

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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DIEGO N., <i>et al.</i> ,		)
		)
Plaintiffs,		)
		)
v.	No. 1:26-cv-577	)
		)
U.S. DEPARTMENT OF HEALTH AND		)
HUMAN SERVICES, <i>et al.</i> ,		)
		)
Defendants.		)
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**PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION  
AND APPOINTMENT OF CLASS COUNSEL**

Plaintiffs Diego N., Renesme R., Mario C., and Benito S., on behalf of themselves and all others similarly situated, pursuant to Federal Rule of Civil Procedure 23(c)(1) and Local Civil Rule 23.1(b), move for the Court to certify a class under Federal Rule of Civil Procedure 23(b)(2) consisting of: all noncitizen minors who are or will be in the custody of the Department of Health and Human Services (“HHS”) and (1) who were previously in the Office of Refugee Resettlement’s (“ORR”) custody, (2) who were approved for release by ORR to a sponsor, (3) who have been or will be re-detained by the Department of Homeland Security (“DHS”) and re-referred to ORR, and (4) whom ORR has not released to their previously approved sponsor pursuant to ORR’s policy requiring the previously approved sponsor to submit a new sponsor application and obtain a new approval for release.

The grounds for Plaintiffs’ motion are set forth in the accompanying Memorandum of Points and Authorities.

On February 23, 2026, Plaintiffs’ counsel provided Peter C. Pfaffenroth, the Chief of the Civil Division of the U.S. Attorney’s Office for the District of Columbia, and Deputy Chiefs

Heather Graham Oliver and Diana Valdivia with a copy of the complaint. On February 23, 2026, Plaintiffs' counsel will also provide them with a copy of the class certification motion. However, Plaintiffs' counsel has not yet had an opportunity to confer with counsel for Defendants because no such counsel has been identified at the time of filing this motion.

February 23, 2026

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that on February 23, 2026, I caused the foregoing to be mailed to the following addresses:

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**PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES**  
**IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**  
**AND APPOINTMENT OF CLASS COUNSEL**

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## INTRODUCTION

This is a putative class action on behalf of children who are detained in the custody of the Office of Refugee Resettlement (“ORR”) despite having been previously released by ORR to a vetted and approved sponsor. Plaintiffs were rearrested by the Department of Homeland Security (“DHS”), sometimes for no apparent reason and sometimes in the course of law enforcement activity, and re-referred to ORR within the U.S. Department of Health and Human Services (“HHS”).

Plaintiffs challenge ORR’s blanket policy of systematically disregarding its prior sponsorship approval decisions and requiring that all previously approved sponsors begin the sponsor application process anew regardless of the circumstances of a child’s return to ORR custody (“reapplication policy”). This reapplication policy has resulted in the denial of release and prolonged detention of children without any individualized determination that any particular child requires a new sponsor approval decision.

As alleged in Plaintiffs’ Complaint and demonstrated in Plaintiffs’ forthcoming Motion for a Preliminary Injunction, Defendants’ uniformly applied policy denies children their due process rights, separates children from their families and the communities in the United States where they have been living for years, and results in unnecessarily prolonged detention for children. The prolonged detention and family separation caused by ORR’s reapplication policy is causing serious harm to children that will have long lasting effects on their wellbeing.

Plaintiffs seek class certification pursuant to Federal Rule of Civil Procedure 23 and Local Rule 23.1(b) of a class of all noncitizen minors who are or will be in the custody of HHS and (1) who were previously in ORR custody, (2) who were approved for release by ORR to a sponsor, (3) who have been or will be re-detained by DHS and re-referred to ORR, and (4) whom ORR has not released

to their previously approved sponsor pursuant to ORR's policy requiring the previously approved sponsor to submit a new sponsor application and obtain a new approval for release.

Plaintiffs easily satisfy the Rule 23 requirements for class certification. *First*, the proposed class is numerous and likely consists of hundreds of children across the country who are languishing in federal immigration custody while their previously approved sponsors, often their parents or other close relatives, are prevented from caring for them. *Second*, the proposed class members share common questions of law and fact because they all challenge ORR's generally applicable policy of disregarding ORR's own prior sponsor approval and requiring reapplication without any individualized determination that the circumstances of the child's re-referral to ORR indicate a need for a new sponsor approval decision. *Third*, the claims of the named Plaintiffs are typical of the claims of the remainder of the proposed class because all potential class members are subjected to the same reapplication policy. *Fourth*, the class representatives and their experienced counsel will fairly and adequately protect class interests as well as vigorously prosecute the action on behalf of the class.

Finally, certification is warranted under Rule 23(b)(2) because Defendants are acting in the same manner with respect to the class of detained immigrant children in their custody, such that a declaration and injunction with respect to the whole class is appropriate.

The court should certify the proposed class and appoint class counsel to uniformly resolve the legality of Defendants' reapplication policy. Class certification is likewise appropriate in order to provide uniform relief for the hundreds of children currently harmed by the prolonged custody and family separation caused by Defendants' reapplication policy.

## FACTUAL BACKGROUND

The government's sharp increase in indiscriminate immigration enforcement across the United States has resulted in DHS detaining hundreds of children alone, without their family, and referring those children to ORR.<sup>1</sup> Then, regardless of whether these children have loving homes to return to, and ignoring the fact that they've been living for years in the community, going to public school, playing sports, and growing up with their family, ORR requires their previously approved sponsors to *reapply* for sponsorship without any individualized determination that the child's re-referral to ORR indicates a new sponsor approval is necessary.

ORR is required to promptly place unaccompanied children "in the least restrictive setting that is in the best interest of the child," usually with a "suitable family member." 8 U.S.C. § 1232(c)(2)(A). Similarly, the Unaccompanied Children Program Foundational Rule, codified in 2024, establishes that, absent a danger to the child's safety or that of others or a need to secure the child's appearance in immigration court, "ORR shall release a child from its custody without unnecessary delay" to sponsors in a specific order of preference with parents and legal guardians taking first priority and other family members following. 45 C.F.R. § 410.1201(a).

Plaintiffs are children who were previously taken into ORR custody, determined to be eligible for release, and released to a suitable sponsor—in many cases, a parent—who was vetted and approved by ORR. These children were later detained by DHS and re-referred to ORR. Despite having sponsors that ORR has already approved, ORR has required these children and their

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<sup>1</sup> Mica Rosenberg et al., *ICE Sent 600 Immigrant Kids to Detention in Federal Shelters this Year. It's a New Record*. ProPublica (Nov. 24, 2025, 1:05 PM), archived at <https://perma.cc/S7E7-UB53> (Since the beginning of 2025, "some 600 immigrant children have been placed in government shelters by ICE. ... in a majority of the cases we examined, kids ended up in shelters in ways government officials say they never would have in the past: after routine immigration court hearings or appointments, or because they were at a home or a business when immigration authorities showed up to arrest someone else.).

previously approved sponsors to recommence the sponsorship application process as if there was no prior sponsor approval decision.

This reapplication policy has resulted in hundreds of children being detained for months on end despite having previously approved sponsors ready and willing to care for them. As a result of new ORR sponsorship application requirements, the average length of custody for children in ORR custody has increased to approximately six months. The average length of care for children discharged from ORR custody has climbed precipitously from 37 days in January 2025 to 185 days in January 2026. *Compare Fact Sheets and Data, Average Monthly Data*, Office of Refugee Resettlement, *archived at* <https://perma.cc/SPV6-3KBD> (last updated Apr. 7, 2025) *with Average Monthly Data*, Office of Refugee Resettlement, *archived at* <https://perma.cc/JNK2-KBTY> (last updated Feb. 9, 2026).

Named Plaintiffs are all noncitizen minors in the custody of ORR. Ex. 1, Decl. of Diego N. ¶¶ 2, 6, Feb. 18, 2026 (“Diego Decl.”); Ex. 2, Decl. of Renesme R. ¶¶ 2-3, 7, 9, Feb. 17, 2026 (“Renesme Decl.”); Ex. 3, Decl. of Mario C. ¶¶ 2-3, Feb. 10, 2026 (“Mario Decl.”); Ex. 4, Decl. of Benito S. ¶¶ 2, 4, 7, Feb. 20, 2026 (“Benito Decl.”). Each of the named Plaintiffs have sponsors who were previously approved by ORR and wish to bring them home. Diego Decl. ¶¶ 2, 7-8; Renesme Decl. ¶¶ 3, 10-12; Mario Decl. ¶¶ 3, 12-14; Benito Decl. ¶¶ 3, 10.

Diego N. is a 14-year-old boy in ORR custody in Texas. Diego Decl. ¶ 2. After entering the United States, he was held by ORR until he was released to his dad in 2024. *Id.* Before his friend’s car was stopped by Border Patrol and he was re-detained, Diego was living with his father, stepmom, brother, and stepbrother. *Id.* ¶¶ 3, 5. Diego has now been detained for several months and is missing attending public school, his stepmother’s cooking, playing soccer with his friends, and spending time with his siblings. *Id.* ¶¶ 3-5, 13-15. Despite having already been approved as a sponsor for his son,

Diego's dad was instructed to re-apply for approval without explanation or individualized consideration. *Id.* ¶ 7. His dad has given ORR his identification, fingerprints, and passed a home study. *Id.* ¶ 8. Diego was so happy when he thought everything was done, but then he and his father were told there would be new, additional requirements including a DNA test and an in-person identification check. *Id.* ¶ 10. Because his dad has not yet been provided these appointments, Diego is still waiting to be released. *Id.*

Renesme R. is a 16-year-old girl being held in Texas, far from her family in Tennessee. Renesme Decl. ¶¶ 3-4, 9. When Renesme first entered ORR custody in 2023, she was determined eligible for release, and her father was vetted and approved to be her sponsor. *Id.* ¶ 3. For approximately two years, Renesme lived happily with her family in Tennessee. *Id.* ¶ 4. She was arrested by DHS in November 2025 without explanation and re-referred to ORR. *Id.* ¶¶ 7-8. As an 11<sup>th</sup> grader, Renesme was pursuing her high school diploma and was an active member of her school community as a Junior ROTC member. *Id.* ¶ 5. She hopes to join the U.S. military when she graduates from high school. *Id.* However, her schooling has been completely derailed, and she has been needlessly stuck in government custody for months. *Id.* ¶ 14. She misses seeing and caring for her baby cousins, spending time with her dad, and the freedom to decide what to do with her free time. *Id.* ¶¶ 14-15. Without any individualized determination that her re-referral to ORR requires a new sponsor approval, ORR refused to release Renesme to her dad unless he began the sponsorship process anew. *Id.* ¶¶ 9-11. As a result, Renesme remains detained. *Id.* ¶¶ 12-14.

Mario C. is a 17-year-old boy currently detained in New York, thousands of miles away from his life in Texas with his mother and baby brother. Mario Decl. ¶¶ 2-3, 9. Mario was first in ORR custody in 2023 and after his mother completed the sponsor application process, he was released to her custody. *Id.* ¶ 3. Mario describes life with his mother and new baby brother as peaceful. *Id.* ¶¶ 4-

6. He enjoyed going to school, playing video games, and spending time at the beach on the weekends. *Id.* ¶¶ 4-5. Now, after being arrested and re-referred to ORR, he is stuck in custody where he is bored, feels uncomfortable, and is worried about his educational losses. *Id.* ¶¶ 11, 15-17. Without any individualized determination that his re-referral to ORR requires a new sponsor approval, ORR has forced Mario's mother to begin the sponsorship process anew. *Id.* ¶¶ 13-15, 21. His mother is willing and able to care for him but has not been able to complete the application process because she cannot satisfy ORR's new, more restrictive, identification documentation requirements. *Id.* ¶ 14. Because of the obstacles to his release, Mario is considering foster care placement. *Id.* ¶ 15.

Benito S. is a 17-year-old boy who first came to the United States in 2023. Benito Decl. ¶ 2. He was happily living with his aunt and cousins who he loves very much. *Id.* ¶¶ 3-4. A few weeks before Christmas he was arrested and sent back to ORR. *Id.* ¶ 7. Since that time, he has been living far away from his family and he has been missing cooking, playing videogames, and enjoying bike rides. *Id.* ¶ 6. Benito is sad and wants to go home but is considering foster care placement because being in custody is awful. *Id.* ¶¶ 8, 10-11. His life in the shelter is boring and restrictive. *Id.* ¶¶ 6, 11-13. Benito and his aunt would like him to come home but his aunt was told she would have to start a new application, without explanation of why a new application is necessary. *Id.* ¶ 10. His aunt is unable to sponsor him because of ORR's new proof of identification requirements. *Id.*

In sum, despite having loving, qualified sponsors who ORR has already previously vetted and approved, each child is being left alone to languish in ORR custody instead of being able to go home and live with their families. Plaintiffs' harms result from ORR's generally applicable reapplication policy that requires all previously approved sponsors to complete new applications without any individualized determination that the circumstances of a child's re-referral require a new sponsor

approval decision. *See* Diego Decl. ¶ 7; Renesme Decl. ¶ 10; Mario Decl. ¶¶ 8, 13-14; Benito Decl. ¶ 10.

### STANDARD OF REVIEW

Class actions in federal court are governed by Federal Rule of Civil Procedure 23. Class certification demands a “rigorous analysis” under Federal Rule of Civil Procedure 23. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350–51 (2011). The issue at this stage is not, however, whether Plaintiffs can or have proven the elements of their claims on the merits. *See Lewis v. U.S. Parole Comm’n*, 743 F. Supp. 3d 181, 194 n.3 (D.D.C. 2024) (“If some objective legal standard applies in common to the entire class and will be dispositive of each plaintiff’s success on the merits, plaintiffs need not prove that standard is met at the class certification stage.”); *see also Nat’l ATM Council v. Visa, Inc.*, No. 21-7109, 2023 WL 4743013, at \*5 (D.C. Cir. July 25, 2023) (probing merits of plaintiffs’ claims permissible “insofar as necessary to ensure that the Rule 23 requirements are met”). Instead, class certification focuses on the nature of the issues and whether common proof can resolve them.

Federal Rule of Civil Procedure 23 requires a party moving for class certification to first satisfy four prerequisites: (1) the class must be so numerous that joinder of all the members is impracticable (“numerosity”); (2) there must be questions of law or fact common to the class (“commonality”); (3) the claims or defenses of the representative parties must be typical of the claims or defenses of the class (“typicality”); and (4) the representative parties must fairly and adequately protect the interests of the class (“adequacy”). Fed. R. Civ. P. 23(a)(1)–(4); *see Brown v. Dist. of Columbia*, 928 F.3d 1070, 1079 (D.C. Cir. 2019).

A class that meets all the requirements of Rule 23(a) should be certified if “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive

or declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2); *see Wal-Mart*, 564 U.S. at 360; *Brown*, 928 F.3d at 1082. The Court must appoint class counsel upon certifying a class. Fed. R. Civ. P. 23(g).

