IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

V.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910

Hon. Mark A. Goldsmith Mag. David R. Grand

Class Action

PETITIONERS' STATUS REPORT

The Petitioners/Plaintiffs ("Petitioners") submit the following Status Report in advance of the Court's status conference scheduled for August 31, 2017. Given the length of this report, a Table of Contents is included for the Court's convenience.

I. Report on Status of the Putative Class

Pursuant to this Court's order, Respondents are providing specified information about Iraqi nationals, both detained and non-detained, every two weeks. The last such production occurred on August 21, 2017. The data produced is about a week old on the date of production, meaning that the last data produced is from August 14, 2017. Petitioners' counsel have attempted to update information where possible, through the ICE detainee locator system, so some information may

be slightly more current, or may combine information obtained from Respondents' August 14 data and more recent information obtained from the ICE detainee locator system.

So far, Respondents have timely provided the disclosures required by the Court's Preliminary Injunction Order on August 7 and August 21. There remain some glitches to work out on the biweekly reporting—missing fields and missing detainees—but Petitioners are hopeful that they can resolve these issues with Respondents.

A. Number of Class Members and Potential Class Members

There are about 1,428 Iraqis who had final orders of removal on June 24, 2017. Of those, approximately 288 were detained as of August 14, 2017. Petitioners had previously reported that as of July 1, 2017, there were 234 Iraqi nationals with final orders who were detained by ICE. *See* Kitaba-Gaviglio Declaration, ECF 77-20, Pg.ID# 1853. The increase in the number of detainees reflects the fact that ICE is continuing to arrest Iraqi nationals with final removal orders.

¹ As explained in Section II.A., below, there is some dispute between the parties about how to count Iraqis who had previously had a final order of removal, but whose Motion to Reopen had been granted prior to June 24.

B. Location and Transfer of Detainees

Class members are detained in 58 locations across the country. The facilities with the most detainees are:

Northeast Ohio Correctional Center, Youngstown: 117 (40%)

Denver Contract Detention Facility: 19 (6.6%)

Jena/Lasalle Detention Facility: 15 (5.2%)

Calhoun County Detention Facility: 13 (4.5%)

Otay Mesa Detention Center, San Diego: 12 (4.2%)

Most of the other 53 facilities have only a few detainees. Only five detainees are being held in Florence, Arizona, where a large number of detainees had previously been held. A full list of detention locations is attached as Exhibit A.

Transfers have emerged as occasions for abusive treatment of detainees. *See* Elias Declaration, Ex. C; Mallak Declaration, Ex. D; Alkadi Declaration, Ex. E; Peard Declarations, Exs. F, I; Free Declaration, Ex. G; Hernandez Decl, Ex. J; Free Letter, Ex. L.

Transfers have also continued to disrupt efforts to obtain counsel for detainees, as have delays in the availability of information about where particular detainees are being housed. This information is supposed to be kept reasonably upto-date in ICE's online detainee locator system. Unfortunately, the system is not

functional for detainees at the Northeast Ohio Correctional Center, in Youngstown—which, according to ICE's last data disclosure, houses approximately 40% of the detainees. For these detainees, the online locator instructs users to call ICE's Detroit Field Office. ICE's field offices will share information about detainee location only for counsel who have filed a G-28 form—which excludes both putative class counsel ("Petitioners' counsel") and any potential immigration counsel for individual detainees who are considering representation but have not yet filed an appearance.

Petitioners' and Respondents' counsel are trying to work out a method by which Petitioners' counsel can verify the location of particular detainees in real time, to facilitate access to them. As discussed in Section II.F., Petitioners are requesting notification within three days when detainees are transferred.

C. Status of Efforts to Obtain Counsel for Detainees

Advocates continue to try to find a lawyer for each detainee who does not yet have immigration counsel. This process has been slowed considerably by detainees' transfers and by the difficulty of confirming the location of detainees prior to visits by counsel. Petitioners are hopeful that the number of transfers will decrease, and that the effort to find counsel can move forward.

In addition, as discussed in the attached declarations, representations by ICE employees, agents and contractors to class members regarding this litigation, including representations that their detention will be prolonged if they obtain counsel, have further hindered efforts to provide counsel. Relief on that issue is discussed in Section II.G. *See* Elias Declaration, Ex. C; Mallak Declaration, Ex. D; Alkadi Declaration, Ex. E; Peard Declarations, Exs. F, I; Free Declaration, Ex. G; Hernandez Decl, Ex. J; Free Letter, Ex. L.

Petitioners' counsel's best information is that 158 of the 288 detainees have immigration attorneys, and that 61 detainees do not have attorneys. For another 69, it is unknown whether or not they have counsel, but no counsel had filed an appearance as of August 14. The group coordinating counsel for class members continues to try to place each of these cases with appropriate lawyers.

Given the large volume of cases involving Iraqi nationals that are now before immigration judges and the Board of Immigration Appeals (and may eventually be before the Courts of Appeals) Petitioners' counsel and other advocates are working with immigration attorneys representing individual class members to explore the most efficient way to handle this influx. Petitioners' counsel is working with a national law firm to prepare amicus briefs to be filed in individual cases of class members. In addition, given that many of the factual

issues in the individual class members' cases are similar, there are relatively small number of qualified country conditions experts who cannot possibly testify in all of the cases, and holding potentially hundreds of evidentiary hearings would place a significant burden on the administrative immigration system, immigration attorneys and Petitioners' counsel are exploring possibilities for joint presentation of evidence and other coordination or consolidation of cases both within the administrative immigration system and, if necessary, in the federal courts. (For example, Petitioners' counsel is aware of one pro se habeas case that has been filed by a class member.)

It is Petitioners' counsels' intent to share class members' names, A numbers, lawyer information and information relating to the immigration case's procedural posture, and detention location with the law firm(s) and other advocacy groups vetted by the ACLU of Michigan who will be involved in filing amicus briefs in the individual immigration cases and other efforts to coordinate representation and presentation of evidence in the individual immigration cases. Petitioners are alerting the Court and opposing counsel so that, if necessary, the Protective Order can be amended to allow for sharing of the limited class member information with designated counsel who are handling the amicus filings and the efforts to coordinate representation in the class members' individual immigration cases.

The parties have not yet had an opportunity to discuss this issue in detail with Respondents, and Petitioners hope to resolve this matter through such discussion.

D. Status of Filings in the Immigration System

As of August 14, 2017, 120 of the current detainees had taken steps to open their cases before the immigration judges or the BIA. 106 of their motions were filed prior to this Court's preliminary injunction dated July 24. As of August 14, the status of filings in the immigration system was as follows²:

Status	Detained	Non-detained	Total
Denied by BIA (potentially the subject of appeal			
to Court of Appeals)	3	6	9
Pending before BIA			
Pending on MTR	28	10	38
Pending on appeal (from denial of MTR by			
Immigration Judge)	24	14	38
Denied by Immigration Judge (potentially the			
subject of appeal to BIA)	16	3	19
Pending before Immigration Judge			
Pending on a Motion to Reopen	37	11	48
Pending on the merits after IJ granted MTR	10	5	15
Pending on the merits, after remand by BIA	2	3	5

² As discussed above in Section 1.A, Respondents have interpreted the class definition as excluding Iraqi nationals who had a motion to reopen granted before June 24, 2017. As a result, this data does not include MTRs granted before that date. Petitioners' counsel is aware of at least three granted MTRs, but the actual number is unknown.

Total	120	52	172
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E. Releases and Custody Reviews

Because the biweekly reports only started a few weeks ago, and Respondents have declined to share even recent detention history for class members detained prior to the first disclosure, Petitioners have been unable to ascertain the extent to which detainees are being released. It is clear that at least a few detainees have been released, but Petitioners do not know how many.

ICE has begun conducting post-order custody reviews for detainees. See Section II.F. The Court's order did not include reporting on post-order custody reviews and data is not available on the status or results of those reviews. Petitioners are asking the Court to order Respondents to provide this information.

II. Report on Outstanding Issues Related to this Court's Preliminary Injunction Order and Requests for Additional Relief

In setting the upcoming status conference, the Court anticipated that it would be necessary "to assess what modifications, if any, are required" to the Court's preliminary injunction order. Order Granting Petitioners' Motion for Preliminary Injunction, ECF 87, Pg.ID 2356 (hereinafter, Preliminary Injunction Order). The Petitioners bring the following issues to the Court's attention.

A. Definition of Putative Class

The Court defined the putative class as "all Iraqi nationals in the United States who had final orders of removal on June 24, 2017, and who have been, or will be, detained for removal by ICE." *Id.* at Pg.ID 2354. This is the group covered by both the bar on removal and by the court-ordered disclosure requirements.

The class definition used in the Preliminary Injunction Order was adopted at the request of Petitioners, who proposed this modification to avoid confusion about exactly who is member of the class. Difficulties have arisen with the new definition. Respondents take the position that the new definition excludes any Iraqi national who previously had a final order of removal, if that removal order had been rendered inoperative on June 24, 2017 as a result of a granted Motion to Reopen. For example, one Iraqi national filed an emergency Motion to Reopen on June 15, 2017. The Immigration Court granted that motion on June 21, and thus the individual's order of removal was no longer final as of June 24, 2017. Respondents take the position that neither the disclosure nor substantive requirements of this Court's Preliminary Injunction Order apply to that individual. In other words, Respondents would exclude this detainee and others like him from the protection offered by the stay of removal while such detainees litigate their cases up to the Court of Appeals. Thus, if that individual lost his substantive

motion, this Court's stay would not prevent deportation while he sought to appeal. Respondents also believe they have no obligation to report on Iraqi nationals who had a final order of removal but whose order was inoperative on June 24, 2017 because a motion to reopen had been granted before that date.

Petitioners believe this Court intended its order—both substantively in terms of barring removal and procedurally in terms of reporting requirements—to cover individuals whose motions to reopen were filed and granted prior to June 24, 2017. In Petitioners' view, Respondents' reading fails to recognize that the due process claims of someone whose motion to reopen was granted on June 23 are no different than those of someone whose motion to reopen was granted on June 25. In the interest of clarity, Petitioners suggest that the class definition be amended to cover "all Iraqi nationals in the United States who have been, or will be, detained for removal by ICE; and who had final orders of removal on June 24, 2017, or whose removal proceedings were, as of that date, pending due to a granted Motion to Reopen."

B. Notice to Putative Class

Rule 23(d)(1) provides:

In General. In conducting an action under this rule, the court may issue orders that:

. . .

- (B) require—to protect class members and fairly conduct the action—giving appropriate notice to some or all class members of:
- (i) any step in the action . . .

To date, no formal notice has been provided to putative class members regarding this action. On July 18 and 19, Petitioners' counsel mailed an informational letter describing this Court's preliminary injunction order to 234 class members, who were all the class members known at that time. The letter described the contents of this Court's order extending the temporary stay until July 24 (ECF 61). A significant number of those letters have been returned by the Post Office, in part due to detainee transfers from facility to facility. The returned letters have been remailed. Petitioners' counsel and other organizations have also conducted know your rights presentations at the detention facilities in Youngstown, Ohio and Florence, Arizona.

The parties have been discussing distribution by ICE of a Know Your Rights fact sheet, prepared by Petitioners' counsel, accompanied by one or more relevant forms. The parties have been unable to come to agreement, however, with the major stumbling block being the process and forms to be used for individuals who may wish to return to Iraq (discussed in more detail in Section II.C. below). Attached as Exhibit B are Petitioners' proposed forms (covering both voluntary removals and production of A-files/Records of Proceedings), and the proposed

ACLU Know Your Rights fact sheet. Petitioners have been discussing with Respondents how best to address potential Privacy Act concerns if the A-files and ROPs are provided to family members. Petitioners believe that it should be possible to resolve this issue through an appropriate waiver. Respondents have informed Petitioners that they do not wish to distribute a form regarding production of A-files/Records of Proceedings at this time.

Communications with class members and their immigration counsel have revealed that many detainees do not understand this Court's Preliminary Injunction Order or their rights more generally within the immigration system. There is widespread confusion and rumors spread rapidly. Petitioners believe it is imperative that all class members be fully informed about their rights and have an opportunity to consult with an immigration lawyer, so they can make voluntary and knowing choices about whether/how to proceed in their individual immigration cases. *See* Elias Declaration, Ex. C; Mallak Declaration, Ex. D; Alkadi Declaration, Ex. E; Peard Declarations, Exs. F, I; Free Declaration, Ex. G; Hernandez Decl, Ex. J; Free Letter, Ex. L.

It is a separate question whether the information should be provided through a court-ordered notice. A notice process agreed to by the parties would likely be simpler and quicker than court-ordered notice. Guidance from the Court on some of the issues in dispute may be enough for the parties to proceed with such an informal notice. If not, a court-ordered notice may be necessary.

Petitioners believe that the notice process, whether court ordered or agreed to by the parties, should satisfy the following criteria:

- The notice should reach **all** class members. Due to repeated transfers of detainees and more general problems with mail delivery at ICE facilities, mailings by Petitioners' counsel are unlikely to reach all detainees. In addition, ICE continues to arrest and detain additional Iraqi nationals, and any notice procedure should ensure that newlydetained class members are informed of their rights.
- The notice should explain this Court's Preliminary Injunction Order, as well as how class members can request legal assistance in their individual cases.
- The notice should facilitate the process Petitioners propose in Section II.C. below by which detainees can self-identify their potential interest in terminating the preliminary injunction as to them.
- The notice should cover the A-File/ROP issues discussed in Section II.D. below.

C. Procedure for Determining Whether a Class Member's Desire to Return to Iraq is Knowing and Voluntary

This Court's Preliminary Injunction Order, ECF 87, Pg.ID 2355-56, provides:

2. This preliminary injunction shall be terminated as to a particular class member upon entry by the Court of a stipulated order to that effect in connection with any of the following events:

. . .

e. a class member's consent that this preliminary injunction be terminated as to that class member.

If the parties dispute whether any of the foregoing events has transpired, the matter will be resolved by the Court by motion. Termination of this preliminary injunction as to that class member shall abide the Court's ruling.

The parties have been discussing a process for identifying individuals who voluntarily consent to removal to Iraq, but have been unable to agree on that process.

Petitioners have requested from Respondents a list of any class members who ICE understands to want to be promptly removed to Iraq. That list has not been forthcoming.

Petitioners have no objection to Respondents' desire to affirmatively solicit the entire group of Iraqi detainees to find out if they may wish to terminate the protection from removal afforded by this Court's Preliminary Injunction Order. However, ICE detention is an environment rife with misinformation and the

potential for coercion, where the threat of prolonged or indefinite incarceration can lead people who are unaware of their rights to forego them in order to be released from detention. The attached declarations detail this general point, as well as the specific ways in which ICE employees and/or contractors are subjecting the detainees to harassment, factual distortion, and pressure to abandon their rights.

For Petitioners' counsel, then, it is essential to individually evaluate whether any class member's expressed desire to be returned to Iraq is both knowing and voluntary. In Petitioners' view, a waiver form—signed by a detainee under unknown circumstances in the face of unknown pressures and potentially in a language they do not speak or read fluently—cannot provide sufficient assurance of knowledge and voluntariness.

Instead, Petitioners propose a process by which detainees who may wish to forego the protections of the Preliminary Injunction Order identify themselves to both ICE and Petitioners' counsel. For detainees who have immigration counsel, Petitioners and Respondents agree that assurances from that counsel about knowledge and voluntariness can provide sufficient confidence to move forward. In such cases, the detainee's counsel, putative class counsel and Respondents' counsel would stipulate to removal. Indeed, that has already been done in one case.

For detainees who do not have counsel, Petitioners' counsel—upon receipt of the detainees' forms indicating a possible interest in removal—will inform the advocates locating immigration counsel to identify a pro bono lawyer to visit the detainees' detention locations, advise them about available options, confirm that no pressure is being placed upon them, and ensure that their decision to forego the protections of this Court's stay is knowing and voluntary. Some detainees may wish to acquiesce to their own removal; in that case, the interview will provide Petitioners' counsel the necessary information on which to base a stipulation, following the Court's previously established process. The plan is that these lawyers will be independent—not Petitioners' class counsel—to avoid any possible conflict of interest. Petitioners' proposed form (along with the accompanying "Know Your Rights" document and accompanying form regarding production of the Afiles/Records of Proceedings) is attached as Exhibit B.

If the Court believes further development of this issue would be useful, Petitioners can brief their proposal. In the meantime, if ICE knows of unrepresented class members who may wish to be removed to Iraq, ICE can share the names with Petitioners' counsel, who will attempt to ascertain whether any waiver of rights is knowing and voluntary, and if so, will stipulate to the termination of the Preliminary Injunction for the relevant individual.

