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9 **UNITED STATES DISTRICT COURT**  
10 **FOR WESTERN DISTRICT OF WASHINGTON**  
11 **AT SEATTLE**

11 Rose Munene, Wondwoson Ambachew ) Civil File No.: 2:22-cv-243  
12 Darios, Jessica Nakatoogo, Ricardo Jose )  
13 Usi Espinas, Suiny Elizabeth Vasquez )  
14 Castillo, on behalf of herself and her )  
15 minor child, H.L.D.V., Elmer Santiago ) **COMPLAINT FOR**  
16 Carcamo Garcia, Francisco Pantoja ) **WRIT OF MANDAMUS,**  
17 Arellano, Sulma Yanira Marin Orellana, ) **AND FOR INJUNCTIVE**  
18 Cintia Bolaines Cruz, Glenda Del ) **AND DECLARATORY**  
19 Carmen Carvajal Mancía, Santos ) **RELIEF**  
20 Gabriel Sandoval-Carcamo, Jose )  
21 Manuel Velarde Quinonez, and Saul )  
22 Flores Ruvalcaba. )

23 Plaintiffs, )

24 vs. )

25 Bobak Talebian, Director, Office of )  
26 Information Policy (OIP); Joseph R. )  
27 Schaaf, Chief Counsel, Administrative )  
28 Law Unit, EOIR; Jean King, Director of )  
EOIR; Merrick B. Garland, U.S.  
Attorney General.

Defendants.

**INTRODUCTION**

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3 1. Plaintiffs bring this civil action to redress violations under the Freedom  
4 of Information Act (“FOIA”), 5 U.S.C. § 552, and under the Administrative  
5 Procedures Act (“APA”), 5 U.S.C. §§ 555(B) and 706(1), for a writ of mandamus,  
6 declaratory, injunctive, and other appropriate relief, seeking the immediate  
7 processing and release of agency records unlawfully withheld by Defendants, and to  
8 compel Defendants, officers of the United States, to respond to the records requests  
9 for all nonexempt information submitted on their behalf by undersigned counsel  
10 between April 2020 and December 2021. Defendants have failed to timely respond  
11 to Plaintiffs’ FOIA requests. Plaintiffs have no other adequate remedy other than by  
12 way of this complaint.  
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17 2. Defendants are unlawfully withholding information sought by  
18 Plaintiffs, information to which each Plaintiff, individually, is entitled and for which  
19 no valid disclosure exemption applies and have unreasonably delayed agency action  
20 in violation of that APA and have failed to comply with the statutory mandates and  
21 deadlines imposed by FOIA.  
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**PARTIES**

