

JOSE JIMENEZ MORENO and MARIA  
JOSE LOPEZ, on behalf of themselves  
and all others similarly situated,

V.

Defendants,

Judge John Z. Lee

## I.

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## **II.**

### **GENERAL OBJECTIONS**

1. Defendants object to the requests that impose or seek to impose any requirement or discovery obligation greater than or different from those under the Federal Rules of Civil Procedure and the applicable Local Rules and Orders of the Court.

2. Defendants object to the requests to the extent they seek disclosure of information protected under the attorney-client privilege, deliberative process privilege, attorney work product doctrine, or any other applicable privilege or immunity. Should any such disclosure by Defendants occur, it is inadvertent and shall not constitute a waiver of any privilege or immunity.

Subject to and without waiving the foregoing objections, Defendants provide the following responses:

## **III.**

### **DEFENDANTS' RESPONSES TO REQUESTS FOR ADMISSION**

#### **REQUEST NO. 1**

Admit that ICE has issued at least 5,000 Detainers from the Chicago AOR that were active on August 11, 2011, or at any time after that date.

#### **RESPONSE TO REQUEST NO. 1 :**

Defendants object to this request on the ground that it is vague and ambiguous as to the term "active."

Subject to and without waiving the foregoing objections, Defendants admit that ICE issued at least 5,000 Detainers from the Chicago AOR on or after August 11, 2011. However, the Defendants do not have sufficient information to admit or deny that at least 5,000 of those Detainers were "active" on August 11, 2011, or at any time after that date. Defendants have

made a reasonable inquiry, but the information presently known or readily obtainable is insufficient to enable Defendants to admit or deny this specific request.

## **REQUEST NO. 2**

Admit that, for at least 1,000 of the Detainers described in Request No. 1 issued prior to the use of the revised I-247 Form released in December 2012, the only checkbox marked on the top half of each detainer form (labeled “The U.S. Department of Homeland Security (DHS) has taken the following action related to the person identified above, currently in your custody:”) is before the statement “[i]nitiated an investigation to determine whether this person is subject to removal from the United States” or any prior iteration of this statement and ICE also checked the box instructing the state or local law enforcement agency to “maintain custody of the subject for a period NOT TO EXCEED 48 HOURS, excluding Saturdays, Sundays, and holidays, beyond the time when the subject would have otherwise been released from your custody to allow DHS to take custody of the subject,” or any prior iteration of this instruction.

## **RESPONSE TO REQUEST NO. 2:**

Defendants object to this request on the ground that it is vague and ambiguous as to the term “instructing.”

Subject to and without waiving the foregoing objections, Defendants respond as follows: The Defendants admit that at least 1,000 Detainers issued after August 11, 2011, had check marks in the box labeled “[i]nitiated an investigation to determine whether this person is subject to removal from the United States” and the box requesting federal, state, and local law enforcement to “maintain custody of the subject for a period NOT TO EXCEED 48 HOURS,

excluding Saturdays, Sundays, and holidays, beyond the time when the subject would have otherwise been released from your custody to allow DHS to take custody of the subject.”.

### **REQUEST NO. 3**

Admit that, with respect to the Detainers described in Request No. 2, ICE does not require the issuance of a Notice to Appear, warrant of arrest, or a removal order prior to the start of each Detainer’s 48-hour detention period.

### **RESPONSE TO REQUEST NO. 3:**

Admit.

### **REQUEST NO. 4**

Admit that ICE does not require that an individual receive a copy of a Detainer lodged against him or her.

### **RESPONSE TO REQUEST NO. 4:**

Defendants admit that they do not have the authority to require LEAs to provide individuals with a copy of the detainer lodged against them.

### **REQUEST NO. 5**

Admit that when ICE does request state or local law enforcement to “Provide a copy [of the detainer] to the subject of this detainer” that ICE has no established policies, procedures, or practices to determine whether state or local law enforcement comply with the request.

**RESPONSE TO REQUEST NO. 5:**

Admit.

**REQUEST NO. 6**

Admit that ICE has no established policies, procedures, or practices to determine whether individuals subject to Detainers receive or have access to the “Notice to the Detainee” in six languages, which comprise pages 2 and 3 of the Detainer form.

**RESPONSE TO REQUEST NO. 6**

Deny. Since at least December 2011, ICE provides the “Notice to Detainee” with all detainers sent to LEAs and has explicitly requested that LEAs provide a copy of the detainer to the individual subject to the detainer. Defendants admit, however, that ICE cannot require LEAs to provide the detainers to the affected individuals and that ICE does not track whether LEAs comply with this request.

**REQUEST NO. 7**

Admit that ICE does not require its officials, employees, agents, or any other affiliated individuals to speak with or interview an individual before lodging a Detainer against him or her.

**RESPONSE TO REQUEST NO. 7:**

Admit.

**REQUEST NO. 8**

Admit that named Plaintiff Jose Jimenez Moreno was a United States citizen at the time ICE issued a Detainer against him.