D. Transmittal of A-Files and Records of Proceedings (ROPs) to Class Members

This Court, recognizing the centrality of A-Files and ROPs for the ability of class members to file motions to reopen, ordered that a 90-day period for filing such motions commences upon "Respondents' transmittal to the class member of the A-file and ROP pertaining to that class member." Preliminary Injunction Order, ECF 87, Pg.ID 2355. The Court further ordered that:

As soon as practicable, Respondents shall transmit to each class member that class member's A-file and ROP, unless that class member advises Respondents that he or she will seek to terminate this preliminary injunction as to that class member.

Id. at PgID 2356.

To date, Respondents have not transmitted any A-files or ROPs to class members. Every day that Respondents delay producing the A-files and ROPs prolongs class members' incarceration. Class members can attempt to file motions without these documents—as many class members did before this Court's Preliminary Injunction Order gave them the breathing room to obtain the documents before filing—but this greatly reduces the likelihood of their success.

As of August 14, 2017, Petitioners' best information is that 172 Iraqis with final orders—120 of them currently detained—have so far sought to reopen their cases, nearly all filing prior to this Court's preliminary injunction order. It is highly

likely that many of these rushed motions were filed without access to the A-files and Records of Proceedings. Petitioners believe that some of the motions that are being denied within the immigration system were greatly hindered by counsel's lack of the necessary documents, and that speedy production of these files is critical, both to ensure that class members have a meaningful opportunity to present their claims for immigration relief and to prevent unnecessary and prolonged incarceration.

Petitioners and Respondents have discussed the process for producing A-files and ROPs. ICE originally proposed transmitting the files directly to the incarcerated detainees, regardless of whether they have immigration counsel, citing the language of the Court's order. Petitioners are concerned about the practicalities, particularly the ability of detainees to then send their files on to their immigration counsel. It is not clear, for example, whether or how detainees would be able to copy and remail these files (which can number hundreds of pages).

Areas of Agreement

It is Petitioners understanding that the parties have reached agreement in principle on some issues with respect to production of the A-Files and ROPS. Those areas of agreement are:

- If an attorney has filed a representation form (a G-28, EOIR-27, or EOIR-28) in January 2017 or later, the detainee's A-File and ROP will be transmitted to that attorney unless the detainee directs otherwise.
- ICE will provide a form to all detainees allowing them to select to whom the A-file and ROP will be sent: the detainee's attorney (who may not yet have an appearance on file), the detainee, or another person such as a family member (provided the detainee grants appropriate authorization under the Privacy Act).

Petitioners believe the proposed process is consistent with the language of the Court's order, which should be read to require production to the class member's counsel, if represented, and to the class member or his/her designee if the class member is unrepresented. Alternately, Petitioners request modification of the order to allow for the process agreed upon by the parties.

Areas of Disagreement

First, the delay in production of A-files and ROPs is highly prejudicial to the class members, undermining their ability to file effective motions and prolonging their incarceration. Petitioners believe that the form allowing unrepresented class members to select the recipient of these documents should be sent out along with the formal or informal class notice (discussed above), so that Respondents can

commence with transmitting the files as soon as they become available. Given that more than a month has passed since this Court ordered transmittal of the files, and given Respondents have been unable to provide a date when the files will be ready, Petitioners also believe that the Court should set a reasonable deadline for production.

Second, Petitioners have asked Respondents to provide Petitioners' counsel (putative class counsel) a copy of all A-files and ROPs, which would be subject to the existing protective order. Specifically, Petitioners have proposed that, once the files are available, Respondents provide Petitioners' counsel with a copy in PDF format, in addition to providing a copy to the class member or his or her designee. These documents are clearly relevant to Petitioners' claims, and Petitioners intend to ask for them in discovery. As a practical matter, it will be more efficient for Respondents to provide these documents to class counsel at the same time as they are provided to class members and/or class members' individual counsel. Respondents have not agreed to this request.

E. Production of Detention Information and Modifications to Injunction's Reporting Requirements to Include Detention Issues

Overview of Custody Reviews and Legal Issues Related to Detention

8 U.S.C. 1231(a)(2) provides that, in general, "when an alien is ordered removed, the Attorney General shall remove the alien from the United States

within a period of 90 days (in this section referred to as the 'removal period')." During the 90-day removal period, detention is mandatory. 8 U.S.C. 1231(a)(2). Because Petitioners were ordered removed years or even decades ago (and some class members were detained during the removal period when their orders were initially entered), Petitioners' view is that the 90-day period for mandatory detention has long since run. The government's view is that the 90-day mandatory detention period began anew when the class members were re-detained.

Because many class members have been incarcerated for almost 90 days, the government recently began the process of conducting 90-day custody reviews that are required pursuant to 8 C.F.R. § 241.4. That regulation provides that prior to expiration of a 90-day removal period during which the individual is detained, the government must conduct a review to determine if additional detention is warranted. *See* 8 U.S.C. 1231(a)(6) (designating circumstances under which aliens "may be detained beyond the removal period") (emphasis added). *See also* 8 C.F.R. § 241.4 (setting forth process for determining whether detention will continued beyond the removal period).

Under the government's view, ICE is required to make an individualized determination of whether class members' detention is justified only after class members have been re-detained for 90 days. Petitioners disagree with this reading

of the government's detention authority and believe that individualized detention determinations should have been made much sooner. Moreover, in Petitioners' view, because class members were released on Orders of Supervision for years prior to their recent detention, release and not detention should be the norm.

However, given that the custody review process is now under way for many class members, Petitioners believe that as a practical matter, resolution of any disagreements between the parties on the detention of class members can await the outcome of the initial set of 90 day reviews. In light of the significant deprivation of class members' liberty interest, however, it is important that Petitioners' counsel promptly receive information about the outcome of the 90-day reviews, as well as the underlying custody review documents, so as to ensure adherence to relevant legal limits on detention.

Request for Reporting re Custody Reviews and Bond Hearings

This Court ordered:

Commencing on August 7, 2017, and continuing every other Monday thereafter, Respondents shall report to class counsel the following information: attorney representation of individual class members; transmittal of A-files and ROPs; status of filing and adjudication of motions to reopen, stay, and petitions for review; detention locations, transfers, releases from detention. The parties may negotiate additional information that should be supplied; agreement shall be memorialized in a stipulated order.

Preliminary Injunction Order, ECF 87, Pg.ID# 2356.

Petitioners and Respondents have been working amicably on a number of data and other issues related to the biweekly reporting. These issues have largely been resolved.

At the same time, Petitioners have unsuccessfully sought Respondents' agreement to produce additional information that is turning out to be important, particularly with respect to detention issues. Specifically, Petitioners have requested that Respondents produce all class members' full detention history, that they report biweekly on the status and outcome of the 90-day custody reviews that are currently underway, and that they provide notice to both class counsel and individual immigration counsel within three days of any transfers of class members (given the problems with the on-line locator system and the fact that the biweekly reporting is already a week out of date at the time reported, and hence it can be three weeks before counsel learn of a transfer).

The parties' dispute about production of this information centers on timing, since the information sought is relevant and obtainable in discovery. (Petitioners do not believe Respondents could assert any valid objections to producing this information, and that any such objections would simply be for the purpose of delay.) Most class members have already spent close to three months incarcerated. Given the fact that ICE has not produced the A-files or ROPs (or even determined

the process for doing so), it could be months before class members have those documents, and many more months before class members cases are adjudicated in the administrative immigration system. If ICE insists on detaining class members—nearly all of whom were living in the community under Orders of Supervision before their recent arrests—throughout this process, then the inevitable result will be the prolonged detention of class members, along with the pressure this places on them to give up their cases. No class member should remain incarcerated simply because the discovery process takes time. Petitioners' counsel need detention information *now*—not months from now—so that, depending on the outcome of the upcoming custody reviews, they can seek appropriate relief from the Court.

In addition, Petitioners counsel is concerned about the continuing detention of class members whose motions to reopen have been granted. These individuals are not entitled to custody reviews but should be provided with bond hearings, except to the extent that they are subject to mandatory detention. Petitioners' counsel therefore seeks information about the status and outcome of bond hearings provided to such class members, as well as whether the government claims that mandatory detention applies.

Accordingly, Petitioners ask that this Court order that Respondents provide custody review information for all class members as part of their ongoing biweekly reporting, as well as information about any bond hearings provided to those class members whose motions to reopen were granted. Petitioners believe, given the Court's familiarity with the case and its prior recognition that amendment of ongoing reporting may be needed, that the Court should simply amend its prior order after hearing from the parties at the August 31, 2017 status conference. Alternately, should the Court desire briefing on this issue or the related issues regarding production of documents related to detention, Petitioners ask that the Court set an expedited briefing schedule for resolution of this issue.

Specifically, Petitioners ask for biweekly reporting on:

- The status and outcome of all 90-day custody reviews being conducted for class members, including the basis for any continued detentions;
- The status and outcome of any bond hearings conducted for class members whose motions to reopen were granted, including the basis for any continued detentions (e.g. whether based on the claim of mandatory detention);
- The release from detention of any class members on any ground;
- Full post-release contact information for anyone released.

Petitioners also ask that the Court order production on an expedited basis of the discovery sought in Petitioners' First Set of Document Requests, attached as Exhibit M, which seek information related to custody reviews, bond hearings, and repatriation issues (see Section II.F.). Petitioners ask the Court to order that responsive documents related to custody reviews or bond hearings be produced on a rolling basis within one week of the decision. Petitioners propose that for any decisions made to date, Respondents be given additional time until September 15, 2017 to produce them. Documents related to repatriation should similarly be produced on a rolling basis as they become available, with all currently available documents to be produced by September 15, 2017.

F. The Status of Iraq's Agreement to Accept Class Members

As the Court is aware, prior to recent arrests, many (perhaps nearly all) of the putative class members were living in their communities subject to Orders of Supervision. It is a typical requirement of such an order that its subject obtain travel documents—usually a passport—from their nation of citizenship. But when class members attempted to do that, it seems at least some of them were denied the requisite documents by the Iraqi consulate. It has also come to Petitioners' counsels' attention that some class members have recently received letters from Iraqi officials denying them travel documents. Moreover, some class members—

designated as Iraqi by ICE, and subject to Orders of Removal to Iraq—believe that they are not, in fact, Iraqi at all, because they were not born in Iraq. *See* Documents from Class Members Regarding Iraq's refusal to Issue Travel Documents, Exs. H, K; Peard Declaration, ¶ 16, Ex. I.

If Iraq is not willing to accept the removal of some portion of the class members, it is clear that, for those individuals, "there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Accordingly, those individuals need to be identified, and then should be released from detention. In addition, the government should provide Petitioners' counsel with information about 1) any U.S.-Iraq Agreement by which the government of Iraq has agreed to accept the return of Iraqi citizens ordered removed, and 2) the status of the Iraqi embassy's ability to issue travel documents or to accept Iraqi nationals without travel documents. Information on those issues is sought in Petitioners' discovery requests.

G. Communications by ICE with Class Members Regarding This Litigation

As set out in the attached declarations, Petitioners' counsel have received numerous reports regarding abuse, coercion, and misinformation directed at *Hamama* class members. *See* Elias Declaration, Ex. C; Mallak Declaration, Ex. D; Alkadi Declaration, Ex. E; Peard Declarations, Exs. F, I; Free Declaration, Ex. G;

Hernandez Decl, Ex. J; Free Letter, Ex. L. Beyond the ordinary coercive effects of detention, the situation is exacerbated here by the fact that ICE employees, contractors, and agents—who unlike class counsel have direct, ongoing access to the detainees—are misrepresenting this litigation and the detainees' rights. Class members who are abused or harassed, or who are told that they will suffer in prolonged detention if they get a lawyer, cannot make voluntary and knowing choices about how to proceed with their immigration cases.

Accordingly, Petitioners ask that this Court prohibit ICE employees, agents or contractors from discussing this litigation in any way with class members, and require ICE to inform all employees, agents, or contractors who have or could have contact with class members of this order. The order should specify that all communications by ICE with class members regarding this litigation should be in writing, and must be reviewed in advance by Petitioners' counsel.

III. Petitioners' Proposal Regarding Next Steps In This Litigation

A. Pending Motions

Petitioners' motion for class certification is pending, with Respondents' response due on September 11, 2017, and Petitioners' reply due on September 25, 2017.

B. Sequencing of Next Steps in Litigation

This is an unusual case in that Petitioners' primary goal has been to secure time for class members to access the administrative immigration court system. It is unclear at this stage, particularly given the Respondents' delays in producing the A-files and ROPs, how much time will be required for class members' individual cases to be adjudicated.

The parties could now engage in extensive and costly discovery to flesh out the issues that this Court has already decided for the purposes of issuing a Preliminary Injunction. Petitioners would be seeking evidence to support and Respondents to oppose a permanent injunction similar to the preliminary injunction that has been issued. Such discovery is necessarily time consuming, as is briefing and decision on summary judgment. This means, as a practical matter, that it is likely that many or even most class members' individual immigration cases will likely be far along, or perhaps resolved, by the time this Court could decide summary judgment motions.

At the same time, almost three hundred class members are currently detained, with many having been detained for almost three months. Given that these individuals were previously living in the community and reporting regularly under orders of supervision, often for decades, it is difficult to comprehend what

purpose is served by incarcerating them while their immigration cases are wending their way through that system, other than coercing them through prolonged detention to give up their rights.

As set out above in Section II.F., Petitioners seek to monitor the 90-day custody reviews, and may return to the Court for relief on the detention claim if those reviews prove only to rubber stamp detentions. Both ongoing reporting and expedited discovery related to detention are necessary to ensure that class members do not remain incarcerated unless ICE can establish, on an individual basis, that they are a flight risk or a danger to the community.

In light of this, and in light of the parties' prior discussions about the possibility of a settlement, Petitioners believe that the parties should postpone discovery until they have explored the possibility of settlement, with the exception of limited expedited discovery related to detention. Petitioners request that the Court schedule this matter for a settlement conference before the magistrate.

Respectfully Submitted,

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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910

Hon. Mark A. Goldsmith Mag. David R. Grand

Class Action

INDEX OF EXHIBITS TO PETITIONERS' STATUS REPORT

- Exhibit A: Detention Location of Putative Class Members (as of August 14, 2017)
- Exhibit B: Petitioners' Proposed Forms for Voluntary Removals and Transmittal of A-Files and Records of Proceedings
- Exhibit C: Declaration of France Anwar Elias (dated August 24, 2017) Redacted pursuant to Fed. R. Civ. P. 5.2
- Exhibit D: Declaration of Kamran Mallak (dated August 25, 2017) Redacted pursuant to Fed. R. Civ. P. 5.2
- Exhibit E: Declaration of Gavan Alkadi (dated August 25, 2017) Redacted pursuant to Fed. R. Civ. P. 5.2
- Exhibit F: Declaration of William Peard (dated August 30, 2017)
- Exhibit G: Declaration of Andrew Free (dated June 23, 2017) Redacted pursuant to ECF 62

- Exhibit H: Documents from class member A.S. regarding Iraq's refusal to issue travel documents

 Redacted pursuant to Fed. R. Civ. P. 5.2
- Exhibit I: Declaration of William Peard (dated July 12, 2017)
- Exhibit J: Declaration of Elvira Hernandez (dated August 30, 2017)
- Exhibit K: Documents from class member K.A. regarding Iraq's refusal to issue travel documents

 Redacted pursuant to Fed. R. Civ. P. 5.2
- Exhibit L: Letter from A. Free (dated August 14, 2017) Redacted pursuant to Fed. R. Civ. P. 5.2
- Exhibit M: Petitioners' First Set of Requests for Production

EXHIBIT A

Detention location as of August 14, 2017	Number	Percent
Adelanto ICE Processing Center	1	0.35
Alexandria Staging Facility	1	0.35
Boone County Jail	1	0.35
Buffalo (Batavia) Service Processing Center	6	2.08
Butler County Jail	1	0.35
Calhoun County Correctional Center	13	4.51
CCA, Florence Correctional Center	1	0.35
Chase County Detention Facility	1	0.35
Chippewa County	2	0.69
Contra Costa County Jail West	2	0.69
Denver Contract Detention Facility	19	6.6
Dodge County Jail	3	1.04
El Paso Service Processing Center	3	1.04
Elizabeth Contract Detention Facility	1	0.35
Elmore County Jail	1	0.35
Eloy Detention Center	4	1.39
Essex County Correctional Facility	1	0.35
Etowah County Jail (Alabama)	2	0.69
Florence Service Processing Center	4	1.39
Folkston ICE Processing Center	4	1.39
Franklin County House of Correction	2	0.69
Freeborn County Adult Detention Center	5	1.74
Geauga County Jail	2	0.69
Hall County Department of Corrections	3	1.04
Houston Contract Detention Facility	2	0.69
Immigration Centers Oo America Farmville	6	2.08
Irwin County Detention Center	2	0.69
Jena/LaSalle Detention Facility	15	5.21
Kankakee County Jail	1	0.35
Kenosha County Detention Center	3	1.04
Krome North Service Processing Center	1	0.35
McHenry County Correctional Facility	2	0.69
Monroe County Detention-Dorm	4	1.39
Morgan County Adult Detention Center	1	0.35
Nevada Southern Detention Center	1	0.35
Northeast Ohio Correctional Center (Youngstown)	117	40.63
Northwest Detention Center	3	1.04
Otay Mesa Detention Center (San Diego)	12	4.17
Pine Prairie Correctional Center	4	1.39

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Plymouth County Correctional Facility		1	0.35
Prairieland Detention Facility		3	1.04
Pulaski County Jail		2	0.69
Saint Clair County Jail		4	1.49
San Luis Regional Detention Center		1	0.35
Shawnee County Department of Corrections		1	0.35
Sherburne County Jail		2	0.69
South Texas Detention Complex		2	0.69
Suffolk County House of Corrections		3	1.04
Tulsa County Jail (David L. Moss Justice Center))	2	0.69
Virginia Peninsula Regional Jail		1	0.35
Wakulla County Jail		1	0.35
Worcester County Jail		1	0.35
York County Prison		7	2.43
,	Γotal	288	100

EXHIBIT B

Information for Iraqi nationals in ICE detention about Hamama v. Adducci, No. 17-cv-11910 (E.D. Mich.)

