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13 UNITED STATES DISTRICT COURT  
14 CENTRAL DISTRICT OF CALIFORNIA  
15

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

19 vs.

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

26 Defendants.  
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) CASE NO.

) **COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

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1 **I. INTRODUCTORY STATEMENT**

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

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

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

24 **II. JURISDICTION AND VENUE**

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

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

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

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

### 14 **III. PARTIES**

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

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

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

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

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

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

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

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

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

#### 18 **IV. FACTUAL ALLEGATIONS**

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

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

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

1 scheduled for an interview in the next few days.

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

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

12 **V. CLAIMS FOR RELIEF**

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

14 (Injunctive and Declaratory Relief)

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

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

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

21 (Injunctive and Declaratory Relief)

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

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

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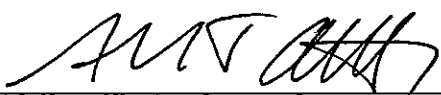


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e. Awarding such other equitable and further relief as the Court deems just and proper.

Dated: February 14, 2008

Respectfully submitted,  
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NORA A. PRECIADO  
ACLU FOUNDATION OF  
SOUTHERN CALIFORNIA

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