ICE, No. CV 18-508 (RC), 2021 WL 4284530, at *8, *14 (D.D.C. Sept. 21, 2021).

to help them know how to respond and answer their questions in response to this traumatizing, fear-inducing experience.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 4 of April 2025, in Seattle, Washington.

Roxana Avila-Cimpeanu
Deputy Director
The Florence Immigrant and Refugee Rights Project

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF ELIZABETH SANCHEZ KENNEDY (GHIRP) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF ELIZABETH SANCHEZ KENNEDY
Executive Director, Galveston-Houston Immigrant Representation Project (GHIRP)

I, Elizabeth Sanchez Kennedy, make the following statements on behalf of myself and Galveston-Houston Immigrant Representation Project (GHIRP). I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-17) as if fully set forth herein.

2. My name is Elizabeth Sanchez Kennedy, and I am the Executive Director at the Galveston-Houston Immigrant Representation Project. GHIRP is a legal services organization that was launched in October 2020 with a mission to build a resilient, diverse community by providing comprehensive representation and holistic legal services to immigrants in need. GHIRP's legal services range from outreach and education to complex litigation in the Galveston-Houston area. Our legal team provides holistic and comprehensive representation to immigrants in the community, including unaccompanied minors, adults, and women, children, and families.

3. Despite the partial contract termination, GHIRP's Immigrant Children & Youth team continues to provide legal services to detained and released unaccompanied immigrant children in the Galveston-Houston area. For example, since this lawsuit was filed, GHIRP has performed the following work for existing clients: filed six I-765 applications, two I-589 applications, two motions to terminate, one motion to reopen, one T-visa application, and at least eleven (11) filings in state court for clients who qualify for Special Immigrant Juvenile status; and attended two hearings in Immigration Court and two hearings in state court. We are relying on general operations funding (reserved for other purposes and programs) to continue meeting our ethical obligations to our clients, including filing deadlines and court appearances, and serve children with emergency needs that have arisen since the partial contract termination. GHIRP management will implement staffing decisions, including layoffs, next week.

4. GHIRP's casework continues at a high volume, as the courts are moving forward on cases and the detained dockets are moving at an expedited pace. In the next month, nine (9) of our clients have hearings in Immigration Court, including one Individual Hearing. GHIRP attorneys also have multiple hearings in state court scheduled for later this month for clients who could lose eligibility for Special Immigrant Juvenile status if we are not able to prove up their cases.

5. GHIRP mentors and supervises pro bono attorneys we have engaged on several clients' cases, particularly in the state court proceedings that provides the basis to seek Special Immigrant Juvenile status. We often recruit and engage pro bono attorneys to handle this portion of the immigration case because it can be time consuming, procedurally complicated, and very fact-specific. Among our clients with pending state court proceedings by pro bono attorneys are two sisters, ages 14 and 15, from Central America, who currently live in Galveston with their grandmother, and were previously abandoned by their father. GHIRP represents the girls in their Immigration Court proceedings and our legal team needs to be able to provide ongoing mentorship to the pro bono attorney who is handling their case in the local court.

6. GHIRP's legal team has continued preparing *pro se* detained children for their hearings in immigration court and provides "Friend of Court" services for those required to appear before the Immigration Judge. After the implementation of so-called 'rocket dockets' nationwide, the local ICE Field Office Juvenile Coordinators (FOJC) filed Notices to Appear immediately for the currently detained children. Cases are being fast-tracked, and children are being rapidly scheduled for Master Calendar Hearings on the Houston detained juvenile docket.

7. On April 2, 2025, a GHIRP attorney appeared as Friend of Court for the detained docket. The Immigration Judge asked about the status of the funding and exclaimed her gratitude when we informed her that we would continue providing these services, at least temporarily. She told our attorney that we are "invaluable" to her and explained that the prior week had been very difficult because many detained children at other facilities had hearings, but no ORR-funded attorneys had appeared as Friend of Court due to the loss of funding.

8. Through GHIRP's non-representational legal services at our two assigned ORR facilities, we have encountered several children requiring immediate legal assistance. The children would have previously been categorized as mandatory or priority representation cases under the contract activities requirements. However, now we face the difficult decision of representing the children without funding or leaving them to fend for themselves in situations that almost certainly will result in their immediate deportation.

9. Among the detained children we have met recently is a tender aged child who was taken into immigration custody after a local traffic stop. Immigration officials placed him in ORR custody which separated from his parents, who have lawful status, and he is now experiencing extreme trauma exacerbated by the fact that he is at imminent risk of deportation. Additionally, GHIRP is working with five siblings who were recently orphaned en route to the United States. Due to recent, heightened ORR evidentiary

requirements for sponsors, the children face prolonged detention if GHIRP is not able to advocate for their interests. Finally, we met two siblings, aged 10 and 13, who were trafficked by a family member and were placed in ORR custody after local police rescued one of the children from the streets. All of these children require child-friendly, trauma-informed legal services to ensure their safety and protection.

10. As a result of recent events, it has become more evident than ever that ORR facility staff at the two shelters we serve are appreciative of the work we do as legal service providers. When discussing the partial contract termination with one of our facilities, a senior shelter staff member stated, "we deeply appreciate the support you offer to the children in our program."

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 3rd of April 2025, in Houston, Harris County, Texas.

/s/ Elizabeth Sanchez Kennedy

Elizabeth Sanchez Kennedy
Executive Director
Galveston-Houston Immigrant Representation Project (GHIRP)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

SUPPLEMENTAL DECLARATION OF MARION ("MICKEY") DONOVAN-KALOUST (IMMDEF) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF MARION DONOVAN-KALOUST
DIRECTOR OF LEGAL SERVICES AT IMMIGRANT DEFENDERS LAW CENTER

I, Marion Donovan-Kaloust, make the following statements on behalf of myself and Immigrant Defenders Law Center. I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-8) as if fully set forth herein.

2. I am the Director of Legal Services of the Children's Representation Project ("CRP") at Immigrant Defenders Law Center ("ImmDef"), where I have been employed for almost ten years. ImmDef is a non-profit organization headquartered in Los Angeles, California, with additional offices in Santa Ana, Riverside and San Diego. ImmDef believes in providing universal representation so that no immigrant is forced to face removal proceedings without an attorney or accredited representative at their side. ImmDef is the largest provider of legal services to unaccompanied children in California and currently provides legal services to children housed in seventeen Office of Refugee Resettlement ("ORR") facilities throughout Southern California. ImmDef also represents thousands of unaccompanied children who have been released from ORR and are residing with sponsors in the Greater Los Angeles area.

3. On April 1, 2025, as a result of the March 21, 2025, near total termination of funding for legal services for unaccompanied children, ImmDef laid off twenty-four staff out of the 113 employees previously funded under the Unaccompanied Children's Program ("UCP"). Supervisors are struggling to redistribute work and ensure no balls are dropped. Support that was previously available to attorneys to best represent clients is now unavailable. For example, we were forced to lay off multiple case managers who provided key social services support for our child clients. Case managers assist children with school enrollment, housing insecurity, and other social services needs they require to adjust to a new community and culture. As I stated in my prior declaration, most of our child clients are indigent, so having staff assist them in accessing social services is key to their ability to participate meaningfully in their immigration cases-- a child facing homelessness is not likely to be able to focus on keeping appointments with their attorney. We also know that our child clients often face barriers in accessing school enrollment, due to linguistic and cultural challenges, or schools not understanding their sponsor's authority to enroll them in school. Our child clients, and thus our mission to provide comprehensive immigration representation, will suffer without this key support.

4. We also laid off multiple members of our legal assistant team. These team members were some of the first points of contact for clients and their families and played a key role in maintaining files, submitting filings and supporting our client representation. As mentioned in my prior declaration, we have over 1,900 open cases funded under the terminated UCP program, and over 3,000 open cases organization wide. In such a high-volume practice, administrative support is key to ensuring that nothing falls through the cracks and that our ethical responsibilities to our clients are faithfully discharged. Without this support, even more burden will fall on our attorney team at a time of incredible stress, and at a time when unaccompanied children's cases are being expedited through the deportation process.

5. We were also forced to lay off multiple members of our Detained Youth Empowerment Project. In addition to providing Know Your Rights presentations and legal screenings (which were not immediately terminated under CLIN1), these team members played an incredibly important role in the provision of CLIN2 services. They were some of the first friendly faces detained children saw in the United States, and were key sources of stability and empathy for children under incredible stress. These team members made referrals to the Young Center for Immigrant Children's rights as well as to legal services for children who will reunify with a sponsor outside our service area. They also provide planning support for children aging out of ORR custody. This age-out support is crucial, especially as we expect to see more children turn eighteen and "age out" of ORR care due to changing ORR policies which make it increasingly difficult for children to be reunified with family members. Laid off staff prepared unrepresented children for court appearances and assisted with the provision of "Friend of Court" services. They heard shelter conditions concerns from children and elevated them to ORR subcontracted facility members and ORR officials to ensure children's rights are respected while in government care. All of these services were defunded.

6. In an attempt to retain specialized attorney staff members, we transferred one attorney from the Children's Representation Project onto another grant, rather than hiring externally for that role. With a hiring freeze in place, we cannot replace him on the Children's Representation Project. Instead, other attorneys in the Children's Representation Project will now have to absorb his cases into their already growing caseloads. Additionally, three staff members tendered their resignations in March and early April because of the uncertainty created by the UCP program termination and the fear they might soon be laid off. As mentioned in my previous declaration, our reserves will only last about six months. If the funding is not restored, additional layoffs impacting all positions would be required, with disastrous consequences for our child clients and on our mission.

7. In addition to the layoffs, resignations and reassignments, there have been multiple immediate impacts on the children we serve. After the UCP program partial termination, we reached out to the ORR-subcontracted facilities we service to let them know we could

not retain new clients. Some Long-Term Foster care programs had just accepted new children, and asked us what to do, since the children would now be without counsel. The government's complete lack of a stop gap plan has left us with no guidance with which to address these concerns. Emergencies in these detained unaccompanied children's cases are ongoing despite their lack of access to representation. One child ages out in just a couple months, and is losing precious time to apply for relief every day that passes they are without counsel. Other recently arrived children now face being warehoused until they are deported or age out. Without funding and with layoffs on the table, we were unfortunately unable to offer these children representation. The subcontracted facilities asked if they should stop accepting children since they will lack access to counsel, and I had to tell them that every single LSP in the country is facing the same drastic cut, and likely every detained child in the nation would be unable to access counsel.

