UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOSE JIMENEZ MORENO AND **MARIA JOSE LOPEZ,** on behalf of themselves and all others similarly situated, Plaintiffs / Petitioners **v.** **JANET NAPOLITANO**, SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY (DHS); **JOHN MORTON,** DIRECTOR OF U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) AND ITS OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS (ERO); **DAVID C. PALMATIER,** UNIT CHIEF, ICE/ERO LAW ENFORCEMENT SUPPORT CENTER (LESC); **RICARDO WONG**, ICE/ERO DIRECTOR, CHICAGO FIELD OFFICE, in their official capacities, Defendants / Respondents.	CASE NO: 11-CV-05452 JUDGE JOHN Z. LEE **AMENDED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF AND PETITION FOR WRIT OF HABEAS CORPUS**

STATEMENT OF THE CASE

1. This complaint presents a challenge to the U.S. Immigration and Customs Enforcement's (ICE's) assertion of general authority to instruct federal, state, and local law enforcement agencies (LEAs) to continue to detain individuals in the LEAs' jails, after no other basis for custody exists, in order for ICE to investigate their immigration status and possibly assume direct physical custody. ICE's statutory authority to issue detainers, without an arrest warrant, is limited. 8 U.S.C. § 1357(d); 8 U.S.C. § 1226(c); 8 U.S.C. 1357(a). As set forth below, ICE's exercise of detainer authority, however, regularly exceeds its statutory authority. In addition, ICE's conscription of state and

local LEAs to detain individuals for civil immigration purposes violates separation of powers limits under the Tenth Amendment. Finally, the extended detention, unsupported by probable cause and without due process protections, that ICE's detainers cause plaintiffs and those similarly situated to them violates their rights under the Fourth and Fifth Amendments and/or entitles them to habeas relief.

2. A detainer lodged by ICE instructs an LEA to detain an individual after the period for the agency's lawful custody over the individual has expired while ICE assesses whether the individual is subject to removal proceedings and whether it will assume direct, physical custody.

3. At the time this action was commenced, the named plaintiffs in this case, Jose Jimenez Moreno and Maria Jose Lopez (hereinafter "Plaintiffs/Petitioners"), were individuals being held by LEAs, against whom ICE placed immigration detainers, without lawful authority or any legal basis to do so. The Defendants in this case are federal officials responsible for ICE's issuance of detainers, named because their inclusion is potentially required to effectuate the forms of relief this complaint requests.

4. As to each Plaintiff/Petitioner, ICE justified the detainer it placed on them based solely on its initiation of an investigation to determine whether they are subject to removal from the United States. ICE did not accompany any of the Plaintiffs/Petitioners' detainers with an administrative arrest warrant, a Notice to Appear or other charging document, or a final removal order. ICE did not require notice of the immigration detainer to Plaintiffs/Petitioners. Moreover, ICE did not provide the Plaintiffs/Petitioners with a means to challenge the immigration detainers lodged against them.

Plaintiffs'/Petitioners' claims are inherently transitory and are not moot. Dkt. No. 56 at 11.

5. Plaintiffs/Petitioners seek on their behalf and on behalf of similarly situated individuals, who have immigration detainers lodged against them that were issued from ICE's Chicago Area of Responsibility (AOR) including its sub-offices, declaratory and injunctive relief under the Administrative Procedures Act, 5 U.S.C. §706(a), under the Fourth, Fifth and Tenth Amendments for the ongoing violation of their rights, pursuant to *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971) and *Bond v. United States*, 131 S.Ct. 2355 (June 16, 2011), or, in the alternative, habeas corpus relief.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. § 1331 because it arises under the Constitution and laws of the United States.

7. This Court has authority to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, and Rule 57 of the Federal Rules of Civil Procedure.

8. This Court has authority to grant injunctive relief in this action pursuant to 5 U.S.C. § 702, and Rule 65 of the Federal Rules of Civil Procedure.

9. Alternatively, this Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. § 2241, as the issuance of a detainer requiring or requesting detention places the Plaintiffs/Petitioners in a form of custody.

10. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events and omissions giving rise to Plaintiffs/Petitioners' claims occurred, and continue to occur, in this District.