Finally, a class may be provisionally certified in conjunction with a motion for preliminary injunction “to achieve meaningful relief with respect to [an] allegedly unlawful [policy].” *Damus v. Nielsen*, 313 F. Supp. 3d 317, 328 (D.D.C. 2018); *see also A.A.R.P. v. Trump*, 605 U.S. 91, 98 (2025) (“[B]ecause courts may issue temporary relief to a putative class, we need not decide whether a class should be certified . . . in order to temporarily enjoin the Government . . .”) (citing 2 W. Rubenstein, Newberg & Rubenstein on Class Actions § 4:30 (6th ed. 2022 and Supp. 2024)). This Court has repeatedly granted provisional class certifications for the purposes of preliminary injunctive relief. *See, e.g., Angelica S. v. U.S. Dep’t of Health & Hum. Servs.*, 786 F. Supp. 3d 158, 176 (D.D.C. 2025); *L.G.M.L. v. Noem*, 800 F. Supp. 3d 100, 116 (D.D.C. 2025); *Kirwa v. U.S. Dep’t of Def.*, 285 F. Supp. 3d 21, 44 (D.D.C. 2017); *Feng Wang v. Pompeo*, 354 F. Supp. 3d 13, 16 n.1 (D.D.C. 2018); *R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 179–80 (D.D.C. 2015) (citing *Berge v. United States*, 949 F. Supp. 2d 36, 49 (D.D.C. 2013)); *see also P.J.E.S. by and through Escobar Francisco v. Wolf*, 502 F. Supp. 3d 492, 530–31 (D.D.C. 2020) (listing cases).

## ARGUMENT

### A. The Proposed Class Members Are So Numerous That Joinder Is Impracticable

A proposed class must be “so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a)(1). “Impracticability of joinder means only that it is difficult or inconvenient to join all class members, not that it is impossible to do so.” *Coleman through Bunn v. Dist. of Columbia*, 306 F.R.D. 68, 76 (D.D.C. 2015) (quoting *Bond v. Fleet Bank (RI), N.A.*, No. 1-177 L., 2002 WL 31500393, at \*4 (D.R.I. Oct. 10, 2002)). There is no minimum threshold number of members making

joinder impracticable, but “[i]n this district, courts have found that numerosity is satisfied when a proposed class has at least forty members.” *Charles H. v. Dist. of Columbia*, No. 1:21-cv-00997-CJN, 2021 WL 2946127, at \*13 (D.D.C. June 16, 2021) (citations omitted). Notably, “the Court need only find an approximation of the size of the class, not an exact number of putative class members.” *Coleman*, 306 F.R.D. at 76 (internal quotation marks and citations omitted). Plaintiffs must provide “some evidentiary basis beyond a bare allegation”<sup>2</sup> of a sufficiently numerous class, but the court may draw “reasonable inferences from the facts presented to find the requisite numerosity.” *Id.* (citing *McCuin v. Sec’y of Health & Hum. Servs.*, 817 F.2d 161, 167 (1st Cir. 1987)).

The proposed class is sufficiently numerous. In fiscal year 2025, a total of 22,833 children were placed in ORR custody.<sup>3</sup> In January 2026, there were an average of 2,460 unaccompanied children in ORR custody on any given day throughout the month.<sup>4</sup> While it is not possible for Plaintiffs to know precisely how many children currently in ORR custody are subjected to ORR’s reapplication policy, public reporting confirms that hundreds of children have been re-referred to ORR since January 2025, after having previously been released to their vetted and approved sponsors.<sup>5</sup> Legal service providers working with children in ORR custody in multiple states have reported a sharp increase in the number of children re-entering ORR custody after a prior release.

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<sup>2</sup> Plaintiffs may satisfy this evidentiary basis by relying upon a government agency’s own records, as well as any expert affidavits. *See Garza v. Hargan*, 304 F. Supp. 3d 145, 155 (D.D.C. 2018), *aff’d in part, vacated in part on other grounds, sub nom. J.D. v. Azar*, 925 F.3d 1291 (D.C. Cir. 2019); *Hoyte v. Dist. of Columbia*, 325 F.R.D. 485, 492, 495–96 (D.D.C. 2017).

<sup>3</sup> *Fact Sheets and Data, Referrals*, Office of Refugee Resettlement, <https://acf.gov/orr/uac/referrals> (last updated Feb. 9, 2026).

<sup>4</sup> *Fact Sheets and Data, Average Monthly Data*, Office of Refugee Resettlement, *archived at* <https://perma.cc/JNK2-KBTY> (last updated Feb. 9, 2026).

<sup>5</sup> Mica Rosenberg et al., *ICE Sent 600 Immigrant Kids to Detention in Federal Shelters this Year. It’s a New Record*. ProPublica (Nov. 24, 2025, 1:05 PM), *archived at* <https://perma.cc/S7E7-UB53>.

*See* Ex. 5, Decl. of Alexa L. Sendukas ¶ 5, Feb. 20, 2026 (“Sendukas Decl.”); Ex. 6, Decl. of Marion Donovan-Kaloust ¶ 4, Feb. 20, 2026 (“Donovan-Kaloust Decl.”); *see also* Ex. 7, Decl. of C.A.C.C. ¶¶ 2, 6, 10, Jan. 22, 2026 (8-year-old boy detained for six months in Virginia while his mother repeated application process);<sup>6</sup> Ex. 8, Decl. of J.M.P.V. ¶¶ 2, 4-6, Feb. 19, 2026 (16-year-old boy remains detained since September 2025 while ORR requires his father to repeat the application process); Mario C. Decl. ¶ 20 (aware of other kids at his shelter who were in ORR custody for the second time).

Based on this information, the Court can easily conclude that the number of unaccompanied children in ORR custody subjected to ORR’s reapplication policy is sufficiently large to satisfy the numerosity requirement. *See, e.g., P.J.E.S.*, 502 F. Supp. 3d at 531 (relying on government and news reports of the number of immigrant children apprehended or expelled together with a much smaller number of children identified by counsel as having been subjected to the policy at issue).

Moreover, unaccompanied children are regularly being referred to and released from ORR custody, adding to the impracticability of joining future class members. *See J.D. v. Azar*, 925 F.3d 1291, 1323 (D.C. Cir. 2019) (assessing “non-numerical considerations that might make joinder impracticable, including the fluidity of ORR custody, the dispersion of class members across the country, and their limited resources”); *see also D.L. v. Dist. of Columbia*, 302 F.R.D. 1, 11 (D.D.C. 2013), *vacated on other grounds*, 713 F.3d 120 (D.C. Cir. 2013); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1202–03 (N.D. Cal. 2017) (finding numerosity satisfied where there were at least fifteen class members, “there [was] evidence that additional class members [would] be added”, and joinder would be impracticable given that “[t]he class consists of a changing population of noncitizen

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<sup>6</sup> C.A.C.C. was finally released to his mother in February 2026, after he filed a petition for a writ of habeas corpus. *See C.A.C.C. v. Kennedy*, Case No. 26-cv-368 (E.D. Va. Feb. 6, 2026).

minors in government custody, some of whom have limited English proficiency”), *aff’d*, 905 F.3d 1137 (9th Cir. 2018). In cases like this one, where non-numerical considerations make joinder impracticable, classes have been certified “even if they have fewer than [twenty] members.” *J.D.*, 925 F.3d at 1323 (collecting cases).

Additionally, the class members’ inherent vulnerability as minors in federal custody who are dependent on adults and have no independent financial resources also makes joinder impracticable. *See D.L.*, 302 F.R.D. at 11; *Coleman*, 306 F.R.D. at 80. Unaccompanied children are held in hundreds of facilities funded by ORR spanning more than a dozen states,<sup>7</sup> reflecting a vast “geographic dispersion of class members.” *Coleman*, 306 F.R.D. at 80 (internal citation omitted); *see also Garza*, 304 F. Supp. 3d at 157 (finding joinder impractical “especially given that the proposed class members are undocumented minors who are geographically dispersed and who are not at liberty—financially or otherwise—to move or act at will inside the United States”).

Accordingly, the proposed class satisfies the numerosity requirement of Rule 23(a)(1).

#### **B. The Proposed Class Presents Common Questions of Law and Fact**

Rule 23(a)(2) requires the existence of “questions of law or fact common to the class,” or commonality. Fed. R. Civ. P. 23(a)(2). To establish commonality, class members must have “suffered the same injury,” and the class claims must “depend on a common contention” that “is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Wal-Mart*, 564 U.S. at 350. “The touchstone of the commonality inquiry is ‘the capacity of a classwide proceeding to generate common *answers* apt to drive the resolution of the litigation.’” *Coleman*, 306 F.R.D. at 82 (quoting

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<sup>7</sup> *Unaccompanied Alien Children Bureau Fact Sheet*, Office of Refugee Resettlement (Apr. 4, 2025), *archived at* <https://perma.cc/S68K-5283>.

*Wal-Mart*, 564 U.S. at 350 (internal citations omitted) (emphasis in original)). “[E]ven a single common question will do.” *Wal-Mart*, 564 U.S. at 359 (internal quotation marks, alterations, and citations omitted).

Courts have consistently held that “commonality is satisfied where the lawsuit challenges a system-wide practice or policy that affects all putative class members.” *Thorpe v. Dist. of Columbia*, 303 F.R.D. 120, 147 (D.D.C. 2014), *aff’d sub nom. In re Dist. of Columbia*, 792 F.3d 96 (D.C. Cir. 2015); *see also R.I.L.-R*, 80 F. Supp. 3d at 181 (“commonality is satisfied where there is a uniform policy or practice that affects all class members.”) (internal quotation marks and citation omitted); *P.J.E.S.*, 502 F. Supp. 3d at 532 (noting that commonality means that “if any person in the class has a meritorious claim, they all do”) (internal citation omitted).

“[F]actual variations among the class members will not defeat the commonality requirement, so long as a single aspect or feature of the claim is common to all proposed class members.” *Bynum v. Dist. of Columbia*, 214 F.R.D. 27, 33 (D.D.C. 2003); *see also Coleman*, 306 F.R.D. at 83; *Afghan & Iraqi Allies v. Pompeo*, 334 F.R.D. 449, 459 (D.D.C. 2020) (certifying a class where “the factual variations among the class members . . . are not fatal to commonality because they do not undermine the class’s common characteristics”) (internal citations omitted); *S.R. by and through Rosenbauer v. Penn. Dep’t of Hum. Servs.*, 325 F.R.D. 103, 108–09 (M.D. Pa. 2018) (rejecting argument that the “individualized nature of placement and service decisions for each child in the dependency and delinquency systems makes classwide resolution impossible” because the “putative class seeks declaratory and injunctive relief to address systemic deficiencies”).

Here, the putative class has at least the following key legal issues in common: (1) whether ORR’s generally applicable reapplication policy denies children procedural due process because it is applied without any individualized determination that the circumstances of the child’s re-referral

require a new sponsor approval decision and without any opportunity for the child or previously approved sponsor to respond; and (2) whether the reapplication policy is contrary to law, beyond statutory authority, and arbitrary and capricious, in violation of the Administrative Procedure Act (“APA”).

ORR requires *all* previously approved sponsors to repeat the sponsor application process, regardless of the circumstances of the child’s re-referral to ORR custody. *See* Sendukas Decl. ¶ 5; Donovan-Kaloust Decl. ¶ 4. This “system-wide” policy affects “all of the putative class members,” by preventing prompt release from custody regardless of individual differences in children’s cases. *Thorpe*, 303 F.R.D. at 147. ORR does not offer any opportunity for the child to object to the reapplication requirement and provides no individualized evidence that any particular child’s re-referral requires a new sponsor approval decision. Plaintiffs allege that this categorical policy violates the Due Process Clause and the Administrative Procedure Act. Each of these questions can be resolved for the “class as a whole.” *Wal-Mart*, 564 U.S. at 360; *see also Saravia*, 280 F. Supp. 3d at 1204 (finding that the claim “that all minors previously released to a sponsor are entitled to a prompt hearing to determine whether there is any factual basis supporting DHS’s arrest and ORR’s decision to detain the minor in secure custody” is “common to all class members, and the answer is the same for each”).

Furthermore, courts have found that plaintiffs asserting that an agency has failed to follow its own regulations (*Accardi* claims), as Plaintiffs do here, meet the commonality requirement because the question of whether agencies are complying with their own binding policies inherently raises common legal and factual questions. *See, e.g., Damus*, 313 F. Supp. 3d at 332 (holding that plaintiffs alleging violation of *Accardi* doctrine satisfied commonality requirement because allegation that ICE officers violated an agency rule requiring individualized parole determinations generated common

question of law and fact); *Mons v. McAleenan*, No. 19-1593 (JEB), 2019 WL 4225322, at \*9–10 (D.D.C. Sept. 5, 2019) (same). Plaintiffs’ *Accardi* claim, alleging that Defendants are violating their obligations under the Foundational Rule to release children without unnecessary delay, similarly generates common questions of law and fact in satisfaction of the commonality requirement.

The class members’ claims likewise share common issues of fact, including but not limited to: (1) the class members’ continued detention in ORR custody despite having a sponsor who has previously been approved; and (2) Defendants’ policy of requiring all previously approved sponsors to reapply without any individualized determination of whether the circumstances of the child’s re-referral to ORR require a new sponsor approval decision. Furthermore, a common resolution for the class is possible: the Court can and should vacate, enjoin, and declare unlawful the categorical reapplication policy, require that ORR make individualized determinations as to whether the circumstances of the child’s re-referral to ORR demonstrate the previously approved sponsor is not capable of providing for the child’s well-being such that sponsorship approval must be reconsidered, and provide class members notice and an opportunity to be heard at prompt administrative hearings.

Similar classes have been certified by other district courts. *E.g.*, *Saravia*, 280 F. Supp. 3d at 1202 (provisionally certifying “a class of noncitizen minors meeting the following criteria: (1) the noncitizen came to the country as an unaccompanied minor; (2) the noncitizen was previously detained in ORR custody and then released by ORR to a sponsor; (3) the noncitizen has been or will be rearrested by DHS on the basis of a removability warrant on or after April 1, 2017 on allegations of gang affiliation”); *L.G.M.L.*, 800 F. Supp. 3d at 117 (provisionally certifying a class consisting of “all unaccompanied children from Guatemala who are (and who will be) in ORR custody who have not received a final order of removal or the Attorney General’s permission to voluntarily depart under 8 U.S.C. § 1229c and applicable regulations”); *Angelica S.*, 786 F. Supp. 3d at 176 (provisionally

certifying a class “consisting of all unaccompanied children (1) who were in or transferred to the custody of HHS on or before April 22, 2025; (2) who have identified a potential sponsor; and (3) whose sponsor’s family reunification application has been denied, closed, withdrawn, delayed, or cannot be completed because the sponsor is missing documents newly required on or after March 7, 2025”); *Lucas R. v. Azar*, Case No. CV 18-5741-DMG (PLAx), 2018 WL 7200716, at \*17 (C.D. Cal. Dec. 27, 2018) (certifying a class of unaccompanied children “whom ORR is refusing or will refuse to release to parents or other available custodians within [thirty] days of the proposed custodian’s submission of a complete family reunification packet on the ground that the proposed custodian is or may be unfit”); *see also* Class Cert. Order, *J.E.C.M. v. Hayes*, 352 F. Supp. 3d 559 (E.D. Va. Apr. 26, 2019), ECF No. 138, *amended by* ECF No. 149 (E.D. Va. May 2, 2019) (certifying a class of unaccompanied children held in ORR custody for 60 days or more whose sponsor initiated the sponsorship process and the children were not released to the sponsor). Here, the proposed class likewise satisfies the commonality requirement of Rule 23(a)(2).

