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18 **IN THE UNITED STATES DISTRICT COURT**  
19 **DISTRICT OF NEVADA**

20 DAVID ADAME-REYES,  
21 Plaintiff,

22 v.

23 JOSEPH LOMBARDO, in his Individual  
24 Capacity and in his Official Capacity as  
25 Sheriff of the Las Vegas Metropolitan  
26 Police Department; LAS VEGAS  
27 METROPOLITAN POLICE  
28 DEPARTMENT,

Defendants.

**Case No.:**

**COMPLAINT FOR DAMAGES**

**1. UNLAWFUL SEIZURE UNDER 42  
U.S.C. § 1983**

**2. DUE PROCESS**

**3. FALSE IMPRISONMENT**

**4. INTENTIONAL INFLICTION OF  
EMOTIONAL DISTRESS**

1 Plaintiff David Adame-Reyes (“Mr. Adame-Reyes” or “Plaintiff”), a longtime Las Vegas  
2 resident, brings this civil rights complaint against Clark County Sheriff Joseph Lombardo (“Sheriff  
3 Lombardo”) and the Las Vegas Metropolitan Police Department (“LVMPD”) (collectively  
4 “Defendants”). Mr. Adame-Reyes seeks redress for the harm he suffered as a direct result of  
5 Defendants’ harmful, unlawful policy, custom, and practice of arresting and confining community  
6 members to the county jail, *without probable cause that these community members committed a*  
7 *criminal offense*, on the sole basis of “hold requests” from U.S. Immigration and Customs  
8 Enforcement (“ICE”). An ICE hold is an administrative request to hold an individual for a  
9 suspected *civil* immigration violation, which is not an authorized basis for arrest in Nevada. An  
10 ICE hold does *not mandate* detention and *provides no legal authority to detain* an individual. Yet,  
11 Defendants Clark County Sheriff Joseph Lombardo and the Las Vegas Metropolitan Police  
12 Department have *twice* detained Mr. Adame-Reyes without legal authority, after he was due to be  
13 released from their custody, for suspected civil immigration issues. The extrajudicial arrests and  
14 detentions of Mr. Adame-Reyes without probable cause that he committed a criminal offense and  
15 on the sole basis of an ICE hold, pursuant to and in accordance with Defendants’ policy, custom,  
16 and practice, violated the United States Constitution and Nevada law. Defendants’  
17 unconstitutional actions, and the actions of those working under the direction of their policy and  
18 custom, have subjected Mr. Adame-Reyes and many others in the community to serious and  
19 enduring harms.

## 20 INTRODUCTION

21 1. Mr. Adame-Reyes brings this civil rights complaint against Sheriff Lombardo, in  
22 his personal and official capacities, and the LVMPD. This action is based on Defendants’ policy,  
23 custom, and practice of granting “hold requests” from ICE officials (referred to herein as “ICE  
24 holds,” but also known as “immigration holds,” “ICE hold requests,” “ICE detainers,” or  
25 “immigration detainers”) and detaining those subject to them in the Clark County Detention Center  
26 (“CCDC”) beyond the time when the law required they be released.

27 2. An ICE hold does not provide probable cause or even reasonable suspicion that an  
28 individual has committed a criminal offense, and it thus provides no legal authority to arrest and

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1 detain a person. Jailing individuals on the basis of an ICE hold alone represents a voluntary  
2 decision that violates the U.S. Constitution and Nevada law. Defendants’ policy, custom, and  
3 practice subjected Mr. Adame-Reyes—and countless other community members—to arrest and  
4 detention in violation of federal and state law and thereby caused Mr. Adame-Reyes significant  
5 harms, including the deprivation of his liberty and due process, false imprisonment, and emotional  
6 distress.

7 3. The unlawful arrest and detention of Mr. Adame-Reyes, carried out pursuant to and  
8 in accordance with Defendants’ stated policy, custom, and practice of jailing individuals like him  
9 solely on the basis of ICE hold requests, was unconstitutional. The harms Defendants inflicted on  
10 Mr. Adame-Reyes, other individuals subjected to unlawful arrest and detention, their families, and  
11 the larger community have been grave and lasting. Detention for even a relatively brief period can  
12 cause an individual to lose a job, leave a family without its breadwinner, and leave children without  
13 a parent and at risk of suffering lasting trauma. It removes active and contributing community  
14 members from the community. The due process protections afforded by our judicial systems  
15 deteriorate in the face of these unauthorized arrests as detention makes it harder for Mr. Adame-  
16 Reyes and similarly situated individuals to defend themselves and present their own meritorious  
17 claims, whether in the context of criminal or immigration cases.

18 4. Defendants’ policy, custom, and practice of carrying out arrests and detention on  
19 the sole basis of ICE holds, in Mr. Adame-Reyes’s case and for so many others, has had ripple  
20 effects far beyond those who have themselves suffered the arrests and detention, which, as  
21 indicated on the face of the ICE hold, could last for days. The entanglement of local law  
22 enforcement agencies in civil immigration enforcement is widely regarded as undermining trust in  
23 local law enforcement officers, deterring the reporting of crimes, and inhibiting witnesses from  
24 coming forward. Of particular import, immigrant survivors of violence become less likely to seek  
25 police protection for fear of what may happen to them or to loved ones. In one recent survey of  
26 hundreds of victims’ advocates and attorneys across 42 states, one U.S. territory, and the District  
27  
28

1 of Columbia, 76.25% reported that immigrant survivors are fearful of contacting the police.<sup>1</sup> In a  
 2 number of localities where authorities are, or are perceived to be, collaborating with federal  
 3 immigration authorities, there have, for example, been significant declines in reporting by Latina  
 4 women of rape and domestic violence.<sup>2</sup>

5 5. Collaboration between local law enforcement and immigration authorities, such as  
 6 through the granting of ICE holds, wastes scarce resources and causes economic and other harm  
 7 to the local community. Such collaboration efforts have been associated with racial profiling and  
 8 heightened concerns about police arresting Latinx individuals for pretextual reasons.<sup>3</sup> Records  
 9 show that between 2017 and 2018, in connection with immigration enforcement efforts, Las Vegas  
 10 law enforcement officials took hundreds of Latinx individuals into custody for low-level offenses  
 11 like jaywalking or driving with a broken taillight.<sup>4</sup>

12 6. Mr. Adame-Reyes's experience follows a similar pattern. Defendants arrested Mr.  
 13 Adame-Reyes on August 21, 2018, on suspicion of his committing a minor criminal offense. Local  
 14 authorities dismissed the charges against Mr. Adame-Reyes shortly after his arrest. And, Mr.