This attached information is provided by ICE and the ACLU, which is counsel for the plaintiff/petitioners in Hamama v. Adducci, No. 17-cv-11910 (E.D. Mich.). There are three documents attached:

- 1. Know Your Rights under *Hamama v. Adducci*, provided by the ACLU.
- 2. Detainee Request Relating to A-File/Record of Proceeding, provided by ICE.
- 3. Detainee Request for Prompt Removal to Iraq, provided by ICE. You should **only** fill out this form if you want to be removed to Iraq. Do **not** fill out this form if you want to say in the United States.

Please read them carefully and fill out only the forms that apply to your situation.



KNOW YOUR RIGHTS FOR IRAQIS WITH REMOVAL ORDERS

Information about Hamama v. Adducci, No. 17-cv-11910 (E.D. Mich.) From the American Civil Liberties Union (ACLU) of Michigan (Aug. 17, 2017)

What is the *Hamama* case about?

The *Hamama* case asks the federal court to **delay deportation** of Iraqi nationals with final orders of removal until you have the chance to hire an immigration lawyer, seek to reopen your immigration case, and demonstrate to the immigration court or Board of Immigration Appeals that you should not be deported to Iraq because you face a likelihood of persecution, torture, or death there.

What has happened in the case so far?

On July 24, 2017, *Hamama*'s district court judge issued a stay of removal which allows you time to fight your removal order in the immigration court system. The stay will apply only for a limited time. So it will help you only if you *also* take action to protect your own rights. **The stay applies to any and all Iraqi nationals in the United States who had final orders of removal on June 24, 2017 and who have been, or will be, detained for removal by ICE.** Here's what it says:

- 1. Under the court order, before deporting an Iraqi national under a final order of removal, the government must provide that person with their A-File and Record of Proceedings. The A-File contains your immigration history and the Record of Proceedings contains your legal history in immigration court. Your lawyers will need those papers in order to fight your removal.
- 2. Starting from the day the government sends you (or your lawyer) the A-File and Record of Proceedings, you have 90 DAYS to file a Motion to Reopen your immigration case.
- 3. *If* you file the Motion to Reopen within the 90 day period, the court's stay of removal will remain in place until the immigration court or Board of Immigration Appeals considers your motion AND it will continue to protect you from deportation if you appeal to the Board of Immigration Appeals or Court of Appeals.

The Hamama case alone WILL NOT stop your deportation to Iraq. The Hamama stay of removal is **TEMPORARY**. You need to fight your final order of removal within the immigration court system (the immigration court and the Board of Immigration Appeals). To do this, you will need to file:

- 1. A Motion to Reopen,
- 2. A request for a Stay of Removal, and
- 3. The application for underlying relief (example: Asylum I-589)

What you need to do if you want to take advantage of the stay:

- You SHOULD hire an immigration lawyer to advise you and assist with filings in the immigration court/Board of Immigration Appeals/court of appeals.
- You will **NOT** BE PROTECTED BY THE STAY OF DEPORTATION **if**:
 - a. You do not file a Motion to Reopen within the 90-day period, OR
 - b. You fail to file an Appeal to the Board of Immigration Appeals or Court of Appeals within the appeal deadlines.

IMPORTANT: It is possible that the government will appeal the district court decision to a higher court. If that happens, the terms of the stay could be changed. Or the higher court could end the stay and ICE could then deport you if you do not have a stay in your individual case from the immigration court system.

How can I be deported if Iraq has never given me travel documents?

Even if you have not received a travel document in the past, you still could be deported. Recently, the Iraqi government agreed to the return of Iraqi nationals even if they do not have travel documents.

What is a Motion to Reopen?

A motion to reopen gives you an opportunity to have your immigration case heard again. Generally, these types of motions must be filed within 90 days of the final order of removal, but there are some exceptions. Most relevant here, you are allowed to file a motion to reopen after the 90 days if you are seeking asylum, withholding from removal, or protection under the Convention Against Torture based on changed country conditions in the country to which you were ordered deported. Because of the recent changes in county conditions in Iraq, some people have had success reopening their immigration cases on this basis. The motion has to state new facts that you will prove at a hearing if the motion is granted, and has to be supported by affidavits and other evidence.

You may be able to reopen your immigration case based on these grounds or others so long as you meet certain eligibility requirements. Because the law has changed a lot over time, you may also be able to file a motion to reopen on the basis of the change in law, or other circumstances, that have rendered you no long deportable or at least entitle you to another hearing on that question.

Your immigration attorney will need to look at your individual situation and any criminal history you may have to see what kinds of immigration relief you are eligible for. You will need copies of your A-file, your immigration court Record of Proceedings, and your criminal history records to file your motion to reopen.

What is the process for getting my A-file and Record of Proceeding?

The government will share A-files and Records of Proceedings with each detainee or a representative for each detainee. You can choose who will receive the file copies using the form, "Detainee Designation of Representative to Receive A-File and Record of Proceedings." Your immigration lawyer is probably the best person to receive your files because your lawyer will need those files to make your case. If you have immigration lawyer who has filed a representation form (a G-28, EOIR-27, or EOIR-28) in January 2017 or later, ICE will send your file copies to that counsel unless you specify otherwise. Even if you do *not* have immigration counsel, you may wish to pick someone—such as a family member—to receive your files, because that person will be able to share the files with prospective immigration counsel more easily than you yourself can from detention. It is unclear how long it will be until ICE sends the A-Files and Record of Proceedings, but your three months to file a motion to reopen does not start until ICE sends the files.

What if I want to return to Iraq?

First, you should talk with an immigration lawyer about your options for staying in the United States, what risks you face if deported to Iraq, and what deportation would mean for your ability to return to the U.S. or pursue other kinds of immigration relief. You should be fully aware of your rights before you make the decision. If you still decide that you want to voluntarily leave the U.S., please have your lawyer contact both ICE by emailing {} and the lawyers in the *Hamama* case by emailing *hamama* @aclumich.org*.

If you do not have counsel and you want to return to Iraq, ICE is providing you with a form that you can send in. Do NOT fill out this form if you want to stay in the United States. This form does not waive your rights, but it will tell both ICE and the ACLU that you wish to be removed to Iraq. The ACLU and other lawyers in the *Hamama* litigation will then try, but cannot guarantee, that they will locate an attorney who can meet with you and advise you (without cost to you) on this important decision. The lawyer can give you advice about your individual options for challenging your deportation and about your chances of getting out of detention.

What can I do to get out of detention while I'm challenging my deportation?

So far, the attorneys in the *Hamama* case have focused on preventing your deportation. The *Hamama* case also includes a claim about release from detention, and we are now talking to ICE about this issue.

According to the law, ICE generally has the authority to detain people after a final order of removal for up to 90 days while it attempts to remove them from the United States. ICE believes that this law applies even if you were released into the community after the final order of removal was issued. ICE will conduct a custody review to determine if you can be released after 90 days and again after 180 days. You will have an opportunity to present documents in support of release and may even be interviewed. The Florence Immigrant and Refugee Rights Project has prepared a guide to assist individuals in preparing for their 90-day review, which can be found at: http://firrp.org/media/90-Day-Custody-Review-Guide-2013.pdf. Or to get a copy by mail, write to: Florence Project, P.O. Box 654, Florence, Arizona 85132.

Release at the 90 day point is not automatic. If you were detained by ICE in the past, you may have been released at some point because ICE was not able to obtain travel documents to Iraq. But now the only thing stopping your removal may be either the stay issued by the district court in the *Hamama* case or a stay issued in your case by the immigration court. If your motion to reopen has not been granted, ICE may decide to hold you past 90 days. Depending on your criminal history, it is also possible that ICE will use this as a basis to argue that you are a danger.

You should consult with your immigration lawyer about your particular situation and explore any special circumstances that can help you advocate for release, such as medical issues. It is possible you could bring a case in federal district court challenging the legality of your continued detention, especially if you can show that your case is not going to be decided for at least another few months and that ICE cannot remove you during this time.

If your motion to reopen is granted, a different law applies and you may be eligible for bond. Depending on your criminal history, the government may argue that you are subject to mandatory detention. However, there are also arguments why mandatory detention may not apply to you. Talk to your lawyer about whether you should request a hearing to challenge your detention.

What if I don't have a lawyer and can't afford one?

The National Immigrant Justice Center is working to assist Iraqi nationals in finding legal representation.

If you need an immigration lawyer, please contact the National Immigrant Justice Center (NIJC), (312) 263-0901, between 11 am and 2 pm Central Standard Time (CST). 208 S. LaSalle St., Suite 1300, Chicago, IL 60604. Or ask a family member to fill out the form available at https://refugeerights.org/iraqi-deportation-resources/.

Please note that contacting NIJC is for informational and potential referral purposes only and does not guarantee legal representation in your individual case.

How can I find out what is happening in the *Hamama* case?

You or your family members will be able to learn more up-to-date information about the *Hamama* case at the ACLU's website: https://www.aclu.org/cases/hamama-v-adducci.

This fact sheet is not intended to substitute for legal advice regarding your own individual immigration case or any other matter outside of the context of the *Hamama* lawsuit. We advise you to seek independent legal advice about your own individual immigration case and the impact of the *Hamama* lawsuit on your case.

NOTE: ICE/ERO did not prepare this handout and is not responsible for its contents.

DETAINEE DESIGNATION OF REPRESENTATIVE TO RECEIVE A-FILE AND RECORD OF PROCEEDINGS



August 17, 2017

As required in the federal lawsuit about Iraqi nationals with final orders of removal, Hamama v. Adducci, No. 17-cv-11910 (E.D. Mich.), ICE is preparing to share A-Files and Records of Proceedings (ROP) with each Iraqi national in detention who had a final order of removal as of June 24, 2017. The A-File contains your immigration history and the Record of Proceedings contains your legal history in immigration court.

Use this form to tell ICE who should receive your A-File and ROP. Please note: If you have an attorney who has filed a representation form (a G-28, EOIR-27, or EOIR-28) in January 2017 or later, your A-File and ROP will be shared with that attorney unless you direct otherwise. Return the form to ICE in the envelope provided (at no cost).

I herel	by pick the following person to receive my A-File and one	ROP f	rom ICE:		
	My attorney. Name:				
	Address Line 1:				
	Address Line 2:				
	City:State	e:	Zip:		
	Other person. Specify relationship:				
	Name:				
	Address Line 1:				
	Address Line 2:				
	City:State	e:	Zip:		
	Myself, even though I am in detention.				
	Detainee Name			A Number	
	ee Signature			Date	
Mail t	o: LEGAL MAIL FOR ICE Enforcement and Removal Operation 333 Mt. Elliot, Detroit, MI 48207 ATTN: Hamama v. Adducci Litigat				
DO NO	OT WRITE BELOW THIS LINE - FOR ERO USE ON	LY			
Print N	Jame and Title of ERO Officer Accepting Request			Date	

DETAINEE REQUEST FOR PROMPT REMOVAL TO IRAQ



Date

August 17, 2017

You are an Iraqi national who had a final order of removal from the United States as of June 24, 2017, and you are currently detained pending removal to Iraq.

You are currently covered by a court order in a federal lawsuit, Hamama v. Adducci, No. 17-cv-11910 (E.D. Mich.), that temporarily prevents the government from removing you to Iraq. Further details regarding your rights under the court order are available in the attached information sheet from the American Civil Liberties Union (ACLU), which is counsel in the litigation.

This form is for you to use if you wish to request prompt removal to Iraq—that is, if you want to request that the existing court order preventing removal to Iraq not apply to you. Note: This form does *not* waive any rights. It will be sent to both ICE and the ACLU.

If you wish to remain in the United States, do NOT fill out this form. Only fill out this form if you want to be removed to Iraq.

If and only if you want to be removed to Iraq:

Print Name and Title of ERO Officer Accepting Request

If you have an immigration attorney, you must contact your attorney to discuss the matter, and request that he or she inform ICE by emailing {} and the ACLU by emailing hamama@aclumich.org. Do not fill out this form if you have an immigration attorney.

If you do <u>not</u> **have an immigration attorney**, fill out the form below, and return it to ICE in the envelope provided (at no cost). Please make sure your name and A-number are clearly readable. The ACLU and other lawyers in the *Hamama* litigation will then try to find an attorney who can meet with you and advise you (without cost to you) on this important decision.

Tear Here		
	REQUEST FOR PROMPT REMOVAL TO	IRAQ
	OUT THIS FORM IF YOU HAVE A LAWYER; TACT ICE AND THE ATTORNEYS IN THE HAMAM	•
I do not	have a lawyer, and I currently wish to be removed prom	nptly to Iraq.
Print Detainee Na	me	A Number
Detainee Signatur	re	Date
Mail to:	LEGAL MAIL FOR ICE Enforcement and Removal Operations 333 Mt. Elliot, Detroit, MI 48207 ATTN: Hamama v. Adducci Litigation	
DO NOT WRIT	E RELOW THIS LINE - FOR ERO USE ONLY	

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EXHIBIT C

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910

Hon. Mark A. Goldsmith Mag. David R. Grand

Class Action

DECLARATION OF FRANCE ANWAR ELIAS

DECLARATION OF FRANCE ANWAR ELIAS

- I, France Anwar Elias, make this statement under the penalties of perjury of the laws of the United States and if called to testify I could and would do so competently based upon my personal knowledge as follows:
- 1. My name is France Anwar Elias. I am an Iraqi national currently detained in the GEO Group Aurora Detention Facility in Aurora, Colorado. I was born on Iraq. 1980 in Iraq.
- 2. My parents took me to the United States in 1994 or 1995, when I was fourteen or fifteen, to escape religious persecution in Iraq. My family is Catholic. In Iraq, we could not practice our religion freely. Because we were Catholic, our windows were broken and our house was robbed several times.
- 3. We walked to church most Sundays in our nice clothes. People knew where we were headed, and sometimes threw rocks at us as we walked.
- 4. One time, we were stopped on our walk to church and told we would be killed if we entered church. We did not go to church that day or any other Sunday. We left Iraq a few months later.
- 5. When we left Iraq, we hoped to find a way to get asylum in the United States, Canada or Australia. During the course of several months, we went blindly from country to country, with nowhere to stay and no one to turn to. We made our way through Jordan, Turkey, Bulgaria, Yugoslavia and then to Greece, where we began the process of applying for asylum in the United States, Canada and Australia.
- 6. Eventually, my family was granted asylum in the United States, and we moved to California.
- 7. I am ashamed to say that I committed a robbery in 2000. I only take solace in the fact that no one was injured. Because of that crime, I received a final order of removal from the United States in 2012. Iraq would not allow my repatriation; so ICE released me back to the community at the end of 2012. While out, I was ordered to regularly report to ICE, which I have faithfully done for the past nearly five years.
- 8. I have worked hard to build a meaningful, positive life while allowed to remain in the United States. I married my wonderful wife, a U.S. citizen who I've known since I was a teenager. We live in Nevada, where I am the sole breadwinner for the family. I have supported her throughout our entire relationship by working in construction. In 2015, we were able to buy our own home. Recently, I opened my own general contracting business, which was doing well until I was detained by ICE.
- 9. Since 2000, I have had no further criminal incidents, and I expect to have no more.