### **C. Plaintiffs’ Claims Are Typical of the Claims of the Members of the Proposed Class**

Typicality exists when “the claims or defenses of the representative parties are typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). This requirement “ensures that the named plaintiffs are appropriate representatives of the class whose claims they wish to litigate.” *Wal-Mart*, 564 U.S. at 349. “A class representative satisfies the typicality requirement if the representative’s claims are based on the same legal theory as the claims of the other class members and her injuries arise from the same course of conduct that gives rise to the other class members’ claims.” *Coleman*, 306 F.R.D. at 83 (quoting *Bynum*, 214 F.R.D. at 35). This alignment of legal theory and course of conduct occurs when, as here, “the plaintiffs’ claims all arise from a common statutory background and raise identical legal questions.” *Id.*

Neither the claims nor the relevant facts need to be identical across class members to maintain typicality, which “refers to the nature of the claims of the representative, not the individual characteristics of the plaintiff.” *Garnett v. Zeilinger*, 301 F. Supp. 3d 199, 209 (D.D.C. 2018) (quoting *Hoyte*, 325 F.R.D. at 490); see *Wagner v. Taylor*, 836 F.2d 578, 591 (D.C. Cir. 1987) (“Courts have held that typicality is not destroyed by ‘factual variations.’”) (quoting *Donaldson v. Pillsbury Co.*, 554 F.2d 825, 831 (8th Cir. 1977)); *J.D.*, 925 F.3d at 1322 (“[T]o destroy typicality, a distinction must differentiate the ‘claims or defenses’ of representatives from those of the class.”) (citation omitted) (emphasis omitted).

Plaintiffs’ claims here are typical of the proposed class members’ claims. Each plaintiff has been required to have their already approved sponsor reapply for sponsorship and has not been given any individualized reason to justify a new sponsor application process. Additionally, each Plaintiff has been denied any opportunity to be heard as to why reapplication is not necessary in their circumstance. Plaintiff children have therefore all been left in prolonged federal custody notwithstanding having an available already approved sponsor. Thus, Plaintiffs’ and proposed class members’ claims arise from the same unlawful conduct: ORR’s universal requirement that all previously approved sponsors reapply for sponsorship.

Plaintiffs’ claims are also based on the same legal theory as all proposed class members’ claims—that Defendants have violated children’s due process rights and the APA by improperly requiring all previously approved sponsors to reapply without any individualized determination that justifies such a decision or prompt notice and opportunity to be heard.

Thus, Plaintiffs’ claims are “sufficiently interrelated with the class claims to protect absent class members.” *R.I.L.-R*, 80 F. Supp. 3d at 181; see also *Saravia*, 280 F. Supp. 3d at 1204 (finding named plaintiff typical where he “experienced the same trajectory of release, rearrest, and transfer

back to ORR custody on the basis of gang affiliation that characterizes all the class members”); *Damus*, 313 F. Supp. 3d at 334 (finding typicality requirement satisfied where named plaintiff challenged ICE violation of policy requiring individualized parole determinations for asylum seekers in custody); *Lucas R.*, 2018 WL 7200716, at \*14–15 (finding typicality where ORR refused to release named plaintiffs to their sponsors without notice and an opportunity to be heard regarding their sponsors’ suitability). Therefore, the proposed class satisfies the typicality requirement of Rule 23(a)(3).

**D. Plaintiffs Will Adequately Protect the Interests of the Proposed Class and Counsel are Qualified to Litigate this Action**

Finally, Rule 23(a) requires that the representative parties must “fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). “Two criteria for determining the adequacy of representation are generally recognized: (1) the named representative must not have antagonistic or conflicting interests with the unnamed members of the class, and (2) the representative must appear able to vigorously prosecute the interests of the class through qualified counsel.” *Nat’l Veterans Legal Servs. Program v. United States*, 235 F. Supp. 3d 32, 41 (D.D.C. 2017) (quoting *Twelve John Does v. Dist. of Columbia*, 117 F.3d 571, 575–76 (D.C. Cir. 1997)). Plaintiffs easily meet both requirements.

First, Plaintiffs have no antagonistic or conflicting interests with the proposed class members’ interests. As discussed, Plaintiffs assert the same legal claims as the proposed class members. Plaintiffs aim to secure injunctive and declaratory relief that will ensure all proposed class members are afforded their statutory and constitutional rights, as outlined in the Complaint. Where, as here, Plaintiffs seek “identical relief for all class members,” they do not have conflicting interests. *P.J.E.S.*, 502 F. Supp. 3d at 532 (internal citation omitted).

Second, Plaintiffs are competent to represent the class. Adequacy “does not require either that the proposed class representatives have legal knowledge or a complete understanding of the representative’s role in class litigation.” *Garnett*, 301 F. Supp. 3d at 210 (internal citation omitted). It only requires that the named plaintiffs have “some rudimentary knowledge of [their] role as . . . class representative[s] and [be] committed to serving in that role in litigation.” *Id.* (internal citation omitted). As their declarations show, Plaintiffs have proven sufficient knowledge of their roles as class representatives and the facts of this case and are willing to act as class representatives to satisfy the adequacy requirement. *See* Renesme Decl. ¶¶ 17-19; Diego Decl. ¶¶ 17-19; Mario Decl. ¶¶ 22-23; Benito Decl. ¶¶ 14-16; *see also, e.g., P.J.E.S.*, 502 F. Supp. 3d at 533.

In addition, class counsel are qualified and able to vigorously prosecute the interests of the class. Class counsel are not conflicted; they have no interests or commitments that are antagonistic to, or that would detract from, their efforts to seek a favorable decision for the class. Class counsel have extensive experience litigating complex class actions and in children’s and families’ rights, youth law, administrative law, and immigration law. *See Coleman*, 306 F.R.D. at 84 (finding adequacy when class counsel has extensive experience litigating class actions); *Healthy Futures of Tex. v. U.S. Dep’t of Health & Hum. Servs.*, 326 F.R.D. 1, 7–8 (D.D.C. 2018) (same); *see also*, Ex. 9, Decl. of Mishan Wroe ¶¶ 3-5, Feb. 23, 2026 (“Wroe Decl.”); Ex. 10, Decl. of Joel McElvain ¶ 2, Feb. 23, 2026 (“McElvain Decl.”). In particular, the counsel on this case from the National Center for Youth Law have represented plaintiffs in several other class action lawsuits on behalf of detained immigrant youth including *Flores v. Bondi*, *Angelica S. v. HHS*, *L.G.M.L. v. Noem*, *Lucas R. v. Becerra*, *Duchitanga v. Hayes*, and *J.E.C.M. v. Dunn Marcos*. Wroe Decl. ¶ 4. Counsel on this case from Democracy Forward Foundation have decades of experience litigating APA claims, including claims involving the Department of Health and Human Services, and represent detained immigrant

youth in *Angelica S. v. HHS*. McElvain Decl. ¶¶ 4-6; *see also Angelica S.*, 786 F. Supp. 3d at 178 (finding adequacy where named plaintiffs had “no antagonistic or conflicting interests and [were] represented by qualified counsel”).

Accordingly, this aspect of Rule 23(a)(4) is also satisfied.

#### **E. Class Certification Under Rule 23(b)(2) is Appropriate**

Plaintiffs seek to certify this class under Rule 23(b)(2), which requires that defendants have “acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2). As the Supreme Court noted in *Wal-Mart*, “[c]ivil rights cases against parties charged with unlawful, class-based discrimination are prime examples’ of what (b)(2) is meant to capture.” 564 U.S. at 361 (quoting *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 614 (1997)). This Circuit has described a Rule 23(b)(2) action as an efficient and consolidated way to address systemic harms that are best remedied with an injunction, particularly in civil rights cases like this one. *See D.L. v. Dist. of Columbia*, 860 F.3d 713, 726 (D.C. Cir. 2017) (“Rule 23(b)(2) exists so that parties and courts, especially in civil rights cases like this, can avoid piecemeal litigation when common claims arise from systemic harms that demand injunctive relief.”).

“The key to the (b)(2) class is the indivisible nature of the injunctive or declaratory remedy warranted—the notion that the conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them.” *Coleman*, 306 F.R.D. at 84 (quoting *Wal-Mart*, 564 U.S. at 360). Although the injunction must provide relief to each class member, “[i]f a certain outcome is legally mandated and an injunction provides each member of the class an increased opportunity to achieve that outcome, Rule 23(b)(2) is satisfied.” *Brown*, 928 F.3d at 1082–83; *see*

also *P.J.E.S.*, 502 F. Supp. 3d at 534 (provisionally approving class of unaccompanied children seeking class-wide relief to enjoin enforcement of Title 42 immigration restrictions against them).

Courts in this District have interpreted Rule 23(b)(2) to impose two requirements: “(1) the defendant’s action or refusal to act must be generally applicable to the class, and (2) plaintiff must seek final injunctive relief or corresponding declaratory relief on behalf of the class.” *Steele v. United States*, 159 F. Supp. 3d 73, 81 (D.D.C. 2016) (quotations and citations omitted); *Bynum*, 214 F.R.D. at 37; *R.I.L.-R*, 80 F. Supp. 3d at 182. Both requirements are satisfied here. Defendants’ policy requiring all previously approved sponsors to reapply for sponsorship is final agency action “generally applicable” to all proposed class members. 5 U.S.C. § 706(2)(D); 5 U.S.C. § 552(a)(1)(E). Further, all class members are entitled to individualized consideration of the circumstances of their re-referral and due process to determine whether they can be released to family members capable of caring for their physical and mental wellbeing. *See* 8 U.S.C. § 1232(c)(2)(A); 6 U.S.C. § 279(b)(1)(B); *see also Moore v. City of East Cleveland*, 431 U.S. 494, 504 (1977); *Lucas R. v. Becerra*, Case No. CV 18-5741-DMG (PLAx), 2022 WL 2177454, at \*14 (C.D. Cal. Mar. 11, 2022); *J.E.C.M. by and through Saravia v. Dunn Marcos*, 689 F. Supp. 3d 180, 195 (E.D. Va. 2023).

Additionally, a declaration that Defendants’ conduct is unlawful and an injunction directing Defendants to vacate the reapplication policy and provide children with prompt hearings would benefit the whole class by resolving all class members’ claims and ensuring that all class members receive procedural due process to contest their prolonged separation from previously approved sponsors. “Because a single injunction can protect all class members’ procedural due process rights, the requirements of Rule 23(b)(2) are satisfied.” *Saravia*, 280 F. Supp. 3d at 1205.

Therefore, the Court should find that the proposed class meets Rule 23(b)(2)’s requirements.

### F. The Proposed Class is Sufficiently Definite and Ascertainable

The D.C. Circuit has not yet decided whether Rule 23(b)(2) requires that a class be ascertainable. *See J.D.*, 925 F.3d at 1319–20 (noting conflict in decisions of sister circuits); *see also Ramirez v. U.S. Immigr. & Customs Enf't*, 338 F. Supp. 3d 1, 48 (D.D.C. 2018) (“[I]t is far from clear that there exists in this district a requirement that a class certified under Rule 23(b)(2) must demonstrate ascertainability to merit certification.”). Courts that apply such a requirement in addition to the Rule 23 requirements have considered whether the class is “clearly defined” and “sufficiently ascertainable”—in other words, that the class exists, and that it is “administratively feasible for the court to determine whether a particular individual is a member” of the class. *Zhang v. U.S. Citizenship & Immigr. Servs.*, 344 F. Supp. 3d 32, 61–62 (D.D.C. 2018), *aff’d*, 978 F.3d 1314 (D.C. Cir. 2020) (quoting *Pigford v. Glickman*, 182 F.R.D. 341, 346 (D.D.C. 1998)); *see also Thorpe*, 303 F.R.D. at 139.

In Rule 23(b)(2) classes, such as this one, where plaintiffs only seek an injunction and notice is not required, “precise ascertainability” is not required. *D.L.*, 302 F.R.D. at 16–17 (quoting William B. Rubenstein et al., *Newberg and Rubenstein on Class Actions* § 3:7 (5th ed.)). Rule 23(b)(2) classes are sufficiently ascertainable “as long as plaintiffs can establish the existence of a class and propose a class definition that accurately articulates the general demarcations of the class of individuals who are being harmed by the alleged deficiencies.” *Thorpe*, 303 F.R.D. at 139 (internal citations and quotation marks omitted). It must also be “administratively feasible” to determine who is in the proposed class—that is, counsel and putative class members should be able to determine who is in the class “simply by reading the [class] definition.” *Coleman*, 306 F.R.D. at 75 (internal citations omitted) (alteration in original).

If ascertainability is required here, the proposed class easily meets that standard. A proposed

class member is a noncitizen minor who is or will be in the custody of HHS and (1) who was previously in ORR custody, (2) who was approved for release by ORR to a sponsor, (3) who has been or will be re-detained by DHS and re-referred to ORR, and (4) whom ORR has not released to their previously approved sponsor pursuant to ORR's policy requiring the previously approved sponsor to submit a new sponsor application and obtain a new approval for release. Thus, "simply by reading the [class] definition," children in the custody of ORR will be able to determine whether they are class members. *See, e.g., id.*

The proposed class consists entirely of children known to Defendants, who are or will be in Defendants' custody. Furthermore, Defendants possess data that could be readily used to identify the children in its custody who have previously been in their custody, were released to an approved sponsor, were re-referred to ORR, and are now back in Defendants' custody because they have not been released to the previously approved sponsor pursuant to ORR's reapplication policy. Defendants themselves are charged with reunifying potential class members with their sponsors and thus have already identified or will identify potential sponsors for each class member. *See* 8 U.S.C. § 1232(c)(2)(A); 45 C.F.R. §§ 410.1200, 410.1201(a), 410.1205(b)–(c). Any future class members will be known to Defendants when they are taken into Defendants' custody, and the details of their reunification cases will be entirely known to Defendants pursuant to ORR's role in gathering the requisite information. For these reasons, the proposed class is "adequately defined" and "sufficiently ascertainable." *Zhang*, 344 F. Supp. 3d at 61–62.