15 <sup>1</sup> Tahirih Justice Center, *Immigrant Survivors Fear Reporting Violence* (May 2019), available at  
 16 <https://www.tahirih.org/wp-content/uploads/2019/06/2019-Advocate-Survey-Final.pdf>; see also,  
 17 e.g., Tahirih Justice Center, *Survey of Advocates Reveals Immigrant Survivors Fear Reporting*  
 18 *Violence* (Jun. 4, 2019), available at [https://www.tahirih.org/news/survey-of-advocates-reveals-](https://www.tahirih.org/news/survey-of-advocates-reveals-immigrant-survivors-fear-reporting-violence/)  
 19 [immigrant-survivors-fear-reporting-violence/](https://www.tahirih.org/news/survey-of-advocates-reveals-immigrant-survivors-fear-reporting-violence/); Nik Theodore, *Insecure Communities: Latino*  
 20 *Perceptions of Police Involvement in Immigration Enforcement* (May 2013), available at  
 21 [https://www.policylink.org/sites/default/files/INSECURE\\_COMMUNITIES\\_REPORT\\_FINAL.](https://www.policylink.org/sites/default/files/INSECURE_COMMUNITIES_REPORT_FINAL.PDF)  
 22 PDF (“More than four in ten [Latinxs] say that because police are more involved in enforcing  
 23 immigration laws they have become less likely to volunteer information about crimes because they  
 24 fear getting caught in the web of immigration enforcement.”).

21 <sup>2</sup> See, e.g., American Immigration Council et al., *Assumption of Risk: Legal Liabilities for Local*  
 22 *Governments that Choose to Enforce Federal Immigration Laws* (Mar. 2018), available at  
 23 [https://www.immigrantjustice.org/sites/default/files/content-type/research-item/documents/2018-](https://www.immigrantjustice.org/sites/default/files/content-type/research-item/documents/2018-03/Assumption_of_Risk_March2018_FINAL.pdf)  
 24 [03/Assumption\\_of\\_Risk\\_March2018\\_FINAL.pdf](https://www.immigrantjustice.org/sites/default/files/content-type/research-item/documents/2018-03/Assumption_of_Risk_March2018_FINAL.pdf); see also Tom K. Wong, “Sanctuary cities don’t  
 25 ‘breed crime’. They encourage people to report crime.,” WASH. POST (Apr. 4, 2018), available at  
 26 [https://www.washingtonpost.com/news/monkey-cage/wp/2018/04/24/sanctuary-cities-dont-](https://www.washingtonpost.com/news/monkey-cage/wp/2018/04/24/sanctuary-cities-dont-breed-crime-they-encourage-people-to-report-crime/)  
 27 [breed-crime-they-encourage-people-to-report-crime/](https://www.washingtonpost.com/news/monkey-cage/wp/2018/04/24/sanctuary-cities-dont-breed-crime-they-encourage-people-to-report-crime/) (providing statistic evidence of the chilling  
 28 effect of having local law enforcement agencies do the work of federal immigration authorities).

25 <sup>3</sup> See, e.g., Edgar Aguila-socho et al., *Misplaced Priorities* 17 (Jan. 2012), available at  
 26 [https://www.law.uci.edu/academics/real-lifelearning/clinics/MisplacedPriorities\\_aguilasocho-](https://www.law.uci.edu/academics/real-lifelearning/clinics/MisplacedPriorities_aguilasocho-rodwin-ashar.pdf)  
 27 [rodwin-ashar.pdf](https://www.law.uci.edu/academics/real-lifelearning/clinics/MisplacedPriorities_aguilasocho-rodwin-ashar.pdf).

27 <sup>4</sup> See ND LON & Arriba Las Vegas Worker Center, News Release, “Newly Released Records  
 28 Show City of Las Vegas Spent Over Two Hundred Thousand Dollars to Help ICE Deport  
 Community Members” (Mar. 28, 2019), available at [http://arribalasvegas.org/city-of-las-vegas-](http://arribalasvegas.org/city-of-las-vegas-spent-over-200k-to-help-ice-deport-community-members/)  
[spent-over-200k-to-help-ice-deport-community-members/](http://arribalasvegas.org/city-of-las-vegas-spent-over-200k-to-help-ice-deport-community-members/).

1 Adame-Reyes was advised almost immediately after his transport to CCDC that he would be  
2 released on his own recognizance.

3 7. Despite this same-day order of release, Defendants incarcerated him overnight  
4 solely on the basis of an ICE hold after Mr. Adame-Reyes was questioned about his immigration  
5 status. Afterward, Defendants handed him over to ICE, an agency within the Department of  
6 Homeland Security (“DHS”), which led to his detention for approximately four months.

7 8. On August 17, 2019, Defendants arrested Mr. Adame-Reyes again on suspicion of  
8 committing a criminal offense. While the charges against Mr. Adame-Reyes were once again  
9 dismissed, Defendants continued to detain him in order to question him about his immigration  
10 status and allow ICE to take custody of him. Mr. Adame-Reyes has been in federal custody ever  
11 since.

12 9. An ICE hold provides no legal authority for Defendants and their officers to detain  
13 Mr. Adame-Reyes or anyone else who has been subjected to Defendants’ voluntary decision to  
14 arrest and detain on the basis of an ICE hold request. Detention on the sole basis of an ICE hold  
15 constitutes a new “arrest” under federal and state law. The Fourth Amendment and Article 1,  
16 Section 18 of the Nevada Constitution require that every arrest be justified by the issuance of a  
17 warrant by a neutral judge based on a finding of probable cause or, in the case of a warrantless  
18 arrest, that the arrest be supported by probable cause and be reviewed by a neutral judge within 48  
19 hours of arrest. An ICE hold meets none of these requirements. It does not support a finding of  
20 probable cause that a criminal infraction has occurred, and a judge conducts no review of an ICE  
21 hold – not before and not after Defendants have made the decision to detain an individual on the  
22 basis of an ICE hold.