11. Venue is proper in this judicial district because the principal custodian of the Plaintiffs/Petitioners (i.e., the individual under whose authority the detainer was issued) is located in this District, such that this Court has jurisdiction over the Plaintiffs/Petitioners' custodian.

PARTIES

12. Plaintiffs/Petitioners are individuals against whom federal immigration officials issued immigration detainers (Form I-247). The sole stated basis of their detainers was that ICE had initiated an investigation into their removability from the United States, requiring an LEA to maintain custody of the Plaintiffs/Petitioners for up to 48 hours, excluding weekends and federal holidays, after their LEA authority expires, so that ICE can assume physical custody. ICE did not require that Plaintiffs/Petitioners be given notice of the immigration detainers nor has it provided a means by which to challenge the lawfulness of the detainers. Plaintiffs/Petitioners' immigration detainers were issued from the ICE Chicago AOR.

13. At the time this action was commenced, Plaintiff/Petitioner Jose Jimenez Moreno was a 34-year old United States citizen who was detained at the Winnebago County Jail in Illinois with an ICE I-247 immigration detainer lodged against him. Mr. Jimenez was arrested on March 21, 2011 in Rockford, Illinois. Without ever interviewing or speaking to him, ICE issued an immigration detainer against Mr. Jimenez on March 22, 2011. Because of his detainer, at the end of his term of lawful custody, Mr. Jiminez would have been unlawfully subject to being held an additional 48 hours or more in the custody of a LEA when, but for the detainer, he would otherwise have been released.

14. At the time this action was commenced, Plaintiff/Petitioner Maria Jose Lopez was a 29-year old Legal Permanent Resident who was detained at the Federal Correctional Institution in Tallahassee, Florida (FCI-Tallahassee) with an ICE I-247 immigration detainer lodged against her. Ms. Lopez came to the United States at the age of four and is the mother and primary caregiver to her 3 minor United States children. In November 2010, Ms. Lopez pled guilty to "misprision of a felony" a non-removable offense for immigration purposes. Ms. Lopez was permitted to self-surrender on January 25, 2011. Without ever interviewing or speaking to her, the ICE Chicago AOR issued an immigration detainer against her on February 1, 2011. No later than March 22, 2011, FCI-Tallahassee informed ICE that Ms. Lopez was convicted of "misprision of a felony"—a non-removable offense. Because of her detainer, at the end of her term of lawful custody, Ms. Lopez would have been unlawfully subject to being held an additional 48 hours or more in the custody of FCI-Tallahassee when, but for the detainer, she would otherwise have been released.

15. Defendant Janet Napolitano is the Secretary for the Department of Homeland Security (DHS), which houses the office of Immigration and Customs Enforcement (ICE) and ICE's division of Enforcement and Removal Operations (ERO), the entities which issue the I-247 immigration detainers to federal, state and local law enforcement. Secretary Napolitano is ultimately responsible for how immigration regulations are applied and the approval of the use of the standard I-247 detainer form under which authority the Plaintiffs/Petitioners are detained.

16. Defendant John Morton is the Director of Immigration and Customs Enforcement for DHS. As part of Director Morton's responsibilities, he establishes

immigration detainer policy for ICE and its subdivisions, including the application of the detainer regulations and approval of the use of the standard I-247 detainer form under which authority the Plaintiffs/Petitioners are detained.

17. Defendant David C. Palmatier, based on information and belief, is the Unit Chief for ICE/ERO's Law Enforcement Support Center (LESC) located in Vermont. In his official capacity, Chief Palmatier oversees the issuance of thousands of immigration detainers out of the LESC pursuant to law enforcement inquiries from throughout the United States. Based on information and belief, LESC is listed as the ICE custodian on detainers issued from the LESC and is listed as emergency custodian for many detainers issued from ICE/ERO Field Offices, including Chicago AOR.

18. Defendant Ricardo Wong is the Field Office Director (FOD) of the ICE/ERO Chicago AOR Field Office, which has responsibility for Illinois, Indiana, Wisconsin, Missouri, Kentucky, and Kansas. In his official capacity, FOD Wong has ultimate responsibility for all immigration detainers issued out of the Chicago AOR, including its sub-offices and the ICE Detention Enforcement and Processing Offender by Remote Technology (DEPORT) center. Based on information and belief, the Chicago Field Office is listed as the principal ICE custodian on detainers issued out of its area of responsibility.