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25 3. All fourteen named Plaintiffs are clients of undersigned counsel,  
26 Attorney Minda A. Thorward (“Attorney Thorward”). Attorney Thorward  
27 submitted FOIA records requests to EOIR for each of the fourteen plaintiffs  
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1 between April 2020 and December 2021, as specified in more detail below. The  
2 requested records are necessary for Attorney Thorward to provide legal advice and  
3 representation to each of the Plaintiffs. None of the requested records for any of the  
4 Plaintiffs have been produced by EOIR. In some cases, the FOIA records requests  
5 have not yet been acknowledged by EOIR.  
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8 4. Plaintiff Rose Munene (“Ms. Munene”) is a native and citizen of  
9 Kenya. She currently resides in Kent, Washington. Ms. Munene was placed in  
10 removal proceedings in February 2021. She did not receive her biometrics  
11 appointment notice and failed to appear for her biometrics appointment at USCIS  
12 in Seattle as a result. She is seeking asylum before the Seattle Immigration Court.  
13 She has requested a complete copy of her EOIR file for review by her attorney.  
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16 5. Plaintiff Wondwoson Ambachew Darios (“Mr. Darios”) is a native and  
17 citizen of Ethiopia. He is living temporarily in Jacksonville, Florida, while he  
18 attends university, but has maintained his permanent residence in Seattle. He is in  
19 removal proceedings in the Seattle Immigration Court. He was referred by the San  
20 Francisco Asylum Office in August 2020 and is seeking asylum. He has requested  
21 a complete copy of his immigration court file from EOIR for review by his attorney  
22 in advance of his individual calendar hearing (“ICH”), which could be scheduled at  
23 any time. A motion to advance the ICH was granted on September 9, 2021, although  
24 a date for the hearing has not been set.  
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1           6.       Plaintiff Jessica Nakatoogo (“Ms. Nakatoogo”) is a native and citizen  
2 of Uganda. She currently resides in University Place, Washington. She is in removal  
3 proceedings in the Seattle Immigration Court. She was referred by the San  
4 Francisco Asylum Office in June 2020 and is seeking asylum. She has requested a  
5 complete copy of her immigration court file from EOIR for review by her attorney  
6 so she can properly prepare for the ICH scheduled for August 22, 2022.  
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9           7.       Plaintiff Ricardo Jose Usi Espinas (“Mr. Espinas”) is a native and  
10 citizen of the Philippines. He currently resides in Seattle, Washington, and is  
11 married to a U.S. citizen. He was placed in removal proceedings in September 2020  
12 after a previous spouse-based I-130 (submitted as part of a one-step adjustment  
13 application based on a prior marriage) was denied. His removal proceedings are  
14 pending, and he is seeking adjust his status to that of legal permanent resident before  
15 the Seattle Immigration Court. He has requested a complete copy of his immigration  
16 court file from EOIR, so that his attorney can review the records on which DHS has  
17 based its allegations of removability.  
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20           8.       Plaintiff Suiny Elizabeth Vasquez Castillo (“Ms. Vasquez”) is filing  
21 this lawsuit on behalf of herself and her minor child, H.L.D.V. They are both natives  
22 and citizens of Guatemala. Ms. Vasquez and H.L.D.V. currently reside in Seattle,  
23 Washington. She sought asylum for herself and her child at or near the U.S. border  
24 in March 2019 and they were placed in removal proceedings that remain pending.  
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1 She has requested complete copies of her own and her child’s immigration court  
2 files from EOIR for review by her attorney.  
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4 9. Plaintiff Elmer Santiago Carcamo Garcia (“Mr. Carcamo Garcia”) is a  
5 native and citizen of Honduras. He currently resides in Marysville, Washington.  
6 Mr. Carcamo Garcia was placed in removal proceedings in November 2011. He is  
7 seeking Cancellation of Removal for Certain Non-Lawful Permanent Residents  
8 before the Seattle Immigration Court. He has requested a complete copy of his  
9 EOIR file, so undersigned counsel can review all relief applications and supporting  
10 evidence that has previously been filed with the Court, as well as gain a complete  
11 understanding of the procedural history of the case.  
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15 10. Plaintiff Francisco Pantoja Arellano (“Mr. Francisco Arellano”) is a  
16 native and citizen of Mexico. He is a Lawful Permanent Resident of the United  
17 States residing in Stanwood, Washington. Mr. Francisco Arellano was previously  
18 placed in removal proceedings after re-entering the United States in 2013, but those  
19 proceedings were dismissed, and he wishes to naturalize. He has requested a  
20 complete copy of his EOIR file for his attorney’s review.  
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24 11. Plaintiff Sulma Yanira Marin Orellana (“Ms. Marin Orellana”) is a  
25 native and citizen of El Salvador. Ms. Marin Orellana currently resides in Seattle,  
26 Washington. Ms. Marin Orellana was granted Withholding of Removal in August  
27 2019 and has a pending appeal of her denial of Asylum at the Board of Immigration  
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1 Appeals. The appeal was fully briefed In September 2021, in the absence of her  
2 EOIR records. She has requested a complete copy of her EOIR file, which is  
3 necessary for the undersigned to fully review the prior proceedings, so she can  