8. Even children with counsel are experiencing additional hurdles to their ongoing representation. The week after the termination, a child we represent who speaks a Mayan language had to be prepared for an upcoming hearing. Our access to interpretation services had been terminated along with all representation services, and the child's attorney was unable to communicate with him. Though ImmDef has a direct contract with an interpretation service and could thankfully pay out of pocket for these services (at least for now), that interpretation service does not offer Mayan languages. The attorney had to seek a continuance in immigration court due to the inability to communicate with her client, delaying the proceedings needlessly.

9. The program termination also places children in danger. The week after the termination, ImmDef staff learned of a significant, potentially life-threatening safety incident impacting a detained infant. In addition to placing the baby's safety at risk, the incident also likely impacted their eligibility for legal relief. Because of the seriousness of the situation, ImmDef stepped in to offer support and advocacy on the child's behalf, knowing we would likely not be compensated for this work. The UCP program termination has put us in a position that forces attorneys to choose between their moral duty to protect an infant from harm and working without compensation.

10. The UCP program termination has also had immediate impacts on stakeholders. As mentioned above, ORR subcontracted facilities are at a loss about what to do for children in their care who are in imminent need of representation. The same day as the UCP program termination, on March 21, 2025, we learned that ORR-subcontracted facilities were warned by ORR to prepare for expedited removal hearings for detained children. Over the past week, we saw those hearings roll out as subcontracted facilities struggled to understand their responsibilities and how to make the children available for these expedited hearings.

11. At the detained juvenile docket held April 2, 2025, ImmDef represented all the children at facilities we serve who were scheduled on that docket and appeared on their behalf despite the fact that funding has not been restored in light of our ethical responsibilities to our clients. The week following the UCP program termination and again on April 2, the Immigration Judge asked whether ImmDef would be able to provide Friend of Court services because they help the hearings run much more smoothly and efficiently. He pressed the attorney appearing to find a solution that would allow us to continue to serve as Friend of Court. ImmDef was forced to advise him that we are assessing the situation, because as of now, funding has not been restored despite the TRO. Without funding, there is no solution to be had.

12. ImmDef has 15-25 immigration and state court hearings for children represented under the UCP program *each week* over the next month. We had over twelve hearings scheduled for April 2, *alone.* We expect the number of hearings to increase as removal cases of detained children continue to be expedited. Furthermore, after years of receiving very few asylum interview notices due to backlogs at the asylum office, in late March, after the termination notice, we received over ten asylum interview notices for the weeks of April 1 and April 7, 2025, and expect to receive many more, as we have hundreds of pending asylum applications for unaccompanied children. While no change in scheduling priorities has been announced by the asylum office, ImmDef and sister organizations across the nation have reported that it appears unaccompanied children are suddenly being prioritized for asylum interview scheduling. The preparation for an asylum interview can take multiple weeks and dozens of hours depending on the complexity of the case. The asylum interview itself is typically an all-day endeavor. Interviews take place in Tustin, CA, about two hours from our headquarters. It is typical to have to wait two to three hours past the scheduled interview time, if not more, and the interview itself can take multiple hours. It is not clear how, without funding, we will be able to continue to represent these children at their hearings and interviews, but to withdraw now would seriously prejudice their cases. It is also not clear how we will be able to continue to sustain the increased workload caused by expedited hearings and asylum interviews if we are further forced to reduce staff in the coming weeks.

13. Unfortunately, ImmDef knows firsthand that filling this kind of gap with the assistance of pro bono counsel is simply not practicable. Shortly after its founding, ImmDef created a pro bono program in which we placed our more straightforward children's cases with pro bono counsel and provided them with mentorship. Recruitment was a challenge, requiring a full-time pro bono coordinator as well as other support staff to try to identify sufficient pro bono counsel to take on even a fraction of our child clients. We placed the more "straightforward" cases (meaning not as legally complex and cases where the child hadn't experienced extreme trauma) with pro bono attorneys because we knew that pro bono attorneys typically lacked the specialized training and experience to handle more complex

matters, even with mentorship. More complex cases, or cases with serious trauma or other complicating factors had to remain with our specialized staff attorneys. Unfortunately, we found that, while we appreciated pro bono attorneys' generosity with their time and willingness to help, they typically lacked the language skills and cultural responsiveness to be able to build rapport with their child clients. They also needed intensive training on an ongoing basis due to the rapidly changing nature of immigration law. Even with these supports, we found that pro bono counsel unfortunately made mistakes that prejudiced or could prejudice their clients and in many instances, ImmDef ended up "taking back" a client that was previously placed with pro bono counsel either because of such mistakes or because the pro bono attorney requested us to when they came to fully appreciate the amount of work representing unaccompanied children entailed. Another issue was that immigration cases can take years, and many pro bono attorneys left their firms during the pendency of the case, asking ImmDef to take it back upon their departure. Furthermore, any cases we did place with pro bono attorneys were never while the child was actively in the custody of ORR. This is because in order to represent a child in government custody, an individual needs to go through extensive background checks, including fingerprinting and other background checks to ensure the children's safety. These clearances can take several weeks if not longer to obtain, making it impracticable for pro bono attorneys to represent detained children, especially in light of recent expedited hearings. In sum, while we appreciated the generosity of the attorneys who volunteered, found that the pro bono model was a much less efficient and effective way to provide legal representation to unaccompanied children and we terminated our pro bono program as a result of these challenges.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 3rd of April 2025, in Riverside, CA.

Marion ("Mickey") Donovan-Kaloust
Immigrant Defenders Law Center
634 S. Spring Street, 10th Floor
Los Angeles, CA 90014
Tel: (213) 674-9438
Fax: (213) 282-3133
mickey@immdef.org

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF WENDY YOUNG (KIND) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

**SUPPLEMENTAL DECLARATION OF WENDY YOUNG,
PRESIDENT OF KIDS IN NEED OF DEFENSE**

I, Wendy Young, make the following statements on behalf of myself and KIND, Inc. Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the following statement is true and correct.

1. I incorporate my March 25, 2025 Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-18) as if fully set forth herein.

2. My name is Wendy Young, and I am the President of KIND, Inc., doing business as Kids in Need of Defense ("KIND"). KIND is the leading international not-for-profit organization devoted to protecting the rights and well-being of unaccompanied and separated children. Founded in 2008, KIND grew to seventeen locations across the United States, providing legal services to unaccompanied immigrant children during and after their time in the custody of the Office of Refugee Resettlement (ORR) of the Department of Health and Human Services (HHS).

3. KIND's subcontract with Acacia Center for Justice, incepted in March 2022, supported the employment of legal services, psychosocial services, and program support professionals across KIND's seventeen locations in the United States. These employees include lawyers representing child clients in their immigration matters and directing or delivering related services; paralegals supporting case work and delivering know-your-rights programs and legal screenings; lawyers providing training, practice guidance, and mentorship to pro bono attorneys who represent child clients; social work professionals delivering psychosocial services and referrals to child clients; and a range of employees supporting program operations through functions such as program management and support, pro bono partnership support, training, legal technical assistance, technology support, and data management. As of March 21, 2025, the subcontract supported approximately 350 full-time positions.

4. When the Acacia contract was partially terminated with immediate effect, staff engaged to serve children under the subcontract were required to stop performing many key functions of their roles, and KIND was deprived of funding needed to support their employment. Accordingly, on March 27, 2025, KIND laid off over 240 staff members in legal services, psychosocial services, and other program support roles, whose last day of employment at KIND was March 31, 2025, and has informed additional staff of termination dates in the coming months. Absent restoration of the contract services and funding at March 20, 2025

levels, KIND will not only be unable to re-hire for the vacated positions, but also expects that the referenced additional layoffs will be necessary.

5. Because of the partial contract termination, KIND plans to consolidate the remaining operations of certain offices within a general region into a single location – specifically, a single location to house parts of the operations of KIND's locations serving Northern Virginia, Baltimore, MD, and Washington, DC; and a single location to house the remaining programming of KIND's New York and Newark locations. Also due to the partial contract termination, KIND expects to close several offices and reduce its footprint.

6. In connection with the loss of funding, the layoffs, and in anticipation of such office closures, KIND instructed staff to begin contacting thousands of clients who were being served under the contract to inform them that, due to a loss of funding, their KIND attorneys would be forced to seek permission to withdraw any appearances as counsel before immigration courts, state courts, and USCIS, and to end their legal services. KIND further instructed staff to begin preparing motions or requests to the relevant tribunals to substitute other counsel or to withdraw as counsel, where permitted by relevant rules of professional conduct. Meanwhile, KIND instructed staff to continue critical ongoing work necessary to fulfill professional responsibilities to clients, including meeting filing deadlines and attending scheduled hearings and administrative interviews with clients.

7. In parallel, KIND asked experienced pro bono partners and community partners to take over cases from KIND. Initial efforts resulted in placing a small fraction of the thousands of clients whose lawyers are no longer employed with KIND, with efforts continuing. KIND attributes the limited number of placements to several factors. Most pro bono attorneys whose primary practice area is not immigration law will prefer to receive a high degree of training and mentorship, due to the complexity of children's immigration matters and the additional challenges of serving a client who is a child. The cutbacks of services associated with the partial contract termination have severely curtailed KIND's staffing for pro bono recruiting and mentorship, in turn limiting the availability of one-on-one mentorship on which pro bono attorneys have relied. At the same time, with the advent of more restrictive immigration policies, demand for free immigration legal services is surging, so pro bono attorneys and immigration nonprofits offering free legal services face increased demands on their available time.

