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12 UNITED STATES DISTRICT COURT  
 13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 ISIDORA LOPEZ-VENEGAS, *et al.*,  
 16 Plaintiffs,  
 17 v.  
 18 JEH JOHNSON<sup>1</sup>, *et al.*,  
 19 Defendants.  
 20

No. CV 13-03972-JAK (PLAx)  
**DEFENDANTS' ANSWER AND  
 DEFENSES TO PLAINTIFFS'  
 FIRST AMENDED COMPLAINT**

22 Defendants Jeh Johnson, Thomas Winkowski, John Sandweg, Paul Beeson,  
 23 Gregory Archambeault, and Dave Marin, by and through their undersigned  
 24 counsel, state the following as their answer to Plaintiffs' First Amended  
 25 Complaint:  
 26

27 **INTRODUCTION**

28 <sup>1</sup> Pursuant to Fed. R. Civ. P. 25(d), Jeh Johnson, the current Secretary for  
 Homeland Security, should be substituted for Rand Beers.

1           1.     Deny.

2           2.     Defendants lack sufficient knowledge or information to admit or deny  
3 the allegation in the first sentence. Defendants admit that an individual who elects  
4 voluntary return (i.e. voluntary departure in lieu of removal proceedings) avoids  
5 removal proceedings and the possibility of extended detention, but deny that  
6 voluntary return results in “expulsion from the United States.” The allegation in  
7 the third sentence includes vague and subjective assertions, and Defendants  
8 therefore lack sufficient knowledge or information to admit or deny that allegation.  
9 Defendants deny the allegation in the fourth sentence.

10          3.     Admit the allegation in the first sentence. Deny the allegations in the  
11 second, third, and fourth sentences. Admit the allegation in the fifth sentence. The  
12 allegations in the sixth, seventh, and eighth contain vague and subjective  
13 assertions, and Defendants therefore lack sufficient knowledge or information to  
14 admit or deny those allegations.

15          4.     Deny.

16          5.     Deny the allegations in the first sentence, and clarify that Defendants  
17 do strive to effect the return of aliens who accept voluntary return in an expeditious  
18 manner. Deny the remaining allegations.

19          6.     The allegations in the first, third, fourth, and seventh sentences are  
20 characterizations of the action to which no response is required; to the extent that a  
21 response is required, Defendants admit that Plaintiffs characterize the action as  
22 stated. Deny the allegations in the second and sixth sentences. Defendants lack  
23 sufficient knowledge or information to admit or deny the allegation in the fifth  
24 sentence.

25          7.     The allegations in the first and second sentences are characterizations  
26 of the action to which no response is required; to the extent that a response is  
27 required, Defendants admit that Plaintiffs characterize the action as stated. The  
28 allegation in the third sentence is a statement of law to which no response is

1 required; to the extent that a response is required, admit that the district court has  
2 subject matter over part of this action based, in part, on 28 U.S.C. § 1331. Deny  
3 the allegations in the fourth sentence (including the footnote).

4 8. This paragraph contains statements of law to which no response is  
5 required. To the extent that a response is required, Defendants deny the allegation  
6 in the first sentence, and admit the allegation in the second sentence inasmuch as 5  
7 U.S.C. § 702 provides a limited waiver of sovereign immunity that may allow for  
8 declaratory or injunctive relief on one or more of Plaintiffs' claims.

9 9. Admit that venue is permissible in the Central District of California,  
10 but deny that this is the most appropriate district for venue.

11 10. Defendants lack sufficient knowledge or information to admit or deny  
12 the allegations in the first and third sentences. Defendants deny the allegation in  
13 the second sentence.

14 11. Defendants lack sufficient knowledge or information to admit or deny  
15 the allegations in this paragraph.

16 12. Defendants lack sufficient knowledge or information to admit or deny  
17 the allegations in this paragraph.

18 13. Defendants lack sufficient knowledge or information to admit or deny  
19 the allegations in this paragraph.

20 14. No answer is necessary because the Plaintiff or claim addressed in this  
21 allegation has been dismissed.

22 15. Defendants lack sufficient knowledge or information to admit or deny  
23 the allegations in this paragraph.

24 16. Deny the allegation in the first sentence. Defendants lack sufficient  
25 knowledge or information to admit or deny the remaining allegations in this  
26 paragraph.

27 17. No answer is necessary because the Plaintiff or claim addressed in this  
28 allegation has been dismissed.

1 18. Admit that Candelaria Felix purports to act as next friend for Yadira  
2 Felix. Defendants lack sufficient knowledge or information to admit or deny the  
3 remaining allegations in this paragraph.

4 19. Admit that Patricia Armenta purports to act as next friend for Marta  
5 Mendoza. Defendants lack sufficient knowledge or information to admit or deny  
6 the remaining allegations in this paragraph.

