

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

ANDRÉS OSWALDO BOLLAT VASQUEZ,  
individually and as next friend to Luisa  
Marisol Vasquez Perez de Bollat, and as  
father and next friend to A.B.,  
LUISA MARISOL VASQUEZ PEREZ DE  
BOLLAT,  
JOSÉ MANUEL URIAS MARTINEZ,  
individually and as next friend to Rosa  
Maria Martinez de Urias,  
ROSA MARIA MARTINEZ DE URIAS,  
SALOMÉ OLMOS LOPEZ, individually and  
as next friend to Evila Floridalma Colaj  
Olmos, and J.C., and  
EVILA FLORIDALMA COLAJ OLMOS,

Plaintiffs,

v.

CHAD F. WOLF, Acting Secretary of  
Homeland Security,  
MARK A. MORGAN, Acting Commissioner  
of U.S. Customs and Border Protection,  
KENNETH T. CUCCINELLI, II, senior  
official in charge of U.S. Citizenship and  
Immigration Services,  
MATTHEW T. ALBENCE, senior official in  
charge of U.S. Immigration and Customs  
Enforcement,  
WILLIAM BARR, Attorney General,  
DONALD J. TRUMP, President,

Defendants.

Civ. No.

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

## INTRODUCTION

1. This case seeks to bring to safety five asylum seekers—including two five-year-old children—who have been forced into danger and abject misery by the Trump administration’s misnamed “Migrant Protection Protocols” (MPP). Because the MPP imperils them each day, and because it unlawfully abandons America’s legal obligations to asylum seekers, plaintiffs ask this court to enjoin the policy’s application to them.

2. Plaintiff Andrés Oswaldo Bollat Vasquez fled Guatemala for his life in 2016. In 2019, when the men who had threatened Mr. Bollat intensified their threats against his wife and son—plaintiffs Luisa Marisol Vasquez Perez de Bollat and A.B.—they, too, fled for the United States. That same year, plaintiff Rosa Maria Martinez de Urias fled El Salvador after her life was threatened there, and plaintiffs Evila Floridalma Colaj Olmos and J.C. fled Guatemala after enduring years of violence.

3. But as these plaintiffs traveled north to seek America’s help, U.S. officials were engaged in a far-reaching effort to prevent them from receiving it.

4. The MPP seeks to keep out Central American migrants at any cost. Under this policy, American authorities expel migrants into dangerous Mexican border cities and require them to report back to a port of entry every time they are due to appear in American immigration court. The policy is a boon for violent criminal groups that specifically persecute migrants in Mexico. For more than a year, it has left tens of thousands of migrants to survive in unimaginable squalor

and daily peril. These dangers are an intended consequence, not an accidental byproduct, of the MPP; they are used by American officials to dissuade migrants from moving forward with their immigration cases.

5. As alleged below, defendants' actions violate the statute and regulation governing the asserted authority to force migrants into Mexico; the legal framework governing asylum; defendants' duty of non-refoulement, which prohibits sending people to places where they will be persecuted; the Administrative Procedure Act; and U.S. constitutional guarantees of equal protection and due process. Plaintiffs ask this court to enjoin the MPP's application to Ms. Vasquez and A.B., to Ms. Martinez, and to Ms. Colaj and J.C.

### **PARTIES**

6. Plaintiff Andrés Oswaldo Bollat Vasquez is an asylum-seeker living in Massachusetts. He brings suit on his own behalf and as next friend to his five-year-old son, A.B., and his wife, Luisa Marisol Vasquez Perez de Bollat.

7. Plaintiff A.B. fled Guatemala to seek asylum in the United States, but is now stranded in Mexico under the MPP. He appears by and through his father and next friend, Mr. Bollat.

8. Plaintiff Luisa Marisol Vasquez Perez de Bollat fled Guatemala to seek asylum in the United States, but is now stranded with A.B. in Mexico under the

MPP. She appears personally and, alternatively, by and through her husband and next friend, Mr. Bollat.<sup>1</sup>

9. Plaintiff José Manuel Urias Martinez is an asylum-seeker living in Massachusetts. He brings suit on his own behalf and as next friend to his mother, Rosa Maria Martinez de Urias.

10. Plaintiff Rosa Maria Martinez de Urias fled El Salvador to seek asylum in the United States, but is now stranded in Mexico under the MPP. She appears personally and, alternatively, by and through her son and next friend, Mr. Urias.

11. Plaintiff Salomé Olmos Lopez resides in Massachusetts. He brings suit on his own behalf and as next friend to his niece, Evila Floridalma Colaj Olmos, and her five-year-old daughter, J.C.

12. Plaintiff J.C. fled Guatemala to seek asylum in the United States, but is now stranded in Mexico under the MPP. She appears by and through her next friend, Mr. Olmos.

13. Plaintiff Evila Floridalma Colaj Olmos fled Guatemala to seek asylum in the United States, but is now stranded in Mexico with J.C. under the MPP. She appears personally and, alternatively, by and through her uncle and next friend, Mr. Olmos.

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<sup>1</sup> Due to the danger faced by each of the adult plaintiffs who are presently in Mexico, and the uncertainty regarding their ability to maintain contact with counsel, each appears here both personally and by and through a next friend.