8. In the 60 days between this date and June 2, 2025, over 300 clients served through KIND are scheduled to attend hearings or interviews, including both master calendar and merits hearings in immigration court, asylum interviews with USCIS, and state court appearances in matters relating to guardianship, custody, or dependency. Due to the partial contract termination and ensuing layoffs at KIND, many of these clients must prepare for and attend these events with an unfamiliar attorney taking the place of a longstanding attorney. The

> precipitous partial termination of the contract afforded little time for clients' final communications with departing counsel and acclimation to substitute counsel. Such disruption of continuity compounds the uncertainty around an already stressful event, and burdens a child's efforts to participate in proceedings to the best of their ability.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 4th of April 2025, in Falls Church, Virginia.

/s/ Wendy Young

Wendy Young
President
Kids in Need of Defense

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF MIGUEL A. MEXICANO FURMANSKA (MM PC) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF MIGUEL A. MEXICANO FURMANSKA OWNER AND MANAGER OF LAW OFFICE OF MIGUEL MEXICANO PC

I, Miguel Angel Mexicano Furmanska, make the following statements on behalf of myself and Law Office of Miguel Mexicano. I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-19) as if fully set forth herein.

2. I, Miguel Angel Mexicano Furmanska, serve as Managing Attorney and Proprietor of the Law Office of Miguel Mexicano, PC.

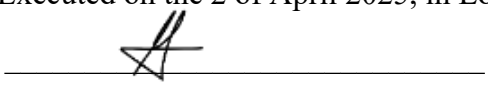
3. Since submitting my initial declaration, the financial impact of the contract termination has intensified substantially. I have been forced to implement immediate austerity measures, including reducing all team members' hours and instituting furloughs for two attorneys and two support staff members. Without restoration of funding within the next 21 days, I will have no alternative but to terminate employment for at least four staff members representing almost half of our dedicated team. The abrupt and unanticipated nature of the contract termination has left our firm without sufficient reserves to fulfill our financial obligations to departing staff, including legally mandated final wages and accrued paid time off. Consequently, I will be compelled to incur significant personal debt to meet these obligations, as our firm's limited remaining resources are insufficient to cover these costs. The long-term prospects for the Law Office of Miguel Mexicano are increasingly dire. Without immediate intervention, I anticipate the near dissolution of our legal team in the coming months, leaving me as the sole remaining attorney. This would render me personally responsible for approximately 120 immigration cases—a caseload that far exceeds what any individual practitioner could ethically manage.

4. Since the termination order, my legal team has fulfilled our ethical obligations by attending approximately twelve court appearances without compensation, striving to protect our clients' interests despite the contract's abrupt end. We have endeavored to manage our substantial caseload with significantly reduced staffing, but continuing this volume of uncompensated work is financially unsustainable. Despite our unwavering commitment to these vulnerable children, our capacity to maintain effective representation will inevitably diminish and, absent restored funding, will completely cease in the near future. This imminent collapse of legal services will leave dozens of children to navigate complex immigration proceedings alone, jeopardizing their legal rights and potentially their safety.

5. On a personal level, the past ten days have been one of the most challenging and distressing periods in my professional life. Throughout my nearly twelve-year career as an immigration attorney, I have never encountered such profound despair or professional uncertainty. Having dedicated my practice to protecting society's most vulnerable individuals, I find it inconceivable that the government would abruptly withdraw funding for these essential legal services for unaccompanied children. These services stand as their sole protection against deportation to potentially life-threatening circumstances. This sudden abandonment not only undermines the children's legal rights but also betrays the core humanitarian principles that have guided this field for decades.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 2 of April 2025, in Los Angeles, California.



Miguel Angel Mexicano Furmanska
Owner and Managing Attorney
Law Office of Miguel Mexicano PC

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF ANA RAQUEL DEVEREAUX (MIRC) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF ANA RAQUEL DEVEREAUX
SENIOR MANAGING ATTORNEY AT MICHIGAN IMMIGRANT RIGHTS CENTER

I, Ana Raquel Devereaux, make the following statements on behalf of myself and the Michigan Immigrant Rights Center ("MIRC"). I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-6) as if fully set forth herein.

2. My name is Ana Raquel Devereaux, and I am a Senior Managing Attorney at the Michigan Immigrant Rights Center (hereinafter, "MIRC"). MIRC is a non-profit organization that provides free legal services for children and other non-citizens who have suffered abuse, trafficking, and persecution. MIRC is the only organization serving unaccompanied children in the custody of the Office of Refugee Resettlement (hereinafter, "ORR") in Michigan and the primary organization providing legal services to children in the unaccompanied refugee minor program in Michigan and to children released from ORR custody to sponsors in Michigan.

3. Michigan Immigrant Rights Center (MIRC) is a legal resource center for Michigan's immigrant communities. MIRC works to build a thriving Michigan where immigrant communities experience equity and belonging. The Michigan Immigrant Rights Center is a program of Michigan Statewide Advocacy Services (MSAS). MIRC has five local offices throughout the state of Michigan which provide direct legal services to unaccompanied children and also provide general community immigration legal services. Our five local offices are located in Detroit, Ypsilanti, Lansing, Grand Rapids, and Kalamazoo. These five offices are supported by a statewide structure within MIRC to provide training, administrative and supervisory support, community engagement, and pro bono support.

4. Since the drafting of our prior declaration, MIRC moved forward with logistics for implementing largescale layoffs based on the loss of funding. Originally, we planned to give staff notice on April 1, 2025. While MIRC was able to secure some other funding and planned to shift some staff to other funded work, the layoffs would have involved the majority of staff who had been employed under the Acacia contract. We intended to provide staff with notice according to their employment contracts and some additional severance benefits. The funding for the staff notice period and severance benefits is coming exclusively from MIRC's reserves and totals about $1.5 million. We had set the April 1st timeframe expecting to learn about the funding by the end of the original option year 2 contracting period, which concluded on March 29, 2025. However, with the loss of CLINs 2, 3, and 4 on March 21st, the time between March 21 and April 1st is additional time of paying for staff time without funding. That additional time totals about $500,000 so far. Despite the additional cost, when CLINs 2, 3, and 4 were terminated, MIRC leadership

decided that it was worth keeping our originally scheduled April 1st timeframe for providing layoff notices so that we could receive further information on any funding beyond Option Year 2 of the contract and because of the very significant level of logistics involved in preparing to provide appropriate notice and communication to over 100 employees about their employment status, rights, and benefits.

5. Upon learning of the hearing on the temporary restraining order scheduled in the instant case on April 1st, we moved our date for communicating layoffs to April 7, 2025. In light of the temporary restraining order in this case, we are awaiting future decisions in this case before scheduling a new date for the layoffs and related staff communications.

6. If there is not a permanent injunction in this case, permanently enjoining ORR from withdrawing funding from legal services for unaccompanied children for the duration of the appropriations period, we will immediately schedule a time to communicate layoffs to staff. This will involve immediate layoffs (after completing the notice periods in their employment contracts) of staff whose work was covered under CLINs 2, 3, and 4, and delayed layoffs for staff doing work under CLIN 1 since the government has only provided a six-month extension for that work and has clearly signaled they are not intending to continue funding that work.

7. It is very important to note that at the time of the writing of this declaration more than one full business day from the issuance of the temporary restraining order, ORR has not issued a new or restored contract for CLINs 2, 3, and 4. So it is not clear when or how the government intends to comply with the order. This gives MIRC significant additional financial concern and we have to continue to make decisions without the contract in place, despite the TRO being in place. Without a restored contract, we continue to use funding from our reserves and other parts of our organizational budgets, which affects our work overall, our ability to fulfill our commitment to our other funders, and puts into significant jeopardy what other severance benefits we may be able to offer our laid off staff in the event of no permanent injunction in this case.

8. As a result of the temporary restraining order, we have delayed staff layoffs for a second time. But knowing that layoffs are forthcoming is absolutely devastating to staff morale and our ability to retain highly-trained, skilled staff who have built critical rapport with our child clients. While the delay has provided some reprieve for clients and staff, staff continue to be impacted knowing that layoffs were planned and are still looming until a resolution of this lawsuit and the government's compliance with the court's order. Since the writing of our prior declaration, we have gotten eleven more resignations of staff members and we get a new one almost every day. Almost every one of the departing staff members specifically state in their resignation letters that they love working at MIRC and are departing because of the funding uncertainty, with the most recent resignation letter specifically stating,

> Good afternoon, I am writing to provide you all with notification of my resignation from MIRC. I want to be completely clear that the one and only reason for my

> resignation is funding instability; I love everything about this job and everyone I work with. My supervisors in Grand Rapids have been nothing short of extraordinary, and I have learned so much in my time here. I'm inspired daily by our work and our mission. [...]Thank you so much for such an incredible experience and opportunity, and for the ongoing support shown to the staff in these difficult times. I will always be so proud of having been part of the MIRC family.

9. These resignations include some of our most experienced attorneys and other essential staff. Our ability to hire replacement staff will be hindered by the general public insecurity with federal contracts at this moment and to be even more clear, ORR's stop work and termination orders over the past six weeks.

10. Even if we are able to hire to replace the staff who have departed, my direct experience in leading MIRC's extremely successful hiring efforts, specifically for staff serving unaccompanied children, the incoming staff will mostly be new to the practice of law, immigration law, and working with unaccompanied children. So the training and time needed to bring those potentially new staff up to the level of our staff who departed due to the funding uncertainty will be very difficult during this time of transition Likely, the interim burdens to onboard in this environment will put even more pressure on existing staff and lead to further resignations, thereby compounding and worsening these effects..

11. Another cost of ORR's termination of funding for representational services for unaccompanied children has been the over 130 staff hours I, along with senior MIRC leadership, have devoted to planning for layoffs, the funds spent on seeking employment law and human resources advice to ensure we are complying with legal requirements and following best practices in deciding on and carrying out layoffs.

12. While waiting to put into action a layoff plan, MIRC staff have been continuing to work on the cases of currently represented unaccompanied children, but even this has been tailored to account for the funding uncertainty and the possibility of staff layoffs in the immediate future. We have had staff working on emergency aspects of these cases but refrained from taking other case actions that would make it harder for us to withdraw in the near future. In practice, we are primarily limiting the filings and appearances our staff are doing on behalf of unaccompanied children in state court, unless there is an imminent deadline. These state court cases will be much harder to withdraw from, so we are waiting until we know the funding is fully restored before we return to doing that work for our child clients.