#### **G. The Court Should Designate Plaintiffs' Counsel as Class Counsel**

If the Court grants Plaintiffs' motion to certify the class, the Court must also appoint class counsel. Fed. R. Civ. P. 23(g). The Court is tasked with weighing "(i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel's experience in handling class

actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel's knowledge of the applicable law; and (iv) the resources that counsel will commit to representing the class." Fed. R. Civ. P. 23(g)(1)(A). It may also consider "any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class." Fed. R. Civ. P. 23(g)(1)(B).

Plaintiffs' counsel meets the standard. Plaintiffs are represented collectively by the National Center for Youth Law and Democracy Forward Foundation. Attorneys from both organizations are seasoned litigators, many with substantial experience in class action lawsuits, administrative law litigation, and advocating for the rights of detained immigrant children. *See* Wroe Decl.; McElvain Decl. Counsel from the National Center for Youth Law and Democracy Forward Foundation represent the plaintiff class in *Angelica S. v. HHS*. Counsel from the National Center for Youth Law have also represented plaintiffs in several other class action lawsuits on behalf of detained immigrant youth, including *Flores v. Bondi*, *L.G.M.L. v. Noem*, *Lucas R. v. Becerra*, *Duchitanga v. Hayes*, and *J.E.C.M. v. Dunn Marcos*. Counsel have already invested "substantial time and resources to identifying and investigating potential claims in the action" and will continue to do so. *See Encinas v. J.J. Drywall Corp.*, 265 F.R.D. 3, 9 (D.D.C. 2010). Accordingly, Plaintiffs' counsel should be designated as counsel for the class.

### CONCLUSION

For the reasons set forth above, Plaintiffs respectfully request that the Court, pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2), certify a class consisting of noncitizen minors who are or will be in the custody of HHS and (1) who were previously in ORR custody, (2) who were approved for release by ORR to a sponsor, (3) who have been or will be re-detained by DHS and re-referred to ORR, and (4) whom ORR has not released to their previously approved sponsor pursuant to ORR's policy requiring the previously approved sponsor to submit a new sponsor

application and obtain a new approval for release.

February 23, 2026

Respectfully submitted,

/s/ Rebecca Wolozin

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rthurston@democracyforward.org

\* Application for *pro hac vice* forthcoming

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

<hr/>		)
DIEGO N., <i>et al.</i> ,		)
		)
Plaintiffs,		)
		)
v.		) No. 1:26-cv-577
		)
U.S. DEPARTMENT OF HEALTH AND		)
HUMAN SERVICES, <i>et al.</i> ,		)
		)
Defendants.		)
<hr/>		)

**[PROPOSED] ORDER GRANTING PLAINTIFFS’ MOTION FOR CLASS  
CERTIFICATION AND APPOINTMENT OF CLASS COUNSEL**

Upon consideration of all briefing and evidence set forth by the Parties, Plaintiffs’  
Motion for Class Certification and Appointment of Class Counsel is GRANTED, and it is hereby  
ORDERED that the following class be certified under Fed. R. Civ. P. 23(b):

All noncitizen minors who are or will be in the custody of the U.S. Department of Health and  
Human Services and (1) who were previously in the Office of Refugee Resettlement’s (“ORR”) custody,  
(2) who were approved for release by ORR to a sponsor, (3) who have been or will be re-detained  
by the Department of Homeland Security and re-referred to ORR, and (4) whom ORR has not released  
to their previously approved sponsor pursuant to ORR’s policy requiring the previously approved  
sponsor to submit a new sponsor application and obtain a new approval for release.

It is further ORDERED that National Center for Youth Law and Democracy Forward Foundation  
are appointed as class counsel. It is further ORDERED that named Plaintiffs Diego N., Renesme R.,  
Mario C., and Benito S. are appointed as class representatives.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2026.

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*Diego N., et al. v. HHS, et al.*, 1:26-cv-577**Exhibit Index to Plaintiffs' Motion for Class Certification**

<b>Exhibit</b>	<b>Exhibit Description</b>
1	Declaration of Diego N., February 18, 2026
2	Declaration of Renesme R., February 17, 2026
3	Declaration of Mario C., February 10, 2026
4	Declaration of Benito S., February 20, 2026
5	Declaration of Alexa L. Sendukas, February 22, 2026
6	Declaration of Marion Donovan-Kaloust, February 20, 2026
7	Declaration of C.A.C.C., January 22, 2026
8	Declaration of J.M.P.V., February 19, 2026
9	Declaration of Mishan Wroe, February 23, 2026
10	Declaration of Joel McElvain, February 23, 2026

# **EXHIBIT 1**

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

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DIEGO N. <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	No. 1:26-cv-577
U.S. DEPARTMENT OF HEALTH AND	)	
HUMAN SERVICES, <i>et al.</i> ,	)	
	)	
Defendants.	)	

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**DECLARATION OF DIEGO N.**

(proceeding under pseudonym)

I, Soraya Morales Nuñez, declare as follows:

1. I am fluent in English and Spanish.
2. The following is a true and correct translation of the annexed declaration of

[REDACTED].

\*\*\*

**DECLARATION OF** [REDACTED]

I, [REDACTED], declare as follows:

1. This declaration is based on my personal knowledge and the following facts are true to the best of my understanding and recollection.
2. I am 14 years old and I am from [REDACTED]. I arrived in the United States in 2024 and they transferred me to an ORR shelter. My dad completed the application to be my sponsor right away and gave all his information. After about two weeks, his application was approved and they released me to live with him.

Life after release

3. After I left ORR, I lived with my dad, my stepmother, my stepbrother, and my little brother in Texas. My stepbrother is 16 years old and my brother is 10 years old. I have a good relationship with them and I like being a big brother. I was so happy living with my family and we had a good life together. My stepmother prepared good food from our country and we would also go out to restaurants to eat.
4. I attended junior high after I was released. If I hadn't been detained again, I would now be halfway through my first year of high school. I learned a lot in my classes and had good friends. I liked playing soccer with my friends after school.

Education is a big priority for my dad and he always encouraged me to concentrate on my classes and improve my English.

#### Return to ORR and new application

5. I don't understand why I was detained again. In November 2025, I was out with a friend in his car and the Border Patrol stopped us and asked for our identification. I tried to tell them that I had already been released from government custody to live with my dad, but they didn't care.

6. They brought me to a Border Patrol station for about a day, then to an immigration office, and then to this ORR shelter. I wasn't able to call my dad until I arrived at the immigration office. He was very worried about me.

7. When I arrived at the shelter, they told my dad that he would have to start a new application to be my sponsor. I don't think there was any explanation for this rule.

8. I know my father is prepared to do everything possible to get me released, but this time the process is much more difficult and long. My dad filled out the application and gave his work permit, his license, his Social Security number, and information on his work and his income. My father and stepmother gave their fingerprints. The government also did a home study to see where I lived. I think everything was positive.

9. I don't think all that was necessary because I already lived with my father and stepmother and they always took good care of me. But in January my case worker told us that the application was ready to be approved. We were very happy.

10. But then the government rejected my father's application and said that my father also needs to do a DNA test and attend an appointment to present his documents in person. This was the first time they told us about these new

requirements. My dad has asked for appointments to complete these new requirements, but he is still waiting for the government to give him the appointments. I think he is on the waiting list.

11. This experience has been so difficult and frustrating. I don't understand the reason for all these requirements when my dad has already provided all his information and there is no doubt that he is my dad.

### Experience in ORR

12. My life in the shelter is very different from my home and I don't feel comfortable here. There are a lot of rules and the shelter staff accompany us everywhere, even when we want to go to the bathroom. I cannot go outside for some fresh air when I want to. I don't have contact with the community and I can only call people on my approved list, like my dad.

13. We have school here but I am not learning anything. It is too easy and very boring. For example, they teach us how to read a clock and the names of fruits in English.

14. I think I will have to repeat ninth grade because I cannot get academic credit here. My dad is very worried that I'm going to lose the whole school year and he asked my school to provide me with virtual classes, but it wasn't possible. He also asked the shelter to allow me to leave during the day to go to school in person or to provide me with online classes, but they said no.

15. I really miss being at home and having a normal life and eating my stepmother's good food. The food here is not good and there is no variety, it is almost always chicken. It is really different than being at home with my family.

16. My dad comes to visit me once or twice a week. My stepmother also comes to visit me, but I cannot see my stepbrother and my little brother in person. I miss

them a lot. I'm also not allowed to put my stepbrother and my brother on my phone list.

17. The rule that forces sponsors to present a new application is not fair and I want to help so that other kids do not have the same experience as me. I live near the border and I also want to make sure that if I encounter immigration in the future, I don't have to repeat this experience.

18. My dad is a very good dad. But if the government thinks he isn't, they should tell us why instead of demanding a DNA test or other unnecessary things. I think all children and sponsors should have the right to know what the problem is and to give their answer. And if there isn't a problem, kids should be able to live with their families without spending a long time in detention.

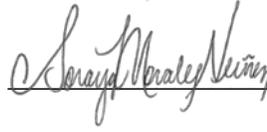
19. I will do what I can to represent other young people in my situation and fight for their interests. I will work with the lawyers to make sure they do everything possible to help the kids. I intend to remain involved in the case and represent the other kids as best I can. This is the first time I have been a class representative.

I declare under my duty to tell the truth and penalty of perjury that all the information I have here given is correct and complete and I understand the legal consequences of testifying falsely to the authorities.

Executed on this 18th day of February, 2026 in [REDACTED], Texas.

\*\*\*

I declare under penalty of perjury that the foregoing is a true and correct translation. Executed on this 19th day of February, 2026.

A handwritten signature in cursive script, reading "Soraya Morales Nuñez", is written over a horizontal line.

Soraya Morales Nuñez

DECLARACIÓN DE [REDACTED]

Yo, [REDACTED], declaro y digo lo siguiente:

1. Esta declaración está basada en mi conocimiento personal. Los hechos que describo son verdaderos a mi mejor conocimiento.
2. Tengo 14 años de edad y soy de [REDACTED]. Llegué a los Estados Unidos en 2024 y me trasladaron a un albergue de ORR. Mi padre llenó una solicitud para ser mi patrocinador de inmediato y dio toda su información. Después de unas dos semanas, su solicitud fue aprobada y me liberaron para vivir con él.

Vida después de liberación

3. Después de salir de ORR, vivía con mi padre, mi madrastra, mi hermanastro, y mi hermano menor en Texas. Mi hermanastro tiene 16 años y mi hermano tiene 10 años. Tengo una buena relación con ellos y me gusta ser hermano mayor. Estaba tan contento de vivir con mi familia y teníamos una buena vida juntos. Mi madrastra preparaba muy buena comida de nuestro país y también salíamos a restaurantes a comer.
4. Asistí a Junior High después de mi liberación. Si no me hubieran detenido otra vez, ahorita estaría a mitad de mi primer año de la escuela secundaria. Aprendí mucho en mis clases y tenía buenos amigos. Me gustaba jugar fútbol con mis amigos después de la escuela. La educación es una gran prioridad para mi padre y siempre me animó a concentrarme en mis clases y mejorar mi inglés.

Regreso a ORR y nueva solicitud

5. No entiendo por qué fui detenido otra vez. En noviembre de 2025, andaba con un amigo en su coche y la Patrulla Fronteriza nos detuvo y nos pidió nuestra identificación. Intenté decirles que ya fui liberado de custodia del gobierno para vivir con mi padre, pero no les importó.

6. Me llevaron a una estación de la Patrulla Fronteriza donde me tuvieron aproximadamente un día, luego a una oficina de inmigración, y luego a este albergue de ORR. No pude llamarle a mi padre hasta que llegué a la oficina de inmigración. Él estaba muy preocupado por mí.

7. Cuando llegué al albergue, le dijeron a mi padre que tenía que iniciar una nueva solicitud para patrocinarme. No pienso que hubo ninguna explicación para esta regla.

8. Yo sé que mi padre está dispuesto a hacer todo lo posible para que me liberen, pero esta vez el proceso es mucho más difícil y largo. Mi padre llenó la solicitud y dio su permiso de trabajo, su licencia, su número de seguro social, e información sobre su trabajo y su ingreso. Mi padre y mi madrastra han dado sus huellas. El gobierno también hizo un estudio de su casa para ver donde yo vivía. Pienso que todo salió positivo.

9. No creo que todo eso fue necesario porque vivía con mi padre y mi madrastra y ellos siempre me cuidaron bien. Pero en enero mi trabajador de caso nos dijo que la solicitud estaba lista para ser aprobada. Estábamos tan contentos.

10. Pero después, el gobierno rechazó la solicitud de mi padre y dijo que mi padre también tiene que hacer una prueba de ADN y asistir a una cita para presentar sus documentos en persona. Esa fue la primera vez que nos avisaron de estos nuevos requisitos. Mi padre ha solicitado citas para cumplir con estos nuevos requisitos, pero todavía está esperando que el gobierno le dé las citas. Pienso que está en la lista de espera.

11. Esta experiencia ha sido tan difícil y frustrante. No entiendo la razón por todos estos requisitos cuando mi padre ya proporcionó toda su información y no hay duda de que es mi padre.

### Experiencia en ORR

12. Mi vida en el albergue es muy diferente a la de mi casa y no me siento cómodo aquí. Hay muchas reglas y el personal del albergue nos acompaña por todas partes, incluso cuando queremos ir al baño. No puedo salir afuera a tomar aire cuando quiero. No tengo contacto con la comunidad y solo puedo hablar por teléfono con las personas en la lista aprobada, como mi padre.

13. Tenemos escuela aquí pero no estoy aprendiendo nada. Es demasiado fácil y muy aburrido. Por ejemplo, nos enseñan como leer un reloj y los nombres de las frutas en inglés.

14. Pienso que voy a tener que repetir noveno grado porque no puedo ganar crédito académico aquí. Mi padre se preocupa mucho que voy a perder todo el año de escuela y le pidió a mi escuela que me dieran clases virtuales, pero no fue posible. También le pidió al albergue permitirme salir durante el día para ir a la escuela en persona o darme clases por internet, pero dijeron que no.

15. Extraño mucho estar en casa y tener una vida normal y comer la comida rica de mi madrastra. La comida aquí no es buena y no hay variedad, es casi siempre pollo. Es muy diferente a estar en casa con mi familia.

16. Mi padre viene a visitarme una o dos veces por semana. Mi madrastra también viene a visitarme, pero no puedo ver a mi hermanastro y mi hermano. Los extraño mucho. Tampoco me permiten poner a mi hermanastro y hermano en mi lista de personas que puedo llamar.

17. La regla que obliga a los patrocinadores a presentar otra solicitud nuevamente no es justa y quiero ayudar para que otros niños no tengan la misma experiencia que yo. Vivo cerca de la frontera y también quiero asegurarme de que, si encuentro a inmigración en el futuro, no tengo que repetir esta experiencia.