7 20. Defendants lack sufficient knowledge or information to admit or deny  
8 the allegations in this paragraph.

9 21. Deny the allegations in the third and fourth sentences of this  
10 paragraph. Defendants lack sufficient knowledge or information to admit or deny  
11 the remaining allegations in this paragraph.

12 22. Deny the allegations in the third and fourth sentences of this  
13 paragraph. Defendants lack sufficient knowledge or information to admit or deny  
14 the remaining allegations in this paragraph.

15 23. Deny the allegations in the third and fourth sentences of this  
16 paragraph. Defendants lack sufficient knowledge or information to admit or deny  
17 the remaining allegations in this paragraph.

18 24. Deny that Rand Beers is the Acting Secretary of Homeland Security,  
19 and aver that Jeh Johnson is the Secretary of Homeland Security. Admit the  
20 allegations in the second sentence inasmuch as it is construed as a reference to Jeh  
21 Johnson.

22 25. Deny and clarify that Thomas Winkowski is the Acting Commissioner  
23 of CBP. Defendants lack sufficient knowledge or information to admit or deny  
24 that he “exercises authority” over CBP because that phrase is vague and  
25 ambiguous.

26 26. Admit that John Sandweg is the Acting Director of ICE, but  
27 Defendants lack sufficient knowledge or information to admit or deny that he  
28 “exercises authority” over ICE because those that phrase is vague and ambiguous.

1 27. Admit the allegation in the first sentence. Defendants lack sufficient  
2 knowledge or information to admit or deny that Mr. Beeson “exercises authority”  
3 over Border Patrol activities in that sector because those that phrase is vague and  
4 ambiguous.

5 28. Admit the allegation in the first sentence. Defendants lack sufficient  
6 knowledge or information to admit or deny that Mr. Archambeault “exercises  
7 authority over ICE activities in the San Diego region” because that phrase is vague  
8 and ambiguous.

9 29. Deny and clarify that Dave Marin is the ICE Field Office Director for  
10 Los Angeles. Defendants lack sufficient knowledge or information to admit or  
11 deny that he “exercises authority over ICE activities in the Los Angeles region”  
12 because that phrase is vague and ambiguous.

13 30. Admit that Plaintiffs purport to sue Defendants in their official  
14 capacities.

## 15 **FACTS**

### 16 ***Legal Background***

17 31. Admit that Defendants have used voluntary return for decades and  
18 that voluntary return is generally offered only to criminal aliens with limited or no  
19 criminal history, but Defendants lack sufficient knowledge or information to admit  
20 or deny the remaining allegations in the first sentence because the terminology is  
21 vague and subjective. The second and third sentences contain conclusions of law  
22 to which no response is required; to the extent that a response is required,  
23 Defendants aver that the statute cited speaks for itself and clarify that 8 U.S.C.  
24 § 1229c(a)(1) provides the statutory authority for voluntary return. Footnotes three  
25 and four contains a statements of law and characterization of the case to which no  
26 response is required; the relevant laws speak for themselves.

27 32. This paragraph contains conclusions of law to which no response is  
28 required. To the extent that a response is required, Defendants aver that the

1 regulation and form cited speak for themselves, and clarify that 8 C.F.R. § 240.25  
2 is a regulation governing voluntary return.

3 33. Deny the allegations in this paragraph, except that Defendants admit  
4 that they commonly use Form I-826 when offering an alien from Mexico the  
5 option of voluntary return and not Form I-210.

6 34. Admit the allegation in the first paragraph, but deny to the extent that  
7 Plaintiffs suggest that Defendants' use of Form I-826 is not lawful. Admit the  
8 allegations in the second and third sentences of this paragraph. Deny the allegation  
9 in the fourth sentence.

10 35. Deny.

11 36. Deny.

12 ***Consequences of Voluntary Departure***

13 37. This paragraph contains conclusions of law to which no response is  
14 required. To the extent that a response is required, Defendants aver that the  
15 administrative decision, statute, and regulation cited speak for themselves, and  
16 admit the allegation in the first sentence and clarify that procedural rights arising in  
17 removal proceedings do not apply when removal proceedings never are  
18 commenced. Deny the allegation in the second sentence because the sentence  
19 contains vague and undefined terminology. Admit the allegations in the third,  
20 fourth, fifth, and sixth sentences inasmuch as they reflect binding law.

21 38. This paragraph contains conclusions of law to which no response is  
22 required. To the extent that a response is required, Defendants aver that the statute  
23 and case cited speak for themselves, and Defendants lack sufficient knowledge or  
24 information to admit or deny the allegation in the sixth sentence.