13. If a preliminary injunction is not issued in this case, we will proceed to almost immediate layoff notices and those will be followed by a plan which we will share the following business day after layoff notices that will direct our staff to begin withdrawing from all cases previously funded by ORR where we have not been able to obtain alternate funding, which is more than 800 cases.

14. Since March 21, 2025 and until ORR provides a restored or new contract for representational services, MIRC has not taken any new cases of children in ORR custody.

We receive daily emails from staff at ORR facilities asking us to take the cases and or offer some stop-gap services. Each week, the Detroit immigration court has at least one docket day dedicated to unaccompanied children. Moreover, with the expansion of rocket dockets for unaccompanied children in removal proceedings across the country, we, too, have seen master calendar cases reset for our currently-represented clients as well as new children in ORR custody. We continue to represent our clients who have master calendar hearings by either appearing in court fully or offering friend-of-the-court services, all unfunded, including all seventeen hearings that occurred yesterday, April 3rd. Additionally, we have received multiple requests for representing children in custody at the newly scheduled hearings yesterday and upcoming April 7th and this will continue indefinitely. Unless, or until, ORR restores the funding as ordered by the temporary restraining order, we must decline to represent these children at their hearings for funding reasons. The same would be true and in even greater measure if the preliminary injunction is not granted.

15. One specific example of these requests involved the ORR subcontractor practically begging MIRC to take a child's case because they had been scheduled for a master calendar hearing and asking what other resources we could provide if we couldn't represent the child. In this chain, eventually, an employee from ORR told the sub-contractor that "most [Legal Service Providers] already serve as "friends of court" but maybe they are still able to offer this on the side," ignoring the fact that ORR chose to cut the funding for these friend of the court services specifically as part of the termination of CLIN 2.

16. In another instance, an ORR sub-contractor asked MIRC to represent a child in short-term custody who was suddenly scheduled for a master calendar hearing and we had to decline because we have no funding to take on new cases and are using up other MIRC funding to carry the unaccompanied children's cases we already have. After we declined, they told us they found another pro bono attorney to take the case. Yet two days before the hearing, the shelter staff and the Young Center advocate for the child reached out again to see if MIRC could take the case. They specifically referenced the news of the temporary restraining order and assumed that we would now have funding to do this work, which has yet to be restored. It is clear that ORR is not providing internal communication to its staff on the ground and its sub-contractors about the state of the funding for legal services and how ORR intends to ensure children receive these services. Additionally, we don't yet have the details as to what happened with the pro bono attorney who had seemingly committed to taking the case, but it is a clear example of the harm in the termination of the funding, even when MIRC has been expending significant other resources coming from other crucial services to cover a large portion of the gap.

17. The example above of a pro bono attorney's inability to actual step in and cover the representational needs of even one hearing is only the beginning of the picture we can paint of how pro bono attorneys in Michigan are unable supplant the funded legal services work for unaccompanied children. Since the termination of CLINs 2, 3, and 4, we have been using our funding reserves to continue to staff our pro bono mentors and coordinators for the time being, and even in this situation where we are covering what ORR should have

been funding, pro bono attorneys cannot even begin to assist unaccompanied child clients in Michigan.

18. As a result of the loss of funding for the representation of unaccompanied children, MIRC's pro bono team specifically has been engaged in pro bono attorney recruitment efforts with the intent of putting together a list of pro bono attorneys that ORR sub-contractors can reach out to for the unaccompanied children's cases. Only nine attorneys have signed up for the list. Most of them only speak English. Most of them indicated they could not appear in all of the forums required for the representation of unaccompanied children. All of them indicate they require mentorship or support from MIRC. We are still working to determine their true ability to take these cases for full representation and do so without mentorship, but, based on my ten years leading this work in Michigan, I can confidently state that pro bono is not the answer to address these funding cuts. For further context, over the past year, MIRC has dedicated considerable time to placing these cases with pro bono attorneys and offered to provide unlimited training, mentorship, language assistance, covering the client's court and filing fees, and assisting with other logistics. In that time, not one attorney took a case of an unaccompanied child in Michigan (including those who are now indicating they are interested in taking cases).

19. Law firms have told MIRC that they are only interested in doing short-term pro bono work (usually about a commitment of one day) because of the high turnover rates of their staff. Additionally, we have been told by firms who once took a few unaccompanied children's cases that they no longer wish to do that type of pro bono work because they don't like dealing with the realities of unaccompanied children.

20. The few who often show interest in volunteering at a higher time commitment level are retired attorneys who have no experience in immigration law and no office resources, including meeting space, technology, malpractice insurance, administrative support, interpretation, and so on. So while they may have time and interest, they cannot provide pro bono legal services to unaccompanied children without the full infrastructure of MIRC's mentorship, offices, malpractice insurance, technology, and administrative resources.

21. A reality in Michigan is that pro bono is not a requirement for those licensed in Michigan and so there is little incentive for attorneys to offer their services in a pro bono context. Even those who try to offer pro bono services from a place of charitable intentions lack the resources or full commitment to do so, as demonstrated by the examples shared above.

22. We also recently offered two critical opportunities for training for pro bonos, one was in guardianships, to allow pro bono attorneys to take on a more short-term portion of these children's cases that is essential to special immigrant juvenile status, and only one person attended, and has not accepted cases from that training. The other was on addressing secondary trauma which is a key tool for doing this work healthily and sustainably, only two people attended. Even so, these trainings are ones we would not be able to offer without this funding.

23. Two additional realities that make pro bono an impossibility as a way to fulfill the obligation to provide legal services to unaccompanied is the high levels of logistical hurdles required for providing legal services to children, which pro bonos are unable to cross (either at all or unassisted) and the administrative burden of the local ORR subcontractors to have to establish an independent relationship with each pro bono lawyer for each case.

24. The first logistical hurdle is that ORR requires individuals working with children in custody to undergo essential background check processes and also to use high levels of encryption for case data. The background checks can take weeks at best and months at worst. The encryption is expensive and requires IT expertise to ensure compliance with these requirements to safeguard the information of the children we are working with. These hurdles are very important and MIRC has dedicated significant staffing resources to ensuring our staff comply with these requirements, but that is a barrier that pro bono attorneys struggle with, even with all the MIRC assistance we can provide to smooth the path to meeting these requirements. As an example, we have been trying to place a specific case of a fourteen-year-old unaccompanied child in Michigan with a pro bono attorney since December 2024. One attorney was interested but specifically declined due to the need to take time to do background checks. Another didn't fully decline, but was not licensed in Michigan for the critical state court appearance, and never took proactive steps to complete their background check, so the case remains unplaced. Even if this case was placed, these attorneys would need ongoing funded support from MIRC to continue their work.

25. The other hurdle is accessing the children in custody. Pro bono attorneys are not generally well-positioned to visit children in ORR facilities. In some of Michigan's ORR short-term shelters, in particular, the children cannot be transported to lawyers offices and the shelters have difficulty coordinating the logistics for universal access to lawyers through remote communication, even with significant planning and assistance, so pro bono attorneys would be unable to even access these children.

26. One of the benefits to MIRC's provision of services to unaccompanied children in Michigan is that we are the only provider doing this work in the state and we are part of a unified and internally regulated network of legal service providers. When working with us, the ORR subcontractors have centralized points of contact and uniform processes, we gather together every quarter to troubleshoot logistical challenges in service provision for the children. Local ORR-subcontractor staff also know who in our management structure to reach out to if any individual attorney is not meeting the legal needs of the child they are working with. None of this would be available if ORR looked to pro bono attorneys to fulfill the obligation of legal services to unaccompanied children. In our experience of working with pro bonos who take cases in the adult context (since as I mentioned above, we cannot get pro bonos to take cases of unaccompanied children in Michigan), a pro bono attorney can handle at most two or three cases at any given time, but most only take one, if any. So it would require 300-800 individual pro bono attorneys to provide the services in Michigan if MIRC was not funded for this work. And this is only for currently represented cases. That number will grow by at least 100-300 each year. These hypothetical

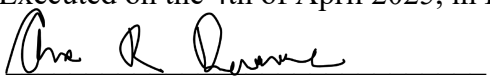
800 individual pro bono attorneys would not have the ability to organize themselves, and there would be no supervision structure to provide coordination, training, and accountability since MIRC would not be funded to do this work without ORR restoring funding for the provision of legal services.

27. To be clear and knowing full well the beneficence within the pro bono legal community, pro bono is not the answer to addressing the legal needs of all of these children after the funding cuts.

28. The harm to Michigan's unaccompanied children is already taking place (even despite the issuance of the temporary restraining order) and every day that follows more harm is caused to children who are required to appear in immigration court without attorneys, and MIRC is suffering a daily loss of funding that was crucial to the provision of other essential services, daily losing critical staff, and soon will have to let go of the majority of staff with the expertise and experience to serve unaccompanied children and there will be no one left to do this work on behalf of unaccompanied children in Michigan if the funding is not reinstated.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 4th of April 2025, in Lansing, Michigan.



Ana Raquel Devereaux
Senior Managing Attorney
Michigan Immigrant Rights Center

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF LISA KOOP (NIJC) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF LISA KOOP
NATIONAL DIRECTOR OF LEGAL SERVICES
FOR THE NATIONAL IMMIGRANT JUSTICE CENTER

I, Lisa Koop, make the following statements on behalf of myself and the National Immigrant Justice Center (NIJC). I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-13) as if fully set forth hererein.

2. My name is Lisa Koop. I am the National Director of Legal Services at the National Immigrant Justice Center (NIJC). NIJC is based in Chicago, Illinois and provides legal services to immigrants. NIJC is dedicated to providing legal services to indigent unaccompanied immigrant children who are not in detention as well as those held in the custody of the Office of Refugee Resettlement (ORR) in Illinois and Indiana.

3. Since the ORR funding ceased, NIJC was forced to temporarily shift staff members to work on other NIJC projects. Without secured ORR funding, NIJC's ability to continue its work of providing legal services to immigrant children through the Children's Protection Project is at imminent risk, without drastic restructuring.