4 provide adequate legal advice.  
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7 12. Plaintiff Cintia Bolaines Cruz (“Ms. Bolaines Cruz”) is a native and  
8 citizen of Honduras. She resides in Kenmore, Washington. Ms. Bolaines Cruz was  
9 denied asylum and ordered removed by the Seattle Immigration Court in August  
10 2021. She appealed the Immigration Judge’s decision denying relief from removal  
11 to the Board of Immigration Appeals in September 2021, and it remains pending.  
12 Ms. Bolaines Cruz has requested a full copy of her EOIR file, which is necessary  
13 for the undersigned to fully review, analyze and brief her appeal, once the briefing  
14 schedule is issued by the Board.  
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18 13. Plaintiff Glenda del Carmen Carvajal Mancía (“Ms. Carvajal Mancía”)  
19 is a native and citizen of Honduras. She currently resides in Renton, Washington.  
20 Ms. Carvajal Mancía was granted Withholding of Removal in November 2021. She  
21 filed an appeal of the IJ’s denial of asylum to the Board of Immigration Appeals in  
22 December 2021. She has requested a complete copy of her EOIR file, which is  
23 necessary for undersigned counsel to fully review, analyze and brief her appeal,  
24 once the briefing schedule is issued by the Board.  
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1           14. Plaintiff Santos Gabriel Sandoval-Carcamo (“Mr. Sandoval”) is a  
2 native and citizen of Honduras. He currently resides in Savannah, Georgia. He was  
3 ordered removed by an immigration judge in December 1996 in Houston, Texas,  
4 He has requested a complete copy of the records of his removal proceedings from  
5 EOIR, so that undersigned counsel can determine any options that may exist for  
6 him to remain lawfully in the U.S.  
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9           15. Plaintiff Jose Manuel Velarde Quinonez (“Mr. Velarde”) is a native and  
10 citizen of Mexico who currently resides in Nogales, Mexico. While detained and  
11 immediately subsequent to surgery to remove a large tumor from his face, he was  
12 ordered removed in July 2019 by the Tacoma Immigration Court. He has requested  
13 a complete copy of the records of his removal proceedings from EOIR. These  
14 records are necessary to determine whether any due process violations occurred  
15 during his removal proceedings, and for undersigned counsel to determine what  
16 remedies are available to him.  
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21           16. Plaintiff Saul Ruvalcaba Flores (“Mr. Flores”) is a native and citizen of  
22 Mexico who currently resides in Woodinville, Washington. Mr. Flores’ request for  
23 Cancellation of Removal for Certain Non-Lawful Permanent Residents before the  
24 Seattle Immigration Court was denied by the Immigration Judge (IJ) in May 2020.  
25 He timely appealed the IJ’s decision denying relief from removal to the Board of  
26 Immigration Appeals in June 2020. Briefing was completed and filed with the  
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1 Board on February 14, 2021, without Attorney Thorward having the benefit of  
2 being able to review the written record of the prior proceedings.  
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4 17. Defendant Bobak TALEBIAN is the Director of the Office of  
5 Information Policy (“OIP”) for the U.S. Department of Justice (“DOJ”). He is sued  
6 in his official capacity. In this capacity, he has the responsibility for supervising  
7 OIP, which is a sub-agency of the DOJ and an agency within the meaning of 5  
8 U.S.C. § 552(f). OIP is tasked with overseeing DOJ compliance with the FOIA, as  
9 well as adjudicating appeals relating to FOIA requests to EOIR. As such, Defendant  
10 Talebian routinely transacts business in the Western District of Washington and  
11 with individuals and corporations residing therein.  
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15 18. Defendant Joseph R. SCHAAF, Chief Counsel in the Administrative  
16 Law Unit of EOIR is sued in his official capacity. In this capacity, he has the  
17 responsibility of overseeing the Administrative Law Unit in the Office of General  
18 Counsel, which is charged with assisting OIP in developing agency regulations and  
19 responding to all FOIA requests. As such, Defendant Schaaf routinely transacts  
20 business in the Western District of Washington and with individuals and  
21 corporations residing therein.  
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25 19. Defendant Jean KING, Director of the Executive Office for  
26 Immigration Review (“EOIR”) is sued in her official capacity. EOIR is a sub-  
27 agency of the DOJ, 8 C.F.R. § 1003.0(a), and an agency within the meaning of 5  
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1 U.S.C. § 552(f)(1). EOIR is comprised of the immigration courts, immigration  
2 adjudication centers, and the Board of Immigration Appeals (BIA). 8 C.F.R. §  
3 1003.0(a). As such, Defendant King routinely transacts business in the Western  
4 District of Washington and with individuals and corporations residing therein.  
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7 20. Defendant Merrick B. GARLAND is the Attorney General of the  
8 United States and the most senior official in the Department of Justice. He is named  
9 in his official capacity. He has the authority to interpret the immigration laws and  
10 adjudicate removal cases. By regulation, the Attorney General delegates this  
11 responsibility to the immigration court and the BIA, which are administered by  
12 EOIR. As such, Defendant Garland routinely transacts business in the Western  
13 District of Washington and with individuals and corporations residing therein.  
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### 16 17 18 **JURISDICTION AND VENUE**