25 39. This paragraph and its sub-parts contain numerous conclusions of law  
26 to which no response is required. To the extent that a response is required,  
27 Defendants aver that the statutes, regulations, cases, and policies cited speak for  
28

1 themselves. Defendants also specifically respond to the following allegations in  
2 the sub-parts of Paragraph 39:

3 b. Defendants lack sufficient knowledge or information to admit  
4 or deny the allegations in footnote five, which also contains vague and  
5 subjective terminology.

6 c. Deny that DACA is properly characterized as “administrative  
7 relief,” and aver that DACA does not confer lawful status on an  
8 individual. Admit the allegation in footnote 6, that information on  
9 DACA is available online.

10 d. Deny the allegation in the second sentence of subparagraph (d).

11 e. Defendants lack sufficient knowledge or information to admit  
12 or deny the allegation in the second sentence of subparagraph (e)  
13 because it contains vague and subjective assertions. Footnote seven  
14 cites to a report which speaks for itself, and Defendants lack sufficient  
15 knowledge or information to admit or deny the truthfulness of the  
16 contents of that report.

17 g. Defendants lack sufficient knowledge or information to admit  
18 or deny the allegation in the second sentence of subparagraph (g)  
19 because it contains vague and subjective assertions. Deny the  
20 allegation in the third sentence. The article in footnote 8 speaks for  
21 itself, but Defendants lack sufficient knowledge or information to  
22 admit or deny the truthfulness of the contents of that article.

23 40. Deny the allegations in the first and second sentences of this  
24 paragraph. Defendants lack sufficient knowledge or information to admit or deny  
25 the allegations in the third and fourth sentences because they contain vague and  
26 subjective assertions. Deny the allegation in footnote nine.

1 41. Defendants lack sufficient knowledge or information to admit or deny  
2 the allegations in this paragraph because they contain vague and subjective  
3 assertions.

4 ***Plaintiff Isidora Lopez-Venegas***

5 42. Admit that Ms. Lopez-Venegas was born in Mexico, but Defendants  
6 lack sufficient knowledge or information to admit or deny the remaining  
7 allegations in this sentence. Defendants lack sufficient knowledge or information  
8 to admit or deny the allegations in the second and sentences.

9 43. Defendants lack sufficient knowledge or information to admit or deny  
10 the allegations in this paragraph.

11 44. Admit that a Border Patrol agent or agents offered Ms. Lopez-  
12 Venegas voluntary return through the I-826 form, but deny that the form was  
13 mechanically pre-checked. Deny that Ms. Lopez-Venegas' election of voluntary  
14 return was coerced, unknowing, involuntary, defective, or unlawful in any way.  
15 Defendants lack sufficient knowledge or information to admit or deny the  
16 remaining allegations in this paragraph.

17 45. Defendants lack sufficient knowledge or information to admit or deny  
18 the allegations in the first and second sentences of this paragraph. Deny the  
19 allegation in the third sentence.

20 46. Deny.

21 47. Deny the allegation in the first sentence of this paragraph. Defendants  
22 lack sufficient knowledge or information to admit or deny the allegations in the  
23 second sentence.

24 48. Defendants lack sufficient knowledge or information to admit or deny  
25 the allegations in this paragraph.

26 49. Defendants lack sufficient knowledge or information to admit or deny  
27 the allegations in this paragraph.

28 ***Plaintiff Ana Maria Dueñas***



1           50. Admit that Ms. Dueñas was born in Mexico but Defendants lack  
2 sufficient knowledge or information to admit or deny that she was born in 1958.  
3 Defendants deny that Ms. Dueñas’s voluntary departure in April 2011 was  
4 unlawful and deny that she was expelled. Defendants lack sufficient knowledge or  
5 information to admit or deny the remaining allegations in this paragraph.

6           51. Defendants lack sufficient knowledge or information to admit or deny  
7 the allegations in this paragraph.

8           52. Deny the allegation in the first sentence (which ends with “...my  
9 departure.”), and deny that Ms. Dueñas’s election of voluntary return was coerced,  
10 unknowing, involuntary, defective, or unlawful in any way. Defendants lack  
11 sufficient knowledge or information to admit or deny the remaining allegations in  
12 this paragraph

13           53. Deny.

14           54. Deny.

15           55. Deny the allegation in the first sentence of this paragraph. Defendants  
16 lack sufficient knowledge or information to admit or deny the allegations in  
17 sentences two and three.

18           56. Defendants lack sufficient knowledge or information to admit or deny  
19 the allegations in this paragraph.