- 10. In late April or early May of 2017, I reported to ICE for a standard check-in. I was told everything was in order and that I was in compliance with my reporting requirements.
- 11. On May 24, 2017, ICE had me arrested and told me I was to be quickly deported to Iraq.
- 12. I have no family or friends in Iraq. I am fully Americanized, and I am Christian. Based on accounts from others who have lived in Iraq, I understand that these characteristics will mean that I will be at serious risk of being injured, killed, tortured or jailed in Iraq. I understand that I am even more at risk now than I was when my family was granted asylum from Iraq. I am terrified to be deported to Iraq.
- 13. When ICE picked me up in May, I was first detained in a jail in the Las Vegas area. In mid-June, I was transferred to the Florence Correctional Center in Arizona, where I remained until July 26 or 27. At Florence, I was housed with more than 80 other Iraqi detainees.
- 14. While in the housing unit with other Iraqi detainees, an ICE agent made an announcement to the group that we had a choice to either agree to fast deportation or face more than a year in detention. The agent said something to the effect of:

The ACLU filed a lawsuit to have your cases opened. If you want to fight your case, you will remain in jail for a year or year and a half. The courts are backed up so much that you will have to wait that long before you get to go to court, which will then determine whether your case will be heard or not. You will remain in detention that entire time.

It's up to you -- if you want to fight your case, go ahead and fight your case. If not, stand in line right here, sign your name and tell us you want to get deported, so we can get your travel documents and send you to your homeland quickly.

- 15. When this announcement was made, there were no lawyers present to counsel us.
- 16. I did not sign for speedy deportation. I would rather stay in jail for a year and a half then go ahead and meet my death.
- 17. Several Iraqi detainees did stand in line, saying they didn't want to stay in jail for a year or more and then get a denial.
- 18. Just after lunch on July 26 or 27, 2017, guards at Florence began the process of moving me and about 20 other Iraqi detainees out of the detention center.
- 19. A guard told me, along with other detainees, that we were going to be "released." The feeling of hearing those words was like going from death back again to life. We started crying, jumping, and hugging each other. The guards saw us celebrating.

- 20. At about 10:00 that night, another guard told us that we were actually being transferred to another detention facility. The sadness was overwhelming. The guard said with a smirk, "Sorry for the misunderstanding."
- 21. At around 4:00 a.m. the morning of July 27 or 28, we were told to line up by our home states. We thought we were being transferred closer to home. We were cuffed and shackled and placed on a bus heading to the Phoenix airport. The ride took several hours and then we waited on the bus near the airport for a long period of time. Guards drank water and ate food in front of us on the bus, but refused to give us food or water.
- 22. We boarded the plane around 8:00 that morning. Soon we learned that none of us were going to be transferred to our home states. Instead, we would all be placed in a facility in Colorado. So we were all to be far from our families and, for some of us, far from our attorneys.
- 23. Several of the guards were extremely rude and disrespectful during the flight. They singled out us Iraqis for negative and racist treatment.
- 24. More than one guard referred to one of us as a "camel jockey." One guard called another Iraqi detainee, Kamran Mallik, a "tough guy camel jockey." Another guard, who I believe had the last name Vega, said: "These camel jockeys are getting deported anyway." Other guards laughed when these racist references were made.
- 25. Kamran asked the guards about the racist comments and where they got their training. One of the guards responded that he was trained in Iraq, so we should all be accustomed to this treatment.
- 26. Two female guards joined in harassing us, saying there was no point in fighting our case, because we were all getting deported anyway. They said that the ACLU does not care about us, and all the ACLU wants is money. I believe these guards' last names were Sanchez and Cameril, but I am not certain of that. The guard, whose last name I believe was Bersheer said something to the effect of: "You had your chance here in the U.S.; quit wasting taxpayer money you have no hope."
- 27. By the time we boarded the plane, we had had nothing to drink for more than four hours and nothing to eat for almost 12 hours. Even once on the plane, we were denied food and drink for an extended period of time. I was extremely hungry and thirsty. The guards ate and drank around us. One guard told us not to worry because we'll eventually get our "nasty cheese sandwich."
- 28. During the flight, we were eventually given one small bottle of water, four pieces of bread and one slice of cheese. When presenting the food, Bersheer said: "That's the nasty-ass cheese sandwich I've been telling you about."
- 29. I was extremely uncomfortable on the flight because the guards denied me and the other Iraqis bathroom breaks on the plane for a long period of time, while giving detainees from other countries the opportunity to use the bathroom. I complained repeatedly. Eventually, a

supervisor whose last name I believe was Cole, came back and instructed that we Iraqis were to be given a bathroom break.

- 30. That afternoon, after making several stops, we arrived in the Denver airport. We were then transferred to the Aurora Detention Facility. Shortly after we arrived, an ICE supervisor, who was a large African American man, gathered the Iraqi detainees together and told us something to the effect of: "You're here because the ACLU filed a lawsuit. You have a 90 day stay; you're going to reopen your case. The bulk of you will lose your case and still get deported. You will be here until you get deported. So what are you doing?"
- 31. Given the racist and hostile treatment by guards, their insistence that we are going to lose our immigration case no matter what and be deported, and the fact that we are indefinitely locked up in what feels like jail, several of us Iraqi detainees chose not to request the assistance of an immigration lawyer. For a while, I was one of those people. I was intimidated and afraid. Based on comments from the ICE guards, I thought hiring an attorney and fighting my case would cause me to be in detention much longer. I know of other Iraqi detainees who feel the same way.
- 32. I believe ICE guards are trying to intimidate us Iraqi detainees out of fighting our immigration cases.
 - 33. I have decided to fight my deportation, even it means remaining incarcerated.
- 34. Fighting my case while incarcerated is already having devastating effects on my family. My family is losing everything my business, our home, and most of our possessions that were in our home. My business is now worthless. Without my income, my bills have gone unpaid. The water in the house has been shut off. We expect to face collections proceedings soon. My wife is in the process of selling our home. We plan to use the money from the sale to hire an immigration attorney and pay the bills that remain. Still, I feel I have no other option than to fight against deportation it's the fight for my life.

France Anwar Elias

4 of 4

8-24-2017 Date

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910

Hon. Mark A. Goldsmith Mag. David R. Grand

Class Action

DECLARATION OF KAMRAN MALLAK

DECLARATION OF KAMRAN MALLAK

- I, Kamran Mallak, make this statement under the penalties of perjury of the laws of the United States and if called to testify I could and would do so competently based upon my personal knowledge as follows:
- 1. My name is Kamran Mallak. I am an Iraqi national currently detained in the GEO Group Aurora Detention Facility in Aurora, Colorado. I was born on April 15, 1979 outside the United States, but I do not know where I was born.
- 2. My family is Kurdish, and I don't remember ever living in Iraq. I know that my father, two brothers, and I arrived as refugees in New York City in 1982 when I was three years old.
- 3. I have called Montana home since 1984. I have worked various jobs including in fast food, construction, and most recently property rental management.
- 4. After I got out of Montana state prison, where I was incarcerated on a drug charge from 2010 to 2015, I had monthly check-ins with my immigration officer.
- 5. On or about May 30, 2017, my local ICE office in Billings, Montana asked me to come in to update my photo. As soon I arrived, I was taken into custody.
- 6. I spent May 30, 2017 to approximately June 13, 2017 detained in Great Falls, Montana at the Cascade County Regional Prison. After that, I was sent for one night to the Cassia County jail in Burley, Idaho, where I, along with three other Iraqi detainees, slept on the floor with no mattresses.
- 7. From Idaho, the four of us were sent to the jail in Cache County, Utah. We were there approximately June 14-16, 2017.
- 8. Then we were sent to the Florence Correctional Center in Florence, Arizona. When I was there, an attorney who was trying to help with my immigration case gave me a copy of my deportation order, issued on January 22, 2003 in Deer Lodge, Montana.
- 9. We suffered mistreatment in Florence. They would cut the phones off on us. They would come out with riot gear and threaten us with rubber bullets and pepper spray. They held our mail. Every officer's favorite phrase was, "The Iraqis are crazy." They told us all the time that we were going to be deported. Every time I asked for an update on our situation, they said, "Don't worry, you will be deported as soon as possible."
- 10. One day, two members of the Iraqi consulate came in to interview us. They asked me if I wanted to stay or go, and when I said I wanted to stay, they waved me off. The guys who said they wanted to go back to Iraq were interviewed for several minutes. While I was waiting in line to talk to the Iraqi consulate, the ICE officers were making comments, saying, "This is all because of the ACLU, and all they want is money out of this."

- 11. The next day, a female African-American ICE supervisor made an announcement to the group that we had a choice to either agree to fast deportation or stay locked up for a long time. She had the people who wanted to agree to get deported line up, and the rest of us moved off to the side. Some Iraqi detainees did sign forms to get deported. There were no lawyers there to counsel us, either on this day or the day before with the Iraqi consulate.
- 12. On July 27, 2017, right after the lunch we got at around 11:00 a.m., a guard came in and told a few of us to "roll up" because we were leaving Florence. In the Sallyport, the guards gave us back our cash and put us in handcuffs, belly chains, and shackles. We stayed in the Sallyport until about 5:00 p.m., with no food or water.
- 13. Then we were taken by bus to the ICE processing center. A guard then brought in our files, and we were told we were going home. Everyone was crying and hugging. The guards saw us celebrating but didn't say anything to make us think we were wrong about going home.
- 14. At about 8:00 or 9:00 p.m., we finally got a sack meal for dinner. There were water fountains, but hadn't had any food since lunch. Some of the guys who were with us didn't eat because they were so excited thinking they were about to get released.
- 15. A couple hours later, the same guard came in with a couple more files and some other guards, and they told us to get dressed into street clothes. That guard said we were not getting released to the street, only from Florence. It felt like a knife through the heart. It was the sickest feeling. My family at home was waiting to celebrate, because I had called to tell them I was coming home. I had never felt like that before.
- 16. Around midnight, I asked the guards if we could go into the room next to us, where there were about 100 beds, so we could lie down and rest. They finally moved us in there around 2:00 a.m., but they didn't give us blankets even though we were very cold.
- 17. At about 4 a.m., the guards woke us up and told us to get in line. They separated us into groups by our home states. So at this point, we thought we were being transferred back to our home states.
- 18. Then, they put about 17 of us on a bus to the Phoenix airport. The bus ride was a couple hours, and we waited another couple hours once we got to the airport to get to the plane. We got no food or water on the bus, and we were hungry and thirsty. The guard and bus driver ate in front of us. They told us we would get food and water on the plane. We were still cuffed and shackled this whole time.
- 19. At around 8 a.m., we got on the plane. From what I could tell, there was one ICE officer and about 10 other guards, who I think were U.S. Marshals.
- 20. One guard told us we were going to our home states and would get food and water once we were up in the air. Another guard said it would be a "nasty cheese sandwich." Then, another guard came in and finally told us we were all going to Colorado, but would be making some stops on the way. The guards ate their food and drank their water in front of us.

- 21. An older gentleman named Emil Alsaaka was seated next to me. He has arthritis, and I kept asking to get him a blanket so he could be more comfortable. I was ignored, so I offered to give Emil my jacket. An officer finally told me, "You can give him your jacket if you can get it off." Of course, I couldn't take my jacket off, because I was still handcuffed and shackled. I also asked them to give Emil his arthritis medication, but he didn't get that either.
- 22. Our first stop was in Utah, where some Hispanic detainees got on the plane. After we took off, at around 11:30 or noon, we finally got a box with four pieces of bread and a slice of cheese. I asked a guard, "What's this?" He said, "That's the nasty-ass cheese sandwich I've been telling you about." We also got a small water bottle. Some of the detainees were so frustrated they threw their food on the floor.
- 23. We thought we were supposed to get a bathroom break every hour, but it took hours of complaining before some of us got to go to the bathroom.
- 24. During the flight, the guards would intentionally bump into us while they were walking up and down the aisles. After I tried to help Emil, one guard elbowed me in the head really hard after he was walking by. I think his name was Flores. I complained to T. Cole, the guard who looked like he was in charge. After this, Flores sat down and said to the female guard next to him, "tough guy camel jockey." She laughed.
- 25. I heard the guards on the plane call us "camel jockeys" a couple other times, and there were other racist comments. I complained about the racist comments and asked, "What kind of training do you guys get?" One guard responded, "I got my training in Iraq."
- 26. One guard named Vega said, "Leave the camel jockeys, they're getting deported anyway." He also said, "Quit wasting taxpayer money. Had it not been for the ACLU, you guys would have been deported a long time ago." Another guard told us, "There's no point in fighting your case, you're getting deported." Another guard then said, "The case is pointless; all the ACLU wants is money. They don't care about you." Every time a guard made a comment like that, the other guards would join in and make similar comments.
- 27. We finally landed in Denver and took a bus to the booking area at the detention center in Aurora. We got there around 1:30 or 2 p.m.
- 28. A couple hours later, an ICE supervisor named Minter told us, "Hey, all my Iraqis, I heard about how you treated my officers on the plane." I couldn't believe what I was hearing and let him know that we were the ones being mistreated.
- 29. Minter said something like, "You're only here because of the ACLU lawsuit. You have a 90-day stay. You're going to reopen your case, but the bulk of you are going to lose and get deported anyway. The rest of you are still getting deported. So what are you doing?"
- 30. We asked to be housed together, and they kept us waiting for hours. Lieutenant Budaseck came in and threatened us. He said instead of using his manpower on where we were

being housed, he would use it to "gas this place up." He threatened to press charges for insubordination and inciting. I told him he would have to write all of us up, so he left.

- 31. They finally put us together in administrative segregation, and we ended up being there for the weekend. On Monday morning, they split us up. We are currently not all housed together, though we keep asking. Other detainees are housed together with people from the same countries. One officer told us, "We were told to keep you guys separate."
- 32. They treat us like garbage. There is a lot of hatred toward us. No other group here gets treated the way we do. ICE agents will come up and talk to everyone but us. They keep bringing up what happened on the plane like it was our fault.
- 33. It took several days and several complaints for us to get kosher meals for those of us who want to keep a halal diet. A lieutenant came on the block and asked if we were satisfied, "because we're not spending more money on you guys." The kosher meals are still not right, and a lot of guys get just milk to drink instead of a meal. I've lost weight. We haven't been able to get kufis that fit, and no prayer rugs have been provided.
- 34. About two weeks ago, I asked Officer Ramirez if I could be moved into a different cell where there was an opening. She said, "I don't do favors for terrorists." A few days ago, another officer threatened a group of us with disciplinary action for not submitting to a physical after being woken up early in the morning. Then he kicked my cellmate out of the room, slammed the door, and challenged me to a fight.
- 35. Every day the guards come in here and tell us we'll be deported. A few days ago, an older detainee was asking to talk to a guard, who said, "Just shut up and go sit down. You're just waiting for your flight to Iraq."
- 36. We feel singled out. We don't feel safe. They have us confined here away from our families. I still haven't been able to get an immigration attorney. Even if I was detained in Montana, I could be closer to family, and it might be easier to get an immigration attorney.
- 37. I have no known family who live in Iraq but have dozens of family members in the United States, including an uncle and nine siblings in Billings. I love it there. My uncle is retired from a 30-year career with the U.S. Bureau of Land Management. My brother is a high-ranking officer in the United States Marine Corps. He has served in the Marines for almost 20 years and has been deployed to Afghanistan and Iraq. I have only ever spoken English.
- 38. My fiancée is currently pregnant with my child. Her father lives with us and is unable to work due to health conditions including a recently amputated leg. She is about to lose our home unless I can return to help support her, my future father-in-law, and my future child.
- 39. I am fearful of being sent to Iraq. There are several wars going on there right now, and I have been informed that I am a minority in that country. Not only am I a Kurdish minority, but I would also be targeted because I am Americanized. I also fear that I will be targeted if anyone learns of my relatives working for the United States government, including my brother in the Marines.

2:17-cv-11910-MAG-DRG Doc # 94-5 Filed 08/30/17 Pg 7 of 7 Pg ID 2459

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge.

Executed this 25th day of August, 2017 in Aurora, Colorado.