19  
20 21. This Court has subject matter jurisdiction over the FOIA claim and  
21 personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B) and  
22 (a)(6)(E)(iii). This Court also has jurisdiction over this action pursuant to 28 §  
23 U.S.C. 1331 and 5 U.S.C. § 701–706.  
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25 22. Venue is proper in the Western District of Washington under 28 U.S.C.  
26 § 1391(e) and under 5 U.S.C. § 552(a)(4)(B) as this is an action against the United  
27 States, its agencies, its officers, and its employees, and a substantial part of the  
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1 events or omissions giving rise to the instant claim occurred in this district. The lead  
2 Plaintiff and eleven other Plaintiffs reside in this judicial district.  
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4 23. Because Defendant EOIR failed to provide a determination as to  
5 Plaintiffs' FOIA Request in the time allotted by statute, as required by 5 U.S.C. §  
6 552(a)(6)(A)(i) and 6 C.F.R. § 5.6, Plaintiffs have constructively exhausted all  
7 administrative remedies and are entitled to file suit with this Court to enforce  
8 compliance with FOIA. See 5 U.S.C. § 552(a)(4)(B), (a)(6)(C).  
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### 12 STATEMENT OF FACTS

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14 24. **Plaintiff Rose Munene** entered the United States on a B1/B2 visa  
15 through New York, New York, on April 1, 2019. Ms. Munene applied for asylum  
16 on April 1, 2020. On February 19, 2021, Ms. Munene was referred to EOIR for  
17 failure to comply with biometrics procedures. She asserts that she never received a  
18 biometric appointment notice from USCIS. On April 6, 2021, Ms. Munene's MCH  
19 at Seattle Immigration Court was continued and has yet to be reset.  
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22 25. On June 4, 2021, by and through undersigned counsel, Ms. Munene  
23 submitted a FOIA records request to EOIR to obtain a complete copy of her  
24 immigration court file. Exh. A. As of the date of this complaint, Ms. Munene's FOIA  
25 records request has been pending for 271 days, the request has not been  
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1 acknowledged and the requested documents and information have not been  
2 produced.  
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4       **26. Plaintiff Wondwoson Ambachew Darios** entered the U.S. in early  
5 January 2018 on a B1/B2 visitor visa and filed an affirmative application for asylum  
6 a few weeks later. In late March 2018, he was interviewed by an asylum officer. In  
7 August 2020, almost two and a half years later, he was referred to the immigration  
8 court by the San Francisco Asylum Office. Mr. Darios subsequently retained  
9 undersigned counsel to represent him in his removal proceedings and his now  
10 defensive claim for asylum. His removal proceedings are pending.  
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14       **27.** On November 4, 2020, by and through Attorney Thorward, Mr. Darios  
15 submitted a FOIA records request to EOIR to obtain a complete copy of his  
16 immigration court file. Exh. B. EOIR acknowledged the request on November 17,  
17 2020. *Id.* As of the date of this complaint, Mr. Darios' FOIA records request has  
18 been pending for 483 days and the requested documents and information have not  
19 been produced.  
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22       **28. Plaintiff Jessica Nakatoogo** entered the U.S. in December 17, 2017 on  
23 a B1/B2 visitor visa and filed an affirmative application for asylum a few weeks  
24 later. On April 18, 2018, she was interviewed by an asylum officer. In June 2020,  
25 more than two years later, she was referred to the immigration court by the San  
26 Francisco Asylum Office. Ms. Nakatoogo subsequently retained undersigned  
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1 counsel to represent her in his removal proceedings and her now defensive claim for  
2 asylum. Ms. Nakatoogo has an ICH on August 8, 2022, and undersigned counsel has  
3 yet to receive her EOIR records.  
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5         29. On January 12, 2021, by and through Attorney Thorward, Ms.  
6 Nakatoogo submitted a FOIA records request to EOIR to obtain a complete copy of  
7 her immigration court file. Exh. C. On March 4, 2021, after the first request was not  
8 acknowledged, undersigned counsel resubmitted the same request with notice of  
9 intent to file a mandamus action if EOIR failed to acknowledge the request. EOIR  
10 acknowledged the request on March 4, 2021. *Id.* As of the date of this complaint,  
11 Ms. Nakatoogo's FOIA records request has been pending for 414 days and the  
12 requested documents and information have not been produced.  
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17         30. **Plaintiff Ricardo Jose Usi Espinas** entered the U.S. on a B1/B2 visitor  
18 visa on March 13, 2017. On February 16, 2018, Mr. Espinas married his first wife  
19 Charli Childers, a U.S. citizen, and she submitted an I-130 spouse-based petition for  
20 the benefit of Mr. Espinas on April 5, 2018. The marriage began to break down about  
21 six months later. The first marriage interview was scheduled in September 2019, but  
22 was rescheduled to October 7, 2019, due to a family illness. However, Mr. Espinas  
23 decided to file for divorce prior to the rescheduled interview date, and attempted,  
24 through prior counsel, to withdraw the one-step adjustment application. However,  
25 the one-step application was denied on October 7, 2019, for Mr. Espinas' failure to  