4. NIJC has urgent filings for immigrant children imminently due. For example, on Monday of this week, after years of very limited asylum interview scheduling by the government, NIJC received notice of three asylum interviews scheduled for the third week in April. NIJC has about 250 asylum matters for unaccompanied children pending before the Chicago Asylum Office and expects more of those matters to be set for interviews in the near future. NIJC has 43 special immigrant juvenile cases to be filed, with over half of those cases awaiting state court hearings on requests for predicate orders. NIJC has about four U-visa and four T-visa cases in urgent need of filing.

5. Staff at the ORR-funded children's shelters and long-term foster care programs which house the immigrant children NIJC was funded to serve have asked NIJC staff to meet with children in their care. They report they are without recourse or answers for children when NIJC is unable to offer services to newly arrived children and has limited capacity to respond to the legal needs of existing clients.

6. Since the termination of funding from ORR for legal services for children, NIJC has aggressively sought to recruit pro bono attorneys to represent immigrant children. NIJC has requested to place pro bono cases with major law firms with offices in Chicago. Of those firms, one firm has offered to take two cases following training by NIJC. Another

firm suggested they may be able to take cases when their summer associates arrive in a few weeks. Several of NIJC's usual partner firms have suspended acceptance of new immigration matters due to messaging from the White House about pro bono involvement in immigration matters. Of the 250 children's asylum matters NIJC is seeking to place with pro bono attorneys, less than ten are likely to be placed in the coming weeks.

7. To equip pro bono attorneys to handle children's asylum matters, NIJC has scheduled a pro bono training the third week in April. Three NIJC asylum experts will prepare and present that training, with support from NIJC's pro bono manager. Pro bono attorneys who attend the training will receive intensive guidance from NIJC on asylum law and practice and best practices for working with immigrant children. To sustain a pro bono program, NIJC requires expert staff with significant experience who are available to support matters handled by pro bono attorneys, who are not immigration law experts and often have little familiarity with the agencies and systems involved in children's asylum matters. Without ORR funding to maintain those pro bono support positions, NIJC will not be able to provide pro bono attorneys with the support they expect and require to represent immigrant children.

8. Pro bono attorneys who accept matters through NIJC will typically only do so when NIJC commits to provide ongoing training and support. At present, most law firms that handle pro bono matters are unlikely to accept full representation of an asylum matter for the duration of the case. Rather, their preference is for NIJC to remain co-counsel in pro bono matters and to revert the case to NIJC after a set time. To run a pro bono project, NIJC must have capacity to re-absorb cases when pro bono attorneys become unavailable to continue pro bono matters. Given the length of many immigration cases, it is common for pro bono attorneys to transition away from their firms or otherwise become unavailable to continue representing their child immigrant clients.

9. The confluence of rapid filing of children's charging documents by Immigration and Customs Enforcement (ICE) with the immigration court (which results in court hearings where children could be deported), the sudden scheduling of children's asylum interviews after years of case stagnation, and the chilling effect of anti-pro bono attorney messaging from the White House results in a dire situation for the immigrant children NIJC seeks to serve. Children face deportation hearings and asylum interviews that will determine their futures at the very moment immigration attorneys have been unfunded and pro bono attorneys have been cautioned to avoid immigration matters. NIJC fears irreparable harm will ensue not only to NIJC, which may be forced to reduce its Children's Protection Project, including pro bono support, but to the children who desperately need NIJC's expert representation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 4th of April 2025, in Goshen, Indiana.

s/ Lisa Koop
Lisa Koop, National Director of Legal Services
National Immigrant Justice Center
110 E. Washington St., Goshen, IN 46528
111 W. Jackson Blvd, Suite 800, Chicago, IL 60604
T: 312.660.1321
lkoop@immigrantjustice.org

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF NORTHWEST IMMIGRANT RIGHTS PROJECT (NWIRP) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF
NORTHWEST IMMIGRANT RIGHTS PROJECT (NWIRP)

I, Vanessa Gutierrez, make the following statements on behalf of myself and Northwest Immigrant Rights Project (NWIRP). I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-10) as if fully set forth hererein.

2. My name is Vanessa Gutierrez, and I am the Deputy Director at Northwest Immigrant Rights Project ("NWIRP") who oversees NWIRP's Unaccompanied Children Program ("UCP"). NWIRP provides legal services to unaccompanied immigrant children and youth who have been released from Office of Refugee Resettlement ("ORR") custody to sponsors throughout Washington State.

3. Since learning, on March 21, 2025, of the termination of the U.S. Department of Health and Human Services (HHS) contract with Acacia for legal services for unaccompanied children (to which our organization is a subcontractor), NWIRP has had to use limited unrestricted funding and funds from our reserves to support our ongoing representation of UCP clients and retention of the 28 staff (20.9 FTEs) who provide this representation. Much of our funding is grant-specific, and as an organization we rely on our limited pool of unrestricted funding to support work that is not covered by a specific grant but is still vital for supporting the rights of immigrant communities in Washington, including representation of individuals detained at the Northwest ICE Processing Center, youth who are over the age of 18, and families seeking stability and reunification through the the family visa process. Any funds that NWIRP directs to sustain services previously provided under this contract take away from other critical services that NWIRP is committed to providing in the community.

4. Faced with the loss of UCP funding, and to avoid needing to resort to staff layoffs in the future, NWIRP has decided to shift UCP staff to other positions with dedicated funding sources. This month, we plan to shift two UCP attorneys to new positions that were initially intended to be temporary positions for which we planned to hire externally. Now, we are converting those positions into permanent positions, which will also exert a financial impact on NWIRP in the long term because we will need to secure funding to support these positions after the funding ends. Our remaining UCP staff will need to absorb the caseloads of the two shifting attorneys. We had already decided to pause accepting new unaccompanied children clients because of the contract termination, and now with increasing staff caseloads due to these internal shifts, future capacity to take on new children's cases will be that much more limited.

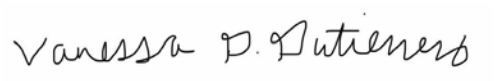
5. The contract termination has had a significant negative impact on staff morale. Staff are concerned about what the contract termination will mean for their long-term job security. While we try to reassure staff that we will do everything possible to avoid layoffs, we cannot guarantee that layoffs will never become necessary, especially if we lose other federal funding and we are not able to raise enough funds to make up the difference. Staff are also aware that another organization in our area that received UCP funding and did similar work to our UCP team has had to lay off nearly all of their staff and will be closing their office in less than two months. NWIRP's staff is also aware that there are now hundreds of children and youth who have lost representation in their immigration cases but we are unfortunately unable to assist all of those children and youth because of NWIRP's loss of the same funding. The loss of funding has also impacted our ability to hire new staff. We had extended an offer to a new attorney, with extensive prior experience serving UCP clients, to work with our UCP team in our Granger, WA office, where it has historically been very difficult to hire. This position would have represented children in the Unaccompanied Refugee Minors program, which was work NWIRP had recently agreed to take on under our Option Year 2 contract, and it would have supported the extremely high need that we have seen for representation for unaccompanied children in this part of Eastern Washington. The attorney was aware of the contract termination and ended up withdrawing acceptance of NWIRP's offer, in part, because of the uncertainty of funding in this area of work. We are unable to hire for this position now because of a hiring freeze we have had to impose as a result of the lost funding, but the high need for representation in this area remains.

6. Within the next month, NWIRP will need to attend at least one state court hearing for a UCP client and seven Master Calendar Hearings on the juvenile docket at the Seattle Immigration Court. Our UCP cases also require filing motions before the state and immigration courts and preparing applications for relief before USCIS. Any pause in this work could harm our UCP clients' cases and prospects for future immigration relief.

7. NWIRP is unable to rely only on pro bono counsel for representation. Our UCP team has made efforts to recruit and train pro bono attorneys who can take on state court cases for Special Immigrant Juvenile classification-eligible children and youth, but the number of pro bono attorneys who accept referrals for our clients remains low. For cases that UCP staff can place with pro bono attorneys, UCP staff end up needing to spend a significant amount of time and resources on mentorship, technical assistance, document review, and assistance with client communication. The loss of the UCP funding also ended our ability to provide pro bono attorneys with interpretation and translation services, which is often an obstacle to their ability to provide representation to NWIRP clients.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 3rd of April 2025, in Wenatchee, Washington.



_____

Vanessa Gutierrez
Deputy Director
Northwest Immigrant Rights Project

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF JOEL FROST-TIFT (PUBLIC COUNSEL) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF JOEL FROST-TIFT
SUPERVISING ATTORNEY, UNACCOMPANIED CHILDREN'S TEAM,
PUBLIC COUNSEL

I, Joel Frost-Tift, make the following statements on behalf of myself and Public Counsel. I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-9) as if fully set forth herein.

2. My name is Joel Frost-Tift, and I am the Senior Supervising Attorney of the Unaccompanied Children's Team at Public Counsel, a nonprofit public interest law firm in Los Angeles dedicated to advancing civil rights and racial and economic justice, as well as to amplifying the power of our clients through comprehensive legal advocacy. Public Counsel is one of the primary organizations dedicated to providing legal services to indigent unaccompanied immigrant children who are released from Office of Refugee Resettlement (ORR) custody throughout the greater Los Angeles area.

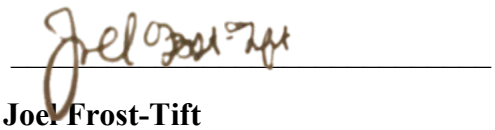
3. Public Counsel's Immigrants' Rights Project (IRP) is the second-oldest of Public Counsel's eight projects. IRP has over 30 full-time dedicated staff members. Within IRP, the UC team is the largest subproject, with 16 staff members, 15 of whom are funded by UCP. Without UCP funding, we will be unable to maintain this staffing of the Unaccompanied Children's team at its current level. This loss of staff would have a devastating impact on our ability to continue to represent unaccompanied children and on morale within IRP and the organization as a whole. In addition, we have been unable to take on new cases since the loss of funding, which has had a detrimental effect on unaccompanied children in our service area.

4. We have three hearings for unaccompanied children in the next month who need experienced attorneys trained in trauma-informed representation to present their humanitarian claims for relief. These children are presenting complicated claims for asylum and/or Special Immigrant Juvenile Status before the courts. Their claims touch on sensitive subjects such as child abuse, trafficking, and family separation. More often than not they do not speak English and have never told a soul about the abuse or mistreatment they suffered before coming to the United States. Over months — and in some cases years— our attorneys have built up trust and rapport with these children in order to prepare for the day they can finally present their story to a judge.