**RESPONSE TO REQUEST NO. 8:**

Admit that, based on facts that Mr. Moreno did not communicate to ICE – and were not otherwise available to ICE – at the time ICE issued the detainer, Mr. Moreno was a United States citizen.

**REQUEST NO. 9**

Admit that named Plaintiff Maria Jose Lopez was a Legal Permanent Resident of the United States that was not removable at the time ICE issued a Detainer against her.

**RESPONSE TO REQUEST NO. 9:**

Admit.

**REQUEST NO. 10**

Admit that ICE did not speak with or interview named Plaintiff Jose Jimenez Moreno prior to issuing a Detainer against him.

**RESPONSE TO REQUEST NO. 10:**

Deny.

**REQUEST NO. 11**

Admit that ICE did not speak with or interview named Plaintiff Maria Jose Lopez prior to issuing a Detainer against her.

**RESPONSE TO REQUEST NO. 11:**

Admit.

**REQUEST NO. 12**

Admit that ICE did not conduct an investigation regarding the immigration status of named Plaintiff Jose Jimenez Moreno in the time period after issuing the Detainer against him, but prior to the filing of the Complaint in this litigation on August 11, 2011.

**RESPONSE TO REQUEST NO. 12:**

Admit.

**REQUEST NO. 13**

Admit that ICE did not conduct an investigation regarding the immigration status of named Plaintiff Maria Jose Lopez in the time period after issuing the Detainer against her, but prior to the filing of the Complaint in this litigation on August 11, 2011.

**RESPONSE TO REQUEST NO. 13:**

Admit.

**REQUEST NO. 14**

Admit that ICE has not established any juridical, quasi-juridical, or administrative proceeding by which individuals subject to Detainers can challenge the validity of the Detainers lodged against them.

**RESPONSE TO REQUEST NO. 14:**

Deny. Defendants have identified several mechanisms through which individuals may question ICE about a detainer issued against them in response to Plaintiffs' Interrogatory No. 6.

**REQUEST NO. 15**

Admit that the only method for an individual subject to a Detainer to challenge the Detainer is to call one of the phone numbers provided in the "Notice to the Detainee" section on pages 2-3 of the Detainer form.

**RESPONSE TO REQUEST NO. 15:**

Deny. Defendants have identified several mechanisms through which individuals may question ICE about a detainer issued against them in response to Plaintiffs' Interrogatory No. 6.

**REQUEST NO. 16**

Admit that ICE has no legal authority to require state or local law enforcement to detain an individual during the 48-hour detention period.



**RESPONSE TO REQUEST NO. 16:**

Defendants admit that ICE detainers, which are legally authorized requests upon which a state or local law enforcement agency may permissibly rely, do not impose a requirement upon state or local law enforcement agencies.

**REQUEST NO. 17**

Admit that an alien charged or convicted for driving under the influence of alcohol, without something more, does not establish “a reason to believe the individual is an alien subject to removal from the United States.”

**RESPONSE TO REQUEST NO. 17:**

Defendants are unable to admit or deny this request for admission because the request does not provide sufficient information about the hypothetical alien to provide Defendants with grounds to ascertain the truth of the request.

**REQUEST NO. 18**

Admit that an alien charged with a felony offense, without something more, does not establish “a reason to believe the individual is an alien subject to removal from the United States.”

**RESPONSE TO REQUEST NO. 18:**

Defendants are unable to admit or deny this request for admission because the request does not provide sufficient information about the hypothetical alien to provide Defendants with grounds to ascertain the truth of the request.

**REQUEST NO. 19**

Admit that an alien convicted of three or more misdemeanor convictions does not necessarily establish “a reason to believe the individual is an alien subject to removal from the United States.”

**RESPONSE TO REQUEST NO. 19:**

Defendants are unable to admit or deny this request for admission because the request does not provide sufficient information about the hypothetical alien to provide Defendants with grounds to ascertain the truth of the request.

**REQUEST NO. 20**

Admit that an alien charged with a misdemeanor “for an offense that involves violence, threats, or assaults; sexual abuse or exploitation; driving under the influence of alcohol or a controlled substance; unlawful flight from the scene of an accident; the unlawful possession or use of a firearm or other deadly weapon; the distribution or trafficking of a controlled substance; or other significant threat to public safety,” without something more, does not establish “a reason to believe the individual is an alien subject to removal from the United States.”

**RESPONSE TO REQUEST NO. 20:**

Defendants are unable to admit or deny this request for admission because the request does not provide sufficient information about the hypothetical alien to provide Defendants with grounds to ascertain the truth of the request.

**REQUEST NO. 21**

Admit that an alien convicted of a misdemeanor “for an offense that involves violence, threats, or assaults; sexual abuse or exploitation; driving under the influence of alcohol or a controlled substance; unlawful flight from the scene of an accident; . . . or other significant threat to public safety” does not necessarily establish “a reason to believe the individual is an alien subject to removal from the United States.”

**RESPONSE TO REQUEST NO. 21:**

Defendants are unable to admit or deny this request for admission because the request does not provide sufficient information about the hypothetical alien to provide Defendants with grounds to ascertain the truth of the request.

Date: April 5, 2013

Respectfully submitted,

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