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1 appear at the interview. Mr. Espinas filed for divorce from Ms. Childers on October  
2 15, 2019. He began dating his current wife, Tami Sandygren, shortly before filing  
3 for divorce. Mr. Espinas married Ms. Sandygren, also a U.S. citizen on July 25,  
4 2020. Ms. Sandygren filed an I-130 spouse-based petition for the benefit of Mr.  
5 Espinas on November 29, 2020, which is currently pending with USCIS. If the  
6 currently pending I-130 approved by USCIS, Mr. Espinas will seek adjustment in  
7 the Seattle Immigration Court.  
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11 **31.** On January 19, 2021, by and through Attorney Thorward, Mr. Espinas  
12 submitted a FOIA records request to EOIR to obtain a complete copy of his  
13 immigration court file. Exh. D. As of the date of this complaint herein, EOIR has  
14 not acknowledged the FOIA records request. *Id.* As of the date of this complaint,  
15 Mr. Espinas' FOIA records request has been pending for 407 days and the requested  
16 documents and information have not been produced by **EOIR**.  
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19 **32.** **Plaintiff Suiny Elizabeth Vasquez Castillo** sought asylum for herself  
20 and her minor child, **Plaintiff H.L.D.V.**, at or near the U.S. border in March 2019  
21 and they were placed in removal proceedings that remain pending. Ms. Vasquez  
22 Castillo submitted her application for asylum with the immigration court on January  
23 8, 2021, her MCH was continued and has yet to be reset.  
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26 **33.** On February 23, 2021, by and through Attorney Thorward, Ms.  
27 Vasquez Castillo submitted a FOIA records request to EOIR to obtain a complete  
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1 copy of her immigration court file. Exh. E. As of the date of this complaint, Ms.  
2 Vasquez Castillo's FOIA records request has been pending for 372 days, the request  
3 has not been acknowledged and the requested documents and information have not  
4 been produced.  
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7 34. **Plaintiff Elmer Carcamo Garcia** entered the United States without  
8 inspection through San Ysidro, California on or around January 1, 2004. On  
9 November 15, 2011, he was placed in removal proceedings. Mr. Carcamo Garcia  
10 has a long and complex procedural record in immigration court. In May 2021, Mr.  
11 Carcamo Garcia hired undersigned counsel to perform a case investigation and  
12 evaluate relief options. This work includes, but is not limited to, obtaining Mr.  
13 Carcamo Garcia's EOIR records.  
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17 35. On June 29, 2021, by and through undersigned counsel, Mr. Carcamo  
18 Garcia submitted a FOIA records request to EOIR to obtain a complete copy of his  
19 immigration court file. Exh. F. As of the date of this complaint, Mr. Carcamo  
20 Garcia's FOIA records request has been pending for 247 days, the request has not  
21 been acknowledged and the requested documents and information have not been  
22 produced.  
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25 36. **Plaintiff Francisco Pantoja Arellano** has been Lawful Permanent  
26 Resident since December 1, 1990. In 2013, when returning from vacation in Mexico,  
27 Mr. Pantoja Arellano was subject to deferred inspection by CBP and then placed in  
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1 removal proceedings by DHS. The proceedings against Mr. Pantoja Arellano have  
2 since been terminated and the Notice to Appear withdrawn. However, for the  
3 purpose of evaluating his eligibility to naturalize, in July 2021, Mr. Pantoja Arellano  
4 hired undersigned counsel to perform a case investigation. This work includes, but  
5 is not limited to, obtaining Mr. Pantoja Arellano's EOIR records to review.  
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8       37. On August 4, 2021, by and through undersigned counsel, Mr. Pantoja  
9 Arellano submitted a FOIA records request to EOIR to obtain a complete copy of  
10 his immigration court file. Exh. G. As of the date of this complaint, Mr. Pantoja  
11 Arellano's FOIA records request has been pending for 211 days, the request has not  
12 been acknowledged and the requested documents and information have not been  
13 produced.  
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16       38. **Plaintiff Sulma Yanira Marin Orellana** entered the United States  
17 seeking asylum near Rio Grande City, Texas, on August 17, 2015, with two of her  
18 children, A.D.H.M and K.E.H.M. On August 22, 2019, Ms. Marin Orellana, along  
19 with her minor children, received a grant of withholding of removal in Seattle  
20 Immigration Court. Ms. Marin Orellana appealed the denial of asylum at the Board  
21 of Immigration Appeals, however, was unaware that she would have to hire  
22 subsequent counsel to write a brief on appeal. As such, she hired undersigned  
23 counsel on August 25, 2021, after the deadline in her briefing notice, of August 13,  
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1 2021, had passed. Undersigned counsel filed Ms. Marin Orellana's brief along with  
2 a motion to accept late filing, which was granted. Her appeal remains pending.  
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4 39. On August 25, 2021, by and through undersigned counsel, Ms. Marin  
5 Orellana submitted a FOIA records request to EOIR, with a request for expedited  
6 processing due to her brief being overdue, to obtain a complete copy of her  
7 immigration court file. Exh. H. As of the date of this complaint, Ms. Marin  
8 Orellana's FOIA records request has been pending for 190 days, the request has not  
9 been acknowledged and the requested documents and information have not been  