18. Mi padre es un padre muy bueno. Pero si el gobierno cree que no lo es, debería decirnos por qué en vez de exigirle una prueba de ADN u otras cosas innecesarias. Pienso que todos los niños y los patrocinadores deben tener el derecho de saber cuál

es el problema y el derecho a dar su respuesta. Y si no hay problema, los niños deben poder vivir con sus familias sin pasar mucho tiempo detenidos.

19. Voy a hacer lo que puedo para representar a los otros jóvenes en mi situación y luchar por sus intereses. Voy a trabajar con los abogados para asegurarme de que hagan todo lo posible para ayudar a los jóvenes. Tengo la intención de permanecer involucrado en el caso y representar a los otros niños de la mejor manera que yo pueda. Es la primera vez que soy representante de una clase.

Declaro bajo protesta de decir la verdad y pena de falso testimonio que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el día 18 de febrero del año 2026, en , tx.

  
\_\_\_\_\_  


# **EXHIBIT 2**

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

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DIEGO N. <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	No. 1:26-cv-577
U.S. DEPARTMENT OF HEALTH AND	)	
HUMAN SERVICES, <i>et al.</i> ,	)	
	)	
Defendants.	)	

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**DECLARATION OF RENESME R.**

(proceeding under pseudonym)

I, Soraya Morales Nuñez, declare as follows:

1. I am fluent in English and Spanish.
2. The following is a true and correct translation of the annexed declaration of [REDACTED]  
[REDACTED]

\*\*\*

**DECLARATION OF** [REDACTED]

I, [REDACTED], declare as follows:

1. This declaration is based on my personal knowledge and the following facts are true to the best of my understanding and recollection.
2. I am 16 years old and I'm from [REDACTED]. I arrived in the United States in 2023.

**Initial Entry into ORR Custody and Release**

3. When I arrived in the United States, they sent me to an ORR shelter. I spent about a week there. I was very happy when they freed me to live with my father. I went to go live with my dad in [REDACTED], Tennessee.
4. Living with my family during these two years was the best of the best. Before I was detained again, I lived with my dad, my aunt, my 1-year-old twin baby cousins, and another cousin. I liked to play with the babies, and they would come visit me in my room. I miss them a lot.
5. I attended school and was in 11th grade. I liked studying and playing volleyball. I was involved in the Junior Reserve Officers' Training Corps (Junior ROTC) and hoped to join the U.S. military. I also liked boxing and watching boxing matches.

6. I have an immigration lawyer who is helping me with my immigration process. I was working to get legal status so that I could join the military.

#### Return to ORR custody

7. I never imagined I would be in ORR again, but immigration authorities detained me again around November 2025. It is much more difficult being detained today than it was the first time because I had been living with my family and they took that away from me.

8. On the day they arrested me, I had asked a friend to take me to the laundromat. When we were on our way back from the laundromat to my house, someone was following us. I think it was a police car, but it didn't have a siren on or anything. I don't know why they were following us. I was detained after we arrived at my house. They arrested me and restrained my hands and legs. I was very scared and I was crying. They put me in a car. They first took me to an immigration office that day, then to a hotel another day, and then they brought me to the shelter. They never told me why they detained me. They never told me anything.

#### Experience in ORR

9. I'm currently detained at a shelter in Texas waiting to be released. I have been here for three months and I feel imprisoned. Some other kids have been here for a year, and I am very scared that I will also be detained here for that long.

10. The shelter staff contacted my dad after I arrived, and they told him he would have to start the process from zero. I don't know why he has to start the process over. It does not make sense because they already approved him. And now the process is much longer than the first time that I was in custody.

11. My dad was going to be my sponsor again, but we were scared because we've heard that there have been many cases where sponsors are arrested when they attend

appointments that are part of the sponsor application process. There is so much fear right now.

12. One of my aunts is trying to be my new sponsor. She can provide all the documents that the government is asking for.

13. I think the government took a month and a half to contact my aunt, but I don't know why. My aunt sent them all the documents they asked for and she attended an appointment to give her fingerprints. We are also waiting for them to do a home study, but I don't think they have given her an appointment.

14. I feel imprisoned and very closed in here. We almost never get to leave the shelter. I have friends here, but it is difficult to have a normal relationship. We cannot touch each other, we cannot hug, we cannot share food. We all have the same routine, go to school, go to the cafeteria, go to exercise. At 8:30pm they turn off the television and we have to stay in our rooms. It is very different from my life in Tennessee when I had the freedom to leave my house and have a normal life. I am studying, but it's not like my school in Tennessee. I know I'm not receiving academic credit for the school I'm doing here. Even if I'm released soon, I probably would need to repeat the 11th grade. I'm also worried because I was in the process of obtaining my three-year JRTOC certificate and that is very important to me. But I don't think that's going to be possible anymore.

15. I miss my dad, my family, and the babies so much. I have phone calls with my dad, but he can't visit me because he's so far away, and there aren't shelters in Tennessee. It's so hard not to be able to see him in person.

16. What happened to me is unfair and makes no sense. I don't understand why the government separated me from my family and prevented me from continuing my education when I had no problems living with my father. I do not want this to happen to any other kid.

17. For this reason, I want to be a class representative in this case. I want to help other kids like me who are detained in ORR, and especially those who were previously released to live with their families and were arrested again and now cannot leave to be

with their families. I think it's unfair to detain children again and force their sponsors to restart the process without any explanation. If the government believes a sponsor did not take good care of a child, the child and their sponsor should have the opportunity to say whether or not that is true.

18. As a leader of the class, I will do my best so that all the kids in my same situation have the opportunity to return home. I will work with the lawyers so that the lawyers do what is best for all the kids in the case, and I will participate in the case in the manner my lawyers and I decide I should. I intend to remain involved in the case and represent the other kids in the best way I can.

19. I have never been a class representative in another case. I am ready to do my best to help other kids like me.

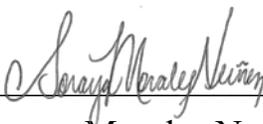
I declare under my duty to tell the truth and penalty of perjury that all the information I have here given is correct and complete and I understand the legal consequences of testifying falsely to the authorities.

Executed on this 17th day of February 2026 in [REDACTED] Texas

\*\*\*

I declare under penalty of perjury that the foregoing is a true and correct translation.

Executed on this 19th day of February, 2026.

  
\_\_\_\_\_  
Soraya Morales Nuñez

DECLARACIÓN DE [REDACTED]

Yo, [REDACTED], declaro y digo lo siguiente:

1. Esta declaración está basada en mi conocimiento personal. Los hechos que describo son verdaderos a mi mejor conocimiento.
2. Tengo 16 años de edad y soy de [REDACTED] Llegué a los Estados Unidos en 2023.

Ingreso inicial bajo custodia de ORR y liberación

3. Cuando llegué a los Estados Unidos, me enviaron a un albergue de ORR. Pasé aproximadamente una semana allí. Me alegré mucho cuando me liberaron para vivir con mi padre. Me fui a vivir con mi papá en [REDACTED], Tennessee.
4. Vivir con mi familia durante estos dos años era lo mejor de lo mejor. Antes de que me detuvieran otra vez, viví con mi padre, mi tía, mis primos gemelos que son bebés de 1 año, y otra prima. Me gustaba jugar con los bebés, y venían a visitarme en mi cuarto. Los extraño demasiado.
5. Asistía a la escuela y estaba en el grado once. Me gustaba estudiar y jugar volibol. Estaba involucrada en el Cuerpo de Entrenamiento de Oficiales de la Reserva Juvenil (Junior RTOC) y esperaba unirme al ejército estadounidense. También me gustaba boxear y ver combates de boxeo.
6. Tengo un abogado de inmigración que me está ayudando con mi proceso de inmigración. Estaba intentando obtener estatus legal para unirme al ejército.

Regreso a la custodia de ORR

7. Nunca imaginé que volvería a estar en la ORR, pero las autoridades de inmigración me detuvieron de nuevo alrededor de noviembre de 2025. Es mucho más difícil volver a estar detenida hoy que la primera vez, ya que tuve la experiencia de estar con mi familia y luego me la quitaron.

8. El día que me arrestaron, le había pedido a un amigo que me llevara a la lavandería. Cuando veníamos de regreso de la lavandería a mi casa, alguien nos estaba siguiendo. Pienso que era un coche de policía, pero no traía sirena prendida o nada. No sé porque nos estaban siguiendo. Me detuvieron después de que llegáramos a mi casa. Me arrestaron y refrenaron mis manos y mis piernas. Me daba mucho miedo y estaba llorando. Me metieron en un carro. Primero me llevaron a la oficina de inmigración ese día, luego a un hotel otro día, y luego me trajeron al albergue. Nunca me dijeron porque me detuvieron. Nunca me dijeron nada.

### Experiencia en ORR

9. Actualmente estoy detenida en un albergue en Texas esperando mi liberación. Ya llevo tres meses y me siento aprisionada. Algunos otros niños llevan un año aquí, y tengo mucho miedo de que yo también quede detenida así de largo.

10. Los trabajadores del albergue se comunicaron con mi papá después de que llegué, y le dijeron que tendría que empezar el proceso de cero. No sé por qué tiene que empezar el proceso de nuevo. No tiene sentido porque ya lo habían aprobado. Y ahora el proceso es mucho más largo que la primera vez que estuve bajo custodia.

11. Mi padre iba ser mi patrocinador otra vez, pero teníamos miedo porque hemos escuchado que hay muchos casos donde los patrocinadores son arrestados cuando van a citas para el proceso de solicitud de patrocinadores. Hay mucho miedo en este momento.

12. Una de mis tías está intentando ser mi nuevo patrocinador. Ella puede proporcionar todos los documentos que el gobierno está pidiendo.

13. Pienso que el gobierno tardó un mes y medio en comunicarse con mi tía, pero no sé por qué. Mi tía envió todos los documentos que le pidieron y asistió a una cita para dar sus huellas. También estamos esperando que hagan un estudio de casa, pero no creo que le hayan dado una cita todavía.

14. Me siento aprisionada y muy encerrada aquí. Casi nunca podemos salir del albergue. Tengo amigas aquí, pero es difícil tener una relación normal. No nos podemos

tocar, no podemos abrazarnos, no podemos compartir comida. Todos tenemos que hacer la misma rutina, ir a la escuela, ir a la cafetería, ir al ejercicio. A las 8:30 p.m. acaban la televisión y tenemos que estar en nuestros cuartos. Es muy diferente que mi vida en Tennessee cuando tenía la libertad de salir de mi casa y tener una vida normal. Estoy estudiando, pero no es como mi escuela en Tennessee. Sé que no estoy recibiendo crédito académico por la escuela que hago aquí. Aunque me liberen pronto, probablemente tendré que repetir el grado once. También estoy preocupada porque estaba en el proceso de obtener mi certificado de tres años de JRTOC y eso es muy importante para mí. Pero, no creo que eso sea posible ya.

15. Extraño muchísimo a mi padre, a mi familia, y a los bebés. Tengo llamadas de teléfono con mi padre, pero no me puede visitar porque está muy lejos, y no hay albergues en Tennessee. Es muy difícil no poder verlo en persona.

16. Lo que me sucedió no es justo y no tiene sentido. No entiendo por qué el gobierno me separó de mi familia y me impidió continuar mis estudios cuando no tenía ningún problema viviendo con mi papá. No quiero que esto le suceda a ningún otro niño.

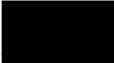
17. Por esta razón, quiero ser una representante de la clase en esta demanda. Quiero ayudarle a otros niños como yo que están detenidos en ORR, y especialmente a ellos quienes antes habían sido liberados para vivir con sus familias y quienes fueron arrestados otra vez y ahora no pueden salir para estar con sus familias. Pienso que es injusto detener a los niños nuevamente y obligar a sus patrocinadores a reiniciar el proceso sin ninguna explicación. Si el gobierno considera que un patrocinador no cuidó bien de un niño, el niño y su patrocinador deberían tener la oportunidad de decir si es la verdad o no.

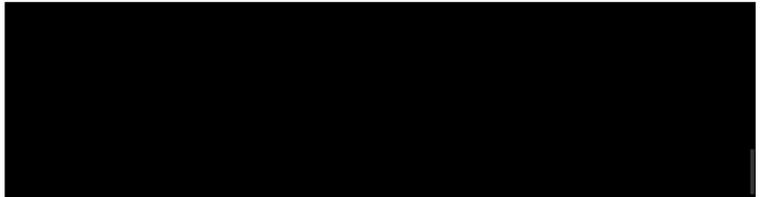
18. Como una líder de la clase, haré lo mejor para que todos los niños en la misma situación tengamos la oportunidad de regresar a casa. Trabajaré con los abogados para que los abogados hagan lo que es mejor para todos los niños en el caso, y participaré en

la demanda de la manera que mis abogados y yo decidamos que debo hacerlo. Tengo la intención de permanecer involucrada en el caso y representar a los otros niños de la mejor manera que yo pueda.

19. Nunca he sido representante de una clase en otro caso. Estoy lista para hacer lo mejor para ayudar a niños como yo.

Declaro bajo protesta de decir la verdad y pena de falso testimonio que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el día 11 de Febrero del año 2026, en , Texas.



# **EXHIBIT 3**



**DECLARATION OF** [REDACTED]

I, [REDACTED], declare as follows:

1. This declaration is based on my personal knowledge and the following facts are true to the best of my understanding and recollection.
2. I am 17 years old and I am from [REDACTED]. I speak Spanish. I arrived in the United States around November 2023. I arrived by myself, and I went to an ORR shelter in Texas.
3. The first time I was sent to an ORR shelter, I had to stay there for about two weeks before I was released to go live with my mom. I was so happy to be released and to go live with her. I never thought I would end up back in ORR. But now I am being held again at a shelter in New York, waiting to be released back to my mom.
4. After I was released to my mom the first time, I lived with her and her partner. We all got along really well. The three of us would go out to the park, or sometimes the beach on the weekends. We liked to go out to eat dinner in restaurants. It was really peaceful.
5. I was going to school and I really liked it. I also had friends from school and from my neighborhood, and we liked to play video games and go out for food. We spent time at each other's houses. I liked my life.
6. There were no problems when I was living with my mom, and she took good care of me. Things were good. I lived with my mom for about two years before I was sent back to ORR. Just a few months before I was arrested, my new baby brother was born. He is so cute and sweet. He's a good baby. Those were really happy years.
7. Around November 2025, the police pulled over my friends and I in a car. I was a passenger in the car when they pulled us over. They took me something like a police station jail, and a judge there told me I was going to the adult prison because I was 17 years old. I was granted bond, but my mom did not have enough money that day to pay the bond. In total, I spent about three nights in jail. When my mom was finally able to pay my bond so I could leave, they told me I had to wait for a 72 hours after she paid. They said that if immigration didn't come to pick me up in that time, I was free to go. But immigration officers did come and instead of being allowed to leave with my mom, they arrested me. I was so scared and I was crying a lot. I thought they were going to just deport me.