23 10. Defendants’ ICE holds policy evinced a deliberate indifference to Mr. Adame-  
24 Reyes’s constitutional rights and was the moving force behind the constitutional violations. As a  
25 result of Defendants’ policy and practices, despite being ordered released from criminal custody,  
26 Mr. Adame-Reyes was unlawfully re-arrested and detained without probable cause or other legal  
27 authority when Defendants honored the ICE hold placed on him. Thus, Defendants violated Mr.  
28 Adame-Reyes’s Fourth and Fourteenth Amendment rights under the U.S. Constitution. His arrest

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1 and detention by Defendants on the basis of an ICE hold also violated state law, which limits the  
2 arrest authority of Nevada police in non-criminal matters.

3 11. More recently, after subjecting Mr. Adame-Reyes to yet another arrest and period  
4 of detention for a suspected civil immigration violation, Defendants acknowledged in a press  
5 release that “Nevada does not have a statute authorizing an arrest for civil immigration violations”  
6 – which has long been the law – and announced that LVMPD would cease honoring ICE holds. A  
7 true and correct copy of this press release, dated October 23, 2019, is attached to this complaint as  
8 **Exhibit A**. Defendants’ asserted policy change decision does not redress the harm that Mr.  
9 Adame-Reyes suffered and provides little assurance that Defendants will not resume their policy  
10 and practice. Mr. Adame-Reyes thus seeks declaratory relief and damages from Defendants  
11 resulting from his unlawful seizure, the violation of his due process rights, his false imprisonment,  
12 and the harm caused by the Defendants’ intentional infliction of emotional distress.

13 **JURISDICTION AND VENUE**

14 12. This action arises under the Constitution and laws of the United States, including  
15 42 U.S.C. § 1983, and the laws of the State of Nevada. Jurisdiction is conferred on this Court by  
16 28 U.S.C. §§ 1331, 1343, and Article III of the U.S. Constitution.

17 13. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over the claims  
18 arising under Nevada law, as they are so related to claims within the Court’s original jurisdiction  
19 that they form part of the same case or controversy under Article III of the U.S. Constitution.

20 14. Venue is proper in this Court as the events and conduct complained of herein  
21 occurred in the District of Nevada.

22 **PARTIES**

23 15. Plaintiff David Adame-Reyes is a longtime resident of Las Vegas, Nevada. Mr.  
24 Adame-Reyes is a 36-year-old man with deep ties to Nevada, where he has resided for  
25 approximately fifteen years with his family. Mr. Adame-Reyes has limited vision, having lost an  
26 eye as a child, but is nonetheless a hardworking member of the community, working in  
27 construction and auto-mechanics. He is presently detained at Nye County Detention Center in  
28

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1 Pahrump, Nevada for his immigration case, which was initiated following his arrest and detention  
2 on the basis of an ICE hold.

3 16. Defendant Joseph Lombardo is the Sheriff of Clark County, a municipality and  
4 political subdivision of the State of Nevada. Sheriff Lombardo is sued in his individual capacity  
5 and in his official capacity. Sheriff Lombardo is the Chief Law Enforcement Officer and Chief  
6 Administrative Officer of LVMPD and is responsible for the management and control of all  
7 LVMPD jails and the custody of all inmates housed in the LVMPD jails, including CCDC. As  
8 such, he is responsible for formulating the policies that govern the custody of all individuals held  
9 at CCDC and for the training and supervision of LVMPD officers. Sheriff Lombardo has ultimate  
10 supervisory authority over CCDC. In his official capacity, he is also responsible for the acts and  
11 omissions of his agents and employees at CCDC. At all times relevant to this Complaint, Sheriff  
12 Lombardo acted or failed to act under color of state law.

13 17. Sheriff Lombardo is liable in his individual supervisory capacity as well, because  
14 he had personal knowledge of, and set in motion the policy, custom, and practice of honoring ICE  
15 holds, and he personally refused to terminate this policy and practice in the training, supervision,  
16 and control of his subordinates. Sheriff Lombardo knew or reasonably should have known that  
17 the ICE holds policy, custom, and practice were so deficient that they repudiated and deprived Mr.  
18 Adame-Reyes of his clearly established constitutional rights. Well before Mr. Adame-Reyes was  
19 unlawfully arrested and detained, Sheriff Lombardo was personally informed and knew of both  
20 the lack of authority under Nevada law to make arrests for civil immigration violations and the  
21 unconstitutionality of effectuating arrests and detention on the basis of ICE hold requests and  
22 without probable cause, and he was further aware that ICE hold requests were being routinely  
23 granted, with numerous individuals being re-arrested and detained solely on the basis of ICE holds  
24 and well past their judicially-authorized release dates.<sup>5</sup> Without these policies, which Sheriff  
25 Lombardo himself put in place and had implemented by and through his officers, the violations of

26 \_\_\_\_\_  
27 <sup>5</sup> See **Exhibit E** (March 15, 2018 letter from legal advocates informing Sheriff Lombardo and  
28 LVMPD of substantial legal authority holding that ICE holds do not mandate detention and do not  
provide probable cause to support an arrest); **Exhibit F** (March 28, 2018 letter from Sheriff  
Lombardo stating that LVMPD declined to discontinue honoring ICE holds); *infra* para. 41.

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1 Mr. Adame-Reyes’s constitutional rights would not have occurred. Sheriff Lombardo is thus also  
2 liable in his individual capacity because he personally knew of these violations and failed to  
3 prevent them.

4 18. Defendant LVMPD is the police agency responsible for all police services within  
5 the City of Las Vegas and the unincorporated areas of Clark County, the two major municipalities  
6 and political subdivisions in the greater Las Vegas Valley metropolitan area of the State of Nevada.  
7 Defendant LVMPD’s employees engaged in the acts complained of pursuant to the policies,  
8 practices, and customs of Sheriff Lombardo and the LVMPD.

9 19. Each of the Defendants, their employees, and agents participated personally in the  
10 unlawful conduct challenged herein and, to the extent that they did not personally participate,  
11 authorize, or acquiesce in such conduct, they nevertheless set in motion or otherwise failed to take  
12 necessary steps to prevent the acts that resulted in the unconstitutional and unlawful conduct and  
13 the harm suffered by Mr. Adame-Reyes. Each acted in concert with each other. The challenged  
14 acts caused the violation of Mr. Adame-Reyes’s rights.