FACTUAL ALLEGATIONS

19. Pursuant to 8 U.S.C. § 1103(a), DHS, through its division of ICE, has the authority to issue immigration detainers in accordance with the intent and requirements of the Immigration and Nationality Act (INA).

20. Plaintiffs/Petitioners were all stopped or arrested by LEAs. Based on information and belief, the LEAs had communications with ICE and then ICE issued standard form I-247 detainers against the Plaintiffs/Petitioners. *See* Ex. A (Plaintiffs/Petitioners' ICE I-247 detainer forms). On the I-247 immigration detainers issued against the Plaintiffs/Petitioners, ICE officials justify continued detention of the Plaintiffs/Petitioners on the sole grounds that an "[i]nvestigation has been initiated to determine whether this person is subject to removal from the United States." ICE's detainers against the Plaintiffs/Petitioners instruct the LEAs that:

> [f]ederal regulations (8 CFR 287.7) request that you [LEA] detain the alien for a period not to exceed 48 hours (excluding Saturdays, Sundays, and Federal holidays) to provide adequate time for ICE to assume custody of the alien. You may notify ICE by calling [local ICE/ERO Field Office telephone number] during business hours or [typically ICE Law Enforcement Support Center telephone number] after hours in an emergency.

21. None of the Plaintiffs/Petitioners' I-247 immigration detainers were issued pursuant to a Notice to Appear (NTA) or other charging document, warrant of arrest in removal proceedings, or a deportation order.

22. The I-247 detainer form does not require notice of the immigration detainers to the Plaintiffs/Petitioners. Based on information and belief, ICE never required the LEAs to provide the Plaintiffs/Petitioners with notice of the detainers lodged against them nor does ICE have a written policy or procedure requiring that the Plaintiffs/Petitioners and similarly situated individuals be provided notice of immigration detainers lodged against them.

23. ICE does not provide an administrative procedure for challenging the issuance of a detainer. Likewise, the Board of Immigration Appeals (BIA) has ruled that it does not have jurisdiction to consider challenges to detainers because it has found that

individuals held on detainers are not in federal immigration custody. *Matter of Sanchez*, 20 I. & N. Dec. 223, 225 (BIA 1990).

24. The I-247 detainer form states that ICE "requests"[1] that the LEA detain the individual for an additional 48 hours, excluding weekends and holidays, so ICE can assume direct, physical custody of the individual. However, the regulation cited on the I-247 detainer form mandates that the LEAs detain the individual on ICE's behalf. The regulation states: "such [criminal justice] agency shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by [ICE]." 8 C.F.R. § 287.7(d)(emphasis added).

CLASS ACTION ALLEGATIONS

25. Pursuant to Fed. R. Civ. P. 23(b)(1), (b)(2) and/or (c)(4), Plaintiffs/Petitioners, Jose Jimenez Moreno and Maria Jose Lopez, seek to represent a class consisting of:

> All current and future persons against whom ICE has an active immigration detainer that was issued out of its Chicago AOR where ICE has instructed a law enforcement agency (LEA) to continue to detain the individual after the LEA's detention authority has expired and where ICE has not served a Notice to Appear or other charging document, has not served a warrant of arrest for removal proceedings, and/or has not obtained an order of deportation or removal.

26. In addition, Plaintiff/Petitioner Jose Jimenez Moreno, seeks to represent a sub-class, which consists of the persons described in paragraph 25, who have had detainers lodged against them while they are in state or local LEA custody where ICE has instructed their further detention pursuant to 8 C.F.R. § 287.7. The sub-class alleges that this violates their rights under the Tenth Amendment to the U.S. Constitution.

[1] From 1997 to August 2010, the I-247 detainer form stated that it was required by 8 CFR 287.7 that the LEA detain the individual for an additional 48 hours in order for ICE to assume physical custody of the individual. *See* Ex. B. (example of prior detainer form).

27. The Plaintiffs/Petitioners' class seeks declaratory and injunctive relief to eliminate or remedy Defendants' application of immigration detainer regulations, policies, practices, acts, and omissions that are depriving Plaintiffs/Petitioners of their liberty in violation of their rights.