14. Defendant Chad F. Wolf is the Acting Secretary of Homeland Security and the Cabinet-level officer responsible for the administration of U.S. immigration law, including implementing the MPP. He is sued in his official capacity.

15. Defendant Mark A. Morgan is the Acting Commissioner of U.S. Customs and Border Protection (CBP), the component of the Department of Homeland Security (DHS) that is responsible for the initial processing of migrants at the border, including operating the MPP. He is sued in his official capacity.

16. Defendant Kenneth T. Cuccinelli holds himself out as the senior official in charge of U.S. Citizenship and Immigration Services (USCIS). USCIS is the DHS component responsible for administering our asylum laws and interviewing migrants who express a fear of return to a country, including as part of the MPP. Mr. Cuccinelli is simultaneously serving as the senior official performing the duties of Deputy Secretary of DHS. Mr. Cuccinelli is sued in his official capacity.

17. Defendant Matthew T. Albence is the former Acting Director of Immigration and Customs Enforcement (ICE) and the senior official performing the duties of Director. ICE is the DHS component that carries out removal orders and oversees immigration detention. Mr. Albence is sued in his official capacity.

18. Defendant William Barr is the Attorney General of the United States and shares responsibility for implementing asylum and other immigration laws, including protecting noncitizens from being sent to countries where they face persecution or torture. He is sued in his official capacity.

19. Defendant Donald J. Trump is the President of the United States and is ultimately responsible for DHS's policies. He is sued in his official capacity.

### **JURISDICTION AND VENUE**

20. This Court has jurisdiction under 28 U.S.C. §§ 2201-2202 (declaratory judgment) and 28 U.S.C. § 1331 (federal question), as plaintiffs' claims arise under the Administrative Procedure Act (APA), 5 U.S.C. §§ 701 et seq., immigration laws, international law, and the U.S. Constitution.

21. Venue is proper in the District of Massachusetts because defendants are officers of the United States and plaintiffs Mr. Bollat, Mr. Urias, and Mr. Olmos reside in this district. 28 U.S.C. § 1391.

### **BACKGROUND**

#### **I. United States law requires protecting people from persecution.**

22. United States law protects asylum seekers like the plaintiffs in this case. The law forbids sending people to countries where they will be persecuted or tortured, and it allows those with credible claims of persecution to present their case to an immigration judge.

##### **A. The United States has committed itself not to return people to places where they face persecution or torture.**

23. Two key agreements—the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees—arose from a commitment to protect refugees after the international community's failures during the Holocaust and World War II. The United States acceded to the Protocol in 1968, binding itself to the substantive provisions of the Convention.

24. The principle of non-refoulement is the core of these agreements.

Under Article 33 of the Convention, the United States may not “expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group, or political opinion.”

25. The United States also signed the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1988, pledging not to “expel, return . . . or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”

**B. U.S. statutes and regulations require review by an immigration judge before the government removes someone who fears persecution.**

26. United States statutes and regulations implement these commitments by expressly barring the U.S. government from returning people to countries where they will be persecuted or tortured. See 8 U.S.C. § 1231(b)(3); 8 C.F.R. § 208.16.

27. Individuals in removal proceedings may apply for asylum and for two other related, non-discretionary forms of protection— withholding of removal and protection under CAT.

28. Asylum is a discretionary form of relief that may be granted to individuals with a well-founded fear of persecution on account of a protected ground—*i.e.*, their race, religion, nationality, membership in a particular social group, or political opinion. 8 U.S.C. §§ 1101(a)(42)(A), 1158.

29. Withholding of removal under 8 U.S.C § 1231(b)(3) *must* be granted to noncitizens who demonstrate that their “life or freedom would be threatened” on account of a protected ground in the country to which they face removal. Relief under CAT *must* be granted to noncitizens who demonstrate that they are more likely than not to be tortured in the country to which they face removal. 8 C.F.R. §§ 208.16-208-18. These two forms of mandatory protection implement the United States’ non-refoulement obligations.

30. Because they are mandatory forms of protection, withholding of removal and CAT relief are available even when noncitizens are otherwise subject to summary removal processes in which an immigration officer orders removal without a proceeding in front of an immigration judge.

31. For example, when individuals with certain criminal convictions are placed in a summary process called “administrative removal,” or when those previously-removed are placed in a summary process to “reinstate” their prior removal order, they can still assert a fear of return to the country of intended removal. See 8 U.S.C. §§ 1228(b), 1231(a)(5); 8 C.F.R. §§ 208.31(a), 238.1(b)(2)(i), 238.1(f)(3), 241.8(e). Regulations then provide them with an interview in which an asylum officer conducts an initial assessment of their fear. 8 C.F.R. §§ 208.31, 238.1(f)(3), 241.8(e). Where the officer finds a “reasonable fear”—defined as a “reasonable possibility” that a noncitizen would be persecuted on account of a protected ground, or tortured—the noncitizen is referred for full withholding of removal or CAT proceedings in front of an immigration judge. *Id.* § 208.31. And



where an asylum officer does not find such a fear, an individual receives a review of that reasonable fear determination by an immigration judge. *Id.* § 208.31(g).

32. DHS thus lacks authority to send noncitizens to a country in which they fear persecution or torture without review by an immigration judge. See 8 C.F.R. §§ 208.31, 1208.16(a).