8. The ICE officers took me to an ICE station, and they held me there for two days. I was in a separate room than the adults. For those two days, I was just waiting to see where they were going to move me. They told me I was going to a shelter like where I had been sent when I first arrived. I did not understand why I had to go back to a shelter instead of just going back to live with my mom, but I was at least relieved they were not going to just send me straight back to Guatemala.

9. After about 2 days, they flew me here to the shelter in New York. I don't know why they chose to send me all the way to New York instead of one of the shelters closer to home and my mom in Texas.

#### Re-Detention in ORR

10. First, I was placed in a staff secure, where there is staff watching you every minute. Then, after a month, I was stepped down to a regular shelter placement because I had good behavior. The shelter has a less surveillance, and leaves you a little bit more freedom and privileges like a little more time to watch T.V. for example.

11. Being separated from my family has been really hard for me. I think about being with my family all the time and it's difficult to focus on anything else. I'm really bored, and the only thing I can think about is being with my family. But I just have to wait. They keep saying I just have to wait until I can leave. When I first arrived, I thought it would just be a few weeks or a month until I could go home to my mom, and I thought I could handle that. But it has been so much longer.

12. A couple days ago, they moved me to a new shelter. I don't know why—the government just told the shelter that kids couldn't stay there anymore and a lot of us were transferred to different places. Now I am worried that it will take even longer for my mom to sponsor me.

13. The process for sponsoring me has been so complicated. This time, they said she needs a form of ID from somewhere in the United States and her taxes. She has her passport, but she doesn't have an ID from somewhere in the United States, so I think that might be the main problem right now and the reason I can't be released to my mom. It's hard to know what is going on here and when I will be released.

14. I know my mom loves me and is doing everything she can to get me out. But they won't even move forward with her application if she doesn't have the ID they want. I learned from my

case manager that there is an exception for the ID if the sponsor is a parent. But the case manager who is working with my mom—someone different—never told her that. Instead they just are not asking for anything else while she tries to get an ID that meets the requirements. My reunification case is just stopped until she can get those specific papers. They didn't do a DNA test or fingerprints because she still has not been able to get the ID they want.

15. If they tell my mom she can't sponsor me, I think I will ask to go to foster care. In foster care I would be able to go outside when I want, and go to public school instead of the school they have here in the shelter. I don't think I'm getting school credit for the school I go to here. I could make friends in public school. In foster care, they are not watching you all the time. You have more freedom, and you're not always under surveillance. I could have my own phone and I would be able to talk on the phone with my mom any time I wanted. I would be more free.

16. I wish we could choose what we do during the day here, and not have everything so strict and all of our choices made for us.

17. We're even surrounded by staff when we're in school here. I am always watched. It makes me feel uncomfortable and I don't like it.

18. I'm worried that if my mom goes forward with the sponsorship, she could get arrested by immigration. Other kids here have told me that their parents have done the sponsorship application but they were arrested. I really want to be with my mom and my family, but I am also worried that my mom will be arrested and deported at the same time. I don't want that for her, because we have a life here. My baby brother is here and I don't want them to have to leave.

19. I talk to my mom a few times a week. Mostly I ask her how she and my brother are doing, and what it's like on the outside. She asks me if I am ok. I tell her yes. She tells me to eat well and behave well so I can get out of here faster.

20. There are some other kids here for the second time too. One of them just went back to their country. Another one has been here for six or seven months. I think that kid got to do a DNA test as part of his sponsorship process.

21. I don't want to be here, but there is nothing I can do. Crying won't do anything. We're just stuck. My mom should not have to have all these different documents to get me out, especially because I was already living with her. She is my mom and I am her son. She is better at taking care of me. She can make me the food I like, and I can have fun and be a kid. I would be able to be with my family, and see my baby brother and help take care of him. There's no

reason to keep me here. Anyway I will turn 18 in a few months and then I will leave so why keep me in here until my birthday? I just want to go home.

22. I want to help the other young people like me who are stuck in ORR for a second time. I want to represent them by sharing my story. I especially want to help kids get release faster to their family members who already sponsored them before. It doesn't make sense that their sponsors have to do the whole process again. The government should have to say why things are so different that a sponsor has to do the process again, and then the sponsor and kid should be able to explain why the sponsor will still take good care of the kid they were already taking care of. I want to represent other kids in the same situation as me. I will think about their interests and do my best so we can have a chance to be released to our sponsors. I will work with the lawyers so that the lawyers do what is best for all the children in the case, and I will participate in the lawsuit according to the way in which my lawyers and I decide I should. I intend to remain involved with this case and to represent the class the best that I can.

23. I have never served as a class representative in any other case. I am ready to do my best to help kids like me

I declare under my duty to tell the truth and penalty of perjury that all the information I have here given is true and correct.

Executed on this 10 day of 02, 2026

*Febrero*

Name: \_\_\_\_\_

**CERTIFICATE OF TRANSLATION**

My name is Rebecca Wolozin and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: February 10, 2026

*Rebecca Wolozin*

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# **EXHIBIT 4**

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

<hr/>	)	
DIEGO N. <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	No. 1:26-cv-577
U.S. DEPARTMENT OF HEALTH AND	)	
HUMAN SERVICES, <i>et al.</i> ,	)	
	)	
Defendants.	)	
<hr/>		

**DECLARATION OF BENITO S.**  
(proceeding under pseudonym)

**DECLARATION OF** [REDACTED]

I, [REDACTED], declare as follows:

1. This declaration is based on my personal knowledge and the following facts are true to the best of my understanding and recollection.
2. I am 17 years old and I am from [REDACTED]. I speak Spanish and some English. I also speak [REDACTED], which is a indigenous dialect in [REDACTED]. I arrived in the United States in the summer of 2023. I arrived by myself, and I went to an ORR shelter in Texas.
3. The first time I was sent to an ORR shelter, I had to stay there for about one and a half months before I was released to go live with my aunt. My aunt had to go through the whole sponsorship process. She provided fingerprints and did all the steps they asked her to do.
4. I was so happy to be released and to go live with her. I lived with her in Louisiana since that time. She took good care of me, and I love her. I lived with her and my two cousins. One is six and the other is an adult now. We all got along well and I miss them a lot. My older cousin grew up with me in [REDACTED] from when we were very little. Then he came here to the United States, and I came later. He and my little cousin are like my brothers. I never thought I would end up back in ORR.
5. My life in Louisiana was good and peaceful. I really like it there. It's also great because there are lot of Latinos there and we share a culture and we understand each other. I felt welcome and comfortable in our community.
6. My aunt likes to cook, and I like to help her. I'm a good cook. If she was super busy, I would help her finish up with cooking for us. My cousins and I liked to relax and hang out with each other. We liked to play videogames, or go out and play basketball or ride bikes. I also love listening to music. My favorite type of music is Reggeton. I could spend hours just listening to music on my headphones. It makes me so happy.
7. Then, in December a couple weeks before Christmas, I was arrested in Louisiana after I got into a minor car accident. There was no damage as far as I know, but the local police arrested me. After a few days, they sent me to an immigration cell and then here to the ORR shelter in Texas. I don't know why they did not release me to my aunt instead of sending me here far away from my family.

Re-detention in ORR

8. It has been really hard to be detained again. My aunt tells me that I seem so sad when she talks to me. It's true. I am sad.

9. Also, I had a heart condition when I was a young child. It is a hereditary condition that my dad also had. It went away for a while as I got older, but when I was arrested and detained again in ORR custody, it came back. I started to feel the symptoms again in ORR. My heartbeat was really fast and also irregular. They took me to see a cardiologist but I don't know what the results from the visit were. The cardiologist said that my condition is exacerbated by stress. I feel worried that my symptoms came back after they had been gone for so long.

10. My aunt wanted to sponsor me again, but she could not move forward with the application. They told her she has to start everything over from the beginning and now there are a lot of new requirements. After learning about all the application requirements, my aunt said she could not sponsor me. From what I understand, she does not have the kind of identification that they require—an ID issued by somewhere in the United States. My aunt also asked other family members and friends if they could sponsor me instead, but nobody has the right type of documents ORR is now asking for. I am also afraid my aunt could be detained by immigration if she goes through with the sponsorship process and I don't want to put my family at risk. I never got an explanation of whether ORR even thinks my aunt is not capable of taking care of me anymore. If they would just let me go home, I know she would be happy to receive me.

11. Now, I am trying to go to a foster care program. Or maybe I can get released to a foster home or a shelter when I turn 18. All I know is that I don't want to be here. It's awful being here for a second time.

12. I don't like how everything here just repeats every day. It gets really boring, and then it is really hard to keep my mind off of my worries and thinking about my family. I can distract myself a little bit in class when I'm learning things, but otherwise it's really hard.

13. They don't have that many different options for sports. And I can't listen to music that I choose here. That is so hard. We are allowed to listen to some music, like country music, but not the music I love. I really miss listening to my music.

14. Mostly I think about how much I miss my family, and how much I want to leave. I always ask for updates from my case managers but I just have to keep waiting. I don't know what will happen to me, or when I might be able to go home to my aunt and cousins.

15. I want to help the these other kids too, not just myself. That is why I want to be a class representative in this lawsuit. I think that kids who already have sponsors who were approved in the past by ORR should be allowed to be released to them quickly if they are detained again, without their sponsors having to do the whole sponsorship process over again, especially without any explanation about why they need to do it. If ORR thinks a sponsor did not take good care of a kid, then they should have to explain why and listen to what the kid and their sponsor think.

16. As a class representative, I will think about what all the kids in the same situation as me want. I will do my best so that we all have the chance to go home quickly. I will work with the attorneys to ensure they do what is best for all minors in the case, and I will participate in the lawsuit in whatever way my attorneys and I decide I should. I intend to remain involved in the case and represent the other kids to the best of my ability.

17. I have never served as a class representative in any other case. I am ready to do my best to help kids like me

I declare under my duty to tell the truth and penalty of perjury that all the information I have here given is true and correct.

Executed on this 20th day of February, 2026

  
Name: 

**CERTIFICATE OF TRANSLATION**

My name is Rebecca Wolozin and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: February 20, 2026

Rebecca Wolozin

# **EXHIBIT 5**



## DECLARATION OF ALEXA L. SENDUKAS

I, Alexa L. Sendukas, do hereby declare as follows:

1. I am at least 18 years of age. I have personal knowledge of the facts stated herein and, if called to testify, I could and would testify competently thereto.
2. I am a Managing Attorney at the Galveston-Houston Immigrant Representation Project (GHIRP) in Houston, Texas. I manage GHIRP's Immigrant Children and Youth (ICY) program. I have been in this role since the program was created in April 2021. As a licensed attorney, I have represented unaccompanied children and youth, both detained and released, in Texas for more than ten years.
3. GHIRP's mission is to build a resilient, diverse community by providing comprehensive representation and holistic legal services to immigrants in need. We have served children in the Office of Refugee Resettlement (ORR) custody and have been a subcontractor of the Acacia Center for Justice, and its predecessor the Vera Institute of Justice, since our founding. GHIRP currently provides regular legal services to three short-term ORR facilities in the Houston, Texas area that hold around one hundred children combined at a given time, and we also have clients at other ORR facilities. We have served over 4,400 children in ORR custody to date.
4. We currently work with children detained in ORR custody across four different short-term facilities.
5. In the nearly five years GHIRP has had an Immigrant Children and Youth program, I am aware of only one child re-referral to ORR before January 2025. However, since January 2025, I am aware of sixteen (16) children who have been re-referred to ORR after having been released previously to a vetted and approved sponsor. Children have been re-referred for many different reasons, as well as for reasons that we do not fully understand. The children we have seen

include those who were driving or riding as passengers in cars stopped by police during traffic stops or at immigration checkpoints, who were never accused of or charged with criminal violations. It also includes children whose homes were visited by Immigration and Customs Enforcement (ICE) agents, as well as children who were accompanying their parents to routine appointments, and some children who were re-referred after being arrested by local law enforcement. It is my understanding that ORR applies the same sponsorship application requirements to all re-referred cases. These are the same requirements that apply to the cases of children arriving in ORR custody for the first time. We are observing that many of these re-referred children continue to wait in detention for months to be reunified with the same family members they already had approved by ORR.

6. Since February 2025, most children in ORR custody are experiencing prolonged lengths of stay. This has caused increased instances of detention fatigue, mental health crises, and hospitalizations of the children in the facilities we serve. We have discussed this situation many times with ORR-contracted facility staff, who have also expressed concern and truly seem to be trying their best to keep up the children's spirits and entertain or distract them from their current situations; however, it is getting ever more difficult to safeguard their mental health. We have seen this to be particularly true for the tender age children (i.e. children who are twelve-years-old or younger), as they are too young to understand why they can't go live with their family after talking with their sponsors on the phone and, for the local sponsors, visiting them in person over the course of many months.

7. Children are also remaining in prolonged detention because sponsors have a justifiable fear of immigration enforcement against them. I am aware of four sponsors who have been detained by ICE while participating in the ORR sponsorship process for children detained at the

facilities we serve. These individuals, including two fathers, a brother, and an uncle, were in the final stages of their sponsorship application process and had already passed background checks and completed numerous other requirements for ORR. The five children they were sponsoring had spent several months in detention waiting to be reunified with their family members and were devastated to learn of their detention. These children's reunifications are now either significantly delayed, or altogether halted since their sponsors have been detained, which results in even more time detained for the children. I am also aware of multiple sponsors of children at other Houston-area ORR facilities who were detained, and even several attempted detentions of sponsors for children at the ORR facilities we serve.

8. The children in ORR custody who remain separated from their family members are struggling tremendously. We represent multiple children who were separated from their parents, siblings, aunt, uncle, and/or grandparents, including prior ORR sponsors, after being apprehended by immigration authorities in the interior of the United States. These children had already begun to rebuild their lives here, and many of them fled their countries of origin in search of safety and protection and thought they had found it. For them to end up back in government custody now, for extended periods of time, without hope of being reunified with their caring family members because of their sponsor's immigration status and/or inability to provide documents newly required by ORR, is extremely harmful to their mental health. Even when children do have the possibility of returning to their previously approved sponsor, we have seen children experiencing severe stress and frustration as the process drags on for months without a clear end in sight.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 22nd day of February, 2026, in Piedmont, California.

/s/ Alexa L. Sendukas

Alexa L. Sendukas

# **EXHIBIT 6**



## DECLARATION OF MARION DONOVAN-KALOUST

I, Marion Donovan-Kaloust, do hereby declare as follows:

1. I am at least 18 years of age. I make this declaration based on personal knowledge and on a review of records related to my position as Director of Legal Services at Immigrant Defenders Law Center (“ImmDef”), and, if called to testify, I could and would testify competently to the facts stated herein.