Kamran Mallak

EXHIBIT E

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910

Hon. Mark A. Goldsmith Mag. David R. Grand

Class Action

DECLARATION OF GAVAN ALKADI

DECLARATION OF GAVAN ALKADI

- I, Gavan Alkadi, make this statement under the penalties of perjury of the laws of the United States and if called to testify I could and would do so competently based upon my personal knowledge as follows:
- 1. My name is Gavan Alkadi. I was born on Although I was born on January 17, the guards have noted on my wristband that I was born on July 11 because the guards believe that people like me do not know our own birthdates.
- 2. When I was a small child, my family and I were forcibly removed from our home and made to walk on foot to Iran because the Saddam Hussein regime was persecuting us because we were Kurds. My grandfather was a general for the previous regime and an ambassador for the Kurds. He was fighting against Saddam. My father was killed when I was six years old, and my mother died when I was nine. My younger brother was killed as well. The Iraqi military held AK-47's to my head and beat me severely. The military planned to kill me until they realized I was a child.
- 3. My grandmother, my three sisters, my aunt, and I fled Iraq by foot, while bombs were going off around us. We walked through minefields. My aunt gave birth to a baby along the way.
- 4. In Iran, I was beat up on the street, and then from age 13 to 16, I was jailed and tortured. They were looking for my grandfather. They pulled out my toenails. They put my feet in compression chambers. They laid me on my back, stood on my chest, propped my feet up, and hitting the soles of my bare feet with thick sticks. They hung me upside down by ankles, tied up, and spun me around quickly on a fan. They beat my face until it was swollen.
- 5. I came to the United States as a refugee on July 8, 1976. After I arrived, my grandfather was killed in Iran. I was initially in New York on my own, and then I was placed in foster care, and suffered abuse. I've lived in North Dakota, Tennessee, Virginia, Michigan, and Iowa.
- 6. I started out as a dishwasher in North Dakota. I worked late nights at a restaurant in Tennessee, and ended up dropping out of high school in 12th grade. I attended Kirkwood Community College in Cedar Rapids, Iowa while sleeping in my car. I graduated in the top three of my class to become a truck driver, which I did for many years.
- 7. I moved to Boulder, Colorado in 1980. On card.
- 8. On April 23, 2002, I was convicted of misdemeanor third degree assault, and on May 2, 2002, I was convicted of violating a restraining order. I was placed in removal proceedings, and on October 5, 2005, the BIA ordered me removed to Iraq. But my removal was stayed because the Iraqi government was not cooperating.

- 9. In 2005, I started attending Christian churches and reading the Bible. In 2015, I made a formal conversion to Christianity.
- 10. After I got out of prison in April 2015, I started working in construction and asphalt, and then I opened up a trucking company in 2016. I was ready to receive funding for the trucking equipment before I was detained. I met my current wife after I got out of prison, and she and I have a real estate company. I moved to Littleton, Colorado with her. Together we have 11 children and 37 grandchildren.
- 11. June 23, 2017 was my last day of parole. I was planning to move to Indiana with my wife after getting my release to start a new life, and I received a travel permit and documents clearing me for my future move. When I went in to the parole office that day, the parole officer had me sit there for an hour. Then he came out with papers in his hand and told me to follow him. He took me back to the break room. There were two ICE officers who said, "You're coming with us. You're getting deported. We got word from our higher-ups to pick you up. There's nothing you can do about it." My parole officer said, "You finished your parole by the way," and he handed me my release papers.
- 12. I was taken first to the ICE holding facility in Centennial, Colorado. They had me sign some papers and sent me to the GEO Detention Facility in Aurora, Colorado, where I have been held ever since.
- During the first week of my detention, ICE officer Joseph Walker came up to me and told me to sign a form. I asked what it was, and he said, "Sign it." It said "Warning for Failure to Depart," and also "Notice of Revocation of Release." The "Notice of Revocation of Release" was dated for June 23, 2017, the same day I was picked up by ICE at my parole office. ICE officers did not give me any papers when they picked me up at the parole office. I thought I was signing my deportation papers. I didn't feel I had any choice. I hadn't been given the opportunity to talk to a lawyer.
- 14. Officer Walker then told me something to the effect of, "I'm going to do everything in my power to have you deported, and even if they let you stay here 90 days, I'm going to keep you here even longer. You're not going anywhere. You're a dangerous man, and we're keeping you here. I haven't even looked at your file yet."
- 15. A couple days later, Officer Walker came in to see me again. I asked him, "Out of curiosity, what would have happened if I hadn't signed that paper?" He said, "I'll send you to prison for 4-10 years."
 - 16. A week or two after that, my wife got me an immigration lawyer.
- 17. Last week, another ICE officer, a heavier set black man named Officer Mintor (spelling unknown) came in to the pod at his regular time. He was talking to one of the Iraqis, and I walked up to him and asked what was going on with our case. He said, "I know you're not going anywhere. You're staying here until you get on that plane. I'm going to make sure. I'm going to be on that plane with you." He even mentioned a deportation officer by name who would be on the plane too.

- 19. But here, the guards and the ICE officers play head games with us. We are constantly upset, mad, and worried. Every time I talk to my wife, she ends up crying. It's a different way of torture. If I go back to Iraq, I'll be tortured and killed. I have tattoos on my whole body. In Iraq, tattoos are considered religiously disgraceful and I would be killed. Also, because of my ability to clearly speak English, I would likely be considered a spy in Iraq, regardless if my reason for returning to Iraq is because I have been deported from the United States. But if I stay here, the guards will continue this form of emotional and mental torture. I have said many times to my wife that I'm sick and tired of this and I might as well sign a form and go back to Iraq.
- 20. Some of the officers here treat us like we are idiots and don't know anything because we're foreigners. Some guards call me "al Qaeda." Some guards call us "ragheads." They tell us, "You Iraqis are the worst people in here. We can't stand you Iraqis." When I try to say that I have rights, they tell me I don't have rights because I am an alien.
- 21. I also have been receiving inadequate medical care while I have been detained here. I had three heart attacks and two heart surgeries before I was detained. Since being detained, my ankle has become badly swollen. I repeatedly filed grievances and asked to see a doctor, but was never taken to one. Nurses have been giving me inadequate treatment. I'm also supposed to get a special diet, but I actually get a different color tray with the same food. At one point, a male nurse refused to give me my heart medication for no reason, and he tried to physically intimidate me.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge.

Executed this 30th day of August, 2017 in Aurora, Colorado.

Layan Alkagh. Gavan Alkadi

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,	:	
	:	Case No. 2:17-cv-11910
v.	:	
	:	Hon. Mark A. Goldsmith
REBECCA ADDUCCI, et al.	:	
	:	Mag. David R. Grand
	:	
	:	Class Action
	:	Class Action

DECLARATION OF WILLIAM B. PEARD

I, William B. Peard, make this statement under the penalties of perjury of the laws of the United States and if called to testify I could and would do so competently based upon my personal knowledge as follows:

- 1. I currently hold the position of Staff Attorney with the nonprofit law firm ACLU Foundation of Arizona (ACLU of Arizona). Prior to my current position with the ACLU of Arizona, I worked as an immigration attorney with a nonprofit legal services provider in Massachusetts.
- 2. Beginning on Friday, June 30, 2017, I began making visits to the Florence Correctional Center (FCC) located in Florence, Arizona with the goal of meeting with immigration detainees who belong to the class in *Hamama v. Adducci*, 2:17-cv-11910-MAG-DRG (E.D. Mich.).
- 3. Between June 30, 2017 and July 24, 2017, I made seven visits to the FCC with the express purpose of visiting the *Hamama* class members. In total, I estimate that I have had lengthy one-on-one conversations with at least 17 *Hamama* class members who were housed at FCC during the months of June and July. Additionally, I have maintained ongoing phone and email communication with several family members of the detained *Hamama* class members.
- 4. Beginning on July 28, 2017, I began to receive calls from detained *Hamama* class members who indicated to me that they were likely going to be transferred away from FCC and away from Arizona.
- 5. Several *Hamama* class members have told me that ICE employees in Arizona made repeated efforts during the months of June and July to convince *Hamama* class members to voluntarily accept repatriation to Iraq.

- 6. Two *Hamama* class members told me that ICE employees in Arizona spoke to them about the ACLU. Specifically, ICE employees in Arizona told them that the ACLU is trying to create more problems for the *Hamama* class members and is trying to ensure that *Hamama* class members remain detained indefinitely. When I asked the two class members whether these were ICE employees who made these statements or the guards who work for the detention center who made these statements, the *Hamama* class members clarified that they were ICE employees.
- 7. Some *Hamama* class members housed in Arizona misunderstood the respective roles of ICE, the ACLU, and various other *pro bono* legal services groups visiting the *Hamama* class members in detention. For example, one *Hamama* class member had repeatedly refused to meet with the ACLU and other *pro bono* groups when we offered our services to him during the month of July. One or two weeks after attempting to meet with this individual in the detention facility, I received a phone call from the man's brother. The brother was in the process of seeking legal counsel for his detained brother. The following week, the brother went to visit his detained brother at FCC and reported to me that indeed his brother had been very confused about who we were. According to the brother with whom I spoke, the detained man did not understand that the ACLU is a non-governmental organization and that it appeared he equated the ACLU with ICE.
- 8. On July 19, 2017, I received phone calls from three *Hamama* class members who indicated to me that they had been visited in their housing units the previous day by two officials identifying themselves as Iraqi government officials. The *Hamama* class members called me because they were concerned about what this visit portended for their individual immigration cases.
- 9. All three *Hamama* class members with whom I spoke indicated to me that the Iraqi officials were accompanied by an ICE employee and that the group visited individually with each *Hamama* class member inside the FCC housing unit.
- 10. One of the three *Hamama* class members with whom I spoke was being housed in an isolation unit in a different section of the facility. This individual told me that the group of Iraqi officials and ICE employees visited him at approximately 9:00pm that night.
- 11. Two of the *Hamama* class members told me that the individuals identifying themselves as Iraqi officials had turned around their name badges, so as to prevent them from ascertaining their names or titles. One *Hamama* class member told me that he had affirmatively requested the Iraqi officials to reveal their name badges or to verbally state their names. The Iraqi officials refused to do so.
- 12. The accounts of the three *Hamama* class members are consistent with my own personal observations. The day before I received phone calls from the *Hamama* class members, I observed two names written into the visitor log as I was leaving the facility. The two entries in the visitor log indicated that they were representatives from the Iraqi consulate.
- 13. The three *Hamama* class members told me that they believed the Iraqi officials were there to secure voluntary agreements for their repatriation to Iraq. One *Hamama* class

member told me that the Iraqi official, upon realizing that his interlocutor did not wish to agree to repatriation, stated: "Why not? Iraq is a beautiful country." The detainee believed this to be an attempt to persuade him to agree to repatriation.

- 14. The three *Hamama* class members with whom I spoke indicated to me that neither the Iraqi officials nor the ICE employees made any effort to ascertain whether the detainees were represented by immigration counsel.
- 15. There is no Iraqi consular office located anywhere in Arizona. The nearest Iraqi consular office is located in Los Angeles, approximately 430 miles from the FCC. This suggests that these two consular officials flew to Arizona for the express purpose of encouraging voluntary repatriation of those detained at FCC.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge.

Executed this 30th day of August, 2017 in Tucson, Arizona.

William Peard

Billy (Pearl

Staff Attorney, ACLU of Arizona

EXHIBIT G

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910

Hon. Mark A. Goldsmith Mag. David R. Grand

Class Action

DECLARATION OF R. ANDREW FREE

DECLARATION OF R. ANDREW FREE

I, R. Andrew Free, hereby declare:

I make this declaration based on my own personal knowledge, and if called to testify, I could and would do so completely as follows

- 1. I am an attorney licensed to practice in Tennessee. My private practice is based in Nashville, Tennessee. Our firm focuses our practice on immigration law, civil rights, workplace justice and government accountability litigation.
- 2. I am a 2010 graduate of Vanderbilt University Law School, where I founded The List Project at Vanderbilt, a student-led group focused on assisting with the legal and resettlement needs of Iraqi allies in association with The List Project to Resettle Iraqi Allies. I was selected by the faculty to receive the Bennett Douglas Bell Memorial Prize in large part due to this work. As a student and in my subsequent law practice, I have represented former Iraqi government officials seeking refuge in the United States, religious refugees from Iraq, organizations seeking to protect and resettle Iraqi nationals, Iraqi refugees, and Special Immigrant Visa ("SIV") applicants. In my volunteer work, I have assisted in the resettlement, orientation, and job training of dozens of Iraqi families to the Middle Tennessee area.
- 3. I am a member in good standing of the American Immigration Lawyers Association, where I previously served on the Federal Litigation Steering

Committee, and the National Immigration Project of the National Lawyers Guild, for which I have served as a continuing legal education presenter. I have served as Chair of the ABA Committee on the Rights of Immigrants within the Individual Rights and Responsibilities Section, as Chair of the Legal Advisory Board of Dignidad Obrera/Worker's Dignity, as a Board Member of Tennessee Justice for Our Neighbors.

- 4. Nashville, Tennessee is said to be home to the largest population of Kurds outside of Kurdistan. The vast majority of Nashville's Kurds count Iraq as their country of nationality. There have been at least three waves of Kurdish resettlement to the Nashville area, dating back to the early 1990s. Through my law practice and civic engagement, I have had extensive involvement in Nashville's Kurdish community. Over the past several years, I have regularly advised Kurdish community leaders and organizers on matters relating to immigration, civil rights, and public policy.
- 5. In the early morning hours of June 7, 2017, I learned from a Kurdish community leader that several Kurdish men had been arrested and detained by federal immigration authorities. In the days that followed, we discovered through community engagement, direct interviews, meetings with the American Muslim Advisory Council, the Islamic Center of Tennessee, and the Salahadeen Center, and confidential client consultations, that U.S. Immigration and Customs

Enforcement ("ICE") agents targeted roughly thirty (30) Iraqi men living in the Nashville area. ICE agents arrested at least twelve (12) of these men between June 5 and June 16, 2017. I am aware of the names and/or alien registration numbers of each of these men. As of today, I represent six (6) of these men on a pro- or low-bono basis. I am also in regular contact with attorneys and organizations in Nashville who represent or have been consulted by several of the other detainees.

- 6. Based on the facts available to me, including public statements from ICE, it appears that each person targeted or arrested by the agency has a final order of removal to Iraq. Because Iraq was not issuing travel documents that would facilitate repatriation until March of this year, none of those targeted or arrested had been removed from the United States. Instead, each person was checking in regularly (either yearly or semi-yearly), at the local ICE office. As far as I am aware, none of the twelve men ICE agents arrested was wanted for any crime or had any serious criminal matter open or pending. The majority of the twelve individuals arrested—and indeed, the majority of the thirty individuals targeted—have removal orders that are nearly a decade old.
- 7. In the days following ICE's aggressive enforcement activities targeting Iraqis and U.S. citizens of Iraqi heritage in Nashville, fear and panic gripped the Kurdish community. *See* Exhibit A, June 13, 2017 Letter from Nashville Mayor Megan Barry to Joshua Jack, Community Relations Officer U.S.

Immigration and Customs Enforcement New Orleans Field Office. At the same time, a broad coalition of attorney and non-attorney support formed to provide resources and protection for targeted individuals and their families. A host of non-profit and private actors have worked closely with representatives of the Kurdish community to facilitate legal representation, know-your-rights presentations, advocacy, and support. There are currently networks that include dozens of lawyers and law students in Nashville and elsewhere standing ready to assist affected individuals and families with their legal needs.

8. After their arrest and several hours of processing at the ICE Enforcement and Removal Operations ("ERO") office at 501 Brick Church Park Drive in Nashville, ICE transferred each person to a Davidson County (TN) jail facility in Nashville. From there, after roughly 72-96 hours, ICE transferred each person to the Dekalb County Jail in Fort Payne, Alabama, where they remained for several days. ICE then transferred each arrestee to the LaSalle Detention Facility in Jena, Louisiana, which is a seventeen (17)-hour round-trip drive from Nashville. Several days ago ICE then transferred at least four detainees from the LaSalle Detention Facility to The GEO Group, Inc.'s Alexandria, Louisiana airport facility. On or about June 22, 2017, ICE transferred at least of four of the men who were arrested in Nashville—including three of my clients—were flown from Alexandria to Dallas, Texas and then to the Florence Service Processing Center in Florence,

Arizona. Florence, Arizona is 1600 miles from Nashville, and a twenty-four (24) hour one-way drive.

- 9. ICE's unannounced, sudden, and somewhat unpredictable movements of arrestees—including those who have legal representation—have made harnessing the pro- and low-bono legal resources we have assembled exceedingly difficult. Effectively communicating with a client we cannot locate is nearly impossible. For many individuals who need to file motions to reopen their removal proceedings based on changed country conditions and motions for stay of removal pending resolution of the motion to reopen, the limitations on communication with counsel posed by these transfers has made it impossible to prepare their filings.
- 10. Compounding the difficulty of locating, communicating with, and ensuring competent representation for Nashville's Iraqi arrestees is the pattern we have documented of ICE agents engaging in coercive practices to speed up the deportation process. At least three of my clients have reported ICE officers engaging in coercive tactics against Iraqi detainees. One such tactic involves threats of criminal prosecution for failing cooperate in removal whenever detainees assert their right to counsel and announce their intention to seek relief under the Convention Against Torture (CAT). When I pointed out to a Deportation Officer who engaged in these actions that my client is represented by counsel and pursuing immigration relief, the officer repeated the threat of prosecution to me.