20 ***Plaintiff Gerardo Hernandez-Contreras***

21           57. Admit that Mr. Hernandez-Contreras was born in Mexico, but  
22 Defendants lack sufficient knowledge or information to admit or deny the  
23 remaining allegations in the first sentence. Defendants deny that Mr. Hernandez-  
24 Contreras’s voluntary departure in November 2012 was unlawful and deny that he  
25 was expelled. Defendants lack sufficient knowledge or information to admit or  
26 deny the remaining allegations in this paragraph, except that Defendants deny that  
27 Mr. Hernandez-Contreras was expelled from the United States in November 2012.

1 58. Defendants lack sufficient knowledge or information to admit or deny  
2 the allegations in this paragraph.

3 59. Deny the allegation in the first sentence (which ends with “...my  
4 departure.”), and deny that Mr. Hernandez-Contreras’s acceptance of voluntary  
5 return was coerced, unknowing, involuntary, defective, or unlawful in any way.  
6 Defendants lack sufficient knowledge or information to admit or deny the  
7 remaining allegations in this paragraph.

8 60. Deny.

9 61. Deny the allegation in the first sentence of this paragraph. Defendants  
10 lack sufficient knowledge or information to admit or deny the allegations in the  
11 second sentence.

12 62. Defendants lack sufficient knowledge or information to admit or deny  
13 the allegations in this paragraph.

14 63. Defendants lack sufficient knowledge or information to admit or deny  
15 the allegations in this paragraph.

16 ***Plaintiff Efrain Garcia-Martinez***

17 64. Admit that Mr. Efrain-Martinez was born in Mexico, but Defendants  
18 lack sufficient knowledge or information to admit or deny the remaining  
19 allegations in the first sentence. Defendants deny that Mr. Garcia-Martinez’s  
20 voluntary departure in September 2012 was unlawful and deny that he was  
21 expelled. Defendants lack sufficient knowledge or information to admit or deny  
22 the remaining allegations in this paragraph.

23 65. Defendants lack sufficient knowledge or information to admit or deny  
24 the allegations in this paragraph, except that Defendants deny that Mr. Garcia was  
25 expelled to Mexico in September 2012, and clarify that he voluntarily returned to  
26 Mexico at that time.

27 66. Defendants lack sufficient knowledge or information to admit or deny  
28 the allegations in this paragraph.

1           67. Deny the allegation in the first sentence (which ends with “...my  
2 departure.”), and deny that Mr. Efrain-Martinez’s election of voluntary return was  
3 coerced, unknowing, involuntary, defective, or unlawful in any way. Defendants  
4 lack sufficient knowledge or information to admit or deny the remaining  
5 allegations in this paragraph.

6           68. Deny.

7           69. Deny the allegation in the first sentence of this paragraph.  
8 Defendants lack sufficient knowledge or information to admit or deny the  
9 allegations in the second sentence.

10          70. Defendants lack sufficient knowledge or information to admit or deny  
11 the allegations in this paragraph.

12 ***Plaintiff Sam Nava***

13          71. No response is necessary because Mr. Nava is no longer a party.

14          72. No response is necessary because Mr. Nava is no longer a party.

15          73. No response is necessary because Mr. Nava is no longer a party.

16          74. No response is necessary because Mr. Nava is no longer a party.

17          75. No response is necessary because Mr. Nava is no longer a party.

18          76. No response is necessary because Mr. Nava is no longer a party

19          77. No response is necessary because Mr. Nava is no longer a party

20          78. No response is necessary because Mr. Nava is no longer a party

21          79. No response is necessary because Mr. Nava is no longer a party.

22 ***Plaintiff Alejandro Serrato***

23          80. Admit that Mr. Serrato was born in Mexico, but defendants lack  
24 sufficient knowledge or information to admit or deny the remaining allegations in  
25 sentence one. Defendants deny that Mr. Serrato’s voluntary departure in October  
26 2012 was unlawful and deny that he was expelled. Defendants admit the allegation  
27 in the eighth sentence of this paragraph. Defendants lack sufficient knowledge or  
28 information to admit or deny the remaining allegations in this paragraph.

1           81. Defendants lack sufficient knowledge or information to admit or deny  
2 the allegations in the first sentence of this paragraph, and the allegation that San  
3 Diego Police Department officers transported Mr. Serrato to a downtown jail.  
4 Defendants admit that ICE placed an immigration detainer on Mr. Serrato, and that  
5 he was taken to an ICE office.

6           82. Defendants deny that any ICE officer directed Mr. Serrato to sign the  
7 I-826, deny that the I-826 was mechanically pre-checked, deny that an ICE officer  
8 failed to inform him of his rights, deny that an ICE officer misinformed him, and  
9 deny that Mr. Serrato's election of voluntary return was coerced, unknowing,  
10 involuntary, defective, or unlawful in any way. Defendants lack sufficient  
11 knowledge or information to admit or deny the remaining allegations in this  
12 paragraph.

13           83. Deny.