28. The proposed ICE Detainer Class and Sub-Class are very numerous. In FY2009, at least 223,297 individuals detained by ICE (approximately 60% of ICE's FY2009 detention population) were first stopped, arrested, or criminally convicted by LEAs. *See* ICE, Dr. Dora Schriro, Special Advisor to Secretary Napolitano on ICE/DRO, "Immigration Detention Overview and Recommendations," pp. 11-12 (Oct. 6, 2009). Based on data obtained through a FOIA request, Plaintiffs/Petitioners believe that ICE issued 270,988 immigration detainers in FY2009 and 201,778 detainers through the first eleven months of FY2010.

29. Joinder of all class members is also impracticable. Because ICE continuously lodges immigration detainers against individuals and assumes physical custody of those held on immigration detainers, the membership of the class changes constantly.

30. All individuals who would fall within the class definition have equally had ICE detainer regulations, policies, practices, acts and omissions applied against them causing unlawful deprivation of liberty in violation of their rights. There are questions of law or fact common to all class and sub-class members, including but not limited to:

- Whether Defendants have exceeded their constitutional and/or statutory authority (APA 5 U.S.C. § 706(2)) in placing detainers on class members, including whether promulgation of 8 C.F.R. § 236.1(a) and 8 C.F.R. § 287.7 exceed Defendants' statutory authority;

- Whether Defendants' issuance of an immigration detainer instructing further detention based either (1) on the initiation of an investigation to determine whether the class member is removable or (2) based on a determination that there is reason to believe the class member is an alien subject to removal violates the Fourth Amendment;
- Whether Defendants' issuance of an immigration detainer without a prior or concurrent service of a Notice to Appear or other charging document, an administrative arrest warrant, an order of deportation, or compliance with 8 U.S.C. § 1357(a)(2) violates the Fourth Amendment;
- Whether Defendants' issuance of an immigration detainer without providing or requiring notice to class members violates the Fifth Amendment;
- Whether Defendants' issuance of an immigration detainer without providing class members a means of challenging detainers violates the Fifth Amendment; and
- Whether Defendants' issuance of immigration detainers compelling state and local LEAs to detain sub-class members, pursuant to 8 C.F.R. § 287.7(d) and in furtherance of a federal regulatory program, violates the Tenth Amendment to the U.S. Constitution.

31. Given the commonality of the questions shared by all class members, prosecuting separate claims as to individual class members would establish incompatible standards of conduct for the Defendants and the adjudications as to individual class members' claims would be dispositive of the interests of other class members and thus would substantially impair their ability to protect their interests.

32. Defendants have acted and intend to act in a manner adverse to the rights of the proposed class, making final injunctive and declaratory relief appropriate with respect to the class as a whole.

33. Plaintiffs/Petitioners and the class and sub-class they seek to represent have been directly injured by the Defendants' statutory and constitutional violations in the application of detainer regulations, policies, practices, acts and omissions and are at

risk of future harm from continuation of these regulations, policies, practices, acts and omissions.

34. Plaintiffs/Petitioners will fairly and adequately represent the interests of ICE Detainer Class and Sub-Class. Plaintiffs/Petitioners legal claims are typical to all members of the proposed ICE Detainer Class and Sub-Class. Plaintiffs/Petitioners have no interests separate from those of the ICE Detainer Class and Sub-Class, and seek no relief other than the relief sought on behalf of the class.

35. Plaintiffs/Petitioners' counsel are experienced in class action, civil rights, and immigrants' rights litigation. Plaintiffs/Petitioners' counsel will fairly and adequately represent the interests of ICE Detainer Class and Sub-Class.

FIRST CLAIM FOR RELIEF
(Violation of 5 U.S.C. §§ 706(2)(A)—(D))

36. Plaintiffs/Petitioners reallege and incorporate by reference each and every allegation contained in paragraphs 1 through 35.

37. Defendants' failure to restrict its issuance of detainers to its authority under the INA causes Plaintiffs/Petitioners significant prejudice by depriving them of their liberty.

38. Defendants' failure to issue detainers in accordance with due process protections required by the relevant provisions of the INA (8 U.S.C. § 1226(a), 8 U.S.C. § 1357(a)(2) and 8 U.S.C. § 1357(d)) causes Plaintiffs/Petitioners significant pain and suffering by depriving them of their liberty.