33. Another summary removal process is the “expedited removal” of certain individuals at the border. Expedited removal procedures apply to noncitizens who arrive in the United States at a port of entry and who engage in misrepresentation or lack a visa or other document permitting their admission, 8 U.S.C. § 1225(b)(1). DHS may also apply these proceedings to recent illegal border crossers, *i.e.*, those apprehended within 100 miles of the border and who cannot show that they have been in the United States for more than two weeks. See 8 U.S.C. § 1225(b)(1)(A)(iii); Designating Aliens for Expedited Removal, 69 Fed. Reg. 48877, 48880 (2004). But noncitizens who demonstrate a “credible fear of persecution or torture” avoid expedited removal and are placed into regular removal proceedings under 8 U.S.C. § 1229a, where they may apply for asylum, withholding of removal, and CAT relief. 8 U.S.C. § 1225(b)(1)(B)(ii); 8 C.F.R. §§ 208.30(e)(2)-(3), 235.6. If an asylum officer does not find a credible fear, the decision is reviewable by an immigration judge. 8 U.S.C. § 1225(b)(1)(B)(iii)(III).

**II. The Trump administration is violating laws governing its treatment of those fleeing persecution, and it is doing so as a result of animus against Central American and non-white immigrants.**

34. The Trump administration dislikes the laws affording protections to

people seeking asylum, and it is especially hostile to asylum protections for people from Central American nations and people of color.

35. This hostility is due in substantial part to animus toward Central Americans and other people of color.

36. President Trump's animus toward Central American asylum seekers seeking protection in the United States is so strong that he has repeatedly voiced a desire to physically harm them. The President has reportedly suggested electrifying the border wall, fortifying it with an alligator moat, installing spikes on top to pierce human flesh, and having soldiers shoot migrants' legs to slow them down.<sup>2</sup>

37. On information and belief, in addition to his own bigotry, President Trump's eagerness to harm Central American asylum seekers is driven by his view that scapegoating Central Americans and people of color helps him politically.

38. While campaigning for President, Trump repeatedly made racist statements about people of color, stating that Mexican immigrants were "rapists," and people who "bring[ ] drugs . . . [and] crime," and that others "coming from all over South and Latin America," and "probably—from the Middle East" were "not the right people."<sup>3</sup>

39. As President, Trump has asked why the United States would want more people from Haiti, El Salvador, and other nations he called "shithole

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<sup>2</sup> Michael D. Shear & Julie Hirschfeld Davis, *Shoot Migrants' Legs, Build Alligator Moat: Behind Trump's Ideas for Border*, N.Y. TIMES (Oct. 2, 2019), [www.nytimes.com/2019/10/01/us/politics/trump-border-wars.html](http://www.nytimes.com/2019/10/01/us/politics/trump-border-wars.html).

<sup>3</sup> *Here's Donald Trump's Presidential Announcement Speech*, TIME (June 16, 2015), [time.com/3923128/donald-trump-announcement-speech](http://time.com/3923128/donald-trump-announcement-speech).

countries,” rather than people from countries like Norway,<sup>4</sup> which is predominantly white. Trump has also said that Mexican migrants “aren’t people” but “animals.”<sup>5</sup>

40. As a consequence of this animus, defendants have acted to undermine and destroy the asylum process. The President and defendant Cuccinelli have repeatedly identified laws that preserve access to the asylum process as a “loophole”; the President has also called asylum a “scam” and a “hoax,” and argued that most asylum requests are a fraudulent ploy to enter the country illegally.<sup>6</sup> Indeed, the President has repeatedly denounced the very existence of immigration courts or due process for asylum claims, suggesting that “[w]hen somebody comes in, we must immediately, with no Judges or Court Cases, bring them back from where they came from.”<sup>7</sup>

41. In response to President Trump’s demand that DHS keep out Central

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<sup>4</sup> Ryan T. Beckwith, *President Trump Called El Salvador, Haiti ‘Shithole Countries’: Report*, TIME (Jan. 11, 2018), [time.com/5100058/donald-trump-shithole-countries/](https://time.com/5100058/donald-trump-shithole-countries/).

<sup>5</sup> Gregory Korte & Alan Gomez, *Trump Ramps Up Rhetoric on Undocumented Immigrants: ‘These Aren’t People. These Are Animals.’*, USA TODAY (May 17, 2018), [www.usatoday.com/story/news/politics/2018/05/16/trump-immigrants-animals-mexico-democrats-sanctuary-cities/617252002/](https://www.usatoday.com/story/news/politics/2018/05/16/trump-immigrants-animals-mexico-democrats-sanctuary-cities/617252002/).

<sup>6</sup> See, e.g., *Rep. Tim Ryan calls Trump’s history visit to the DMZ an ‘appeasement tour’*, FOX NEWS (June 30, 2019), [www.foxnews.com/transcript/rep-tim-ryan-calls-trumps-historic-visit-to-the-dmz-an-appeasement-tour](https://www.foxnews.com/transcript/rep-tim-ryan-calls-trumps-historic-visit-to-the-dmz-an-appeasement-tour); The White House, *President Donald J. Trump Is Working to Stop the Abuse of Our Asylum System and Address the Root Causes of the Border Crises* (Apr. 29, 2019), [www.whitehouse.gov/briefings-statements/president-donald-j-trump-working-stop-abuse-asylum-system-address-root-causes-border-crisis/](https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-working-stop-abuse-asylum-system-address-root-causes-border-crisis/); *Trump Says Some Asylum Seekers Are Gang Members*, CBS NEWS (Apr. 5, 2019), [www.cbsnews.com/news/trump-says-some-asylum-seekers-are-gang-members-border-calexico-2019-04-05-today/](https://www.cbsnews.com/news/trump-says-some-asylum-seekers-are-gang-members-border-calexico-2019-04-05-today/).