5. Public Counsel has long collaborated with pro bono attorneys to assist in providing legal services to indigent clients. Our pro bono partners are a cornerstone of our representation model and allow us to have a wider impact for the marginalized and underserved communities we serve. However, pro bono counsel — no matter how experienced — requires mentorship and training, which in turn requires experienced staff. If the UCP funding is not restored, we simply cannot rely on pro bono counsel to independently adequately represent the 200 unaccompanied children we serve annually.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 3 of April 2025, in Los Angeles, California.



Joel Frost-Tift
Senior Supervising Attorney, Unaccompanied Children's Team
Public Counsel

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF ASHLEY T. HARRINGTON (RMIAN) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF ASHLEY T. HARRINGTON
CHILDREN'S PROGRAM MANAGING ATTORNEY
ROCKY MOUNTAIN IMMIGRANT ADVOCACY NETWORK

I, Ashley T. Harrington make the following statements on behalf of myself and the Rocky Mountain Immigrant Advocacy Network (RMIAN). I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-11) as if fully set forth hererein.

2. My name is Ashley T. Harrington, and I am the Children's Program Managing Attorney at the Rocky Mountain Immigrant Advocacy Network ("RMIAN"). RMIAN is a Colorado-based nonprofit organization that provides free immigration legal and social services to individuals in civil immigration detention, as well as to immigrant children and families. Through its staff attorneys, paralegals, social workers, and a network of hundreds of *pro bono* attorneys, RMIAN provides legal education and free legal representation to low-income immigrants who otherwise would not be able to afford an attorney.

3. With HHS funding, RMIAN employs approximately six full-time-equivalent staff members to provide legal services to unaccompanied children, including: legal representation, pro bono recruitment, training, referrals and mentoring, coordination of language services, program management and administrative support. Each day without this funding has forced RMIAN to pull from its limited reserves in order to keep staff on and continue services for child clients.

4. RMIAN has limited development staff who are already tasked with fundraising to support the organization as a whole. They cannot realistically raise enough money under this expedited time frame to replace the funding from HHS that RMIAN relies upon in order to continue its services. This is especially true because RMIAN is one of approximately 90 legal service providers in the Acacia network who are faced with these drastic, sudden funding cuts. Most will be seeking alternate funding from the same sources, forcing them to compete against each other for scarce resources.

5. As a result of this contract termination, RMIAN is currently in an uncertain situation as it is reluctant to make any drastic changes in staffing or services while it awaits a final decision on what funding and services may be restored.

6. RMIAN's unaccompanied child clients have immigration court hearings scheduled as soon as April 11 and April 16, 2025 and state court hearings as soon as April 7, 2025. In addition to upcoming court hearings, other clients have court-ordered deadlines to submit pleadings

and status updates in April and May 2025. Even for RMIAN clients who don't have upcoming court hearings or deadlines, there are many urgent upcoming legal needs. For example, RMIAN represents many children whose notices to appear have not yet been filed with the immigration court. According to a new ICE memo reported by Reuters, ICE will be prioritizing filing those charging documents to initiate removal proceedings against unaccompanied children. RMIAN has had notices to appear filed for unaccompanied children as recently as March 24, 2025 with a hearing set for early May 2025. It is critical for an attorney to be monitoring for these notices, otherwise children run the risk of missing court hearings and being ordered removed in absentia.

7. Without restored funding, RMIAN will be unable to offer representation to additional unaccompanied children. The Denver Immigration Court will be holding initial juvenile dockets on April 4, April 11 and on an ongoing basis. RMIAN will be unable to offer representation to these children without continued funding, leaving these children to navigate complex proceedings alone.

8. RMIAN relies heavily on its network of pro bono attorneys to represent child clients, however pro bono attorneys cannot continue to represent clients with RMIAN's support. RMIAN regularly refers unaccompanied children to pro bono counsel for representation in partial or full proceedings. An example of a partial referral would be that the pro bono attorney provides representation in the state court proceeding only, while a RMIAN attorney handles removal proceedings and representation in front of U.S. Citizenship and Immigration Services. In other cases, the volunteer attorney may represent the child to a certain stage in their case, such as approval of Special Immigrant Juvenile Status and deferred action, and then pass the child's case back to RMIAN for ongoing representation. On rare occasions, a pro bono attorney might provide full representation to a child on all matters.

9. In order for a child's case to be successfully placed with a pro bono attorney several steps must occur. RMIAN first needs to make contact with the child, either at immigration court, through our hotline or via a referral. Then RMIAN staff must screen the child for immigration relief options, which requires developing trust and rapport with the child, having child-appropriate and trauma-informed interviewing skills, and having legal expertise to identify what immigration legal options a child might be eligible to pursue. RMIAN must also then find a competent pro bono attorney to handle the child's legal matter. This requires RMIAN staff to recruit, train and vet volunteer attorneys. The vast majority of RMIAN's volunteer attorneys do not have immigration law experience and would never consider taking an immigration case without RMIAN's referral, training, guidance, mentoring and malpractice coverage. RMIAN's attorneys provide constant training, mentoring, support and guidance to pro bono attorneys to assist them in providing

competent representation from before the time they accept a child's case through its conclusion. In addition, it is unfortunately not uncommon for a volunteer attorney to agree to provide representation, and then fail to do so, requiring RMIAN to take the child's case back to either place with another pro bono attorney or handle in-house. Even experienced pro bono attorneys who have handled multiple cases for RMIAN are regularly seeking guidance on the constant changes in immigration law and policy impacting their clients' cases. RMIAN's pro bono coordination team provides regular weekly updates to pro bono attorneys to help them stay abreast of critical updates and changes, and are available to provide regular ongoing mentoring support.

10. In addition, most of RMIAN's child clients are monolingual Spanish speakers, or speak communicate with their clients, or to obtain translation of necessary case-related documents without RMIAN's coordination and assistance. RMIAN relies on HHS funding to coordinate these essential language services which would otherwise not be available to pro bono attorneys.

11. In short—pro bono attorneys would be unable and unwilling to represent children in the complex web of state court and immigration proceedings without RMIAN's expert training, mentoring and language coordination throughout the case. As a result, countless children would be forced to navigate complex immigration court proceedings without counsel.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 3rd of April 2025, in Westminster, Colorado.

Ashley T. Harrington
Children's Program Managing Attorney
Rocky Mountain Immigrant Advocacy Network (RMIAN)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF LAURA NALLY (AMICA CENTER) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF LAURA NALLY, PROGRAM DIRECTOR FOR THE CHILDREN'S PROGRAM AT AMICA CENTER FOR IMMIGRANT RIGHTS (FORMERLY CAPITAL AREA IMMIGRANTS' RIGHTS ("CAIR") COALITION)

I, Laura Nally, make the following statements on behalf of myself and Amica Center for Immigrant Rights. I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-15) as if fully set forth herein.

2. My name is Laura Nally, and I am the Program Director overseeing the Children's Program at Amica Center for Immigrant Rights ("Amica Center"), formerly known as the Capital Area Immigrants' Rights ("CAIR") Coalition. Amica Center is a Washington, D.C.-based nonprofit legal services organization that strives to ensure equal justice for all indigent immigrant men, women, and children at risk of detention and deportation in the Washington, D.C. area and beyond by providing free legal services and representation. I am an attorney licensed in Virginia and the District of Columbia and have been practicing immigration law for more than 15 years. I joined the Children's Program at Amica Center in August 2019.

3. Since filing my prior Declaration, executed on March 25, 2025, in this case, Amica Center's Children's Program has continued to face operational challenges related to the Cancellation Order issued on March 21, 2025. While we have not yet issued any furloughs or laid off any staff members, we have been unable to fill an increasing number of vacancies due to concerns about the stability of our funding. Since February 18, when we suddenly received a Stop Work Order, until now, one Senior Paralegal, one IJC Attorney Fellow, and two Staff Attorneys have resigned their positions with the Children's Program. The level of anxiety among staff has only increased as partner organizations issue furloughs and layoffs. We cannot responsibly hire new staff pending a resolution of the uncertainties surrounding continued funding for this work, and remaining attorneys are therefore faced with an increasingly difficult task of ensuring coverage for the legal needs of our more than 850 clients.

4. Amica Center is currently funding this work entirely using other funds and had made the analysis that it could only afford to continue to do so for an additional 2 months, at most, before it begins to materially limit our other mission-driven work, including representation for adults in Virginia who are at risk of detention and deportation. On April 4, 2025, however, Amica Center received communications indicating that the Department of Justice (DOJ) had terminated for convenience several other programs which currently fund Amica

Center's Detained Adult Program (DAP). Although the scope and impact of such a termination order is not yet clear, the intersectional impact of sudden cuts to funding in other programs considerably shortens the period of time for which Amica Center can use other funds to continue the Children's Program. If HHS funding is not restored, we expect to downsize the Children's Program considerably, retaining only a few experienced staff members to wind down and transition casework in the most ethical and client-centered way possible under the circumstances.

5. Children represented by the Children's Program continue to have hearings and legal deadlines on a daily basis. Within the next month (April 3 to May 3, 2025), 48 of our child clients are scheduled to appear before an immigration court, a state court, or an asylum interview with USCIS. I was in court this morning seeking Special Immigrant Juvenile Status (SIJS) findings for an 11-year-old girl who was abandoned by her alcoholic father. The Children's Program has a total of three asylum interviews scheduled in the month of April, all of which were scheduled in the past two weeks for children in ORR custody including a boy who fled extreme child abuse at the age of 12 and a girl who fears gender-based and religious persecution. In addition to the urgent deadlines to file legal briefing and supporting evidence in advance of their asylum interviews, it is critical for these children to have consistency in their representation and the support of the attorneys with whom they have spent months and years building trust and rapport to minimize re-traumatization.