15 **FACTS & LEGAL BACKGROUND COMMON TO ALL CLAIMS FOR RELIEF**

16 **A. The Fourth Amendment Prohibits Arrests for Civil Disputes**

17 20. “The Fourth Amendment applies to all seizures of the person, including seizures  
18 that involve only a brief detention short of traditional arrest.” *United States v. Brignoni-Ponce*,  
19 422 U.S. 873, 878 (1975).

20 21. Under the Fourth Amendment, “a fair and reliable determination of probable cause”  
21 must be provided “as a condition for any significant pretrial restraint of liberty.” *Baker v.*  
22 *McCullan*, 443 U.S. 137, 142 (1979).

23 22. If an individual is “kept in custody for a new purpose after [the individual is]  
24 entitled to release, [that individual] was subjected to a new seizure for Fourth Amendment  
25 purposes—one that must be supported by a new probable cause justification.” *Id.*

26 23. Probable cause to support a new arrest or seizure of a person can only exist when  
27 the facts and circumstances are sufficient to warrant a prudent person in believing that the  
28

1 individual subject to arrest or seizure had or was committing a *criminal offense*. See *Gerstein v.*  
2 *Pugh*, 420 U.S. 103, 111–12; *Allen v. City of Portland*, 73 F.3d 232, 237 (9th Cir. 1995).

3 24. Civil disputes cannot give rise to probable cause to support an arrest or seizure that  
4 complies with the requirements of the Fourth Amendment. See *Gerstein*, 420 U.S. at 111–12;  
5 *Allen*, 73 F.3d at 237.

6 25. “As a general rule, it is not a crime for a removable [noncitizen] to remain present  
7 in the United States.” *Arizona v. United States*, 567 U.S. 387, 407 (2012).

8 26. Further, deportation and removal proceedings are “civil in nature.” *Padilla v.*  
9 *Kentucky*, 559 U.S. 356, 365 (2010).

10 27. Thus, the lower federal courts have universally recognized that the Fourth  
11 Amendment’s probable cause requirement for warrantless arrests and seizures prohibits “local law  
12 enforcement officers from arresting individuals solely based on known or suspected civil  
13 immigration violations.” *Santos v. Frederick Cty. Bd. of Comm’rs*, 725 F.3d 451, 464 (4th Cir.  
14 2013) (collecting cases).

15 **B. Background on ICE Holds**

16 28. An ICE hold does not provide probable cause that a criminal infraction has been  
17 committed by the individual named in the hold request. Unlike criminal detainers or holds, an ICE  
18 hold is not accompanied by a judicial warrant or judicial determination of probable cause that a  
19 criminal infraction has been committed. Rather, it is an *administrative* request, signed by a single  
20 ICE officer or deputized local officer. Although ICE also refers to its holds as “detainers,” they  
21 are not accompanied by the same procedural protections as criminal detainers and do not carry the  
22 same force of law.

23 29. An ICE hold requests, but *does not require*, that a local law enforcement agency or  
24 officer – in this case, Sheriff Lombardo and LVMPD – hold an individual for up to 48 hours  
25 (excluding weekends and federal holidays) beyond the time when the individual would otherwise  
26 be released from local custody. While ICE holds request detention for 48 hours, the granting of  
27 such holds can impose significantly lengthier detention times because weekends and federal  
28

1 holidays are not counted as being part of the 48 hours (and in some cases, local authorities have  
2 held individuals longer than the period of time specified in the hold request).

3 30. An ICE hold appears on an administrative form (Form I-247A) used by ICE that  
4 advises local officials that DHS may desire to initiate *civil* immigration proceedings against an  
5 individual and/or assume custody of an individual. A true and correct copy of Form I-247A is  
6 attached to this complaint as **Exhibit B**.

7 31. An ICE hold provides *no legal authority* to detain an individual after the conclusion  
8 of a lawful custody that was based on traffic, municipal, and/or state criminal charges.

9 32. In issuing an ICE hold, an ICE officer—or a local official deputized as a “287(g)  
10 officer” (*see infra* ¶¶ 31-36)—simply checks a box on the ICE hold form asserting that the officer  
11 has evidence that the individual is subject to removal from the United States. As a primary  
12 “evidentiary” source for these holds, ICE commonly employs various databases that are  
13 notoriously unreliable and prone to both human and mechanical error.<sup>6</sup> ICE has made these hold  
14 requests to Sheriff Lombardo and LVMPD on the *mere suspicion* that an individual has committed  
15 a *civil* immigration violation, which does not meet the requisite legal standard to support an arrest  
16 or detention.

17 33. ICE holds are sometimes accompanied by an I-200 administrative arrest warrant.  
18 Like the ICE hold, the administrative warrant does not indicate any basis for arrest resulting from  
19 a violation of criminal law, nor is it accompanied by a judicial determination of probable cause  
20 that a crime has been committed. Also like the ICE hold request, ICE administrative warrants are  
21 issued by a single ICE officer based on that officer’s own finding that there is probable cause to  
22 believe that a person is removable. Often, an ICE officer’s finding of probable cause to believe a  
23 person is removable is based on unreliable data and biased policing tactics like racial profiling.  
24 While both the ICE hold and the administrative arrest warrant are supposed to be served upon the  
25 affected individual, this does not always happen.

26  
27  
28 <sup>6</sup> *See Gonzalez v. Immigration and Customs Enforcement*, No. 2:12-cv-09012 AB (FFMx), 2019  
WL 4734579, at \*10 (C.D. Cal. Sept. 27, 2019).

1           34. Even when the individual subject to the ICE hold and administrative warrant has  
 2 been timely served with the appropriate copies, neither ICE nor Sheriff Lombardo has provided an  
 3 administrative procedure for challenging the issuance of the ICE hold or administrative warrant.  
 4 Likewise, the Board of Immigration Appeals has ruled that it does not have jurisdiction to consider  
 5 challenges to ICE holds because it has found that individuals held on ICE holds are not in federal  
 6 custody.<sup>7</sup> Thus, those subjected to ICE holds, like Mr. Adame-Reyes, have effectively been left  
 7 without a viable remedy or due process to challenge their unlawful detention.