<sup>7</sup> Donald J. Trump (@realDonaldTrump), Twitter (June 24, 2018, 11:02 AM), [twitter.com/realDonaldTrump/status/1010900865602019329](https://twitter.com/realDonaldTrump/status/1010900865602019329).

American asylum seekers by any means necessary,<sup>8</sup> Defendants have worked to harm these asylum seekers and destroy the asylum system through an onslaught of illegal measures. These include taking migrant children from their parents, refusing to process asylum seekers at ports of entry, undermining the independence of asylum officers and the immigration courts, and engaging in a multi-faceted attempt to remake the law of asylum eligibility for the singular purpose of denying protection to Central American and other migrants.

42. For example, DHS attempted to ban asylum for individuals who illegally crossed the southern border. See *East Bay Sanctuary Covenant v. Trump*, 349 F. Supp. 3d 838 (N.D. Cal. 2018) (enjoining ban), appeal pending, No. 18-17274 (9th Cir.). And DHS *did* ban asylum for individuals at the southern border who have not applied for and been denied asylum or similar protection in a country that they transited through. Asylum Eligibility and Procedural Modifications, 84 Fed. Reg. 33,829 (July 16, 2019); see 8 C.F.R. § 208.13(c)(4).

**III. The so-called “Migrant Protection Protocols” are a centerpiece of Defendants’ efforts to deny migrants the protection of U.S. law.**

43. The “Migrant Protection Protocols” are an effort by the Trump administration to choke off the asylum system, hurt migrants, and prevent Central Americans and other people of color from entering the United States.

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<sup>8</sup> Julie H. Davis & Michael D. Shear, *BORDER WARS: INSIDE TRUMP’S ASSAULT ON IMMIGRATION* 334-37 (2019) (Trump “gave Nielsen a direct order: Do not let any more people in”; he “wanted the troops to keep the ‘illegals’ out at all costs” and “refused to acknowledge that there were any legal limits on what the military could do”).

44. Although the MPP policy was not announced until late in 2018, it is the consequence of an Executive Order issued by President Trump just five days into his presidency. Under Executive Order 13767 in January 2017, President Trump declared a policy to “end the abuse of parole and asylum provisions” and to ensure that noncitizens who could be “returned to the territory from which they came” under 8 U.S.C. § 1225(b)(2)(C) were returned there.<sup>9</sup>

**A. The MPP is designed to deny migrants the protections of U.S. law.**

45. In a December 20, 2018 press release, DHS announced that individuals “arriving in or entering the United States from Mexico—illegally or without proper documentation—may be returned to Mexico for the duration of their immigration proceedings.”<sup>10</sup>

46. The release explained that, under these new “Migrant Protection Protocols,” the United States would detain asylum seekers at the border, process them, schedule their removal hearings, expel them to Mexico, and require them to present themselves at the border to attend court.

47. Defendants have not promulgated any regulations constituting or governing the MPP, but have instead created this policy through press releases,

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<sup>9</sup> Executive Order 13767: *Border Security and Immigration Enforcement Improvements* (Jan. 25, 2020), [www.whitehouse.gov/presidential-actions/executive-order-border-security-immigration-enforcement-improvements/](http://www.whitehouse.gov/presidential-actions/executive-order-border-security-immigration-enforcement-improvements/).

<sup>10</sup> DHS, *Secretary Kirstjen M. Nielsen Announces Historic Action to Confront Illegal Immigration: Announces Migrant Protection Protocols* (Dec. 20, 2018), [www.dhs.gov/news/2018/12/20/secretary-nielsen-announces-historic-action-confront-illegal-immigration](http://www.dhs.gov/news/2018/12/20/secretary-nielsen-announces-historic-action-confront-illegal-immigration).

memorandums, and shifting unilateral practices.

48. Under the MPP, defendants send migrants to Mexico without the benefit of any of the existing statutory or regulatory procedures for evaluating whether they have a credible fear or reasonable fear of persecution in Mexico.

49. Instead, DHS purports to comply with its international and humanitarian obligations by providing “non-refoulement” interviews.

50. But these MPP non-refoulement interviews employ procedures and standards that drastically differ from credible fear or reasonable fear interviews and are designed to make it all but impossible for migrants to avoid the MPP.

51. For example, to reduce the number of non-refoulement interviews, DHS decided that it would not ask migrants whether they feared persecution, but instead would provide interviews only to those who *affirmatively* express a fear.<sup>11</sup> DHS also set an almost impossibly high standard, requiring migrants to remain in the MPP unless they are “more likely than not” to experience persecution on account of a protected ground or torture—a standard much higher than “reasonable fear.” In fact, “more likely than not” is the same as the *merits* standard required to win withholding of removal in front of an immigration judge.<sup>12</sup>

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<sup>11</sup> DHS, *Assessment of the Migrant Protection Protocols (MPP), Appendix A: Additional Analysis of MPP Fear-Assessment Protocol* (Oct. 28, 2019), [www.dhs.gov/sites/default/files/publications/assessment\\_of\\_the\\_migrant\\_protection\\_protocols\\_mpp.pdf](http://www.dhs.gov/sites/default/files/publications/assessment_of_the_migrant_protection_protocols_mpp.pdf).