6. We also continue to receive requests for unfunded assistance from ORR-subcontracted staff at the facilities we serve, particularly requests for confirmation that our staff will appear with children at their upcoming immigration court hearing, whether and how the children are required to appear, and assistance navigating the logistics of how to connect to virtual hearings via Webex. It is clear from the nature of the questions we receive that ORR has not issued clear guidance to subcontracted facility staff regarding which services were terminated on March 21 and which have been extended. It has largely fallen to our staff to explain the impact of the Cancellation Order on the services we provide at local ORR-subcontracted facilities.

7. It is important to consider the timing of several intersecting government actions; the Cancellation Order was issued on the same day that ORR notified its care providers that DHS would begin serving Notices to Appear (NTAs) "imminently" on children in ORR custody and that those Master Calendar Hearings were expected to take place "in the coming days and weeks." In accordance with that policy, we have seen children increasingly scheduled on 'rocket dockets' where dozens of unrepresented children are set for mass hearings. The next large docket for children detained in ORR-subcontracted facilities we serve is scheduled for April 14 and currently includes 22 children. Notably, most of those hearings have been moved up within the past week from a docket which was

originally scheduled to take place on June 4, 2025. We learned of this change on April 1. In another example, four children who arrived at a local ORR-subcontracted facility the week of March 23, 2025, were scheduled for Master Calendar Hearings on April 10.

8. We know from communications with staff at two local ORR-subcontracted facilities that in place of funded representation or Friend of Court services at upcoming hearings, ICE has provided the facilities with EOIR's List of Pro Bono Legal Service Providers. For the Annandale Immigration Court, where most of the children are scheduled to appear, this list does not represent a meaningful opportunity to obtain free counsel in our local area. The Annandale Immigration Court Juvenile Docket lists only four providers, one of which is Amica Center. Of these four providers, three—Kids in Need of Defense, Ayuda, and Amica Center—were providing pro bono representation through the HHS funding that has been terminated. The fourth—Restoration Immigration Legal Aid (RILA)— states explicitly that it does not accept cases for individuals in detention. To my knowledge, no children in the ORR-subcontracted facilities with which we work have successfully obtained pro bono representation since March 21. In a conversation with one of the URM ORR facilities with whom we work, program staff shared that their attempts to identify pro bono counsel for children who have arrived since March 21 have been largely unsuccessful; the few attorneys who expressed interest in volunteering had no previous immigration experience. The program asked Amica Center for information and guidance about how an attorney could begin learning about immigration law.

9. The recruitment, training, and mentorship of pro bono attorneys is an important part of our model for expanding the availability of legal services for unaccompanied children. In my current position at Amica Center and prior positions at partner organizations within the Acacia network, I have trained hundreds of pro bono attorneys at dozens of law firms and corporations to represent children in pro bono immigration matters. The contribution of the skills and resources of law firms, in particular, is invaluable to complex cases involving trials in immigration court and appeals. Funding for this work was one of the tasks that was eliminated by the Cancellation Order on March 21.

10. Across each of these pro bono partnerships, attorneys and their supervising partners make clear that they rely on expert training and mentorship from the placing organization to a) appropriately screen cases and identify them as appropriate for pro bono placement; b) provide a threshold level of training so that attorneys with little to no experience in immigration matters can navigate this complex area of practice; and c) engage in hands-on mentorship throughout the course of the case. For Amica Center, this involves holding an introductory call to discuss pro bono counsel's questions before they meet with the clients, providing technical assistance by phone and email at all stages of the case, reviewing draft pleadings before submission, mooting for hearings or interviews, and often attending to

provide support, if requested by the pro bono team. This model fosters a relationship of mutual trust between the mentoring attorney and pro bono team with the goal of ensuring that clients receive high-quality representation. It also creates efficiencies for our government partners, as we provide the training and mentorship necessary for attorneys unfamiliar with local practice to interact efficiently and effectively with the state and immigration courts and other government agencies.

11. Pro bono attorneys often describe their work on our cases as some of the most rewarding that they've had the opportunity to do in their corporate jobs but emphasize that it would not be possible without a qualified mentor to ensure that they can competently practice in a field outside their own. This support and assurance will become even more important following the President's Executive Order "Preventing Abuses of the Legal System and the Federal Court," issued on March 22, which mentioned "Big Law pro bono practices" specifically in the context of an accusation that immigration attorneys and their pro bono partners "attempt to circumvent immigration policies." In this climate of intimidation, it is particularly important that firms and the attorneys working on immigration matters have access to expert advice from experienced practitioners to ensure that they are providing competent and ethical representation.

12. Attached hereto as **Exhibit 1** is a true and correct copy of the full email correspondence between the parties regarding compliance with the Temporary Restraining Order and administrative record, dated April 2, 2025 to April 3, 2025. On April 2, Plaintiffs emailed Defendants to inquire about Defendants' plan to comply with the Temporary Restraining Order that went into effect earlier that morning and ask when Defendants expect to produce the administrative record. Ex. 1 at 2.

13. Later that day, Defendants responded that they "are in receipt of the Court's order and are taking steps to comply expeditiously." *Id.* at 2. Defendants' response contained no detail regarding how or when they planned to comply. With regards to the administrative record, Defendants took the position that they have no obligation to provide the record until they file their answer and that they "intend to adhere to that timeframe here." *Id.* at 2.

14. Plaintiffs replied the following morning, requesting Defendants "outline what has been done to ensure compliance" with the Court's order, which had been in place for over 24 hours at that point. *Id.* at 1. Plaintiffs also urged Defendants to produce the administrative record earlier, given that it is necessary to Plaintiffs' request for Preliminary Injunction to inform our arbitrary and capricious claim. *Id.* at 1-2.

15. At the time of signing, Plaintiffs have not been informed of any actual steps taken by Defendants to comply with the Court's Order.

16. Attached hereto as **Exhibit 2** is a true and correct copy of the April 4, 2025, letter sent by the Department of Justice to the Acacia Center for Justice as referenced in paragraph 4.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 4th of April 2025, in Alexandria, VA.

Laura Nally
Director, Detained Children's Program
Amica Center for Immigrant Rights
1025 Connecticut Ave. NW, Suite 701
Washington, D.C. 20036
P: (202) 916-8179
laura@amicacenter.org

Exhibit 1

Outlook

RE: [EXTERNAL] RE: Community Legal Services in East Palo Alto, et al, v. HHS, et al., 25-cv-2847 (N.D. Cal)

From Ross, Jonathan K. (CIV) <Jonathan.K.Ross@usdoj.gov>
Date Thu 4/3/2025 5:19 PM
To Karen Tumlin <karen.tumlin@justiceactioncenter.org>; Alvaro M. Huerta <ahuerta@immdef.org>; Silvis, William (CIV) <William.Silvis@usdoj.gov>; Masetta Alvarez, Katelyn (CIV) <Katelyn.Masetta.Alvarez@usdoj.gov>; Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov>; Cardin, Zachary A. (CIV) <Zachary.A.Cardin@usdoj.gov>; Celone, Michael A. (CIV) <Michael.A.Celone@usdoj.gov>; Johann, Pamela (USACAN) <Pamela.Johann@usdoj.gov>; Sam Hsieh <Sam@amicacenter.org>; cscott@immdef.org <CScott@ImmDef.org>; Esther Sung <Esther.Sung@justiceactioncenter.org>

Hi Karen,

Acknowledging your email. Defendants will be back in touch shortly.

Thank you,
Jonathan

From: Karen Tumlin <karen.tumlin@justiceactioncenter.org>
Sent: Thursday, April 03, 2025 2:35 PM
To: Ross, Jonathan K. (CIV) <Jonathan.K.Ross@usdoj.gov>; Alvaro Huerta <AHuerta@immdef.org>; Silvis, William (CIV) <William.Silvis@usdoj.gov>; Masetta Alvarez, Katelyn (CIV) <Katelyn.Masetta.Alvarez@usdoj.gov>; Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov>; Cardin, Zachary A. (CIV) <Zachary.A.Cardin@usdoj.gov>; Celone, Michael A. (CIV) <Michael.A.Celone@usdoj.gov>; Johann, Pamela (USACAN) <Pamela.Johann@usdoj.gov>; sam@amicacenter.org; cscott@immdef.org; Esther Sung <Esther.Sung@justiceactioncenter.org>
Subject: RE: [EXTERNAL] RE: Community Legal Services in East Palo Alto, et al, v. HHS, et al., 25-cv-2847 (N.D. Cal)

Dear Jonathan,

Thank you for your email. Please clarify what Defendants have done to ensure compliance with the Court's TRO, which took effect at 8 am PST yesterday. Your email yesterday says you are "taking steps to comply expeditiously" but since the TRO was already in effect at that time, please outline what has been done to ensure compliance. Our plaintiffs have not been informed of any action but have continued to receive requests from ORR subcontractors to take on new cases, explicitly referring to the news of the TRO as a basis to ask them to take on new cases. This is continuing the harms to our plaintiffs that the Court sought to rectify with her TRO Order.

Regarding the administrative record, you will recall that we discussed with the Court at Tuesday's hearing that moving into preliminary injunction territory (as we are now) requires the

administrative record. As you know, we have also brought an arbitrary and capricious claim. We re-urge our request for production of the administrative record.

Finally, we wanted to confirm understanding of the Acacia contract and correct any misunderstanding from Tuesday's hearing. The contract has been extended for six months as to CLIN 1 only. This is for KYR and legal consultations. We understand that some CLIN 2 services have been moved to CLIN 1. So, to make clear, it is not correct that there is currently no contract in place today.

Thank you,
--Karen

From: Ross, Jonathan K. (CIV) <Jonathan.K.Ross@usdoj.gov>
Sent: Wednesday, April 2, 2025 4:31 PM
To: Alvaro Huerta <AHuerta@immdef.org>; Silvis, William (CIV) <William.Silvis@usdoj.gov>; Masetta Alvarez, Katelyn (CIV) <Katelyn.Masetta.Alvarez@usdoj.gov>; Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov>; Cardin, Zachary A. (CIV) <Zachary.A.Cardin@usdoj.gov>; Celone, Michael A. (CIV) <Michael.A.Celone@usdoj.gov>; Johann, Pamela (USACAN) <Pamela.Johann@usdoj.gov>; sam@amicacenter.org; cscott@immdef.org; Karen Tumlin <karen.tumlin@justiceactioncenter.org>
Subject: Re: [EXTERNAL] RE: Community Legal Services in East Palo Alto, et al, v. HHS, et al., 25-cv-2847 (N.D. Cal)

Hi Alvaro,

Thanks for reaching out. Defendants are in receipt of the Court's order and are taking steps to comply expeditiously.