2. I am an attorney licensed to practice law in California, and I am the Director of Legal Services of the Children’s Representation Project (“CRP”) at ImmDef, where I have been employed for over ten years.

3. ImmDef is a non-profit organization headquartered in Los Angeles, California, with additional offices in Santa Ana, Riverside, and San Diego. ImmDef believes in providing universal representation so that no immigrant is forced to face removal proceedings without an attorney or accredited representative at their side. ImmDef is the largest provider of legal services to unaccompanied children in California and currently provides legal services to children housed in twenty-one Office of Refugee Resettlement (“ORR”) facilities throughout Southern California. ImmDef also represents thousands of unaccompanied children who have been released from ORR and are residing with sponsors in the Greater Los Angeles Area.

4. In the over ten years I have worked at ImmDef, it has been my experience that it is extremely rare to see children re-referred to ORR from within the United States after release to a vetted sponsor. In my career, prior to 2025, I am only aware of a handful of children being re-referred to ORR following either a juvenile arrest of the child, or a trafficking investigation that led to the child being placed back in ORR custody. Since March 2025, I am personally aware of children who were re-referred to ORR for other reasons or no reason at all, such as being picked

up in a raid or following a routine traffic stop. It is my understanding that ORR applies the same sponsorship application requirements to all new and re-referred cases.

5. Beginning in 2025, ORR began changing its sponsorship application requirements in ways that have made the sponsorship process extremely burdensome, chaotic and complex. It has become very difficult for sponsors who are not U.S. citizens or who do not have lawful immigration status to successfully sponsor a child from ORR custody. As a result of the changes to ORR's sponsor application requirements, many children are spending far longer in ORR custody than is typical. For example, we have seen many children with lengths of stay over 200 days, including tender-aged children and children seeking to reunify with their own parents. While ORR's sponsor vetting process always took some time to verify sponsor identity, relationship, and safety, ORR has begun to layer on more and more new sponsorship requirements that result in children languishing in custody far longer than before. For example, ORR recently required all sponsors and household members to produce social security numbers or ITINs. If the sponsor or household member does not have one, they have to show satisfactory efforts to obtain one. This can cause long delays in itself, but has also caused other problems because in order to obtain an ITIN, a person may have to submit their original identity document to the U.S. government. In one recent case, a tender-aged child's mother was approved for sponsorship, only to have the approval rescinded because ORR learned that the mother would not be able to produce her original passport at the time she collected her child, *because she had sent it away to obtain an ITIN in response to ORR's own request*. This child has been in government custody for over 200 days and it is not clear when he will be finally released to his loving mother. In other instances, certain application requirements, such as background checks and proof of address and income, expire after a certain amount of time. Because ORR is

currently taking so long to process sponsor applications, these items repeatedly expire, requiring the sponsor to redo them, further delaying the process in a vicious cycle. All the while, the child remains detained and separated from their family. These kinds of delays that cause more delays have become the norm rather than the exception.

6. In addition to changes to the sponsorship application process, I believe that the increased length of detention for children in ORR custody is also caused because by very reasonable fear among potential sponsors of being detained during the sponsorship application process. I am personally aware of at least eight sponsors who have been detained by DHS while participating in the ORR sponsorship process. I am aware of many other sponsors—in the dozens-- who have withdrawn as sponsors because the fear of immigration enforcement was too high, for example because ORR asked them to show their identification in person at ICE offices or be subjected to invasive “interviews” by DHS personnel. Many of the children whose sponsors withdraw end up in long-term federal foster care despite having an available, loving family member to care for them, or decide to accept repatriation rather than growing up in government custody.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 20th day of February, 2026, in Riverside, California.

A handwritten signature in black ink, appearing to read 'Marion Donovan-Kaloust', is written above a solid horizontal line.

Marion Donovan-Kaloust

# **EXHIBIT 7**

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

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DIEGO N. <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	No. 1:26-cv-577
U.S. DEPARTMENT OF HEALTH AND	)	
HUMAN SERVICES, <i>et al.</i> ,	)	
	)	
Defendants.	)	

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**DECLARATION OF C.A.C.C.**

**DECLARATION OF** [REDACTED]

I, [REDACTED], declare as follows:

1. This declaration is based on my personal knowledge and the following facts are true to the best of my understanding and recollection.
2. I am 8 years old and I am from [REDACTED]. I arrived in the United States about two years ago when I was six years old. It is my second year in the United States. I arrived without my mom or my dad. I speak Spanish and some English.
3. The first time I was sent to an ORR shelter, I had to stay there for maybe two months or less. My mom had to do a lot of things then so I could be released to her. I was so happy when I was released to my mom and went to live with her and my big sister.
4. When I was living with my mom in Virginia, I went to school. I was in first grade before I was arrested again. When I get out, I will be in second grade.
5. When I was living with my mom, I liked to play soccer, and draw. My mom played soccer with me a lot. And we like drawing cars, like Lambourginis, and super fast cars. Everything was good with her, and we didn't have any problems. I was happy to be living with her.
6. I never thought I would end up in ORR again. But I was detained again last summer and brought to ORR again about six months ago. I am living with a foster family.
7. It's even harder being detained again than it was the first time. I miss my mom a lot. I was crying a lot in the beginning because I missed my mom so much. I didn't want to live with people that I didn't know. And it was hard to talk to the people taking care of me, because I did not speak English that well and they did not speak Spanish. They were nice, but they did not know anything about me. They didn't know anything about me. They didn't know that my favorite food is pizza, or that I like super-cars, or that I like drawing.
8. Now that I speak more English and we know each other better, it's a little better, but I still really miss my family. It makes me feel really bad to be here without my mom. I don't have love, and I don't get hugs. We're not allowed to have hugs here.
9. When I was living with my mom, I was going to a regular school. I loved it. I had a lot of friends there. But I haven't been able to see any of them or talk to them for six months while I

have been here. My favorite subject was English, and my teacher was really nice. Now I have to go to school here at the shelter. I don't get to go to a normal school.

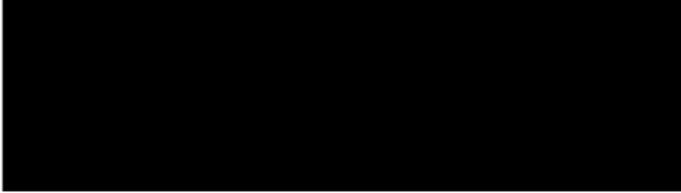
10. I don't know why I was sent back to a shelter. I don't know why I am still here, except that they told me my case isn't finished yet. I don't really know what that means. But I do know that this time it seems like my mom has to do a lot more things so they can release me home to her. I like when she can visit me, but then I feel so sad when she leaves again.

11. I have friends at the shelter who also can't leave to go live with their families. When I first was detained, there were other kids who were crying like me, and saying they wanted to be with their moms and dads. Now even though the other kids in my shelter are still sad and want to be with their parents, we're getting used to being away from them so we we don't cry so much. For some of them it's their second time in ORR, like me.

12. When I go back home, the first day I am back with my mom, I want to cook carne asada and have a big pool party. In the summer, we will go to the beach. And I want to go to SkyZone. I just want to have fun with my mom and my friends and go back to being a regular kid living in real life.

I declare under my duty to tell the truth and penalty of perjury that all the information I have here given is true and correct.

Executed on this 22<sup>nd</sup> day of January, 2026



**CERTIFICATE OF TRANSLATION**

My name is Scott Bassett and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: January 29, 2026

*Scott Bassett*

---

Scott F. Bassett  
Managing Attorney, Children's Program  
Amica Center for Immigrant Rights  
1025 Connecticut Ave. NW, Ste. 701  
Washington, DC 20036  
t: 202-223-3800  
scott@amicacenter.org

# **EXHIBIT 8**

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

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DIEGO N. <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	No. 1:26-cv-577
U.S. DEPARTMENT OF HEALTH AND	)	
HUMAN SERVICES, <i>et al.</i> ,	)	
	)	
Defendants.	)	

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**DECLARATION OF J.M.P.V.**

I, Soraya Morales Nuñez, declare as follows:

1. I am fluent in English and Spanish.
2. The following is a true and correct translation of the annexed declaration of

[REDACTED].

\*\*\*

**DECLARATION OF** [REDACTED]

I, [REDACTED], declare as follows:

1. This declaration is based on my personal knowledge and the following facts are true to the best of my understanding and recollection.

2. I am 16 years old. I arrived in the United States a bit more than five years ago, when I was 10 years old. I traveled with my older sister. We entered the custody of ORR and our father rapidly began the process to sponsor us and gave all the necessary documents. In 2021, after one or two months, they released us to live with him in Texas.

3. I had a good life with my father and my sister. My aunt also lived nearby. I liked being with my family, making carne asada with my dad, going on outings, and playing soccer with my friends. I was in high school. My classes were not perfect, but they were good. I was learning a lot and I think I was progressing toward graduation.

**Return to ORR and release process**

4. I entered ORR custody again in September 2025. I was arrested by the police and sent to a juvenile detention center. When they released me, ICE picked me up and transferred me to ORR.

5. At first I was in a more strict program in [REDACTED]. I think it was called staff-secure. I behaved well in [REDACTED] and after three or four weeks they transferred me to this shelter. My current shelter is in Texas, but it is far from my home. I think it is six hours away by car. My dad asked them to place me closer to home, but they said no.

6. Now I am waiting for ORR approve my father's application to sponsor me again. I do not know why my father has to do a new application nor why the process is taking so long this time. He was already caring for me, so it should be easier. But it is much more difficult.

7. My dad already gave a lot of information, including his fingerprints and documents. Someone visited his house to do a home study and I think everything came back positive. Now we are waiting an appointment for DNA. We have been waiting for this appointment for several weeks and we haven't received any information. We were just told that we have to wait to hear from an ORR official.

8. I feel very frustrated with the delay in my case. When I feel frustrated, I try to calm myself and speak to my counselor. But sometimes it is difficult, especially because I do not know when I will be able to return to my family.

#### ORR Shelter

9. My current shelter is a bit less strict than the program in [REDACTED], but there are still a lot of rules. We cannot choose what we want to do during the day, and we all have the same routine. I cannot go anywhere by myself. After 8:30 p.m. we cannot leave our rooms.

10. I share a room with another boy. We get along well, but it isn't like being at home. I have friends here, but we cannot play or joke around like I would with my friends from school. We cannot even touch each other. The staff is always watching us.

11. I would like to be able to leave the shelter to go to a real school like before. I am trying to learn what I can here, but the classes are very different from those in my high school. In my previous school they taught things much more deeply.

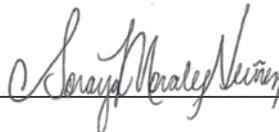
12. I have phone calls with my dad, but they are not private, and I cannot see him in person because I am too far away. I know he wants to see me, but I don't want him to miss work and spend a lot of money traveling because of me. My separation from my dad and my sister is very difficult, especially on special occasions. I spent Christmas and the New Year here and I recently had my birthday here. I feel sad.

13. When I leave here, I want to spend time with my family and study. Now that I haven't been able to attend high school for so long, I want to focus on my classes and try to improve and make up for lost time. I hope that is possible.

Executed on this 19th day of February 2026 in [REDACTED], Texas

\*\*\*

I declare under penalty of perjury that the foregoing is a true and correct translation. Executed on this 19th day of February, 2026.



---

Soraya Morales Nuñez

DECLARACIÓN DE [REDACTED]

Yo, [REDACTED], declaro y digo lo siguiente:

1. Esta declaración está basada en mi conocimiento personal. Los hechos que describo son verdaderos a mi mejor conocimiento.
2. Tengo 16 años de edad. Llegué a los Estados Unidos hace un poco más de cinco años, cuando tenía 10 años. Viajé con mi hermana mayor. Entramos bajo custodia de la ORR y nuestro padre inició rápidamente el proceso para patrocinarnos y dio todos los documentos necesarios. En 2021, después de uno o dos meses, nos liberaron para vivir con él en Texas.
3. Tenía una buena vida con mi padre y mi hermana. Mi tía también vive cerca. Me gustaba estar con mi familia, hacer carne asada con mi padre, ir de paseo, y jugar fútbol con mis amigos. Estaba en la escuela secundaria. Mis clases no eran perfectas, pero eran buenas. Estaba aprendiendo mucho y pienso que estaba progresando hacia la graduación.

Regreso a ORR y proceso para la liberación

4. Entré otra vez bajo custodia de ORR en septiembre de 2025. Fui arrestado por la policía y me enviaron a un centro de detención juvenil. Cuando me liberaron, ICE me recogió y me trasladó a ORR.
5. Al inicio estaba en un programa más estricto en [REDACTED]. Creo que se llama staff-secure. Me comporté bien en [REDACTED] y después de tres o cuatro semanas me trasladaron a este albergue. Mi albergue actual está en Texas, pero está lejos de mi casa. Creo que son unas seis horas en coche. Mi padre les pidió que me colocaran más cerca de casa, pero dijeron que no.
6. Ahora estoy esperando que ORR apruebe la solicitud de mi padre para patrocinarme de nuevo. No sé porque mi padre tiene que hacer una nueva solicitud ni por qué el proceso está tardando tanto esta vez. Él ya me estaba cuidando, así que debería ser más fácil. Pero es mucho más difícil.

7. Mi padre ya proporcionó mucha información, incluso sus huellas y documentos. Alguien visitó su casa para hacer un estudio de casa, y creo que todo salió positivo. Ahora estamos esperando una cita para el ADN. Llevamos varias semanas esperando esta cita y no hemos recibido información. Solo nos dijeron que tenemos que esperar noticias de un oficial de ORR.

8. Me siento muy frustrado con el retraso en mi caso. Cuando me siento frustrado, trato de calmarme y hablar con mi consejera. Pero a veces es difícil, especialmente porque no sé cuándo podré regresar con mi familia.

#### Albergue de ORR

9. Mi albergue actual es un poco menos estricto que el programa en [REDACTED], pero todavía hay muchas reglas. No podemos escoger que queremos hacer durante el día, y todos tenemos la misma rutina. No puedo ir a ningún lado solo. Después de las 8:30 p.m. no podemos salir de nuestros cuartos.

10. Comparto un cuarto con otro joven. Nos llevamos bien, pero no es como estar en casa. Tengo amigos aquí, pero no podemos jugar ni bromear como lo haría con mis amigos de la escuela. Ni siquiera podemos tocarnos. El staff siempre nos vigila.

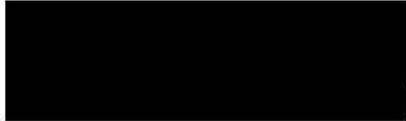
11. Me gustaría poder salir del albergue e ir a una escuela real como antes. Intento aprender lo que pueda aquí, pero las clases son muy diferentes a las de mi escuela secundaria. En mi escuela anterior ensañaban las materias con mucha más profundidad.