14           84. Deny the allegation in the first sentence of this paragraph. Defendants  
15 lack sufficient knowledge or information to admit or deny the allegation in the  
16 second sentence.

17           85. Defendants lack sufficient knowledge or information to admit or deny  
18 the allegations in first and second sentences of this paragraph. Defendants deny  
19 the allegation in the third sentence.

20           86. Defendants lack sufficient knowledge or information to admit or deny  
21 the allegations in this paragraph.

22 ***Plaintiff Arnulfo Sierra***

23           87. Admit that Mr. Sierra was born in Mexico. Defendants lack sufficient  
24 knowledge or information to admit or deny the remaining allegations in the first  
25 and second sentences. Defendants deny the allegation in the third sentence.

26 Defendants further aver that immigration authorities arrested Mr. Sierra in 2003, he  
27 was offered and elected voluntary return, he returned to Mexico on January 14,  
28

1 2003, and he unlawfully re-entered the United States without inspection on January  
2 15, 2003.

3 88. Defendants lack sufficient knowledge or information to admit or deny  
4 the allegations in this paragraph.

5 89. Defendants lack sufficient knowledge or information to admit or deny  
6 the allegations in this paragraph.

7 90. Admit that ICE arrested Mr. Sierra and that he was offered voluntary  
8 return. Deny that any ICE officer failed to inform him of his rights, deny that any  
9 ICE officer misinformed him, deny that any ICE officer threatened him or his  
10 family, deny that any ICE officer prevented him from contacting an attorney, and  
11 deny that his election of voluntary return was coerced, unknowing, involuntary,  
12 defective, or unlawful in any way. Defendants lack sufficient knowledge or  
13 information to admit or deny the remaining allegations in this paragraph.

14 91. Deny.

15 92. Deny the allegation in the first sentence of this paragraph. Defendants  
16 lack sufficient knowledge or information to admit or deny the remaining  
17 allegations in this paragraph.

18 93. Deny that Mr. Sierra was expelled, and Defendants lack sufficient  
19 knowledge or information to admit or deny the remaining allegations in this  
20 paragraph.

21 ***Plaintiff Genaro Muñoz-Flores***

22 94. No response is necessary because Mr. Muñoz-Flores is no longer a  
23 party.

24 95. No response is necessary because Mr. Muñoz-Flores is no longer a  
25 party.

26 96. No response is necessary because Mr. Muñoz-Flores is no longer a  
27 party.

1 97. No response is necessary because Mr. Muñoz-Flores is no longer a  
2 party.

3 98. No response is necessary because Mr. Muñoz-Flores is no longer a  
4 party.

5 99. No response is necessary because Mr. Muñoz-Flores is no longer a  
6 party.

7 100. No response is necessary because Mr. Muñoz-Flores is no longer a  
8 party.

9 ***Plaintiff Candelaria Fernandez Felix, as next friend to Yadira Felix***

10 101. Defendants lack sufficient knowledge or information to admit or deny  
11 the allegations in this paragraph.

12 102. Defendants lack sufficient knowledge or information to admit or deny  
13 the allegations in this paragraph.

14 103. Defendants lack sufficient knowledge or information to admit or deny  
15 the allegations in this paragraph.

16 104. Defendants lack sufficient knowledge or information to admit or deny  
17 the allegations in this paragraph.

18 105. Defendants lack sufficient knowledge or information to admit or deny  
19 the allegations in this paragraph and in footnote 11.

20 106. Defendants lack sufficient knowledge or information to admit or deny  
21 the allegations in this paragraph.

22 107. Deny.

23 ***Plaintiff Patricia Armenta, as next friend of Marta Mendoza***

24 108. Admit the allegations in the first and second sentences, except that  
25 Defendants lack sufficient knowledge or information to admit or deny the year in  
26 which Ms. Mendoza first unlawfully entered the United States. Defendants lack  
27 sufficient knowledge or information to admit or deny that Ms. Mendoza did not  
28 leave the United States for 30 years after her unlawful entry in 1981. Defendants

1 deny that Ms. Mendoza's voluntary departure in July 2013 was unlawful and deny  
2 that she was expelled. Defendants deny the allegation in sentence ten of this  
3 paragraph, and aver that Ms. Mendoza was removed from the United States  
4 through the expedited removal process in August 2013 and September 2013.  
5 Defendants lack sufficient knowledge or information to admit or deny the  
6 remaining allegations in this paragraph.

7 109. Admit that ICE placed an immigration detainer on Ms. Mendoza.  
8 Defendants lack sufficient knowledge or information to admit or deny the  
9 remaining allegations in this paragraph.

10 110. Defendants lack sufficient knowledge or information to admit or deny  
11 the allegations in this paragraph.