Regarding the administrative record, Defendants note that under L.R. 16-5, the government is not required to provide the administrative record until Defendants file our answer, and we intend to adhere to that timeframe here.

Best,
Jonathan

> On Apr 2, 2025, at 11:40 AM, Alvaro Huerta <AHuerta@immdef.org> wrote:
>
> Counsel,
>
> We are in receipt of last night's order from the Judge. At your earliest convenience, can you please let us know 1) how Defendants intend to comply with the Court's order, and 2) when you are able to provide the administrative record? Considering the Court's briefing schedule, we would appreciate a response as soon as possible. Many thanks.
>
> Best,
> Alvaro
>
> ---
> **Alvaro M. Huerta**
> Director of Litigation & Advocacy
> **Immigrant Defenders Law Center**
> ahuerta@immdef.org
> 213.338.7542

From: Ross, Jonathan K. (CIV) <Jonathan.K.Ross@usdoj.gov>
Sent: Friday, March 28, 2025 12:44 PM
To: Karen Tumlin <karen.tumlin@justiceactioncenter.org>; Silvis, William (CIV) <William.Silvis@usdoj.gov>; Alvaro Huerta <AHuerta@ImmDef.org>; sam@amicacenter.org; Carson Scott <CScott@ImmDef.org>
Cc: Masetta Alvarez, Katelyn (CIV) <Katelyn.Masetta.Alvarez@usdoj.gov>; Johann, Pamela (USACAN) <Pamela.Johann@usdoj.gov>; Esther Sung <Esther.Sung@justiceactioncenter.org>
Subject: RE: Community Legal Services in East Palo Alto, et al, v. HHS, et al., 25-cv-2847 (N.D. Cal)

This is great—thank you, Karen. Looking forward to being in touch.

From: Karen Tumlin <karen.tumlin@justiceactioncenter.org>
Sent: Friday, March 28, 2025 3:42 PM
To: Silvis, William (CIV) <William.Silvis@usdoj.gov>; Alvaro Huerta <AHuerta@ImmDef.org>; sam@amicacenter.org; Carson Scott <CScott@ImmDef.org>
Cc: Masetta Alvarez, Katelyn (CIV) <Katelyn.Masetta.Alvarez@usdoj.gov>; Johann, Pamela (USACAN) <Pamela.Johann@usdoj.gov>; Ross, Jonathan K. (CIV) <Jonathan.K.Ross@usdoj.gov>; Esther Sung <Esther.Sung@justiceactioncenter.org>
Subject: [EXTERNAL] RE: Community Legal Services in East Palo Alto, et al, v. HHS, et al., 25-cv-2847 (N.D. Cal)

Hi all,

Adding Jonathan to this chain who just called Carson about this request and had not seen the original email or our reply. Making sure we all have each other's email as needed.

Thank you,
--Karen

From: Karen Tumlin <karen.tumlin@justiceactioncenter.org>
Sent: Thursday, March 27, 2025 4:42 PM
To: Silvis, William (CIV) <William.Silvis@usdoj.gov>; Alvaro Huerta <AHuerta@ImmDef.org>; sam@amicacenter.org; Carson Scott <CScott@ImmDef.org>
Cc: Masetta Alvarez, Katelyn (CIV) <Katelyn.Masetta.Alvarez@usdoj.gov>; Johann, Pamela (USACAN) <Pamela.Johann@usdoj.gov>
Subject: RE: Community Legal Services in East Palo Alto, et al, v. HHS, et al., 25-cv-2847 (N.D. Cal)

Dear Will,

Thank you for reaching out. I am also copying Pamela here as she reached out separately while we were conferring on your email below. We think the court carefully set the response deadline and hearing timing based on the court's availability to digest your opposition and hear the matter quickly. Given the irreparable harms we have set out that our clients are facing we have to oppose any extension to the schedule.

If it still makes sense to hop on the phone, I can be reached at 323-316-0944. I'll try to loop in my colleagues as well.

Thanks,
--Karen

From: Silvis, William (CIV) <William.Silvis@usdoj.gov>
Sent: Thursday, March 27, 2025 2:59 PM
To: Alvaro Huerta <AHuerta@ImmDef.org>; sam@amicacenter.org; Karen Tumlin <karen.tumlin@justiceactioncenter.org>; Carson Scott <CScott@ImmDef.org>
Cc: Masetta Alvarez, Katelyn (CIV) <Katelyn.Masetta.Alvarez@usdoj.gov>
Subject: Community Legal Services in East Palo Alto, et al, v. HHS, et al., 25-cv-2847 (N.D. Cal)

Good afternoon counsel,

AUSA Pam Johann of the U.S. Attorney's Office provided me with your contact information. This case has been assigned to my Office for handling. We note that the Court has entered an order requiring a response to the TRO on Monday, March 31, and a hearing on April 1. Would Plaintiffs be amenable to an extension of time of two days for the government's response? We would like to have the opportunity to consult with the agencies on the relief requested in your motion as well as the underlying circumstances set forth in the papers. Please let me know if Plaintiffs are amenable to this request.

Thank you,

Will Silvis

William C. Silvis
Assistant Director
United States Department of Justice
Office of Immigration Litigation
General Litigation and Appeals Section
Post Office Box 878 | Ben Franklin Station | Washington, D.C. 20044-0878
(office) 202-307-4693
(cell) 202-598-9022

Exhibit 2

VIA: Electronic Mail

NOTICE OF TERMINATION FOR CONVENIENCE

Date: April 3, 2025
Vendor Name: Acacia Center for Justice
Subject: Termination for Convenience

Dear Acacia Center for Justice,

This email's purpose is to notify your firm the contracts tied to the procurement instrument identifications (PIID) listed below and all subsequent call orders is hereby terminated for convenience effective April 3, 2025, per clause FAR 52.212-4(l) (Termination for the Government's Convenience).

PIIDs:
15JPSS22F00000699
15JPSS22F00000701
15JPSS22F00000700
15JPSS22F00000702
15JPSS22F00000703
15JPSS22F00000704
15JPSS24F00000418
15JPSS23F00000154

The Agency has determined that the services are no longer needed. Effective April 3, 2025, please discontinue providing the services to the United States Department of Justice and its entities.

Please submit your final invoice with any reasonable charges that result from this termination.

If you have any questions, please feel free to contact me.

Sincerely,

Allison Polizzi

Allison J. Polizzi
Contracting Officer
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Please acknowledge receipt of this Notice of Termination for Convenience

(End of Notice)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:25-cv-2847

SUPPLEMENTAL DECLARATION OF JILL MARTIN DIAZ OF VERMONT ASYLUM ASSISTANCE PROJECT, (VAAP) IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

SUPPLEMENTAL DECLARATION OF JILL MARTIN DIAZ
EXECUTIVE DIRECTOR, VERMONT ASYLUM ASSISTANCE PROJECT

I, Jill Martin Diaz, make the following statements on behalf of myself and Vermont Asylum Assistance Project, I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. I incorporate my Declaration in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 7-7) as if fully set forth hererein.

2. My name is Jill Martin Diaz (they/them), and I am the Executive Director at Vermont Asylum Assistance Project (VAAP). VAAP is a nonprofit immigration law firm dedicated to expanding access to critical legal services for noncitizens across Vermont. VAAP grew out of years of grassroots advocacy to meet low-income Vermonters' increasingly urgent and unmet needs for structured, equitable, and trauma-informed immigration representation. VAAP is the primary organization dedicated to providing legal services to indigent unaccompanied immigrant children who are not in detention in Vermont, among other immigrant youth and other subpopulations in removal proceedings.

3. Since I signed my initial declaration pertaining to this matter, the loss of funding has caused VAAP to terminate 25% of our staff. Our organization is too small to responsibly float salary liability without the surety of reimbursement and too stretched to responsibly absorb the caseloads of any furloughed legal staff. Accordingly, VAAP has had to eliminate the Paralegal Advocate/Program Coordinator position from our organization chart, reducing our staff to three Legal Advocates (including my role as a Legal Advocate/Executive Director).

4. Our reduced team of three is now carrying the work of four while the complexity of our work and conflicting demand for our time explodes. As the only organization of its kind in Vermont, VAAP staff are having to make zero-sum decisions between directly serving individual clients to whom we owe existing attorney-client duties and those whose cases are newly becoming the most legally urgent and perilous. We are torn between advancing state-based protections and participating in litigation to remedy systemic Constitutional and civil rights violations.

5. We received informal notice that next month (May 2025) the U.S. Citizenship and Immigration Services' Newark Asylum Office will resume conducting "circuit rides" to Vermont to hear affirmative asylum applicants' interviews for the first time in over eight years. The only affirmative Vermont asylum applicants who have had their cases heard in the last eight or so years are Afghan nationals, whose interviews the Newark Asylum Office

completed expeditiously pursuant to the Biden Administration's *Operations Allies Welcome*.

6. Many of VAAP's "unaccompanied children" clients have affirmative asylum applications pending and, as the Court is aware, asylum is a discretionary form of relief with a very complicated *prima facie* standard requiring highly technical expertise and intensive attorney time to meet. Moreover, an adverse credibility determination by an Asylum Officer can prejudice respondents' *de novo* asylum review by the Immigration Court in ways that are virtually nonreviewable and functionally impossible to overcome.

7. VAAP staff are seriously concerned that USCIS is finally granting our years-long requests for Newark Asylum Office circuit rides just weeks after we filed numerous "unaccompanied children" applications pursuant to the *J-O-P-* settlement filing deadline and amidst lost funding.

8. VAAP pro bono attorneys typically require an intensive volume of mentorship and support and are not realistically likely to absorb any work that our team cannot maintain responsibly in-house, especially with rapidly evolving law and practice.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 3rd of April 2025, in Washington, D.C.

/s/ Jill Martin Diaz

Jill Martin Diaz, Esq.
Executive Director
Vermont Asylum Assistance Project