10 produced.  
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14 40. **Plaintiff Cintia Bolaines Cruz** entered the United States without  
15 inspection on or about January 23, 2018, seeking asylum. On August 23, 2021, Ms.  
16 Bolaines Cruz was ordered removed in Seattle Immigration Court. On August 27,  
17 2021, Ms. Bolaines Cruz hired undersigned counsel to represent her at the Board of  
18 Immigration appeals, where she is appealing the denial of asylum.  
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21 41. On September 30, 2021, by and through undersigned counsel, Ms.  
22 Bolaines Cruz submitted a FOIA records request to EOIR, to obtain a complete copy  
23 of her immigration court file. Exh. I. As of the date of this complaint, Ms. Bolaines  
24 Cruz's FOIA records request has been pending for 154 days, the request has not been  
25 acknowledged and the requested documents and information have not been  
26 produced.  
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1           **42. Plaintiff Glenda del Carmen Carvajal Mancía** entered the United  
2 States without inspection on or about December 13, 2015, seeking asylum. On  
3 October 12, 2021, Ms. Carvajal Mancía received a grant of withholding of removal  
4 in Seattle Immigration Court. On November 17, 2021, Ms. Carvajal Mancía hired  
5 undersigned counsel to represent her at the Board of Immigration Appeals, where  
6 she is appealing the denial of asylum.  
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9           **43.** On December 1, 2021, by and through undersigned counsel, Ms.  
10 Carvajal Mancía submitted a FOIA records request to EOIR, to obtain a complete  
11 copy of her immigration court file. Exh. J. As of the date of this complaint, Ms.  
12 Carvajal Mancía's FOIA records request has been pending for 92 days, the request  
13 has not been acknowledged and the requested documents and information have not  
14 been produced.  
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18           **44. Plaintiff Santos Sandoval-Carcamo** was ordered removed by an  
19 immigration judge in December 1996 in Houston, Texas. He attempted to return to  
20 the U.S. in 1999 by entering without inspection but was apprehended by immigration  
21 officials and returned to Honduras. Mr. Sandoval entered the U.S. again without  
22 inspection in 2011 and was apprehended by immigration officials. His 1996 removal  
23 order was reinstated, and he was removed to Honduras. Mr. Sandoval last entered  
24 the U.S. in May 2019 to act as the guardian for his then six-year-old daughter who  
25 is seeking asylum in the U.S. Mr. Sandoval was paroled into the U.S., and his  
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1 daughter placed in removal proceedings. He is seeking the records from his 1996  
2 removal proceeding to determine his options for remaining in the U.S. lawfully.  
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4 45. On April 7, 2020, Mr. Sandoval, by and through Attorney Thorward,  
5 submitted a FOIA records request to EOIR to obtain a complete copy of the record  
6 of his 1996 removal proceedings. Exh. K. EOIR acknowledged the request on April  
7 8, 2021. *Id.* The same request was resubmitted again on January 21, 2021. *Id.* The  
8 second request was never acknowledged. As of the date of this complaint, Mr.  
9 Sandoval's initial FOIA records request has been pending for 694 days and the  
10 requested documents and information have not been produced. The resubmission  
11 has been pending for 404 days.  
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15 46. **Plaintiff Jose Manuel Velarde Quinonez** was ordered removed in  
16 July 2019 by the Tacoma Immigration Court while recovering at the Northwest  
17 Detention Center from surgery to remove tumors from his face. After he was  
18 removed, Mr. Velarde retained undersigned counsel for a *pro bono* motion to reopen,  
19 should a basis for one exist.  
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22 47. On March 11, 2021, Mr. Velarde, by and through Attorney Thorward,  
23 submitted a FOIA records request to EOIR to obtain a complete copy of the record  
24 of his removal proceedings so that his lawyer can assess whether any due process  
25 violations occurred during those proceedings, and whether he was prejudiced by  
26 those violations and can move to reopen his proceedings on that basis. Exh. L. EOIR  
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1 acknowledged the request on March 17, 2021, 7 days after it was submitted. *Id.* As  
2 of the date of this complaint, Mr. Velarde’s initial FOIA records request has been  
3 pending for 356 days and the requested documents and information have not been  
4 produced.  
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7 48. Mr. Velarde has not had a stable residence in Mexico, therefore  
8 communication with him has been difficult. Undersigned counsel has also made  
9 FOIA requests to ICE and USCIS. USCIS has responded and produced records, but  
10 the request to ICE, which specified Mr. Velarde’s medical records while in ICE  
11 detention, remains pending. On May 20, 2021, undersigned counsel was informed  
12 by a friend of Mr. Velarde that he was hit by a car and had suffered serious injuries.  
13 The last communication that undersigned counsel had in reference to Mr. Velarde’s  
14 case was with a family member on July 23, 2021, who confirmed that Mr. Velarde  
15 had suffered a traumatic brain injury and is currently in assisted living in Mexico.  
16 Undersigned counsel’s office has been unable to contact Mr. Velarde or his family  
17 since then, so she is proceeding as last instructed by her client.  
18  
19  
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21