12 111. Deny that any ICE officer directed Ms. Mendoza to sign the voluntary  
13 return form, deny that any ICE officer threatened or pressured Ms. Mendoza, or  
14 failed to inform her of her rights. Defendants lack sufficient knowledge or  
15 information to admit or deny the remaining allegations in this paragraph.

16 112. Deny.

17 113. Deny the allegation in the first sentence. Defendants lack sufficient  
18 knowledge or information to admit or deny the remaining allegations in this  
19 paragraph.

20 114. Defendants lack sufficient knowledge or information to admit or deny  
21 the allegations in this paragraph.

22 ***Plaintiff Gorgonio Cabrera***

23 115. Admit that Mr. Cabrera was born in Mexico, but Defendants lack  
24 sufficient knowledge or information to admit or deny that he was born in 1987.  
25 Defendants lack sufficient knowledge or information to admit or deny the  
26 remaining allegations in this paragraph.

27 116. Admit that a Border Patrol agent stopped Mr. Cabrera when he was  
28 driving with his wife, but clarify that the stop occurred on December 23, 2009, and

1 further clarify that Defendants lack sufficient knowledge or information to know  
2 where Mr. Cabrera was driving. Deny that a CBP agent misinformed Mr. Cabrera,  
3 and Defendants lack sufficient knowledge or information to admit or deny the  
4 remaining allegations in the second sentence. Admit the allegation in the third  
5 sentence.

6 117. Admit that Mr. Efrain-Martinez was offered voluntary return through  
7 an I-826 form, but deny that Mr. Efrain-Martinez's election of voluntary return  
8 was coerced, unknowing, involuntary, defective, or unlawful in any way.  
9 Defendants lack sufficient knowledge or information to admit or deny the  
10 remaining allegations in this paragraph.

11 118. Deny.

12 119. Deny the allegation in the first sentence of this paragraph. Defendants  
13 lack sufficient knowledge or information to admit or deny the remaining  
14 allegations in this paragraph.

15 120. Defendants lack sufficient knowledge or information to admit or deny  
16 the allegations in this paragraph.

17 121. Defendants lack sufficient knowledge or information to admit or deny  
18 the allegations in this paragraph.

19  
20 \* \* \* \*

21 122. Deny, and aver that Defendants lawfully exercised their discretion to  
22 offer each of the Individual Plaintiffs (except for Ms. Felix, about whom  
23 Defendants have not located any information) voluntary return under safeguards  
24 (*i.e.* in continued detention pending departure) as soon as arrangements could be  
25 made for their returns to Mexico, as stated in Form I-826.

26 ***Plaintiff Coalition for Humane Immigrant Rights of Los Angeles***

27 123. Defendants lack sufficient knowledge or information to admit or deny  
28 the allegations in this paragraph.



1 124. Deny.

2 125. Deny the allegation in the first sentence. Defendants lack sufficient  
3 knowledge or information to admit or deny the remaining allegations in this  
4 paragraph.

5 126. Defendants lack sufficient knowledge or information to admit or deny  
6 the allegations in this paragraph.

7 127. Defendants lack sufficient knowledge or information to admit or deny  
8 the allegations in this paragraph.

9 128. Defendants lack sufficient knowledge or information to admit or deny  
10 the allegations in this paragraph.

11 129. Defendants lack sufficient knowledge or information to admit or deny  
12 the allegations in this paragraph.

13 130. Deny that CHIRLA was “compelled” to expend resources to address  
14 any alleged coerced and misinformed voluntary departures, and otherwise aver that  
15 Defendants lack sufficient knowledge or information to admit or deny the  
16 remaining allegations in this paragraph.

17 131. Deny.

18 132. Deny.

19 ***Plaintiff Pomona Economic Opportunity Center***

20 133. Defendants lack sufficient knowledge or information to admit or deny  
21 the allegations in this paragraph.

22 134. Defendants lack sufficient knowledge or information to admit or deny  
23 the allegations in this paragraph.

24 135. Defendants lack sufficient knowledge or information to admit or deny  
25 the allegations in this paragraph.

26 136. Deny.

27 137. Defendants lack sufficient knowledge or information to admit or deny  
28 the allegations in this paragraph.

1 138. Defendants lack sufficient knowledge or information to admit or deny  
2 the allegations in this paragraph.

3 139. Deny that PEOC was “compelled” to expend resources to address any  
4 alleged coerced and misinformed voluntary departures, and otherwise aver that  
5 Defendants lack sufficient knowledge or information to admit or deny the  
6 remaining allegations in this paragraph.

7 140. Deny.

8 141. Deny.

9 ***Plaintiff San Bernardino Community Service Center***

10 142. Defendants lack sufficient knowledge or information to admit or deny  
11 the allegations in this paragraph.