<sup>12</sup> See Kirstjen M. Nielsen, *Policy Guidance for Implementation of the Migrant Protection Protocols* (Jan. 25, 2019), [www.dhs.gov/sites/default/files/publications/19\\_0129\\_OPA\\_migrant-protection-protocols-policy-guidance.pdf](http://www.dhs.gov/sites/default/files/publications/19_0129_OPA_migrant-protection-protocols-policy-guidance.pdf); USCIS, *Policy Memorandum: Guidance for Implementing Section 235(b)(2)(C) of the Immigration and Nationality Act and the Migrant Protection Protocols*, PM-602-0169 (Jan. 28,

52. DHS’s decision to return a noncitizen to Mexico is also unilateral.

Unlike in the reasonable fear or other summary removal contexts, a noncitizen who fears persecution in Mexico receives no review by an immigration judge.

53. DHS employs these procedures even though it knows or should know that Central Americans and other migrants subjected to the MPP face a high likelihood of persecution in Mexico on account of their race, national origin, and particular social group.

54. These procedural shortcomings reflect the MPP’s goal: to bar Central American and other migrants from the United States.

55. The goal has been clear from the start of the MPP. While DHS’s December 2018 press release asserted that the MPP would stop what it called the “exploit[ation]” of “asylum loopholes” by “[i]llegal aliens” and “fraudsters,” it also made clear that the policy is not, in fact, designed to weed out illegal or fraudulent asylum claims in particular. Instead, as reflected in the press release, under the MPP *all* individuals “arriving in or entering the United States from Mexico . . . illegally or without proper documentation”—in other words, substantially all asylum seekers coming in from Mexico—may be forcibly returned to Mexico.

56. The press release hypothesized that because the MPP would impose brutal conditions on all asylum seekers, “false asylum claims are expected to decline.” But on information and belief, in promulgating and implementing the

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2019), [www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2019/2019-01-28-Guidance-for-Implementing-Section-35-b-2-C-INA.pdf](http://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2019/2019-01-28-Guidance-for-Implementing-Section-35-b-2-C-INA.pdf).

MPP, defendants also expected, and wanted, meritorious asylum claims to decline.

57. The MPP was designed to keep migrants out regardless of the strength of their asylum claims, and—by harming migrants rather than protecting them—to dramatically reduce the numbers of people who seek safety on our shores.

58. The policy is achieving its intended harm: it is brutally punishing migrants who seek to invoke the protection of the United States, in the hope that the numbers of asylum claims—whether legitimate or not—will decline.

59. As a consequence of the MPP and other Trump administration policies, thousands of migrants are living in encampments near the border. On information and belief, thousands have experienced kidnappings and other forms of violence.

**B. The MPP relies on inapplicable statutory and regulatory authority.**

60. The MPP purports to invoke 8 U.S.C. § 1225(b)(2)(C), entitled “Treatment of aliens arriving from contiguous territory.” But that provision is inapplicable to the plaintiffs in this case, for two reasons.

61. First, while each plaintiff who has been subject to the MPP entered the United States by illegally crossing the border *between ports of entry*, § 1225(b)(2)(C) on its face applies only to noncitizens who are “arriving”—a term that DHS has defined as being limited to those who arrive *at a port of entry* (or after being interdicted at sea). See 8 C.F.R. §§ 1.2, 1001.1(q). The DHS regulation implementing § 1225(b)(2)(C) makes this limitation clear by permitting the return to Mexico only of noncitizens “who arrive[] *at a land border port-of-entry from Canada or Mexico*.” 8 C.F.R. § 235.3(d) (emphasis added). Because the plaintiffs



here did not arrive at ports of entry, 8 U.S.C. § 1225(b)(2)(C) and 8 C.F.R. § 235.3(d) forbid the defendants from returning them to Mexico.

62. Second, the plaintiffs in this case are not subject to 8 U.S.C. § 1225(b)(2)(C) because that authority does not apply to migrants who are eligible for expedited removal procedures under § 1225(b)(1). The contiguous-return provision of § 1225(b)(2)(C) states that “[i]n the case of an alien described in Subparagraph (A) who is arriving on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the United States, the Attorney General may return the alien to that territory pending a proceeding under section 1229a of this title.” Subparagraph (A) refers to 8 U.S.C. § 1225(b)(2)(A), which requires DHS to detain and initiate removal proceedings under 8 U.S.C. § 1229a against noncitizens arriving in the United States who have facially valid entry documents, such as permanent resident cards or visas, but are nevertheless inadmissible due to visas violations, criminal history, or other reasons. Thus, for those noncitizens, § 1225(b)(2)(C) authorizes DHS to return them to Mexico or Canada during removal proceedings if they arrived by land from these countries.

63. But § 1225(b)(2)(A) does not apply, and consequently § 1225(b)(2)(C) does not apply, to those who arrive in the United States *without valid documents at all*, as most asylum seekers do. Those individuals are subject to different procedures, including the possibility of “expedited removal.” 8 U.S.C. § 1225(b)(1). They cannot, however, be returned to a contiguous territory under § 1225(b)(2)(C).