8           **C. Lack of Legal Authority to Detain on Sole Basis of an ICE Hold**

9           35. When LVMPD continues to maintain custody of a person solely on the basis of an  
 10 ICE hold, this detention constitutes a new “arrest” under the Fourth Amendment of the U.S.  
 11 Constitution.<sup>8</sup>

12           36. To undertake a new arrest, including by honoring an ICE hold, LVMPD must  
 13 comply with the Fourth Amendment and Section 8-8a of the Nevada Constitution and ensure that  
 14 the new arrest be authorized by both federal and state law.

15           37. An arrest based only on an ICE hold violates the Fourth Amendment and Nevada  
 16 law because Nevada law enforcement officers have no authority to make arrests for *civil*  
 17 immigration offenses, as Defendants themselves have publicly acknowledged.<sup>9</sup>

18 ///

21 <sup>7</sup> See *Matter of Sanchez*, 20 I. & N. Dec. 223, 226 (BIA 1990) (vacating the immigration judge’s  
 22 order considering an immigration hold for lack of jurisdiction since “the respondent was in the  
 23 actual physical custody of the State of Maryland”); see also *Matter of Lehder*, 15 I. & N. Dec. 159,  
 24 161 (BIA 1975) (“If [respondent] wishes to be relieved of the consequences of the [immigration]  
 25 detainer, he should seek a remedy from the present custodial authorities rather than from [the  
 26 federal immigration agencies.]”); *Matter of Valdovinos*, 18 I. & N. Dec. 343, 345 (BIA 1982)  
 27 (“claims as to the unconstitutionality of the statutes and regulations administered by this Board are  
 28 outside the scope of our jurisdiction”).

25 <sup>8</sup> See, e.g., *Roy v. Cty. of Los Angeles*, No. CV-12-09012-AB (FFMx), 2018 WL 914773, at \*23  
 26 (C.D. Cal. Feb. 7, 2018) (“[W]here a ‘continued detention exceed[s] the scope of the Jail’s lawful  
 27 authority over the released detainee,’ the detention ‘constitute[s] a new arrest, and must be  
 28 analyzed under the Fourth Amendment.’”) (citing *Miranda–Olivares v. Clackamas Cty.*, No. 3:12–  
 cv–02317–ST, 2014 WL 1414305, at \*10 (D. Or. Apr. 11, 2014)).

<sup>9</sup> See Exhibit A.

1 38. Nevada law provides only limited authority to Nevada law enforcement agencies  
2 to make arrests for enumerated state civil matters.<sup>10</sup> Civil immigration enforcement is not one of  
3 the enumerated situations permitting an arrest for a civil matter.<sup>11</sup> The Nevada Attorney General  
4 recognized this in a 1983 opinion that concluded that “Nevada peace officers should act cautiously  
5 in enforcing federal laws ... and should not detain or arrest a person solely on the basis that this  
6 individual might be ... deportable.”<sup>12</sup>

7 39. Federal law similarly does not afford Defendants authority to undertake an arrest  
8 based on an ICE hold. The federal government maintains the sole power to establish and enforce  
9 immigration laws, which are codified in the Immigration and Nationality Act (“INA”).<sup>13</sup> As part  
10 of that scheme, Congress dramatically limited the specific circumstances in which local law  
11 enforcement may aid the federal government in immigration enforcement.<sup>14</sup> Those specific  
12 circumstances do not authorize LVMPD to make arrests or detain individuals on the basis of an  
13 ICE hold.<sup>15</sup>

14 40. Even where federal law allows for some involvement of local officers in  
15 immigration enforcement, the INA strictly limits the role such officers can play. “Local law  
16 enforcement officers may assist in federal immigration enforcement efforts under 8 U.S.C. §  
17 1357(g), which authorizes the Attorney General to enter into agreements with local law  
18 enforcement agencies that allow specific officers to perform [limited] functions of federal  
19

20 <sup>10</sup> See NEV. REV. STAT. § 31.470 (“No person shall be arrested in a civil action except as prescribed  
21 by this chapter.”).

22 <sup>11</sup> See NEV. REV. STAT. § 31.480 (specifying five instances in which a defendant may be arrested  
23 in a civil action, none of which include arrest for civil immigration violations or pursuant to an  
24 ICE hold).

25 <sup>12</sup> See Op. Att’y Gen. Opinion No. 83-16 (Nov. 23, 1983), 1983 WL 171453; see also *Dinitz v.*  
26 *Christensen*, 577 P.2d 873, 875 (Nev. 1978) (“Law-enforcement officers may make arrests *only*  
27 on ‘probable cause,’ a Fourth and Fourteenth Amendment standard applicable to states, as well as  
28 the federal government.”) (emphasis added).

<sup>13</sup> See 8 U.S.C. §§ 1101, *et seq.*

<sup>14</sup> See *Arizona v. United States*, 567 U.S. 387, 408–09 (2012).

<sup>15</sup> *Accord Gonzalez*, 2019 WL 4734579, at \*17 (“[E]ven where federal law permits state or local  
officers to make civil immigration arrests, the authority for such arrests must come from state  
law.”) (quoting 8 U.S.C. §§ 1357(g)(1), 1252c(a)).

1 immigration officers.”<sup>16</sup> Named for the section of the INA that authorizes them, such agreements  
2 are referred to as “287(g) Agreements.”<sup>17</sup>

3 41. Participation in the 287(g) program does not give state or local law enforcement  
4 entities authority to make arrests for civil immigration violations, nor does it grant them authority  
5 to detain individuals beyond what is allowed under state law.

6 42. On or about June 28, 2016, Sheriff Lombardo and ICE executed a 287(g)  
7 Agreement, allowing participating LVMPD officers to perform specified immigration functions.<sup>18</sup>  
8 A true and correct copy of the Clark County MOA is attached to this complaint as **Exhibit C**. The  
9 Clark County MOA, principally, gave specified LVMPD officers (“287(g) officers”) the authority  
10 to issue the same administrative forms that ICE issues.

11 43. Specifically, and as pertinent here, the Clark County MOA permitted the deputized  
12 287(g) officers to serve administrative arrest warrants for immigration violations. The Clark  
13 County MOA also allowed deputized 287(g) officers to interrogate any person detained in the  
14 participating LVMPD detention center whom the officer believed to be an undocumented  
15 immigrant about their right to be in the United States. Additionally, the Clark County MOA  
16 authorized deputized 287(g) officers to issue ICE hold requests on individuals believed to be  
17 removable. *See Exhibit C*.