12. Tengo llamadas con mi padre, pero no son privadas, y no puedo verlo en persona porque estoy demasiado lejos. Sé que él quiere verme, pero no quiero que mi padre falte al trabajo y pague mucho dinero viajando a causa de mí. Mi separación de mi padre y mi hermana es muy difícil, especialmente en ocasiones especiales. Pasé la Navidad y el año nuevo aquí y recientemente tuve mi cumpleaños aquí. Me siento triste.

13. Cuando salga de aquí quiero pasar tiempo con mi familia y estudiar. Ahora que no he podido asistir a la escuela secundaria durante tanto tiempo, quiero concentrarme en mis clases e intentar mejorar y recuperar el tiempo perdido. Espero que sea posible.

Declaro bajo protesta de decir la verdad y pena de falso testimonio que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el día 19 de Febrero del año ~~2025~~<sup>2026</sup>, en  TX.



# **EXHIBIT 9**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
DIEGO N., <i>et al.</i> ,	)	
	)	
	)	
Plaintiff,	)	No. 26-cv-577
	)	
v.	)	
	)	
U.S. DEPARTMENT OF HEALTH AND	)	
HUMAN SERVICES, <i>et al.</i> ,	)	
	)	
	)	
Defendants.	)	
_____	)	

**DECLARATION OF MISHAN WROE IN SUPPORT OF  
PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION**

I, Mishan Wroe, do hereby declare as follows:

1. I am at least 18 years of age. I have personal knowledge of the facts stated herein and, if called to testify, I could and would testify competently thereto. I represent Plaintiffs in the above-captioned case, and I am licensed to practice law in California. I have applied *pro hac vice* to appear on behalf of Plaintiffs in the above-captioned case.
2. I am a directing attorney at the National Center for Youth Law (“NCYL”). I submit this declaration in support of Plaintiffs’ Motion for Class Certification.
3. NCYL is a privately-funded, non-profit organization founded in 1970 to advocate for low-income children and adolescents. NCYL regularly represents plaintiffs in complex class action lawsuits designed to protect the rights of youth and improve child-serving systems. NCYL attorneys have significant experience in cases involving child welfare, juvenile justice,

adolescent health, immigration, and children's mental health needs. NCYL attorneys are among the most experienced, knowledgeable, and respected children's lawyers in the country.

4. One of the NCYL's primary substantive areas of expertise is advocating for children in government custody. Specifically, NCYL has some of the most extensive experience and knowledge representing immigrant children detained in federal custody. NCYL filed the seminal *Flores* case in 1985 and continues to serve as co-counsel in *Flores v. Bondi*, No. 85-4544 DMG (C.D. Cal.), a nationwide class action on behalf of children held in federal immigration custody by the United States government, governing the conditions in which most children are held. NCYL also originally filed and serves as co-counsel in *Lucas R. v. Azar*, No. 2:18-cv-05741 DMG (C.D. Cal.), a nationwide class action addressing the due process, disability, and family integrity rights of unaccompanied children in the custody of the Office of Refugee Resettlement ("ORR"). As class counsel in *Flores* and in *Lucas R.*, NCYL attorneys have conducted hundreds of interviews with detained children and youth in federal custody. This includes interviews with children detained by Customs and Border Protection ("CBP"), Immigration and Customs Enforcement ("ICE"), and ORR under the Department of Health and Human Services ("HHS"). *Flores* counsel has filed numerous successful Motions to Enforce over the years. Recently, *Flores* counsel brought successful motions to enforce the *Flores* settlement agreement and uphold children's rights to basic, humane conditions if held in open-air detention sites. *Flores v. Garland*, 2024 WL 3051166 (C.D. Cal. 2024). *Flores* counsel also successfully extended a 2022 settlement agreement with CBP governing conditions of confinement for children in two Texas CBP sectors. *Flores v. McHenry*, 2:85-cv-4544, ECF No. 1547 (C.D. Cal. 2025). NCYL also resolved a putative class action on behalf of immigrant children whose release from government custody was delayed due to unlawful fingerprinting policies and practices in *Duchitanga v.*

*Hayes*, No. 18-cv-10332-PAC (S.D.N.Y.). NCYL also serves as co-counsel in *L.G.M.L. v. Noem*, 1:25-cv-2942-TJK (D.D.C.), a class action on behalf of unaccompanied children challenging the government's illegal attempt to remove them from the United States in violation of their Due Process rights and various statutes. Most recently, NCYL along with co-counsel filed *Angelica S. v. HHS*, 25-cv-1405 (D.D.C.) to challenge ORR's interim final rule rescinding protections for detained immigrant children and arbitrary and capricious changes to ORR's sponsor application requirements.

5. NCYL also has extensive experience in class action litigation on behalf of children outside of the context of immigration detention. NCYL serves as co-counsel in *M.J. v. Dist. of Columbia*, 1:18-cv-01901 EGS (D.D.C.), a class action lawsuit on behalf of children and youth with mental health disabilities in Washington, D.C. NCYL has also represented thousands of children in other class action lawsuits across the country. For example, NCYL has litigated numerous class action cases on behalf of children with disabilities denied appropriate placements and services in state systems, including for example *J.N. v. Oregon*, *Katie A. v. Bontá*, *T.R. v. Dreyfus*, *M.B. v. Howard*, and *D.S. v. Washington State DCYF*.

6. Three attorneys at NCYL have entered appearances in this case and they seek to be appointed as class counsel. They are me, Rebecca Wolozin, and Diane de Gramont.

7. I have been an attorney at National Center for Youth Law since April 2020. I earned my J.D. from University of Chicago Law School in 2013, and my B.A. from Stanford in 2008. I was admitted to practice law in Illinois in 2013 and in California in 2014. I have personally been involved in litigating on behalf of nation-wide classes of detained immigrant children in *Lucas R.* and *Flores* for over five years and was integral to the filing of *Angelica S.* I currently lead NCYL's litigation on behalf of immigrant youth. Prior to joining NCYL, I worked as a trial

attorney in private practice and maintained an active pro bono portfolio including work related to reproductive rights of immigrant children in federal custody, freedom of speech, tenants' rights, and FOIA litigation. For example, before joining NCYL I worked on a class action lawsuit to protect unaccompanied minors' access to abortion while in ORR custody. *Garza v. Hargan*, 304 F.Supp.3d 145 (D.D.C. 2019).

8. Rebecca Wolozin graduated with concurrent degrees from Harvard Law School and Harvard Graduate School of Education in 2015. She received a B.A., *magna cum laude*, from Cornell University in 2008. She was admitted to practice law in Virginia in October 2015 and in Washington, D.C. in January 2018. Ms. Wolozin joined NCYL as a senior attorney in May 2023. She previously worked as an attorney with the Legal Aid Justice Center in Virginia. Ms. Wolozin has primarily represented immigrants, children, and families in her practice over the past ten years. She was an Equal Justice Works Fellow, a staff attorney, and a senior supervising attorney at Legal Aid Justice Center, where she also co-founded and directed George Mason's Antonin Scalia Law School Immigration Litigation Clinic from 2019-2023. In her immigration practice, Ms. Wolozin has successfully advocated for clients before the Executive Office of Immigration Review ("EOIR"), the Board of Immigration Appeals, and the Fourth Circuit Court of Appeals. Ms. Wolozin also has deep experience in class action litigation and federal litigation representing immigrants and detained immigrant children and youth. At NCYL, she is a member of *Flores* counsel, *Angelica S.* counsel, and supports impact litigation across the organization. Ms. Wolozin has also litigated additional complex federal issues on behalf of detained immigrants and detained unaccompanied minors. She was counsel in *JECM v. Lloyd* 1:18-cv-903-LMB (E.D. Va.), a Virginia-based class action case on behalf of immigrant children facing prolonged detention in ORR custody. She was also counsel in the class action case *Aziz v. Trump*, 2017 WL

386549 (E.D. Va. 2017), and individual cases *Beltran v. Cardall*, 222 F.Supp.3d 476 (E.D. Va. 2016), *Santos v. Smith*, 260 F.Supp.3d 598 (W.D. Va. 2017); *Reyna v. Hott* 1:17-cv-1192-LO (E.D. Va.), and *O.D.T.M. v. Lloyd*, 1:18-cv-524 (E.D. Va.).

9. Diane de Gramont is a senior attorney at NCYL who focuses on impact litigation on behalf of detained immigrant youth, with particular focus on youth with disabilities. She received her J.D. from Yale Law School in 2017, an MPhil in Comparative Government from Oxford University in 2014, and a bachelor's degree from Harvard University in 2010. She was admitted to practice law in California in 2018. After graduating law school, Ms. de Gramont served as a law clerk to the Honorable Sarah S. Vance on the Eastern District of Louisiana and the Honorable Stephen A. Higginson on the U.S. Court of Appeals for the Fifth Circuit. She joined NCYL in 2019 as a Meselson-Liman Law Fellow and remained at NCYL as an attorney after the conclusion of her fellowship. Since joining NCYL, Ms. de Gramont has worked primarily on litigation on behalf of the nation-wide classes of detained immigrant children in *Lucas R.*, *Flores*, and *Angelica S.* including conducting site visits to ORR facilities and interviewing numerous children in federal immigration custody, researching and drafting motions, and participating in settlement negotiations and enforcement. Ms. de Gramont has also assisted other litigation at NCYL related to the rights of children with disabilities and deficiencies in the child welfare system.

10. The National Center for Youth Law has the resources to represent the plaintiff class. We are assisted in this matter by the considerable professional resources of our co-counsel, Joel McElvain, Anna Deffebach, and Robin Thurston of Democracy Forward Foundation.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 23rd day of February, 2026, in Oakland, California.

/s/ Mishan Wroe\_\_\_\_\_

Mishan Wroe

# **EXHIBIT 10**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

_____	)	
DIEGO N., <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	No. 26-cv-577
v.	)	
	)	
U.S. DEPARTMENT OF HEALTH AND	)	
HUMAN SERVICES, <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

**DECLARATION OF JOEL McELVAIN**

I, Joel McElvain, do hereby declare as follows:

1. I am a Senior Legal Advisor at Democracy Forward Foundation. I represent Plaintiffs in the above-titled action, and I submit this Declaration in support of Plaintiffs’ motion for class certification. I have personal knowledge of the facts stated herein and, if called to testify, could and would testify competently thereto.

2. Democracy Forward Foundation (“DFF”) is a nonprofit national legal organization that advances democracy and social progress through litigation, policy and public education, and regulatory engagement. DFF represents clients, including non-profits, local governments, tribes, small businesses, unions, and individuals, in challenging harmful and unlawful governmental action and in supporting governmental action. As part of this work, DFF has successfully litigated dozens of administrative law cases, including several cases dealing specifically with immigration law and/or the Department of Health and Human Services. *See, e.g., J.G.G. v. Trump*, No. 25-cv-766 (D.D.C. filed Mar. 15, 2025); *Catholic Legal Immig. Network v. Exec. Office for Immig. Review*, No. 21-cv-94, 2021 WL 3609986 (D.D.C. Apr. 3, 2021); *County of*

*Santa Clara v. U.S. Dep't of Health & Human Services*, No. 21-cv-1655 (N.D. Cal. filed Mar. 9, 2021); *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1 (D.D.C. 2020); *Mayor and City Council of Baltimore v. Trump*, 416 F. Supp. 3d 452 (D. Md. 2019).

3. DFF is co-counsel for Plaintiffs in this action with the National Center for Youth Law. The team at Democracy Forward working on this case includes Anna Deffebach, Robin Thurston, and myself.

4. I have been employed by DFF since February 2025. Prior to my employment with DFF, I served as a Special Counsel and as an Acting Deputy General Counsel for the Office of General Counsel for the U.S. Department of Health and Human Services (HHS) from 2022 to January 2025; as a Partner at King & Spalding LLP from 2019 to 2021; and in various positions at the U.S. Department of Justice (DOJ) from 1997 to 2018 and from 2021 to 2022, including as an Assistant Branch Director with responsibility for HHS matters at DOJ's Federal Programs Branch. I graduated *magna cum laude* from Harvard Law School in 1995 and *magna cum laude* from Williams College in 1991. I have substantial experience in litigating matters of administrative law and constitutional law involving HHS. In particular, I represented HHS in *National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012), and in the district court and the court of appeals in *King v. Burwell*, 576 U.S. 473 (2015), and in *Biden v. Missouri*, 595 U.S. 87 (2022).

5. Anna Deffebach has been employed by DFF since October 2025. Before that, she served as a trial attorney at DOJ's Federal Programs Branch from 2022-2025, during which she litigated Administrative Procedure Act (APA) challenges to agency rulemakings and other actions. Prior to her time at the Department of Justice, Ms. Deffebach was an associate attorney at the law firm Robbins, Russell, Englert, Orseck & Sauber, LLP. Ms. Deffebach clerked for Judge Michael H.

Simon in the United States District Court for the District of Oregon and Judge Bruce M. Selya in the United States Court of Appeals for the First Circuit. She graduated *magna cum laude* from Georgetown University Law Center and received her undergraduate degree from Dartmouth College. Ms. Deffebach has experience in litigating matters of administrative law and constitutional law involving HHS, as well as experience litigating a class action in D.D.C.

6. Robin Thurston is a Legal Director at DFF. She has substantial experience litigating and overseeing high-profile constitutional and administrative law challenges to federal statutes, executive orders, and other government programs and agency actions across a wide range of federal laws. Prior to joining DFF, she served as a trial attorney in the Federal Programs Branch of the Civil Division of the Department of Justice, defending high profile challenges to government policies and programs, and earlier in her career enforced consumer protection laws at the Federal Trade Commission. Ms. Thurston clerked for the Honorable Paul L. Friedman of the United States District Court for the District of Columbia and holds a J.D., *magna cum laude*, from Georgetown University Law Center and a B.A. in History with High Honors from Stanford University.

7. DFF and the National Center for Youth Law together have the resources to adequately represent the plaintiff class. With a staff totaling 160 people, DFF employs approximately 80 full-time lawyers and numerous support staff. DFF is committed to providing the resources necessary to represent the members of the Plaintiff class fairly and adequately. DFF has devoted substantial effort to identifying and investigating the claims in this case and working with the Plaintiffs and co-counsel, including developing the complaint, declarations, motion for a preliminary injunction, motion for class certification, and motion to proceed under pseudonyms.

8. I am familiar with the experience of our co-counsel at the National Center for Youth Law, and they are skilled attorneys who have the necessary practice experience with civil litigation, immigration law, and civil rights actions to deliver high-quality representation to the plaintiff class.

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

Executed this 23rd day of February at Washington, D.C.

/s/ Joel McElvain  
JOEL McELVAIN