Accordingly, on June 19, 2017, the National Immigrant Justice Center and I sent a cease-and-desist letter to the New Orleans Field Office Director demanding that he put an end to these practices. *See* Exhibit B – June 19, 2017 Cease and Desist Letter to Scott Sutterfield, ICE New Orleans Field Office Director (attached).

- 11. Another coercive ICE tactic deportation officials are reportedly using is to falsely inform detainees that they have no legal recourse, and that no lawyers can help them. Finally, I was informed by a client on June 22, 2017 that immigration officials in Arizona forcibly applied detainees' fingerprints to travel documents when those detainees refused to do so of their own volition.
- 12. Upon learning of the arrests and detentions of Iraqis in Nashville, my office immediately began preparing a form habeas corpus petition to be filed in the U.S. District Court for the Middle District of Tennessee. Unfortunately, because of limitations on communication, visitation, and information regarding who was arrested and when, we were unable to finalize and file any of those petitions prior to individuals' transfer from Nashville to Ft. Payne, Alabama. Our office has also contemplated habeas litigation in the Western District of Louisiana once detainees arrive in the LaSalle Detention Facility. However, several of the detainees for whom we contemplated such litigation were transferred to a detention facility in Alexandria, Louisiana, and, most recently, to Florence, Arizona. These serial transfers farther away from family, community, and legal resources, which have

occurred without warning, have impeded due process and made habeas filings extremely difficult to prepare and submit. *See, e.g.*, Exhibit B – June 22, 2017 Letter from Representative Jim Cooper (D-TN) to His Excellency Fareed Yaseen, Ambassador of Iraq.

- All of the targeted Iraqis I have consulted or agreed to represent have 13. colorable claims to immigration relief. Based on my legal experience and interactions with Nashville's Kurdish population, it is my belief and understanding that international organizations and U.S. immigration courts continue to recognize Iraqi Kurds as refugees and resettle them to the United States. For example, last week I consulted with a member of a Kurdish family who were resettled to the Nashville area from Iraq in November 2015. It is my understanding that Iraqi Kurds are particularly at risk for persecution and torture because of the Iraqi government's ongoing tension with semi-autonomous Kurdish regional authorities and because of ISIL's extensive penetration into and destruction of Kurdish areas of Iraq. Similarly, a number of the individuals I have consulted with either worked for American troops or contractors in Iraq, or have family who did so. These individuals are at significant risk of persecution, torture, and death in Iraq.
- 14. I represent Abdulkuder Hashem Al-Shimmary. Mr. Al-Shimmary is an Iraqi Kurd who first entered the United States as a refugee on or around September 22, 1994. He was convicted of one count of statutory rape of a 17-year

old in violation of Tennessee Code Annotated § 39-13-506 on September 26, 1996. He was ordered removed by an Immigration Judge on January 7, 1999. The Board of Immigration Appeals dismissed his appeal of the Immigration Judge's decision on March 12, 2002, and denying his motion to reopen the proceeding to seek CAT relief as untimely on July 30, 2002. Mr. Al-Shimmary has been on an Order of Supervision for over 15 years. In that time, he has gotten married and had three (3) U.S.-citizen children—two sons, ages 8 and 11, and a daughter, age 10. Mr. Al-Shimmary successfully petitioned for removal from the Tennessee sex offender registry in 2016. ICE arrested Mr. Al-Shimmary on or around June 12, 2017. Because of the U.S. Supreme Court's decision in Equivel-Quintana v. Sessions, Mr. Al-Shimmary is no longer removable from the United States. Accordingly, I filed a Motion to Reconsider with the Board of Immigration Appeals on Mr. Al-Shimmary's behalf on June 15, 2017, along with an emergency motion to stay his removal. The Board has not yet decided our Stay request. Unlike many of the other men arrested, Mr. Al-Shimmary's family had a pre-existing relationship with community-based organizations that allowed her to locate and secure legal representation quickly.

15. I represent Qassim Hashem Al Saedy. Mr. Al Saedy first entered the United States as a refugee in or around September 1996. He is the father a 16 year-old U.S. Citizen son. He was charged with assault and battery on two occasions –

ATTESTATION

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge and understanding

Sworn this 23 day of June, 2017 by

R. Andrew Free

EXHIBIT H



Milica Filipovic (P80189) DELGADO LAW PLLC 3200 Greenfield Rd. Ste 355 Dearborn, MI 48120

Phone: (313) 551-3229 Fax: (313) 406-9884

milica@delgadolawyers.com

DETAINED

UNITED STATES DEPARTMENT OF HOMELAND SECURITY IMMIGRATION AND CUSTOMS ENFORCEMENT DETROIT FIELD OFFICE

In the Matter of:)	
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)	

UNITED STATES DEPARTMENT OF HOMELAND SECURITY IMMIGRATION AND CUSTOMS ENFORCEMENT DETROIT FIELD OFFICE

In the Matter of:)	
S, A)	A #
In Removal Proceedings)	

Honorable David Paruch

Next Hearing: None Calendared.

RESPONDENT'S BRIEF IN SUPPORT OF RELEASE FROM CUSTODY AT 90 DAY CUSTODY REVIEW

NOW COMES Respondent, A specifically, by and through his undersigned counsel, Milica Filipovic, and hereby submits this *Brief in Support of Release From Custody* for Respondent's 90 day custody review hearing. Respondent is able to demonstrate by clear and convincing evidence that he will not pose a danger to the community and will not be a significant flight risk if released from ICE Custody. Respondent submits this brief with supporting documentation in support of a favorable exercise of discretion in the grant of release.

I. PROCEDURAL BACKGROUND

A Secretary first entered the United States on or about December 19, 1980 in lawful status as a refugee. On or about April 20, 1982, Respondent adjusted his status to that of a Lawful

Permanent Resident with a retroactive date of December 19, 1980. On or about December 10, 1987, Respondent was convicted of delivery and manufacture of less than 50 grams of a controlled substance in Eaton County, Michigan. Respondent was ordered removed on or about February 18, 1992. However, at that time Iraq was not issuing travel documents at that time and Respondent, through no fault of his own, never departed the United States.

Respondent filed a *Motion to Reopen* before the Board of Immigration Appeals in approximately June of 2010. Nearly 10 months later the Board granted his motion and his Individual Merits hearing was scheduled for October 29, 2012, approximately 28 months after the submission of the *Motion to Reopen*. On June 11, 2017, Respondent was detained by Immigration and Customs Enforcement (hereinafter "ICE") and taken to St. Clair County Jail where he was given a *Notice of Revocation of Release* and *Notice to Alien of File Custody Review*. Respondent submitted an *Emergency Motion to Reopen Based on Changed Country Conditions and Request to Stay Removal* and currently awaits a response from the Board of Immigration Appeals.

II. FACTS

Mr. S is a 67-year old man and citizen of Iraq, born on 1950. He entered the United States as a refugee on or about December 19, 1980 and has lived in Michigan since then. He is currently married to his Lawful Permanent Resident ("LPR") wife of 38-years, Z , and the father of five adult United State Citizen ("USC") children. Respondent was charged and convicted of a drug related offense which resulted in an Order of Removal being entered against him on February 18, 1992 in the Detroit Immigration Court. Since his removal proceedings, Respondent, through no fault of his own, has remained here in the United States with his family and been a productive and contributing member of society.

III. ARGUMENT

Pursuant to INA § 241(a), ICE is scheduled to review Respondent's Alien File on or about September 9, 2017, and may consider various factors in determining whether to release an alien from ICE custody. In making this determination, ICE may consider (1) criminal convictions and criminal conduct; (2) Other criminal and Immigration history; (3) sentences imposed and time actually served; (4) History of escapes, failures to appear for judicial or other proceedings, and other defaults; (5) Probation History; (7) disciplinary problems while incarcerated; (8) Evidence of rehabilitative effort or recidivism; (8) Equities in the United States; (9) Cooperation in obtaining travel documents and (10) any available mental health/medical records. Respondent is able to demonstrate by clear and convincing evidence that he does not pose a threat to society and that he is not a flight risk and therefore warrants a favorable exercise of discretion in granting him release pursuant to an Order of Supervision.

A. Respondent's Release from Immigration Custody Would Not Pose A Threat To Society.

In determining whether an alien poses a risk to society, ICE may consider the Respondent's criminal history. On January 16, 1987, a Felony complaint was filed in the 56th District Court with the Eaton County Clerk indicating that Respondent "did manufacture, deliver or possess with intent to manufacture or deliver more than 50 grams but less than 225 grams of a mixture containing the controlled substance, to-wit: Cocaine; contrary to MCL 333.7401(2)(a)(iii)..." (See TAB A, p. 17). This felony carried with it a minimum sentence of ten years and a maximum sentence of 20 years or life probation. *Id.* Of notable importance, Respondent showed accountability and remorse for his actions by accepting responsibility for his actions and tendering a guilty plea. *Id.*

Respondent warrants a favorable exercise of discretion for release for Supervision is the fact that Respondent has no history of escapes, defaults, disciplinary actions during incarceration, and the time imposed and served. Of the minimum 10-year sentence enumerated in the Felony Complaint, Respondent was only sentenced to 3 ½ years in jail. (See TAB A, p. 21). However, as noted in Respondent's Order to Show Cause and Notice of Hearing, dated August 6, 1990, Respondent's was released from prison with time served less than two years after sentencing on May 11, 1989. (See TAB A, p. 16). Surely, the danger posed by the Respondent was considered by the Courts when they released him on Parole after serving less than 2 years of the 3 ½ year sentence.

Since his release, over 28-years-ago, Respondent has lived as a member of the community without incident and as a productive and contributing member of society. Respondent's amended sentence of probation for life is a significant consideration because any violation of probation would result in a revocation of his parole and recommitment to the Michigan Department of Corrections. (*See* TAB A, p. 19). As such, Respondent's likelihood of committing a crime or endangering the community is virtually non-existent since this is an additional safeguard imposed on the Respondent by the Courts to motivate good behavior.

Respondent's criminal history does not therefore outweigh the positive equities in determining his case. Respondent's long standing, nearly three-decade compliance with the laws and regulations of the United States, and interactions with the community may be considered clear and convincing evidence that he will likely not become a threat to the community if put on release.

B. Respondent Is Not Likely to Become a Flight Risk.

The equities in Respondent's favor exceedingly demonstrate clear and convincing evidence that he will not become a flight risk for three important reasons: (1) his long standing history of compliance with immigration officials and attempts to secure a travel document; (2) significant and substantial ties to the community; and (3) his advanced age and poor health.

1. Respondent has complied with previous requests from Immigration authorities, appeared at all scheduled Immigration Proceedings and Check-ins; and attempted to secure travel documents from the Iraqi Consulate in Southfield as recently as June 20, 2017.

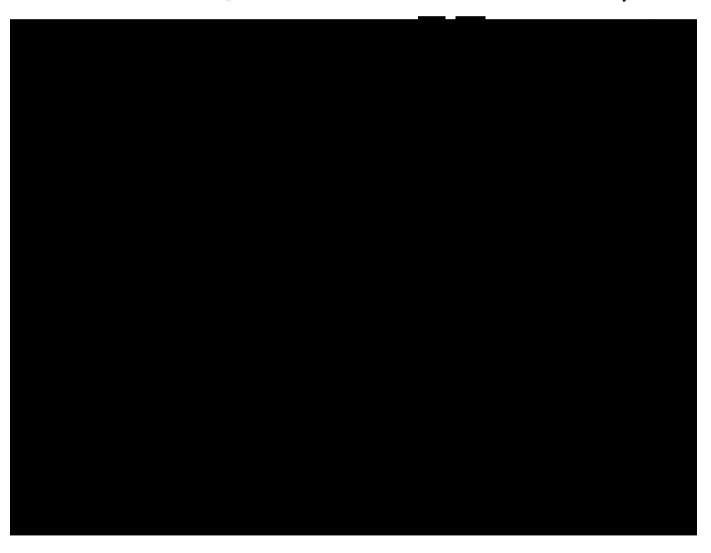
Since his release in the community 28 years ago, Respondent has complied with requests from Immigration officials and has been present for all immigration proceedings with the love, support and encouragement of his family and community. Respondent complied with all Order's of Supervision since his enrollment in 2003. (*See* TAB B, pp. 26-32). Additionally, his USC daughter, R S has submitted \$5,000.00 bond (Receipt Number ensuring his presence at subsequent removal proceedings which remains unreturned to the obligor as collateral to ensure compliance with Immigration officials. (*See* TAB B, pp. 33-37). Respondent has filed and paid his federal taxes every year he was eligible since his release. (*See* TAB E, pp. 106-226.)

When Respondent was detained on June 11, 2017, he was issued a *Notice of Revocation of Release*, indicating that Respondent's release has been revoked as a result of his "failure to provide Iraqi travel document." However, Respondent did comply with ICE provisions on November 14, 2012 by appearing at the Consulate General of Iraq in Southfield, Michigan and completed the Travel Document Application Form and was cooperative during the interview, but was issued a determination that a travel document is not likely to be issued. (*See* TAB B, p. 25). Respondent had no reason to believe that a renewed request would be granted subsequent to that request and checked in when required by ICE seven additional times after the request. It is important to note that the request was completed before the Consul General, Almanhal Alsafi. Subsequent to the Respondent's detention, a request was made to the same Consul General at the Iraqi Consulate on

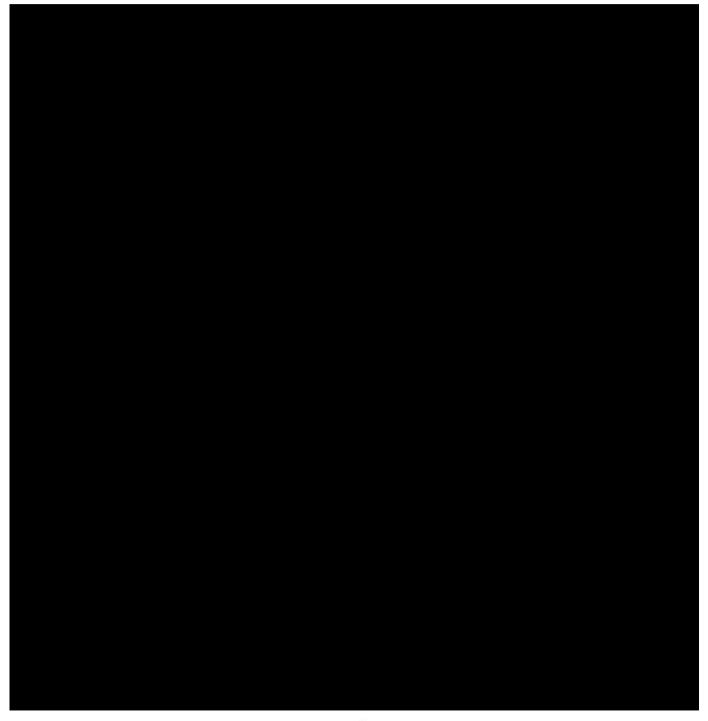
June 20, 2017, and the consulate refused to issue a travel document to the Respondent again. (See TAB B, p. 24).

Additionally, the Respondent's *Motion to Reopen* was filed as a result of Respondent's fear of torture and death upon his return to Iraq. Respondent has every reason to present evidence in his favor and is eager to return to Court and demonstrate his eligibility under the Convention Against Torture. Respondent's lack of identity documentation precludes him from absconding or attempting to flee the United States.

2. Respondent has numerous and substantial ties to the community.



3. Respondent is of advanced age and poor health making it unlikely he will be a flight-risk and a substantial burden on detention officials to provide for his well-being.





IV. CONCLUSION

WHEREFORE, Respondent, A Secretary, hereby requests that he be released from Immigration Custody and placed under an Order of Supervision. Respondent has demonstrated by clear and convincing evidence that he will neither pose a threat to society or become a flight risk to Immigration and Customs Enforcement. The evidence presented not only warrants a favorable exercise of discretion, but humanitarian considerations as a result of the Respondent's numerous health conditions.

Dated: August 15, 2017

Respectfully Submitted,

Milica Filipovic, Esq. (P80189)

Attorney for the Respondent DELGADO LAW PLLC

3200 Greenfield Rd. Ste 355

Dearborn, MI 48120

Phone: (313) 551-3229

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التاريخ: Date: JUNE 20, 2017

دیٹــروپــت DETROIT

To whom it may concern

The Consulate General of the Republic of Iraq in Detroit hereby confirms that Ms. R Sharper Sh

Sincerely,

ALMANHAL ALSAFI CONSUL GENERAL



مبلغ الرسوم (20) \$ التاريخ:2017/6/20

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16445 W. 12 Mile Rd Southfield, MI 48076 www.mofa.gov.iq detcon@mofa.gov.iq Tel.: +12484231250 Fax: +12484231259



Department of Homeland Security Immigration and Customs Enforcement Enforcement and Removal Operations 333 Mt. Elliott Rd Detroit, MI 48207 Tel. (313) 568-6049

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EXHIBIT I

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

v. Case No. 2:17-cv-11910

Hon. Mark A. Goldsmith

REBECCA ADDUCCI, et al.

