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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NATIONAL LAWYERS GUILD;
and EVENCIO OLIVARES
GONZALEZ, Individually and on
behalf of all others similarly situated,

Plaintiffs,

vs.

MICHAEL CHERTOFF, Secretary,
Department of Homeland Security;
JULIE L. MYERS, Assistant
Secretary, U.S. Immigration and
Customs Enforcement; JAMES T.
HAYES, Field Office Director, U.S.
Immigration and Customs
Enforcement; DINA ROMERO,
JAMIE HOLT, JANET SHANKS
Officers, U.S. Immigration and
Customs Enforcement,

Defendants.

CASE NO.

CV08-01000 GW (SHx)

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

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1 **I. INTRODUCTORY STATEMENT**

2 1. This case involves an attempt to vindicate one of the basic procedural
3 protections afforded by our system of law – the right to counsel. Over one
4 hundred residents of Los Angeles County were arrested in a raid by immigration
5 authorities on Thursday, February 7, 2008, at a factory in the San Fernando
6 Valley. Many of those arrested were released within one or two days of arrest, but
7 then ordered to report for an interview with immigration officials.

8 2. Plaintiff National Lawyers Guild (NLG) is a group of attorneys who have
9 offered to provide free legal representation at these interviews to those arrested in
10 the raid. Plaintiff Evencio Olivares was arrested in the raid and has an interview
11 scheduled shortly, at which an attorney from the NLG has agreed to represent him.
12 However, when NLG attorneys attempted to represent their clients at the
13 interviews over the last three days, the government barred the attorneys from being
14 present at the interviews, and then attempted to elicit statements from the
15 interviewees that could be used against them in immigration proceedings. Having
16 already been arrested in a frightening workplace raid and detained for several
17 hours, many interviewees are understandably fearful of submitting to further
18 interrogation by immigration officials without the presence of an attorney.

19 3. Plaintiffs seek this Court's protection to stop this illegal government
20 practice. Long-standing and fundamental principles of administrative law, as well
21 as a controlling immigration regulation, establish that the government may not bar
22 attorneys at the door when they seek to represent their clients in interviews with
23 immigration officials.

24 **II. JURISDICTION AND VENUE**

25 4. This court has jurisdiction over this case under the general federal question
26 statute, 28 U.S.C. 1331. Because the federal questions here involve agency action,
27 the scope of the Court's authority under Section 1331 is dictated by the
28 Administrative Procedure Act. See 5 U.S.C. 706 (establishing cause of action in

1 federal court to “hold unlawful and set aside agency action, findings, and
2 conclusions found to be . . . in excess of statutory jurisdiction, authority, or
3 limitations, or short of statutory right [or] without observance of procedure
4 required by law.”). To the extent that Plaintiffs are detained by the federal
5 government during the interview, this Court also has jurisdiction under the general
6 federal habeas statute. 28 U.S.C. 2241(c)(1).

7 5. This Court has the authority to grant injunctive and declaratory relief
8 pursuant to 28 U.S.C. 1331, 5 U.S.C. 706, 28 U.S.C. 2241, and the Declaratory
9 Judgment Act, 28 U.S.C. 2201 and 2202. A substantial, actual, and continuing
10 controversy exists between the parties.

11 6. Venue is proper pursuant to 28 U.S.C. 1391(b)(2) and (e)(2) because a
12 substantial part of the events or omissions giving rise to the claims occurred in this
13 district.

14 **III. PARTIES**

15 7. Plaintiff Evencio Olivares Gonzalez, is a resident of Los Angeles County
16 who was arrested in the raid that took place on February 7, 2008. He has been
17 ordered to report for an interview with immigration officials in the next two days.

18 8. Plaintiff National Lawyers Guild (NLG) is an organization of attorneys who
19 have agreed to provide free legal assistance to people detained in the raid, and in
20 particular to provide free representation to people at their interviews with
21 immigration officials. Attorneys from the NLG represent people scheduled for
22 interviews in the next two weeks.

23 9. Defendant Michael Chertoff is the Secretary of the Department of
24 Homeland Security and as such is ultimately responsible for the policies of
25 Immigration and Customs Enforcement (“ICE”).

26 10. Defendant Julie Myers is the Assistant Secretary of Homeland Security for
27 ICE. As such, she is responsible for its policies and for the enforcement of
28 immigration laws nationwide.