18 44. Notably, the Clark County MOA has not provided any authority to make arrests for  
19 civil immigration violations, nor has it provided any authority to *grant* an ICE hold request and  
20 detain an individual on that sole basis and without probable cause. The Clark County MOA has  
21 specifically provided that the authority it does grant may be used only “to the extent consistent  
22

23 <sup>16</sup> *Macareno v. Thomas*, 378 F. Supp. 3d 933, 943 (W.D. Wash. 2019).

24 <sup>17</sup> *See* Dep’t of Homeland Sec. Immigration and Customs Enforcement, “Delegation of  
25 Immigration Authority Section 287(g) Immigration and Nationality Act,” *available at*  
26 <https://www.ice.gov/287g>. The 287(g) program is an initiative allowing “a state or local law  
enforcement entity to enter into a partnership with ICE, under a joint Memorandum of Agreement  
(MOA), in order to receive delegated authority for immigration enforcement within their  
jurisdictions.” *Id.*

27 <sup>18</sup> *See* U.S. Immigration and Custom Enforcement, Memorandum of Agreement, at 17 (June 28,  
28 2016), *available at* [https://www.ice.gov/doclib/287gMOA/r\\_287glasvegaspd.pdf](https://www.ice.gov/doclib/287gMOA/r_287glasvegaspd.pdf) (“Clark County  
MOA”).

1 with State and local law.” **Exhibit C.**

2 45. As discussed above, Nevada law enforcement officers have no authority to arrest  
3 or detain individuals for civil immigration violations. Nothing in the Clark County MOA changed  
4 this fact. In fact, the Clark County MOA is not currently in effect, as of October 23, 2019. *See*  
5 **Exhibit A.**

6 **D. Defendants’ ICE Holds Policy and Requests by the Community for Policy**  
7 **Change and Accountability**

8 46. For approximately two and a half years, if not longer, Sheriff Lombardo and  
9 LVMPD engaged in a policy, custom, and practice of granting ICE hold requests, detaining Mr.  
10 Adame-Reyes and others like him past the time when they would otherwise have been released—  
11 *i.e.*, when the state law basis or other legal authority for the individuals’ detention no longer  
12 existed. On information and belief, Defendants detained hundreds of individuals, solely on the  
13 basis of ICE holds and past the point when they would otherwise have been released, in the months  
14 preceding the arrest and detention of Mr. Adame-Reyes and thereafter. In one week alone,  
15 Defendants reportedly detained 51 individuals on the basis of an ICE hold.<sup>19</sup>

16 47. Sheriff Lombardo has long been well aware that numerous state and federal courts  
17 have found law enforcement agencies liable for Fourth Amendment violations where they have  
18 held individuals pursuant to ICE hold requests. On December 16, 2013, the National Immigration  
19 Law Center (“NILC”) wrote to Sheriff Lombardo’s immediate predecessor, Sheriff Douglas  
20 Gillespie (“Sheriff Gillespie”), informing him that the then-existing policy of refusing to allow  
21 pretrial detainees with ICE holds to post bail violated state and federal law. A true and correct  
22 copy of this letter is attached as **Exhibit D.**

23 48. In July 2014, Sheriff Gillespie and the LVMPD stopped honoring ICE holds. This  
24 decision followed court rulings that ICE holds had failed to provide a constitutional basis for the

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26 <sup>19</sup> *See* Megan Messerly, “As Controversial Legislation Stalls, Immigration Debate Looms Large  
27 Over Nevada”, NEV. INDEP. (Apr. 2, 2017),  
28 *available at* <https://thenevadaindependent.com/article/controversial-legislation-stalls-immigration-debate-looms-large-nevada> (quoting LVMPD Director Chuck Callaway as confirming that at least 51 people were turned over from CCDC custody to ICE custody on the basis of an ICE hold in a single week, between January 28 and February 3, 2017).

1 arrest and continued detention of individuals in local authorities' custody or for the refusal of bail  
2 for such individuals.<sup>20</sup>

3 49. Despite his knowledge that the ICE holds violated clearly established constitutional  
4 rights, in or around early 2017, Sheriff Lombardo resumed LVMPD's prior practice of honoring  
5 ICE holds.

6 50. On March 15, 2018, NILC and partnering advocates wrote to Sheriff Lombardo  
7 and LVMPD, explaining that their practices were unlawful, pointing to substantial legal authority  
8 showing the unconstitutionality of Defendants' ICE holds policy,<sup>21</sup> and requesting that the Sheriff  
9 immediately cease the policy and practice of effectuating arrests without probable cause and  
10 imposing detention on the basis of ICE holds. *See* **Exhibit E**.

11 51. On March 28, 2018, Sheriff Lombardo acknowledged receipt of the March 15, 2018  
12 letter and rejected the request, stating that "LVMPD declines to discontinue honoring ICE  
13 detainees," thereby deliberately failing to act to prevent future constitutional violations, including  
14 those visited upon Mr. Adame-Reyes. A true and correct copy of Defendants' response letter is  
15 attached as **Exhibit F**. Undeterred by this rejection, advocates continued to push for a policy  
16 change and an end to Defendants' policy, custom, and practice of honoring ICE holds.

17 52. In October 2018, the Clark County District Court and Las Vegas Township Justice  
18 Court each issued a decision rejecting an earlier administrative order that directed court clerks to  
19 refuse to accept offers of bail from individuals who were being detained on ICE holds. The  
20 October 2018 decisions ordered the county clerk, the Las Vegas Justice Court clerk, and CCDC

21  
22 <sup>20</sup> *See, e.g., Miranda-Olivares v. Clackamas County*, No. 3:12-cv-02317-ST, 2014 WL 1414305,  
23 at \*10-\*11 (D. Or., Apr. 11, 2014); *Morales v. Chadbourne*, 996 F. Supp. 2d 19 (D.R.I. Feb. 12,  
2014).