12 143. Defendants lack sufficient knowledge or information to admit or deny  
13 the allegations in the first and second sentences of this paragraph. Deny the  
14 allegation in the third sentence.

15 144. Defendants lack sufficient knowledge or information to admit or deny  
16 the allegations in this paragraph.

17 145. Defendants lack sufficient knowledge or information to admit or deny  
18 the allegations in this paragraph.

19 146. Deny that SBCSC was “compelled” to expend resources to address  
20 any alleged coerced and misinformed voluntary departures, and otherwise aver that  
21 Defendants lack sufficient knowledge or information to admit or deny the  
22 remaining allegations in this paragraph.

23 147. Deny.

24 148. Deny.

25 ***Persistent Pattern of Abuse***

26 149. Defendants re-allege and incorporate by reference each and every  
27 response to the allegations in the preceding paragraphs.

28 150. Deny.

1           151. Deny the allegations in sentences one, two, three, four, five, seven,  
2 and eight of this paragraph. Defendants lack sufficient knowledge or information  
3 to admit or deny the allegation in sentence six.

4           152. Defendants lack sufficient knowledge or information to admit or deny  
5 the allegations in this paragraph, many of which use vague, subjective, and  
6 overbroad language.

7           153. Deny the allegation in the first sentence of this paragraph. Defendants  
8 lack sufficient knowledge or information to admit or deny the remaining  
9 allegations in this paragraph.

10           154. Deny the allegations in the first and second sentences of this  
11 paragraph. No response is required for the remaining allegations in this paragraph,  
12 which quote from and cite federal court decisions; Defendants aver that the  
13 decisions speak for themselves.

14           155. No response is required for this paragraph because it characterizes a  
15 federal court decision and a regulation; Defendants aver that the decision and  
16 regulation speak for themselves. Admit the allegation in footnote 12, that in the  
17 1980s, Border Patrol was part of the INS.

18           156. Deny the allegation in the first sentence of this paragraph. Defendants  
19 lack sufficient knowledge or information to admit or deny the remaining  
20 allegations in this paragraph.

21           157. Defendants lack sufficient knowledge or information to admit or deny  
22 the allegations in this paragraph.

23           158. Defendants deny the allegations in this paragraph to the extent that  
24 Plaintiffs suggest that the report cited in footnote 13 is accurate. Defendants  
25 further aver that the report speaks for itself, and is irrelevant to this case.

26           159. Defendants lack sufficient knowledge or information to admit or deny  
27 the allegations in this paragraph, many of which use vague, subjective, and  
28 overbroad language. The article cited in footnote 14 speaks for itself, but

1 Defendants lack sufficient knowledge or information to admit or deny the accuracy  
2 of the contents of that article and the other allegations in this footnote.

3 160. Deny the allegation in the first sentence of this paragraph. The  
4 remaining sentence of this paragraph cite reports, which Defendants aver speak for  
5 themselves; Defendants deny the allegations to the extent that Plaintiffs suggests  
6 that the reports are accurate. The reports cited in footnotes 15, 16, and 17 speak  
7 for themselves, and Defendants deny that the information in those reports is  
8 accurate.

9 161. Admit the allegations in the first sentence, but deny that Defendants'  
10 voluntary departure practices are unlawful. Defendants lack sufficient knowledge  
11 or information to admit or deny the remaining allegations in this paragraph.  
12 Defendants aver that the facts and allegations in the cases cited in this paragraph  
13 speak for themselves, and further aver that those cases are irrelevant to this case..

14 162. Defendants lack sufficient knowledge or information to admit or deny  
15 the allegation in the first sentence of this paragraph, except that Defendants deny  
16 the allegation in sentence ten.

17 163. Deny.

18 **CLASS ALLEGATIONS**

19 164. This paragraph is a characterization of the action to which no response  
20 is required. To the extent that a response is required, Defendants admit that  
21 Plaintiffs Lopez-Venegas, Dueñas, Hernandez-Contreras, Garcia-Martinez,  
22 Serrato, and Sierra purport to bring this case as a class action on behalf of  
23 themselves and similarly situated individuals described in the proposed class.  
24 Defendants deny that the proposed class should be certified. Defendants further  
25 aver that Mr. Nava and Mr. Muñoz-Flores are no longer parties to this case.

26 165. Deny.  
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1 166. This paragraph is a characterization of the action to which no response  
2 is required; to the extent that a response is required, Defendants admit that the  
3 Representative Plaintiffs purport to seek the relief noted.

4 167. Defendants lack sufficient knowledge or information to admit or deny  
5 the allegations in this paragraph.

6 168. Deny.

7 169. Deny.

8 170. Deny.

9 171. Defendants lack sufficient knowledge or information to admit or deny  
10 the allegations in this paragraph.