## FACTS

64. Plaintiffs Luisa Marisol Vasquez Perez de Bollat and A.B., Rosa Maria Martinez de Urias, and Evila Floridalma Colaj Olmos and J.C. all fled persecution and threats against their lives in Central America and crossed the U.S.-Mexico border in order to seek safety in the United States. Under the MPP, each was sent back to Mexico, where they fear further persecution. They have spent the last six to eight months in peril while waiting for their immigration court hearings in the United States.

### **I. The Bollat Vasquez family.**

65. Andrés Oswaldo Bollat Vasquez fled Guatemala in 2016 after his life was repeatedly threatened, leaving behind his wife, Luisa Marisol Vasquez Perez de Bollat, and their one-year-old son, A.B.<sup>13</sup> Mr. Bollat crossed the border and was apprehended by Customs and Border Protection (CBP). After demonstrating credible fear of persecution in Guatemala, see 8 U.S.C. § 1225(b)(1)(B)(ii), he was given a Notice to Appear in immigration court. He was eventually granted bond and released to pursue his asylum claim in the United States. He lives in Massachusetts and will attend a final merits hearing on his asylum claim in June 2020.

66. While Mr. Bollat's asylum case moved forward in the United States, Ms. Vasquez and A.B. began receiving threats in Guatemala. In 2018, these threats caused Ms. Vasquez so much anxiety that she was hospitalized for a week. By 2019,

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<sup>13</sup> The details of plaintiffs' asylum claims are omitted due to safety concerns.

the demands that Ms. Vasquez's husband return—or else—mounted, and Ms. Vasquez fled Guatemala with A.B.

67. As Ms. Vasquez and A.B. journeyed to seek safety in the United States, the Trump administration had deepened its efforts to keep them from receiving any protection. On July 16, 2019, DHS enacted a rule making migrants at the Southern border ineligible for asylum if they had not applied for it in Mexico or another country. And in South Texas, DHS had rolled out an expansion of the MPP.

68. On or around September 18, 2019, Ms. Vasquez and A.B. crossed the border from Mexico into the United States. They were apprehended by CBP and issued Notices to Appear in immigration court for removal proceedings.

69. But CBP officials also issued Ms. Vasquez and A.B. a notice stating that they had been “identified for processing under the Migrant Protection Protocols.” The notice stated that Ms. Vasquez and A.B. would be sent to Mexico and could not return to the United States until it was time to report to the port of entry for their next hearing.

70. The notice provided that Ms. Vasquez and A.B. could consult with counsel “through any available mechanism,” including arranging to meet with an attorney at the hearing facility on the day of their hearing. They could also meet with an attorney “at a location in Mexico of [their] choosing” or by phone or email, or another “remote communication method of [their] choosing.”

71. As the notice explained, to pursue their claims for protection Ms. Vasquez and A.B. would have to appear for their next court date, approximately one

month later, by presenting themselves at a bridge connecting Matamoros, Mexico to Brownsville, Texas at 4:30am.

72. A.B.'s attendance was expressly required.

73. Neither Ms. Vasquez and A.B. had ever been to Matamoros when they were first processed for the MPP.

74. Matamoros is part of the Mexican state of Tamaulipas, for which the U.S. Department of State has issued a travel advisory of “Level 4: Do Not Travel”—the same level issued for Syria and Afghanistan.

75. The State Department warns against travel to Tamaulipas, stating that “[h]eavily armed members of criminal groups often patrol areas of the state . . . and operate with impunity.” The State Department notes that criminal activity is common—including “gun battles, murder, armed robbery, carjacking, kidnapping, forced disappearances, extortion, and sexual assault”—and “law enforcement has limited capability to respond.”

76. U.S. government employees may travel in Tamaulipas only in limited areas. They may not use Mexican highways to travel between cities in Tamaulipas or be out between midnight and 6am in Matamoros.<sup>14</sup>

77. Migrants are specifically hunted by violent criminal groups in Tamaulipas and Mexico, and Central American migrants are especially targeted and vulnerable. In Matamoros, which has few shelters, thousands of migrants seek

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<sup>14</sup> Department of State, *Mexico Travel Advisory* (Dec. 17, 2019), [travel.state.gov/content/travel/en/traveladvisories/traveladvisories/mexico-travel-advisory.html](https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/mexico-travel-advisory.html).

safety by sleeping in an outdoor encampment at the foot of the Gateway Bridge from Brownsville, Texas. Nevertheless, they lack access to basic sanitation and face a constant risk of sexual assault, kidnapping, and other violent crime.

78. DHS is or should be aware of these conditions.

79. When Ms. Vasquez and A.B. were apprehended by CBP, an official asked Ms. Vasquez whether she wanted to be returned to Mexico, or go back to Guatemala. Ms. Vasquez explained that she and A.B. would neither be safe in Guatemala nor Mexico.

80. On the day she and A.B. were sent back to Mexico along with other migrants, Ms. Vasquez saw a CBP officer aggressively push a deaf-mute woman who did not go in the direction she was expected to go in.

81. Ms. Vasquez did not know and was not informed that she could have a non-refoulement interview, and that, if DHS found it more likely than not that she and A.B. would face persecution or torture in Mexico, they could not be sent there.