: Mag. David R. Grand

_____ Class Action

DECLARATION OF WILLIAM B. PEARD

I, William B. Peard, make this statement under the penalties of perjury of the laws of the United States and if called to testify I could and would do so competently based upon my personal knowledge as follows:

- 1. I currently hold the position of Staff Attorney with the nonprofit law firm ACLU Foundation of Arizona (ACLU of Arizona).
- 2. I have been employed by the ACLU of Arizona since May 1, 2017. Prior to my current position, I worked as a staff attorney for a nonprofit legal aid organization in Springfield, Massachusetts, where I provided pro bono immigration representation to indigent immigrants.
- 3. I currently work and reside in Tucson, Arizona.
- 4. Beginning on Friday, June 30, 2017, I began making visits to the Florence Correctional Center (FCC) located in Florence, Arizona with the goal of meeting with immigration detainees who belong to the class in Hamama v. Adducci, 2: 17-cv-11910-MAG-DRG (E.D. Mich.).
- 5. FCC is a large facility with several hundred beds. It houses both immigration detainees who are under the custody of ICE and criminal detainees who are under the custody of the U.S. Marshal Service.
- 6. FCC is located in the town of Florence, Arizona. Florence is located approximately 30 miles from the nearest interstate highway, 63 miles from downtown Phoenix, and 80

- miles from downtown Tucson. Florence is surrounded by miles of desert landscape and cotton fields in all directions, and there are no other sizeable towns in the region.
- 7. In my experience, a one-way trip to FCC from my workplace in Tucson is 1 hour and 20 minutes in good traffic.
- 8. According to an online search that I conducted on July 9, 2017 using the State Bar of Arizona "Find a Lawyer" online search tool, there are 84 Arizona licensed attorneys with Florence addresses. Because the Pinal County seat is located in Florence, a significant number of these 84 lawyers are county employees. Thus, the pool of private attorneys located in or around Florence who may be able and willing to assist with pro bono immigration representation is quite small.
- 9. Based on my knowledge and understanding, it is necessary to look to attorneys based in Phoenix or Tucson in order to recruit volunteers able and willing to assist with indigent immigration detainees housed in Florence. This sometimes proves difficult because of the distance to Florence.
- 10. Based on my several one-on-one conversations with immigration detainees at FCC since June 30, I believe that there are approximately 80 individuals currently housed at FCC who are under the belief that ICE intends to remove them to Iraq. Many of these 80 individuals were born in Iraq and are certainly Iraqi nationals. Others, however, were not born in Iraq, and their nationality is unclear. I will refer to both groups together as the Hamama class members.
- 11. This is based on my understanding from talking with FCC guards and with detainees that there are approximately 40 detainees housed in each "pod" of the prison and that there are two pods currently occupied by Hamama class members. This approximation is also consistent with the numbers of detainees that my colleagues and I have visited facetoface and the numbers of detainees that we believe we've yet to see.
- 12. Since June 30, 2017, I have traveled from Tucson to Florence on six occasions with the express purpose of visiting the Hamama class members. Additionally, my ACLU of Arizona colleague Kathryn Huddleston has traveled from Phoenix to Florence twice and my ACLU of Arizona colleague Brenda Munoz Furnish has traveled from Phoenix to Florence once during the week of July 3, 2017. Additionally, pro bono attorneys from the private law firm Perkins Coie LLP agreed to assist the ACLU of Arizona and have made two visits from Phoenix to Florence during the week of July 3.
- 13. In total, I estimate that since June 30, attorneys from the ACLU of Arizona and Perkins Coie LLP have devoted approximately 48 hours conducting one-on-one interviews of Hamama class members. This estimate is based upon my personal observations, as I worked alongside all of the colleagues mentioned in the above paragraph at all times beginning on June 30.

- 14. The above estimate does not include additional time spent driving, coordinating, and organizing our notes back in the office. Additionally, this does not include time spent by attorneys employed by the Florence Immigrant and Refugee Rights Project, who have also been working during the past two weeks to assess possible immigration claims of Hamama class members.
- 15. In total, attorneys with the ACLU of Arizona and Perkins Coie LLP have interviewed approximately 30 Hamama class members. These one-on-one interviews have been conducted in order to assess each detainee's possible immigration legal options and connecting them with an appropriate attorney if they do not already have one.
- 16. In order to thoroughly assess each detainee's possible forms of individual immigration relief, it is necessary to spend the appropriate time delving into various aspects of the detainee's life history. I have learned since June 30 that when it comes to interviewing this group of individuals who are Iraqi or who believe they are slated for removal to Iraq, one should not make assumptions about basic facts that we as immigration attorneys may be accustomed to making in other cases. For example, I have learned that an attorney should not assume that a detainee's citizenship is Iraq even if that individual was told by an ICE official that the U.S. government intends to remove him to Iraq. I have gotten into the habit of asking detailed questions related to a detainee's citizenship, place of birth, citizenship of the parents, etc. This is because even when a detainee tells me that ICE wants to remove him to Iraq, oftentimes that detainee was not born in Iraq. These additional lines of questioning require additional attorney time time that one may not be accustomed to with other immigration cases.
- 17. Because the ACLU of Arizona has limited resources, our goal is to collect the relevant information from each Hamama class member housed at FCC with a view to working with the nationwide group of advocacy organizations and pro bono lawyers who are trying to connect each unrepresented individual with an attorney. Because in many cases the outside attorney will be working on apro bono basis, the ACLU of Arizona seeks to provide that attorney with as much relevant detail as possible in order to make his or her experience as smooth as possible. In order to do so, the attorneys in Arizona endeavor to spend adequate time during each interview.
- 18. Having personally interviewed approximately 12 Hamama class members, it is my personal experience that these detainees housed at FCC are finding it difficult to locate an individual immigration attorney to work on their case.
- 19. With the exception of one or two individuals, all of the approximately 30 detainees that my colleagues and I have met with are from states other than Arizona. For example, I have yet to speak with a Hamama class member at FCC who has received a personal visitor at the prison from among his family or personal friends. The lack of proximity to family and community makes it more difficult to connect with possible lawyers.
- 20. While a large number of the Florence-based Hamama class members call Michigan home, the group is rather geographically diverse. My colleagues and I have met with

- detainees in Florence who have permanent residences in Virginia, Montana, Georgia, Nevada, Idaho, New Mexico, and Kansas, among other states.
- 21. This geographic variety adds complexity to the task of connecting detainees with attorneys because we must seek out possible counsel in a large number of places. It is preferable to locate an attorney in the home state, as the relevant documents such as criminal records, immigration court records, and letters from family will also be found in the home state. In many cases, a detainee can only seek to re-open his removal case in
 - the Immigration Court where he first received his final order of removal. Most often, in my experience, that Immigration Court is located in the detainee's home state.
- 22. It is also useful and perhaps necessary—for counsel to be able to interview their clients in person, both to conduct a full discussion of the case and to get the client's necessary signature on various releases and filings. Finding a lawyer who can both appear in the relevant Immigration Court and interview someone in Florence, Arizona is an extremely difficult task.
- 23. Detainees' efforts to seek out individual counsel have additionally been frustrated by frequent re-location from one immigration detention center to another during the past six weeks. For example, I have spoken with at least five detainees in Florence who spent periods of time in three different detention centers prior to being re-located to Florence. In many cases, for example, a detainee will have been arrested in Michigan, housed in two locations within Michigan, subsequently transferred to Ohio, then Louisiana, then finally Arizona.
- 24. Based on my conversations with the detainees and with the FCC guards since June 30, it is my understanding that no other attorneys have visited the Hamama class members in Florence aside from the attorneys I describe within this declaration.
- 25. Additionally, the detainees' efforts to locate attorneys by phone has proven somewhat challenging. Based on my conversations with detainees and with FCC guards, it is my understanding that the phone system in at least one of the pods in which Hamama class members are housed was out of service for several days during the last week of June 2017. Based on my conversations with one of the FCC guards, it is my understanding that the prison decided to change phone service providers due to ongoing phone problems with the original provider. It is my understanding that the switchover took place during the week of July 3 and that phones are now functional.
- 26. Even when the prison phones are fully functional, an inmate at FCC can only use the phone if he has money on a prison phone account or where the recipient of the call is able to accept the call collect. This requires that the inmate's friend or family member deposit money onto their prison account.
- 27. Since June 30, I have handed out my personal cell phone number to at least a dozen detainees. I have received phone calls from family members, with whom the detainees

shared my number. In some instances, the family members indicated to me that they were calling me rather than the detainee calling me due to the high cost of making phone calls.

- 28. On one occasion, a detainee called me directly from FCC. The automated phone system instructed me on how to accept the call. I was initially pleased to learn from the automated voice that the system permitted one free "complimentary" call and that future calls would charge. I connected with the detainee and we spoke for 30 seconds before the system cut us off and instructed me to create a pay account to talk further.
- 29. Although ICE has internal regulations permitting ICE detainees to make free phone calls to attorneys, it appears that this regulation is either not being implemented at FCC or the FCC guards are not ensuring that detainees are aware of this right and necessary processes.
- 30. It is my understanding from talking with FCC guards and detainees that there is no internet access at the facility and that detainees are not permitted to have personal smart phones or devices.
- 31. Even our own experiences as attorneys at the FCC facility has proven challenging. For example, the facility does not allow attorneys to enter with smart phones or portable printers. Sometimes, for example, a detainee will have a relevant document to share with us. We are unable to scan or take a smart phone photo of the document. We then have to leave the facility and either take a photo of the document in the parking lot of the facility or drive the document to a nearby office where we can borrow the use of a scanner. I say "borrow" the use of a scanner because the nearest ACLU office is 60 miles from Florence.
- 32. The same is true if we need to prepare a document on a word processor for the detainee to sign. We cannot print within the facility, and so we must print elsewhere and later return to the facility in order for the detainee to sign. All of these small details add time to our interview process.

I declare under penalty of perjury, pursuant to 28 U.S.C. 1746, that the foregoing is true and correct to the best of my knowledge.

Executed this 12th day of July, 2017 in Tucson, Arizona.

William Peard

Willi Pal

Staff Attorney, ACLU of Arizona

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al., :

: Case No. 2:17-cv-11910

٧.

: Hon. Mark A. Goldsmith

REBECCA ADDUCCI, et al.

Mag. David R. Grand

: Class Action

DECLARATION OF ELVIRA HERNANDEZ

I, Elvira Hernandez, make this statement under the penalties of perjury of the laws of the United States and if called to testify I could and would do so competently based upon my personal knowledge as follows:

- 1. I work at the ACLU of Michigan providing paralegal and administrative support.
- 2. On August 14, 2017, I interviewed an Iraqi national who was being held at the Calhoun County Jail and who had come to the United States at the age of two, in approximately 1984. Although this individual was born in Iraq, he considers the United States his home as he has lived here virtually all his life.
- 3. The detainee has a final order of removal to Iraq. The detainee reported that he had a conviction from approximately 2000, just as he had turned 18, for loitering, and from 2012, for fleeing. A review of the Michigan Department of Corrections website for this detainee shows a single 2012 conviction for "Police Officer-fleeing-Third Degree-Vehicle Code."
- 4. The detainee told me that he did not go to immigration court, but that immediately upon his release from prison, immigration officers told him to sign "removal papers", but not to worry because Iraqis would never be deported. The detainee simply needed to report to immigration officers after that.
- 5. The detainee's family has all naturalized and his brother is currently serving in the US Special Forces. Because of the service of the detainee's brother in Special Forces, he is very worried for his own safety if he is deported to Iraq.
- 6. The detainee has no family members in Iraq. The language, culture and customs in Iraq are unknown to the detainee.

- 7. When the detainee appeared to meet with me in the visiting area, it was overwhelmingly obvious from his appearance alone that he was indeed very westernized, or in other words very American. There are tattoos visible in every part of his body, his arms, chest, neck, back, and face, there is no way to ignore or hide this.
- 8. The detainee fears that he will be persecuted, tortured or killed because he is a Muslim who is Westernized/American and because he will be suspected as spy or colluder with the United States.
- 9. The detainee's concerns are aggravated by the fact that his brother is currently serving in the US Special Forces. Moreover, because the detainee has numerous tattoos on his body, he is readily identifiable as a Westerner. Although he can hide some of his tattoos, he cannot hide tattoos on his face.
- 10. I explained to the detainee what is happening in the *Hamama* case and asked him regarding his immigration representation or if we needed to assist in finding him representation.
- 11. Although the detainee believes he may well be killed and will almost certainly be persecuted if he is deported to Iraq, he has contemplated accepting removal because he can no longer stand to be detained. He kept saying ninety days over and over. He explained that he had been detained nearly half that time, referring to the ninety days, and that he just had the other half to go. He believed that after 90 days he would either be released or deported.
- 12. I asked the detainee if he was allowed to go outside and he nearly broke down and cried. He said that they were allowed to go outside but they didn't see anything. The detainee described the outside space as a 5 ft. by 3 ft. space with solid walls and no ceiling, where you could only look up and see the sky. I could see his frustration and anguish.
- 13. The detainee has also struggled with medical ailments during his detention, and reported that he is not receiving adequate medical care.
- 14. The detainee couldn't understand why he could not be released on electronic monitoring, rather than being incarcerated, while the case goes on.
- 15. I again mentioned assistance with finding an immigration attorney. He said that he had instructed his mother and girlfriend (who is currently pregnant and who is the mother of his U.S.-citizen children) not to accept a free attorney because if something gets filed for him and it means that the case goes on longer than 90 days, then he would continue to be detained. He mentally and physically cannot take detention any longer, and believes that accepting legal help could prolong his detention.
- 16. The detainee seemed torn about accepting legal help. He asked me what I thought and what I would do. I answered by saying that I couldn't answer that, and that I am not an immigration attorney. I advised him that he could at least listen to an immigration

- attorney and see what options he might have. As we were finishing up, he said, "I can do that, I just know I can't be locked up like an animal very long."
- 17. The detainee doesn't know anything about life, family, work or culture in Iraq, and appeared to have no idea about what his deportation would mean. He asked how ICE expects him to do things. Will they get him an apartment? Will they get him a job? Will they show him how things happen there? I told him that this is not how it works.
- 18. At the end of our interview, the detainee was still torn about whether to fight his removal. But it was quite clear that the most important thing to him was to get out of detention as soon as possible. Somehow he had it in his mind that 90 days was the magic number, and that he just needed to survive through 90 days of incarceration. Nothing was clearer than that.
- 19. Having talked at length with this detainee, it was clear to me that he did not understand his options within the immigration system. Because I am not an immigration attorney, I could not give him advice about the likelihood of obtaining immigration relief given his relatively minor criminal record, or about the likelihood that he will be released from detention. However, it is clear that such information, if he had it, would be very important to him in making a decision.
- 20. The detainee also did not really understand the consequences of a choice to be removed to Iraq, but seemed to think ICE would help him transition to a country he does not know.
- 21. I am concerned that this individual, if presented with a form asking if he wants to be removed without the opportunity to consult counsel, could potentially make an uninformed choice to accept deportation as a way to get out of detention. Based on this individual's circumstances, such a choice appears like to lead to persecution, torture, or even death.

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

Executed, August 30, 2017, in Grand Rapids, Michigan.

Chura Hernaudes
Elvira Hernandez

EXHIBIT K



NONA INTERPREDICTION & THANS LATION SERVICES

www.nonaagency.com

Republic Of Iraq				
Department of Cit	izenship	&	Civil	Status

No: -----Date: 08/09/2016

To whom it may concern

Applicant (K A), his mother's name (E A), does not have any national number in our general citizenship records, and this name mentioned above was not born in Iraq. Thanks a lot.

Copies to:

- General citizenship department.
- General Passports Department.
- Residence and border Department.
- Department of police affairs.

General Director of citizenship

Major: Ahmed Wahab Saad

Back Page

Republic of Iraq Ministry of Foreign Affairs Consulate Department (Certificates)

No: Date:

-We certify the validity of the seal and the signature

-The Department is not responsible for its contents Minister of foreign affairs Consulate
Department for
Certificates

Iragi Republic

Ministry of Foreign

Abbas Jasim Salman

I, Reem Patrous, attest that I'm a competent translator and the translation of the above document from Arabic to English is exact and accurate to the best of my abilities; however, I am not responsible for the contest of the document.