11 172. Admit that Defendants have taken actions that generally applied to the  
12 remaining Representative Plaintiffs and to purported class members (such as using  
13 the I-826 to offer voluntary return), but deny that all actions taken were generally  
14 applicable and deny that declaratory and injunctive relief is appropriate to the class  
15 as well as the Representative Plaintiffs.

16 173. The first sentence of this paragraph sets forth a conclusion of law to  
17 which no response is required; to the extent that a response is required, deny and  
18 aver that Fed. R. Civ. P. 23(c)(2)(A) states, “For any class certified under Rule  
19 23(b)(1) or (b)(2), the court may direct appropriate notice to the class. Defendants  
20 lack sufficient knowledge or information to admit or deny the allegation in the  
21 second sentence.

22 174. This paragraph is a characterization of the action to which no response  
23 is required. To the extent that a response is required, Defendants admit that the  
24 Representative Plaintiffs purport to seek the action described in this paragraph.

25 **REQUISITES FOR RELIEF**

26 175. Deny.

27 176. Admit that Defendants dispute Plaintiffs’ claims regarding their  
28 policies, practices, conduct, and act; but deny that full Article III standing exists

1 for all Plaintiffs. The allegation in the second sentence of this paragraph is a  
2 characterization of the action to which no response is required; to the extent that a  
3 response is required, Defendants admit that the Plaintiffs seek a declaration of  
4 rights regarding the alleged controversy.

5 **FIRST CAUSE OF ACTION**

6 177. Defendants re-allege and incorporate by reference each and every  
7 response to the allegations in the preceding paragraphs.

8 178. Deny.

9 179. Deny.

10 **SECOND CAUSE OF ACTION**

11 180. No response is necessary because the Court has dismissed this cause  
12 of action.

13 181. No response is necessary because the Court has dismissed this cause  
14 of action.

15 182. No response is necessary because the Court has dismissed this cause  
16 of action.

17 **THIRD CAUSE OF ACTION**

18 183. Defendants re-allege and incorporate by reference each and every  
19 response to the allegations in the preceding paragraphs.

20 184. Deny.

21 185. Deny.

22 **FOURTH CAUSE OF ACTION**

23 186. Defendants re-allege and incorporate by reference each and every  
24 response to the allegations in the preceding paragraphs.

25 187. Defendants lack sufficient knowledge or information to admit or deny  
26 the allegation in this paragraph.

27 **PRAYER FOR RELIEF**

28 Defendants deny that Plaintiffs are entitled to any of the relief that they seek.

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**AFFIRMATIVE AND OTHER DEFENSES**

1. All allegations not specifically admitted, denied, or modified, are hereby denied. Defendants reserve all rights and defenses afforded and available to them.

2. The Organizational Plaintiffs lack standing.

3. The Individual Plaintiffs lack standing to seek prospective relief.

4. The Individual Plaintiffs lack standing to seek equitable relief.

5. Defendants’ actions at issue in this case were lawful, Plaintiffs’ voluntary returns and waivers of hearings in immigration court were knowing and voluntary, and no pattern or practice of unlawful actions by Defendants related to voluntary return exists.

6. Regarding the First Cause of Action, Plaintiffs fail to state a claim upon which relief can be granted, Defendants’ use of Form I-826 is lawful, and in any event, Defendants’ use of Form I-826 did not prejudice Plaintiffs.

7. Regarding the Third Cause of Action, Plaintiffs’ voluntary returns to Mexico were lawful under the Fifth Amendment. The Court, moreover, should evaluate this claim under 8 U.S.C. § 1229c and the Administrative Procedure Act, rather than the Fifth Amendment, because it is not necessary to reach the constitutional issue.

8. The unclean hands doctrine applies, based on Plaintiffs’ violations of immigration law, and thus prevents Plaintiffs from receiving the relief they seek.

9. Plaintiffs cannot meet the legal requirements necessary for certification of a class.

**WHEREFORE**, Defendants pray that Plaintiffs take nothing by reason of this suit and respectfully request that the Court enter judgment in favor of

1 Defendants, dismiss Plaintiffs' claim with prejudice, and grant Defendants any  
2 other and further relief that the Court deems just and proper.

3  
4 Dated: January 24, 2014

Respectfully submitted,

5 STUART F. DELERY  
6 Assistant Attorney General

s/ Craig A. Defoe  
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13 Trial Attorneys

14 Attorneys for Defendants



**CERTIFICATE OF SERVICE**  
No. CV 13-03972-JAK (PLAx)

I hereby certify that on January 24, 2014, I served this DEFENDANTS' ANSWER AND DEFENSES TO PLAINTIFFS' FIRST AMENDED COMPLAINT pursuant to the district court's ECF system on the following ECF filers:

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Dated: January 24, 2014

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