24 <sup>21</sup> *See, e.g., Ochoa v. Campbell*, 266 F. Supp. 3d 1237, 1258 (E.D. Wash. 2017) ("Courts around  
25 the country have held that local law enforcement officials violate the Fourth Amendment when  
26 they temporarily detain individuals for immigration violations without probable cause."); *Creedle*  
27 *v. Miami-Dade Cty.*, 349 F. Supp. 3d 1276, 1304 (S.D. Fla. 2018) ("Numerous courts have  
28 determined that when local law enforcement agencies hold someone pursuant to a detainer—and  
without separate probable cause that the person has committed a crime—such detention gives rise  
to a Fourth Amendment claim"); *Roy v. County of Los Angeles*, No. 2:12-cv-09012-AB, 2018 WL  
914773, at \*23 (C.D. Cal., Feb. 7, 2018) (holding that local officers who—on the sole basis of ICE  
holds—were "detaining individuals beyond their date for release[,] violated the individuals' Fourth  
Amendment rights"); *Abriq v. Hall*, 295 F.Supp.3d 874, 881-82 (M.D. Tenn. 2018) (same).

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1 officers to accept bail or cash bonds from all detained persons without regard for an individual's  
2 immigration status. True and correct copies of the Clark County District Court and Las Vegas  
3 Township Justice Court orders are attached as **Exhibit G** and **Exhibit H**, respectively.

4 53. Despite the October 2018 decisions to make cash bail and pretrial release accessible  
5 for all, on information and belief, many noncitizen individuals continued to be detained at CCDC  
6 if an ICE hold was placed on them, rendering the technical availability of posting bail meaningless.  
7 As a result of this reality, community advocates continued to seek a direct end to Defendants' ICE  
8 holds policy and practice and accountability for the harms resulting from that policy and practice.

9 54. Defendants held to their policy and practice for another full year, before announcing  
10 on October 23, 2019, that they would cease granting ICE hold requests for the time being, while  
11 exploring other means of collaborating with federal immigration authorities. **Exhibit A**. This  
12 decision followed a September 27, 2019 ruling from the Central District of California, permanently  
13 enjoining ICE from issuing detainers to state and local law enforcement agencies in states where  
14 there is no explicit state statute authorizing civil immigration arrests on detainers.<sup>22</sup> Defendants'  
15 press statement noted the Central District of California's ruling and acknowledged that Nevada  
16 lacks a statute authorizing arrests for civil immigration violations, but omitted mention of other  
17 legal authority that had previously been brought to their attention. **Exhibit A**.

18 55. Defendants' October 23<sup>rd</sup> press statement and asserted policy change do not redress  
19 the harm that countless individuals, including Mr. Adame-Reyes, suffered at the hands of  
20 Defendants and as a result of their longstanding unlawful ICE holds policy, custom, and practice.  
21 Defendants' October 23<sup>rd</sup> press statement is an admission that Defendants lacked legal authority  
22 to honor the ICE hold placed on Mr. Adame-Reyes, detain him beyond his ordered release date,  
23 and subject him to significant harms.

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28 <sup>22</sup> *Gonzalez*, 2019 WL 4734579, at \*11.

**MR. ADAME-REYES'S DETENTION**

**A. The First Unconstitutional Detention of Mr. Adame-Reyes**

56. The first arrest that led to Defendants detaining Mr. Adame-Reyes on an ICE hold had many of the markings of the pretextual arrests that many others have suffered in Clark County and other jurisdictions that involve local law enforcement agencies in doing the work of federal immigration officers.

57. On August 21, 2018, Mr. Adame-Reyes was walking to a convenience store. Because it was a hot day, he stopped to sit and rest by a utility pole while landscapers cut grass nearby. Shortly thereafter, a LVMPD officer approached him and asked why he had stopped there. Mr. Adame-Reyes does not speak English, and the officer did not speak Spanish, but Mr. Adame-Reyes did his best to understand the officer.

58. The officer told Mr. Adame-Reyes that he was being placed under arrest. Mr. Adame-Reyes asked the officer why he was being arrested for simply sitting on a sidewalk. The officer responded that Mr. Adame-Reyes was being arrested for disorderly conduct. According to the officer, the nearby landscapers told LVMPD that Mr. Adame-Reyes had been obstructing their pathway. But at no point did the landscapers suggest to Mr. Adame-Reyes that they thought he was in their way.

59. Shortly thereafter, a Spanish-speaking officer arrived. Mr. Adame-Reyes heard the Spanish-speaking officer tell the English-speaking officer to let Mr. Adame-Reyes go, but the English-speaking officer nonetheless proceeded to put his hands on Mr. Adame-Reyes. Not fully understanding what was happening, Mr. Adame-Reyes pulled his arm away. The officer then changed course and arrested Mr. Adame-Reyes for resisting and obstructing an officer. At the time of arrest, Mr. Adame-Reyes was not advised of his *Miranda* rights.

60. Mr. Adame-Reyes was taken to CCDC. Upon arrival, a CCDC official told him he would be released. According to the Las Vegas Justice Court Register of Actions, Mr. Adame-Reyes was ordered "CCDC O.R.-Jail Release" on August 21, 2018, the same day he was arrested. This means he should have been released on his "own recognizance," without the requirement to pay any cash bail.

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1           61.     Nonetheless, before Mr. Adame-Reyes could leave the facility, he was stopped by  
2 a “287(g)” officer who demanded to know his immigration status. Mr. Adame-Reyes was not  
3 informed he could decline to respond nor did he feel it was an option to do so, and accordingly,  
4 Mr. Adame-Reyes followed the officer’s orders and answered his questions. The 287(g) officer  
5 asked him to sign a voluntary deportation form, which he declined to do. The 287(g) officer then  
6 took the form ordering “CCDC O.R.-Jail Release” from Mr. Adame-Reyes, which indicated that  
7 he should be released, and instead jailed him overnight.

8           62.     Meanwhile, this same 287(g) officer signed an ICE administrative arrest warrant  
9 (Form I-200) but failed to assert any probable cause to believe that Mr. Adame-Reyes had  
10 committed a criminal offense, which would have been the only legal support for the new arrest  
11 that was being effectuated.

12           63.     The next day, August 22, 2018, CCDC officials transported Mr. Adame-Reyes to a  
13 second location, and he received a form indicating he would be transferred to Henderson Detention  
14 Center (“HDC”), a city jail that doubles as an immigration detention center. Mr. Adame-Reyes  
15 did not believe he could challenge the transfer to HDC.