82. Ms. Vasquez did not know that because CBP followed the DHS policy seeking to reduce the number of non-refoulement interviews by declining to inform migrants about them. But CBP officials also *failed* to follow their own guidance requiring noncitizens who express a fear of return to Mexico to be referred for an interview. Had Ms. Vasquez been informed that she could have a non-refoulement interview, she would have requested one.

83. Instead, Ms. Vasquez, A.B., and a group of other migrants were transported to the Gateway Bridge connecting Brownsville, Texas to Matamoros,

Mexico, and handed off to Mexican officials. After being escorted over the bridge and into a Mexican immigration building for processing, Ms. Vasquez and A.B. were sent outside.

84. Ms. Vasquez had nowhere to go. She found a park bench on the edge of the encampment where thousands of migrants were staying outside, and prepared to sleep there with A.B., who was just four years old.

85. She reached her husband in Massachusetts, who called around to hotels in Matamoros, but was told that they would not take migrants like Ms. Vasquez and A.B.

86. Ms. Vasquez was fortunate. Another migrant family had managed to get a hotel room and took her and A.B. in for the night. And her husband secured help from the only person he could find—a Mexican friend who drove approximately 15 hours across Mexico from his home in Sinaloa and picked up Ms. Vasquez and A.B. the following day.

87. The friend drove Ms. Vasquez and A.B. to his family's home, where they have rented a room ever since.

88. Sinaloa, like Tamaulipas, is one of five Mexican states carrying a travel advisory of "Level 4: Do Not Travel." And Ms. Vasquez and A.B. have been staying in an area U.S. government employees are forbidden from traveling to.

89. Ms. Vasquez and A.B. regularly hear gun shots, and stay inside the house most of the time.

90. In October and again in February, Ms. Vasquez and A.B. returned to

Matamoros to attend court hearings. They will need to return at least one more time for a final hearing.

91. To attend court hearings, Ms. Vasquez and A.B. were required to be on the Gateway Bridge in Matamoros at 4:30am—a time when U.S. government officials are not permitted to be outside.

92. Because of the dangers involved in traveling by bus, Mr. Bollat has paid for a driver to take Ms. Vasquez and A.B. through cartel-controlled areas and into Matamoros. On one of these trips, Ms. Vasquez was even harassed by Mexican officials who threatened to rip up her paperwork and deport her to Guatemala despite her nominal permission to remain in Mexico.

93. Like other migrants, Ms. Vasquez and A.B. attend their hearings by video from a tent courtroom just over the bridge in Brownsville, Texas. After their hearings, they are escorted back to Matamoros, Mexico.

94. Because Ms. Vasquez is in Mexico, her immigration attorney has been unable to communicate regularly with her and cannot discuss the highly sensitive details of her asylum claim with her in order to prepare for her final immigration court hearing.

95. Ms. Vasquez also cannot communicate regularly with Mr. Bollat. She feels insecure and depressed. She knows that it is unsafe for her to return to Guatemala, but sometimes feels that she can no longer endure life in waiting.

96. Over the phone, Mr. Bollat regularly hears the gunshots near his family, and A.B. asks him what to do. Mr. Bollat is in agony, unable to do more to

secure his family's safety.

## **II. The Martinez Urias family.**

97. Around the day Ms. Vasquez and A.B. narrowly escaped the misery and dangers of the migrant encampment in Matamoros, plaintiff Rosa Maria Martinez de Urias began her life there.

98. Ms. Martinez fled El Salvador in August 2019 with the five-year-old granddaughter that she had raised since the child was one year old. The little girl's father, plaintiff José Manuel Urias Martinez, had left her in Ms. Martinez's care when he fled the country in 2015.

99. Mr. Urias's young daughter was diagnosed with a heart malformation that required her to have heart surgery when she was two. Her heart requires regular monitoring and is a constant concern to her family.

100. While Mr. Urias traveled to the United States and eventually settled in Massachusetts, the men who targeted him continued to threaten his family, "disappearing" Ms. Martinez's youngest son—who was never heard from again—and later intensifying their threats against her and Mr. Urias's daughter. Ms. Martinez and her young granddaughter fled.

101. After crossing the border into the United States in September 2019, they were processed into the MPP and escorted to Matamoros.

102. Ms. Martinez and her granddaughter had never been to Matamoros. After Mexican authorities processed them, Ms. Martinez and her granddaughter were sent outside. They knew no one and had nowhere to go.



103. Like thousands of other migrants forced into Matamoros by U.S. authorities, Ms. Martinez and her five-year-old granddaughter had to sleep outside in the encampment by the river.

104. On her first night, Ms. Martinez found a piece of cardboard, and she and her granddaughter slept on it for days. Eventually, someone gave them a tent. They ate food handed out by aid workers or sometimes purchased food with money sent by Mr. Urias and other family in Massachusetts.

105. Life in the Matamoros encampment is grueling and dangerous. The encampment lacks basic sanitation, and women and children face a particularly high risk of violence.

106. Ms. Martinez also worried daily about her granddaughter's health, and whether the child would survive life outside in such difficult conditions.