22 49. **Plaintiff Saul Ruvalcaba Flores** (“Mr. Flores”) is no longer a named  
23 Plaintiff in this complaint because EOIR responded to the FOIA records request  
24 prior to its filing. However, all the named Plaintiffs stand to suffer similar or worse  
25 harm as Mr. Flores suffered by EOIR’s significant and unreasonable delay in  
26 producing the requested records. Undersigned counsel could not review the record  
27  
28

1 of proceedings below in advance of briefing Mr. Flores' administrative appeal, but  
2 there is no viable remedy as EOIR produced the records subsequent to the briefing  
3 deadline.  
4

5           50. Mr. Flores last entered the U.S. without inspection in about January  
6 2000. He currently lives with his domestic partner of 26 years, Maria, in  
7 Woodinville, Washington. They have three children together, a 22-year-old son who  
8 is a U.S. citizen, a 28-year-old daughter who is a DACA recipient, and a 26-year-  
9 old son who did not have status and was deported to Mexico a few years ago. Mr.  
10 Flores was placed in proceedings in March 2018 after he came to ICE's attention as  
11 a collateral arrest to that of his son. He sought relief from removal in the form of  
12 Cancellation of Removal for Certain Non-Permanent Residents. His merits hearing  
13 was held in the Seattle Immigration Court on May 28, 2020, and his application for  
14 cancellation was denied by the Immigration Judge. He subsequently retained  
15 undersigned counsel, Attorney Thorward, to represent him on appeal to the Board  
16 of Immigration Appeals (BIA). Attorney Thorward timely filed a notice of appeal to  
17 the Board on June 26, 2020.  
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24           51. On July 9, 2020, Mr. Flores, by and through Attorney Thorward,  
25 submitted a FOIA records request to EOIR to obtain a complete copy of the record  
26 of his removal proceedings so that his lawyer could identify all issues to raise on  
27 appeal and to properly prepare the appeals' brief to submit to the BIA. Exh. M. Mr.  
28

1 Flores' FOIA records request was pending for 584 days before the requested  
2 documents and information were produced.  
3

4 52. Mr. Flores' FOIA records request was acknowledged by EOIR on  
5 October 28, 2020, 100 days after it was submitted. *Id.* On January 14, 2022,  
6 undersigned counsel received a briefing schedule from the BIA, granting Mr. Flores  
7 until January 24, 2022, to submit his brief on appeal.  
8