16           64.     On September 4, 2018, the Clark County District Attorney dismissed the charges  
17 against Mr. Adame-Reyes in the Las Vegas Justice Court. On September 20, 2018, the Justice  
18 Court formally closed the criminal case based on the prosecutor’s decision not to proceed with the  
19 charges.

20           65.     Mr. Adame-Reyes nonetheless remained detained at HDC until December 26,  
21 2018, when his family paid bond to immigration authorities in the amount of \$6,500, as set by an  
22 immigration judge, and he was released from ICE custody.

23     **B.           The Second Unconstitutional Detention of Mr. Adame-Reyes**

24           66.     On August 17, 2019, while waiting on the street for a friend who had gone into a  
25 nearby store, Mr. Adame-Reyes was again arrested and taken to CCDC. The next day, on August  
26 18, 2019, Mr. Adame-Reyes was taken to a criminal case hearing, during which the prosecutor  
27 declined to pursue charges. Following his hearing, Mr. Adame-Reyes was taken back to CCDC,  
28 where he was detained for approximately 17 days.

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1           67. On September 3, 2019, Mr. Adame-Reyes was taken to another criminal case  
2 hearing on an outstanding misdemeanor trespass charge, which was also dismissed that day.  
3 Following his hearing, Mr. Adame-Reyes was taken back to CCDC. On information and belief,  
4 the decision to continue detaining Mr. Adame-Reyes despite his having been ordered released was  
5 made on the basis that it was the Defendants’ policy, custom, and practice to detain individuals  
6 beyond their judicially-authorized release date and time in order to transfer them into ICE custody.

7           68. The next day, on September 4, 2019, CCDC officials told Mr. Adame-Reyes that  
8 they could not release him because ICE wanted to speak with him. Within the hour, and at CCDC  
9 facilities, Mr. Adame-Reyes was interviewed by a 287(g) officer who asked him about his  
10 immigration status. Mr. Adame-Reyes was not informed he could decline to answer questions,  
11 nor did he feel it was an option to do so, and he accordingly responded to the officer’s questions.  
12 The authorities then transferred Mr. Adame-Reyes to Nye County Detention Center (“NCDC”), a  
13 county jail that doubles as an immigration detention center. Mr. Adame-Reyes did not believe he  
14 could challenge the transfer to NCDC.

15           69. Since September 4, 2019, Mr. Adame-Reyes has remained detained at NCDC under  
16 ICE custody.

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**FIRST CLAIM FOR RELIEF**

**UNLAWFUL SEIZURE**

**42 U.S.C. § 1983 – Fourth Amendment and Fourteenth Amendment**

*Against All Defendants*

70. Mr. Adame-Reyes realleges and incorporates the allegations set forth in the preceding paragraphs as though fully set forth herein.

71. Through the acts alleged herein, Defendants and their employees and agents violated Mr. Adame-Reyes’s Fourth Amendment rights to be free from unreasonable seizure.

72. Defendants continued to detain Mr. Adame-Reyes after his release date and the expiration of any and all state law basis to detain him. On information and belief, the decision to detain Mr. Adame-Reyes was made on the sole basis that it was Defendants’ policy, custom, and practice to detain individuals named by ICE in a Form I-247A and/or Form I-200. Defendants did so despite having no legal authority under either federal or state law to continue to hold Mr. Adame-Reyes in custody after his judicially authorized release date.

73. Because of this and the fact that ICE holds are not judicial warrants issued upon probable cause that a crime has been committed, Defendants’ ICE holds policy and detention of Mr. Adame-Reyes violated his Fourth Amendment right to be free from unreasonable seizures without a warrant or probable cause.

74. These unlawful actions were done with the specific intent to deprive Mr. Adame-Reyes of his constitutional rights.

75. Mr. Adame-Reyes is informed and believes that the acts of Defendants and their employees and agents were intentional, done under color of state law, and pursuant to a policy, custom, or practice of Sheriff Lombardo and the LVMPD. As a direct and proximate consequence of these unlawful acts, Mr. Adame-Reyes has suffered harm and is entitled to compensatory damages.

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1 81. Without any basis in federal or state law, Defendants denied Mr. Adame-Reyes his  
2 liberty and freedom due solely to the existence of an ICE hold and without probable cause. This  
3 deprived Mr. Adame-Reyes of his liberty without the due process of law.

4 82. Mr. Adame-Reyes is informed and believes that the acts of Defendants and their  
5 employees and agents were intentional, done under color of state law, and pursuant to a policy,  
6 custom, or practice of Sheriff Lombardo and the LVMPD.

7 83. As a result of Defendants' conduct, Mr. Adame-Reyes has sustained, and will  
8 continue to sustain, without limitation, emotional and economic injuries in the form of loss of  
9 freedom, lost income, emotional distress, and loss of the companionship of his family.

10 **THIRD CLAIM FOR RELIEF**

11 **FALSE IMPRISONMENT**

12 *Against All Defendants*

13 84. Mr. Adame-Reyes realleges and incorporates the allegations set forth in the  
14 preceding paragraphs as though fully set forth herein.

15 85. Defendants intentionally imprisoned Mr. Adame-Reyes by force.

16 86. Defendants deprived Mr. Adame-Reyes of his liberty without legal cause of  
17 justification and in violation of Nevada law.

18 87. Defendants non-consensually and intentionally confined Mr. Adame-Reyes against  
19 his will without lawful privilege.

20 88. As a result of Defendants' conduct, Mr. Adame-Reyes has sustained, and will  
21 continue to sustain, without limitation, emotional and economic injuries in the form of loss of  
22 freedom, lost income, emotional distress, and loss of the companionship of his family.

23 **FOURTH CLAIM FOR RELIEF**

24 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

25 *Against All Defendants*

26 89. Mr. Adame-Reyes realleges and incorporates the allegations set forth in the  
27 preceding paragraphs as though fully set forth herein.

28 ///

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**JURY DEMAND**

A. Plaintiff Mr. Adame-Reyes requests a trial by jury.

DATED this 6th day of February, 2020.

HOLLAND & HART LLP

/s/ J. Stephen Peek

J. Stephen Peek

Ryan A. Semerad

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