Reem Patrous X 9ter York

Nabil Nona Israel Notary Public - Michigan Macomb County

My Commission expires on 11/24/2020

Translation Date: 09,97, 2016

Nona Agency

Sterling Heights, Mil 48310

586-795-3300 1999 15 Mile Rd. Sterling Heights, Nil 48310 Phone # (586) 795-3300 Fax # (586) 795-3309

Acting in the County o

2:17-cv-11910-MAG-DRG Dec # 9413 Filed 08/30/17 OF 16 OF 17 OF 18 OF 18

CONSULATE GENERAL OF THE REPUBLIC OF IRAQ

دیتــرویــت DETROIT



No. Date: AUGUST 04, 2017 : التاريخ:

To whom it may concern

The Consulate General of the Republic of Iraq in Detroit hereby confirms that

Mrs. K

has visited the Consulate on AUGUST 04, 2017 to
apply on behalf of her brother Mr. K

A

for an Iraqi passport
according to the U.S power of attorney. Unfortunately the consulate unable to
process her request because this type of application needs specific Iraqi
requirements as it is mentioned below:

- Presence of applicant for biometric screening.
- Iraqi Nationality Card or New Iraqi personal Identification card.
- New Iraqi citizenship certificate.

For any further information please contact us.

Dr. MUSTAFA AHMED MUSTAFA

CONSUL



مبلغ الرسوم (20) \$ التاريخ:7/8/7

Sincerely

EXHIBIT L



August 14, 2017

New Orleans Field Office Director Enforcement and Removal Operations U.S. Immigration and Customs Enforcement U.S. Department of Homeland Security 1250 Poydras Street Suite 325 New Orleans, Louisiana 70113 NewOrleans.Outreach@ice.dhs.gov

New Orleans Office of Chief Counsel 1250 Poydras Street Suite 2100 New Orleans, Louisiana 70113 OPLA-NOL-OAK-eService@ice.dhs.gov Office of General Counsel U.S. Department of Homeland Security 245 Murray Lane, SW Mail Stop 0485 Washington, D.C. 20528-0485 ogc@hq.dhs.gov

Office for Civil Rights and Civil Liberties U.S. Department of Homeland Security Building 410, Mail Stop #0190 Washington, D.C. 20528 crcl@dhs.gov

Re: Litigation Hold Letter / Preservation Demand / Cease and Desist / Civil Rights

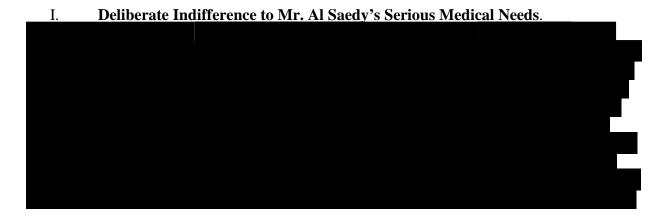
Complaint

Our File No. 2017-00503

A Qassim Hashim AL SAEDY

Director, Counsel, and Officer:

I write on behalf of my above-named client to put the Department on notice of contemplated litigation arising from his mistreatment by ICE and GEO officials in the LaSalle Detention Facility, to demand that you preserve and not destroy records evidencing this mistreatment, that your officers immediately cease and desist their illegal actions, and that you immediately open an investigation into these actions. You have previously received any acknowledged my G-28.



Tel: (844) 321-3221 Fax: (615) 829-8959 Andrew@ImmigrantCivilRights.com Mail: P.O. Box 90568 Nashville, TN 37209 Office: 2004 8th Ave. South Nashville, TN 37204 www.ImmigrantCivilRights.com



II. <u>First Amendment Retaliation and Intentional Interference with Access to Counsel.</u>

On June 19, 2017, the National Immigrant Justice Center and I sent the New Orleans Field Office Director a letter demanding that ICE cease and desist threatening Iraqi nationals pursuing relief from removal with criminal prosecution. Officer Acuña acknowledged receipt of this letter on July 7, 2017, but did not acknowledge or deny the allegations in the letter, and indicated ICE would "continue to move forward with removal efforts."

On or about August 4, 2017, an ICE official met with the only two named class representatives in the *Hamama* litigation – Mr. Al Saedy and Mr. Abdulkuder Al-Shimmary – who are detained in the LaSalle Detention Facility. I serve as immigration counsel for both men. According to each of them, they asked to speak with their counsel before signing papers ICE placed before them that they did not understand.

The official informed Mr. Al Saedy that:

- His lawyers are "liars and thieves" who are just trying to take their money
- There is nothing any lawyer can do to help him
- No court proceeding would be able to stop his deportation
- As soon as a travel document can be secured, each man will be deported
- Because Mr. Al Saledy did not want to sign papers before having an opportunity to speak with counsel, the official would note that he refused to sign them and keep him in jail for another year if he wanted to.

These communications are intentionally misleading and deliberately interfere with my client's right to access counsel and my right to advise my client. I respectfully request that the official who served Mr. Al Saedy's Post-Order Custody Review paperwork be identified and questioned as to the basis for making these statements, and that this behavior immediately cease and desist.

With best regards,

R. Andrew Free

Tel: (844) 321-3221 Fax: (615) 829-8959 Andrew@ImmigrantCivilRights.com Mail: P.O. Box 90568 Nashville, TN 37209 Office: 2004 8th Ave. South Nashville, TN 37204 www.ImmigrantCivilRights.com

EXHIBIT M

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910 Hon. Mark A. Goldsmith Mag. David R. Grand Class Action

PETITIONERS/PLAINTIFFS' FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO RESPONDENTS/DEFENDANTS

Petitioners/Plaintiffs ("Petitioners") requests Respondents/Defendants ("Respondents") to produce the documents and other tangible things specified below in their possession, custody and/or control. The documents and things should be produced at the offices of Miller, Canfield, Paddock and Stone, P.L.C., 101 N. Main St., 7th Floor, Ann Arbor, MI 48104 to the attention of Ms. Kimberly Scott, or electronically to Scott@millercanfield.com.

DEFINITIONS

- A. The term "you" means Respondents/Defendants and their agents and representatives.
- B. The term "custody review" refers to 90-day custody reviews conducted pursuant to 8 C.F.R. 241.4

- C. The term "bond hearing" means a custody hearing before an immigration judge as provided for under 8 C.F.R. 1236, including a "Joseph" hearing as provided for under 8 C.F.R. 1003.19(h)(2)(ii); *Matter of Joseph*, 22 I&N Dec. 799 (BIA 1999).
- D. The terms "document," "documents," or "documentation" refer to any and all tangible items or sources of information within the meaning of Fed. R. Civ. P. 34, whether original or non-identical copies of such items, in both final and draft form, of every kind and nature whatsoever, that are within Respondents' possession, custody, or control, or that are known by Respondent to exist. These terms include, but are not limited to, the following materials: any and all papers, documents, correspondence, letters, electronic mail, manuals, computer disks, data, photographs, videos, drawings, films, computer generated information, web site information, handwritten or typewritten notes, charts, graphs, publications, journals, calendars, diaries, logs, log books, messages, databases, reports, or any other papers or writings or communications or summaries thereof, as well as physical models or physical embodiments.

E. "Identify" as used herein means:

(a) In the case of a person other than a natural person, its name, the address of its principal place of business, its telephone number, and the name of its chief executive officer, as well as, if it has a person other than a natural person that

ultimately controls it, that other person's name, the address of that person's principal place of business, that other person's telephone number, and the name of that other person's chief executive officer;

- (b) In the case of a natural person, his or her name, home and business addresses and telephone numbers, employer and title or position;
 - (c) In the case of documents;
 - (i) the author of the documents;
 - (ii) its title, or a description of the general nature of the subject matter;
 - (iii) the identity of the recipients of original or copies, if any;
 - (iv) the date of preparation;
 - (v) the dates and manner of distribution and publication if any;
 - (vi) the present location and custodian; and
 - (vii) any privileges claimed, describing the specific basis therefor; and
 - (d) "Identify" or "state" as used herein in connection with an act means:
 - (i) Furnish the date and place of the act;
 - (ii) Identify the person acting, the person for whom the act was performed, and the person against whom the act was directed; and

- (iii) Describe the act in detail.
- F. "And" and "or" shall be construed both conjunctively and disjunctively.

INSTRUCTIONS

- A. Each Request for Production of Documents ("Request") extends to all documents and things in your possession, custody or control, including documents in the possession of your attorneys, employer, consultants, accountants and other agents or representatives.
- B. These Requests are continuing in nature and call for prompt, further and supplemental productions of documents and things whenever you receive or discovery any additional documents or things responsive to these Requests.
- C. You are to produce to Petitioners a copy of the original documents, including those stored electronically, as they are kept in the usual course of business, organized by source or custodian, and containing a clear indication of where each document ends and the next begins. Documents maintained in a file folder or binder should be preceded by a copy of the file finder or binder label, if one exists, and should contain a clear indication of where the file folder or binder begins and ends. All attachments to a record should be produced with the record. A unique control number should be affixed to each page or, where electronically stored information (ESI) is produced in its native format, to each document.

- D. Where a request seeks the identification of documents, things, or other information not within your actual or constructive possession, custody, or control, or knowledge, you shall so state and shall answer the request to the extent of its knowledge or belief based on the best information presently available. Where you have knowledge or belief as to other persons having such possession, custody, control, or knowledge, you shall identify, to the extent know and based on the best information presently available, all such persons, together with a brief summary of the nature of the document, things, or other information believed to be known to such persons.
- E. The singular form shall be construed to include the plural, and viceversa, whenever such a dual construction will serve to bring within the scope of a production category any documents or information.
- F. The past tense form shall be construed to include the present tense, and vice-versa, whenever such a dual construction will serve to bring within the scope of a production category any documents or information that would otherwise not be within its scope.
- G. In the event that multiple copies of a document exist, produce every copy on which appear any notations or markings of any sort that do not appear on every other copy and, for those copies not produced, indicate each custodian that possessed a copy of the document.

- H. All grounds for any objection shall be stated with specificity. If any document responsive to any of these Requests is withheld on the ground that it calls for information that is privileged or exempt from discovery for any other reason, prepare and provide a log of the same in Microsoft Excel native format. As to each such withheld document, include the following information on the log(s):
 - (a) Which privilege is claimed;
 - (b) Who is asserting the privilege;
 - (c) A precise statement of facts upon which said claim of privilege is based;
 - (d) Describe each purportedly privileged document by providing:
 - (i) A brief description sufficient to identify its nature, i.e., agreement, letter, memorandum, etc.
 - (ii) A brief description sufficient to identify its subject matter and purpose of the document;
 - (iii) The date the document bears;
 - (iv) The identity of the person preparing the document;
 - (v) The identity of each person to whom it was sent; and
 - (vi) The identity of each person who represented or purported to represent you.
 - I. If any portion of a document responsive to these Requests is withheld

under claim of privilege, any non-privileged portion of such document must be produced with the portion claimed to be privileged redacted.

- J. Each document requested herein is to be produced in its entirety, without deletion or excision (except as qualified by Instructions above), regardless of whether you consider the entire document to be relevant or responsive to the Requests.
- K. Scanned documents should be produced in single-page Tagged Image File Format (TIFF) with accompanying load files as described in Exhibit A Electronic and Hard Copy Specifications for Producing Party. The documents should be logically unitized and contain correct document breaks. Multi-page Optical Character Recognition (OCR) text for each document should also be provided.
- L. All ESI should be produced in their native file format with accompanying load files as described in Exhibit A Electronic and Hard Copy Specifications for Producing Party. Multi-page extracted text for each document should also be provided.
- M. To the extent discovery requires production of discoverable electronic information contained in a database, in lieu of producing the database, reports generated from the database should be produced in the image format as described in Paragraph M above. Additionally, the following should be produced:

- (a) Identification of the specific fields of information being produced;
- (b) Identification of any fields of information that you contend cannot be produced from the database; and
- (c) Information explaining the database scheme, codes, and abbreviations.

DOCUMENT REQUESTS

Documents pertaining to class members' custody status

- 1. All documents related to the custody reviews conducted for each class member, including but not limited to:
 - a. the decision issued as a result of the custody review;
 - b. all notices, worksheets, recommendations, headquarters' reviews, and correspondence pertaining to the review;
 - c. any submissions by class members to be considered as part of their reviews; and
 - d. any notes of interviews of class members that were conducted as part of the custody review process.

RESPONSE:

2. All guidance, memos, correspondence, emails and any other documents pertaining to how the custody reviews should be conducted – both in general, and in particular, with regard to class members.

RESPONSE:

3. Any Orders of Supervision/Notices of Conditional Release issued to class members since entry of their final removal orders, and all documents that were considered or created in the process of determining whether to issue such Orders/Notices.

RESPONSE:

4. All notices of revocation of release issued to class members since entry of their final removal orders, and all documents that were considered or created in the process of determining whether to issue such revocation notices.

RESPONSE:

- 5. All documents pertaining to detention of class members whose motions to reopen have been granted, including but not limited to:
 - a. notices of bond hearings and notices informing class members that they were subject to mandatory detention;
 - b. ICE, Immigration Judge, and BIA decisions granting or denying release to class members on bond or other conditions;
 - c. correspondence related to class members' continuing detention and eligibility for bond.

RESPONSE:

Documents Pertaining to the Prospects of Repatriation to Iraq

6. All correspondence or other documents requesting travel documents for class members from Iraq or other countries and all responses received.

RESPONSE:

7. Any agreement between the United States and Iraq, or documents exchanged between the United States and Iraq, by which the government of Iraq has agreed to accept the return of Iraqi citizens ordered removed from the United States, and any correspondence or documents after January 27, 2017 related to the return of Iraqi citizens ordered removed.

RESPONSE:

8. All documents after January 27, 2017 requesting, providing, or related to assurances by the government of Iraq regarding the safety or treatment of Iraqi citizens who are removed to Iraq from the United States.

RESPONSE:

9. All documents relating to the Iraqi government's ability to issue travel documents or accept Iraqi citizens without travel documents.

RESPONSE:

Respectfully submitted,

Michael J. Steinberg (P43085)
Kary L. Moss (P49759)
Bonsitu A. Kitaba (P78822)
Miriam J. Aukerman (P63165)
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msanchez@aclu-nm.org

Attorneys for Petitioner/Plaintiff Abbas Oda Manshad Al-Sokaina

Attorney for Petitioner/Plaintiff Manshad Al-Sokaina Usama Hamama

Dated: August 30, 2017

^{*} Application for admission forthcoming.

EXHIBIT A

Electronic and Hard Copy Production Specifications for Producing Party

- Mixed production format (images for hard copy and electronic documents, except spreadsheets, presentations, audio and video files, which are to be provided in native file format)
- Black and white images as single-page, Group IV TIFFs, 300 dpi, 1 bit depth
- Color images as JPEG images, 150-300 dpi
- Concordance/Relativity image load file format (.OPT)
- Native files to include corresponding field identifying file path to the native (NATIVE FILE)
- OCR / Extracted Text at the document level and provided as a separate text file with the same naming convention as the TIFF/native, and relative file path identified in the load file (EXTRACTED TEXT)
- Metadata load file (.DAT) with the following delimiters and fields:

 - Column Delimiter: ¶
 Quote Delimiter: þ
 New Line Delimiter: ®
 Multi-Entry Delimiter;

Field Name	Description	Electronic/ Native Files	Paper/Hard Copy
Prod Beg	Bates number of the first page of a document (imaged) or the identifying number of an electronic document (native)	X	X
Prod End	Bates number of the last page of a document (imaged)		X
Prod Beg Attach	Bates range of document family - first page of parent (imaged) or identifying number of parent (native)	X	X
Prod End Attach	Bates range of document family - last page of last attachment (imaged) or identifying number of last attachment (native)	X	X
Page Count	Total number of pages in an imaged document	X	X
Custodian	Document custodian in format Last Name, First Name	X	X
Author	Author of an e-doc extracted from metadata	X	
Email From	Author of an email message	X	

Field Name	Description	Electronic/ Native Files	Paper/Hard Copy
Email To	Main recipient(s) of an email message	X	
Email CC	Recipient(s) of "carbon copies" of an email message	X	
Email BCC	Recipient(s) of "blind copies" of an email message	X	
Date Created	Creation date of a native e-doc	X	
Date Last Modified	Date an e-doc was last modified	X	
Date Received	Received date of an email message	X	
Date Sent	Sent date of an email message	X	
Email Subject	Subject of the email message	X	
Document Extension	File extension of native file	X	
Original Folder Path	Full path to source files (if e-doc or loose email) or folder path contained within a mailstore (if NSF or PST)	X	
Filename	Original filename of native file	X	
File Description	Description of native file program or application	X	
MD5 Hash	Unique identifier ("fingerprint")	X	
Extracted Text	Relative file path to text file containing OCR / extracted text	X	X
Native File	Relative file path created during processing to link native files to database for review	X	