1 11. Defendant James Hayes is the Field Office Director for the Los Angeles
2 District of the United States ICE Division of the Department of Homeland
3 Security. He is responsible for the enforcement of the immigration laws within
4 this district, and for ensuring that ICE officials follow the agency's policies and
5 procedures.

6 12. Defendant Dina Romero is an ICE officer working at the ICE building
7 located at 300 North Los Angeles Street in downtown Los Angeles. She
8 communicated to attorney Susan Alva the order barring attorneys from
9 representing their clients at the interviews at issue in this case. Upon information
10 and belief, she had apparent authority to issue that order.

11 13. Defendant Jamie Holt is an ICE officer working at the ICE building located
12 at 300 North Los Angeles Street in downtown Los Angeles. She barred an NLG
13 attorney from representing a client at an immigration interview.

14 14. Defendant Janet Shanks is an ICE officer working at the ICE building
15 located at 300 North Los Angeles Street in downtown Los Angeles. She barred an
16 NLG attorney from representing a client at an immigration interview.

17 15. All defendants are sued in their official capacities.

18 **IV. FACTUAL ALLEGATIONS**

19 16. Over one hundred residents of Los Angeles County were arrested in a raid
20 by immigration authorities on Thursday, February 7, 2008, at a factory in the San
21 Fernando Valley.

22 17. Many of those arrested, including Plaintiff Olivares, were released within a
23 few days of arrest but then ordered to report for an interview for further
24 processing.

25 18. A group of attorneys from Plaintiff National Lawyers Guild has offered to
26 provide free legal assistance to those arrested in the raid. As part of that offer,
27 they have agreed to represent those arrested at their immigration interviews.
28 Plaintiff Olivares is one of the people represented by these attorneys, and is

1 scheduled for an interview in the next few days.

2 19. When attorneys from the group attempted to represent their clients at
3 interviews over the last three days, ICE officials barred the attorneys from being
4 present at the interviews. As a result, attorneys from Plaintiff NLG reasonably
5 fear that they will be barred from representing their clients in the future, and
6 Plaintiff Olivares fears that he will be denied the assistance of counsel at his
7 interview.

8 20. Plaintiff Olivares desires the assistance of counsel both because they desire
9 the reassurance afforded by counsel's presence and because people already subject
10 to interviews have reportedly been asked a number of questions designed to obtain
11 evidence for use against them in deportation proceedings.

12 **V. CLAIMS FOR RELIEF**

13 **Count I: Violation of Administrative Procedure Act**

14 (Injunctive and Declaratory Relief)

15 21. Plaintiffs incorporate paragraphs 1-20 of this complaint as if fully set forth
16 here.

17 22. Defendants' acts of preventing attorneys from representing their clients at
18 the interviews at issue in this case violate Section 555(b) of the Administrative
19 Procedure Act.

20 **Count II: Violation of Immigration and Nationality Act**

21 (Injunctive and Declaratory Relief)

22 23. Plaintiffs incorporate paragraphs 1-22 of this complaint as if fully set forth
23 here.

24 24. Defendants' acts of preventing attorneys from representing their clients at
25 the interviews at issue in this case violate 8 C.F.R. § 292.5, and the statutory
26 authority from which that regulation derives, 8 U.S.C. 1103.

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1 **Count III: Fifth Amendment Due Process**

2 (Injunctive and Declaratory Relief for All Class Members)

3 25. Plaintiffs incorporate paragraphs 1-24 of this complaint as if fully set forth
4 here.

5 26. Defendants' acts of preventing attorneys from representing their clients at
6 the interviews at issue in this case violate the Fifth Amendment's Due Process
7 Clause.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in
10 their favor as follows:

- 11 a. Taking jurisdiction over this complaint;
- 12 b. Declaring that the actions and practices of Defendants described
13 above constitute violations of federal regulatory, statutory, and
14 constitutional law;
- 15 c. Permanently enjoining Defendants and their directors, officers,
16 agents, and employees from preventing attorneys from representing their
17 clients at the interviews at issue in this case;
- 18 d. Awarding Plaintiffs their expenses, costs, fees, and other
19 disbursements associated with the filing and maintenance of this action,
20 including reasonable attorneys' fees pursuant to any applicable provision of
21 law;

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1 e. Awarding such other equitable and further relief as the Court deems
2 just and proper.

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4 Dated: February 14, 2008

Respectfully submitted,

5 AHILAN T. ARULANANTHAM
6 NORA A. PRECIADO
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