9 53. Undersigned counsel requested a briefing extension to February 14,  
10 2022, which was granted by the BIA. *Id.* Undersigned counsel also resubmitted the  
11 FOIA request to EOIR on January 17, 2022, with a request for expedited processing  
12 due to the pending BIA briefing notice. *Id.* On January 21, 2022, EOIR  
13 acknowledged the resubmission of the FOIA request. *Id.*  
14

15 54. On January 24, 2022, EOIR granted expedited treatment of the request.  
16 Undersigned counsel submitted Mr. Flores' brief on appeal on February 14, 2022,  
17 prior to receiving and reviewing his EOIR file, although the expedited FOIA request  
18 had been pending for 21 days after EOIR had granted the request for expedited  
19 processing. *Id.*  
20

21 55. On February 18, 2022, undersigned counsel received the EOIR FOIA  
22 records, 584 days after the initial request was made, and four days after Attorney  
23 Thorward had submitted her appeals brief to the Board.  
24  
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**CLAIMS FOR RELIEF**

(Unreasonable Delay and Failure to Perform  
Nondiscretionary Duties Owed to Plaintiffs)

56. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 56 of this Complaint as if fully stated herein.

57. To date, *Plaintiffs* have not received any other correspondence from Defendants on the substance of their FOIA Request, nor have Plaintiffs received any documents responsive to their Requests.

58. The twenty-day statutory period to respond to Plaintiffs' Request elapsed with no response or determination from either EOIR on would withhold or disclose any or all of the requested documents in whole or in part. *See* 5 U.S.C. § 552(a)(6)(A)(i); 6 C.F.R. § 5.6. EOIR has neither released any of the requested records nor explained their failure to do so. *Id.*

59. Defendants' failure to make a reasonable effort to search for the requested records violates FOIA, 5 U.S.C. § 552(a)(3), and Defendants' corresponding regulations, *see* 6 C.F.R. § 5.4.

60. Defendants' failure to promptly make available the requested records violates FOIA, 5 U.S.C. § 552(a)(6)(A), and Defendants' corresponding regulations, *see* 6 C.F.R. § 5.6.

1           61. Defendants’ failure to grant Plaintiffs’ request for a waiver of search,  
 2 review, and duplication fees as to the Request violates FOIA, 5 U.S.C. § 552(a)(4),  
 3  
 4 and Defendants’ corresponding regulations, see 6 C.F.R. §§ 5.6(c) and 5.11(k).

5           62. Defendants’ failure to grant Plaintiffs’ request for a limitation of fees  
 6  
 7 as to the Request violates FOIA, 5 U.S.C. § 552(a)(4), and Defendants’  
 8 corresponding regulations, see 6 C.F.R. §§ 5.6(c) and 5.11(d).

9           63. The delay in producing the requested records is unreasonable *per se*  
 10  
 11 even when taking into consideration reasonable delays resulting from Covid.

12           64. Defendants have acted arbitrarily, capriciously and abused their  
 13  
 14 discretion, or otherwise not observed procedures required by law, and not proceeded  
 15 to conclude this matter within a reasonable time in violation of 5 U.S.C. §§  
 16 706(2)(A) and (D) and 5 U.S.C. §§ 555 (B) and 706(1) of the APA.

17  
 18  
 19   **PRAYER FOR RELIEF**

20           WHEREFORE, Plaintiffs respectfully request that this Court:

21  
 22           A. Assume jurisdiction over this matter;

23           B. Declare that Defendants’ failure to timely respond to Plaintiffs’ FOIA  
 24 Request; to conduct a reasonable search; to waive or limit search, review, and  
 25 duplication fees; and/or to disclose the requested records is unlawful;  
 26

27           C. Issue an injunction ordering Defendants to immediately disclose the  
 28 requested records and to make copies available to Plaintiffs at no charge;

1 D. Award Plaintiffs costs and reasonable attorneys' fees incurred in this  
2 action, pursuant to 5 U.S.C. § 552(a)(4)(E); and  
3

4 E. Grant such other relief as the Court may deem just and proper.  
5  
6  
7

8 DATED this 2<sup>nd</sup> day of March 2022.  
9  
10

11 Respectfully Submitted,

12 By: /s/ Minda A. Thorward  
13

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22 *Attorney for Plaintiffs*  
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