39. Defendants' application of the immigration detainer regulations and issuance of detainers against the Plaintiffs/Petitioners exceeds the Defendants' constitutional and statutory authority in violation of 5 U.S.C. §§ 706(2)(A)—(D).

40. As a proximate result of Defendants' statutory and constitutional violations, Plaintiffs/Petitioners are suffering and will continue to suffer a significant deprivation of their liberty without due process of law. Plaintiffs/Petitioners have no plain, adequate or complete remedy at law to address the wrongs described herein. The injunctive and declaratory relief sought by Plaintiffs/Petitioners is necessary to prevent continued and future injury.

SECOND CLAIM FOR RELIEF
(Violation of the Fourth Amendment to the U.S. Constitution)

41. Plaintiffs/Petitioners reallege and incorporate by reference each and every allegation contained in paragraphs 1 through 40.

42. Defendants' issuance of immigration detainers based solely on either (1) the initiation of an investigation into the Plaintiffs/Petitioners' removability from the United States or (2) on a determination that there is reason to believe an individual is an alien subject to removal causes the Plaintiffs/Petitioners prejudice by unreasonably taking away, limiting, and otherwise impacting their liberty without probable cause in violation of the Fourth Amendment.

43. Defendants' warrantless arrest of Plaintiffs/Petitioners through the issuance of detainers without providing a prompt hearing to determine whether Defendants have probable cause unreasonably deprives them of liberty without probable cause in violation of the Fourth Amendment.

44. Defendants' detainer regulations, policies, practices, acts and omissions cause unreasonable deprivation of Plaintiffs/Petitioners' liberty in violation of the Fourth Amendment to the United States Constitution.

45. As a proximate result of Defendants' unconstitutional detainer regulations, policies, practices, acts, and omissions, Plaintiffs/Petitioners are suffering and will continue to suffer an unreasonable deprivation of their liberty. Plaintiffs/Petitioners have no plain, adequate or complete remedy at law to address the wrongs described herein. The injunctive and declaratory relief sought by Plaintiffs/Petitioners is necessary to prevent continued and future injury.

THIRD CLAIM FOR RELIEF
(Violation of the Fifth Amendment to the U.S. Constitution)

46. Plaintiffs/Petitioners reallege and incorporate by reference each and every allegation contained in paragraphs 1 through 45.

47. Defendants' issuance of immigration detainers based solely on either (1) the initiation of an investigation into the Plaintiffs/Petitioners' removability from the United States or (2) on a determination that there is reason to believe an individual is an alien subject to removal causes the Plaintiffs/Petitioners significant pain and suffering by depriving them of their liberty without due process of law.

48. Defendants' issuance of immigration detainers without requiring that Plaintiffs/Petitioners receive effective notice of the detainer causes the Plaintiffs/Petitioners to suffer substantial prejudice without affording them an opportunity to be heard prior to the deprivation.

49. Defendants' failure to provide any mechanism by which the Plaintiffs/Petitioners may challenge the issuance of a detainer against them causes the Plaintiffs/Petitioners substantial prejudice by depriving them of their liberty without due process of law.

50. Defendants' detainer regulations, policies, practices, acts and omissions cause significant deprivations of Plaintiffs/Petitioners' liberty without due process of law in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution.

51. As a proximate result of Defendants' unconstitutional detainer regulations, policies, practices, acts, and omissions, Plaintiffs/Petitioners are suffering and will continue to suffer a significant deprivation of their liberty without due process of law. Plaintiffs/Petitioners have no plain, adequate or complete remedy at law to address the wrongs described herein. The injunctive and declaratory relief sought by Plaintiffs/Petitioners is necessary to prevent continued and future injury.

FOURTH CLAIM FOR RELIEF
(Violation of the Tenth Amendment to the U.S. Constitution)

52. Plaintiffs/Petitioners reallege and incorporate by reference each and every allegation contained in paragraphs 1 through 51.

53. Defendants' issuance of detainers compelling state and local LEAs to detain Plaintiff/Petitioner, Jose Jimenez Moreno, in enforcement of a federal regulatory program, as required under federal regulation 8 C.F.R. § 287.7, caused the Plaintiff/Petitioner significant pain and suffering by depriving him of his liberty.

54. Defendants' detainer regulations, policies, practices, acts and omissions compelling and conscripting state and local LEAs to enforce a federal regulatory program is a violation of the Plaintiff/Petitioner's rights under the Anti-Commandeering Principle of the Tenth Amendment of the United States Constitution.

55. As a proximate result of Defendants' unconstitutional conscription of state and local LEAs, Plaintiff/Petitioner is suffering and will continue to suffer a significant

deprivation of his liberty. Plaintiff/Petitioner has no plain, adequate or complete remedy at law to address the wrongs described herein. The injunctive and declaratory relief sought by Plaintiff/Petitioner is necessary to prevent continued and future injury.

FIFTH CLAIM FOR RELIEF
(Petition for Writ of Habeas Corpus)

56. Plaintiffs/Petitioners reallege and incorporate by reference each and every allegation contained in paragraphs 1 through 55.

57. This claim for relief is brought as an alternative to the first four claims for relief, above, in the event the court were to rule that the proper or only vehicle for relief is by writ of habeas corpus.

58. The issuance of a detainer itself constitutes custody for purposes of 28 U.S.C. § 2241.

59. The issuance of a detainer against Plaintiffs/Petitioners in the absence of probable cause results in detention in violation of the laws or Constitution of the United States.

60. The issuance of a detainer against Plaintiffs/Petitioners, in the absence of procedural protections such as notice and an opportunity to be heard, results in detention in violation of the laws or Constitution of the United States.

61. The issuance of detainers against Plaintiffs/Petitioners that compel state and local law enforcement agencies to administer a federal regulatory program results in detention in violation of the laws or Constitution of the United States.

62. Plaintiffs/Petitioners seek to pursue a representative action to represent the group of similarly situated individuals subject to unlawful detainers.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs/Petitioners respectfully request that the Court:

a. Issue an order certifying this action to proceed as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure;

b. Appoint the undersigned as class counsel pursuant to Rule 23(g) of the Federal Rules of Civil Procedure;

c. Alternately, to permit the action to proceed as a representative action in habeas corpus;

d. Issue a judgment declaring that Defendants' detainer regulations, policies, practices, acts, and omissions described herein as applied to the Plaintiffs/Petitioners are unlawful and exceed defendants' constitutional and statutory authority in violation of 5 U.S.C. §§ 706(2)(A)—(D);

e. Issue a judgment declaring that Defendants' detainer regulations, policies, practices, acts, and omissions described herein are unlawful and violate Plaintiffs/Petitioners' rights under the Fourth Amendment to the United States Constitution;

f. Issue a judgment declaring that Defendants' detainer regulations, policies, practices, acts, and omissions described herein are unlawful and violate Plaintiffs/Petitioners' rights under the Fifth Amendment to the United States Constitution;

g. Issue a judgment declaring that Defendants' detainer regulations, policies, practices, acts, and omissions described herein are unlawful and violate Plaintiff/Petitioner Jose Jimenez Moreno's rights under the Tenth Amendment to the United States Constitution;

h. Permanently enjoin Defendants, their subordinates, agents, employees, and all others acting in concert with them from subjecting Plaintiffs/Petitioners to these statutory violations and unconstitutional interpretation and application of regulations, policies, practices, acts and omissions described herein, and issue injunctive relief sufficient to rectify those statutory and constitutional violations;

i. Grant Plaintiffs/Petitioners their reasonable attorney fees and cost pursuant to 28 U.S.C. § 2412, and other applicable law; and

j. Grant such other relief as this Court deems just and proper.

Date: May 1, 2013

Respectfully Submitted:

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IN THE UNITED STATES DISTRICT COURT
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EASTERN DIVISION

JOSE JIMENEZ MORENO and MARIA JOSE LOPEZ,	)	
on behalf of themselves and all others similarly situated,	)	
Plaintiffs,	)	No. 1:11-cv-05452
vs.	)	Judge John Z. Lee
JANET NAPOLITANO, et al.,	)	
in their official capacities,	)	
Defendants.	)	

CERTIFICATE OF SERVICE

I, Benjamin P. Carr, hereby certify that on the 1st day of May, 2013, I caused a true and correct copy of the foregoing AMENDED COMPLAINT to be filed and served on counsel of record of all parties via operation of the Court's electronic filing system.

/s/ Benjamin P. Carr