107. In October, they attended a court hearing and were scheduled for a second court hearing months later.

108. By January, Ms. Martinez could no longer take it. She crossed the border illegally a second time. This time, U.S. officials separated her from her granddaughter, placed the child in a shelter, and returned Ms. Martinez to Matamoros. Approximately a month later, the child was released to the care of her father, Mr. Urias, in Massachusetts.

109. After her second stay in U.S. custody, Ms. Martinez lost her tent. She now sleeps wherever she can, sometimes in the tent of another migrant woman at the camp, or sometimes—for a few days at a time—in a room rented by another

migrant family that she has gotten to know.

110. In February she attended a second court hearing and was scheduled to return for a final hearing months later. After her February court date, she also had a non-refoulement interview. Although she explained her fear of persecution in Mexico, she was not removed from the MPP.

111. In Massachusetts, Mr. Urias's daughter cries for the grandmother who has raised her for as long as she can remember. Mr. Urias struggles with the financial cost of taking care of Ms. Martinez's legal bills and other needs and the emotional toll of knowing that his mother is homeless and in danger in Matamoros.

### **III. The Colaj Olmos family.**

112. Plaintiffs Evila Floridalma Colaj Olmos and J.C. are Mayans who left Guatemala around June 2019 after years of persecution and violence. In July, they crossed the border from Mexico into the United States in order to seek asylum.

113. They, too, were processed under the MPP and sent to Matamoros, a dangerous city where they had never been.

114. After being processed by Mexican immigration authorities, Ms. Colaj went outside with J.C., who had a fever. J.C. was four years old.

115. With nowhere to go, Ms. Colaj and J.C. slept in a rut along the side of road, near the cars that drove off the bridge from the United States. Eventually, a pastor gave them a tent.

116. Ms. Colaj and J.C. attended court hearings in October and November.

117. In January, Ms. Colaj went to court for what was supposed to be her

final merits hearing, but her case was rescheduled because the court did not have a K'iche' interpreter.

118. Ms. Colaj requested and obtained two non-refoulement interviews. Although she explained her fear of persecution in Mexico, she and J.C. were not removed from the MPP.

119. For eight months, Ms. Colaj and J.C. have slept in their tent in the encampment, without basic sanitation or regular access to clean water. J.C. is frequently sick.

120. At the encampment, they hear frequent gunfire and witness regular fighting. Ms. Colaj is aware of the frequent rapes and kidnappings of migrant women and children. She is terrified when she has to leave the encampment and venture further into Matamoros to buy food. And at night she cannot sleep, always afraid that this will be the night someone comes into her tent to harm her or her daughter.

121. Ms. Colaj feels desperate, alone, and terrified each day.

122. In Massachusetts, Ms. Colaj's uncle, plaintiff Salomé Olmos Lopez worries daily about J.C. and Ms. Colaj. He struggles to find help for Ms. Colaj, to take care of her teenaged brother—who is in his care—and to send money for Ms. Colaj and J.C.'s legal representation and survival.

**CLAIMS FOR RELIEF**

**Count 1**

**Violation of the INA and APA – Contiguous Territory Return Provision  
(8 U.S.C. § 1225(b)(2)(C); 8 C.F.R. § 235.3(d); 5 U.S.C. § 706(2))**

123. The foregoing allegations are realleged and incorporated herein.

124. Title 8, Section 1225(b)(2)(C)—which authorizes DHS to return certain individuals to a contiguous territory during their immigration proceedings—does not apply to Ms. Vasquez, A.B., Ms. Martinez, Ms. Colaj, and J.C. for two independent reasons.

125. First, § 1225(b)(2)(C) does not apply to individuals who entered the United States without inspection, *i.e.*, by crossing the border between ports of entry. Instead, it applies only to noncitizens who presented themselves at a port of entry. See 8 C.F.R. § 235.3(d) (implementing § 1225(b)(2)(C) to permit DHS to “require any alien who appears inadmissible and who arrives at a land border port-of-entry from Canada or Mexico, to remain in that county while awaiting a removal hearing”); see also 8 C.F.R. §§ 1.2, 1001.1(q).

126. Second, § 1225(b)(2)(C) applies only to noncitizens to whom § 1225(b)(2) applies, not to noncitizens to whom § 1225(b)(1) applies. Sections 1225(b)(1) and (b)(2) divide noncitizens into two categories, and provide different procedures for each. And § 1225(b)(2)’s express terms make it inapplicable to noncitizens to whom § 1225(b)(1) applies, including the plaintiffs here.

127. Applying the MPP to Ms. Vasquez, A.B., Ms. Martinez, Ms. Colaj, and J.C. is thus contrary to the Immigration and Nationality Act (INA) and its regulations, and in violation of the APA. See 5 U.S.C. § 706(2).

**Count 2**  
**Violation of the INA and APA – Asylum Law**  
**(8 U.S.C. § 1158; 8 C.F.R. § 208.1 et seq.; 5 U.S.C. § 706(2))**

128. The foregoing allegations are realleged and incorporated herein.

129. U.S. law permits noncitizens to apply for asylum in the United States regardless of their status or manner of entry, and balances the protection of asylum seekers with other American interests, including in expeditious removal procedures and in ensuring that the United States is not alone in bearing responsibility for those fleeing persecution. See generally 8 U.S.C. §§ 1158, 1225(b)(1); 8 C.F.R. §§ 208.1 et seq.

130. The MPP policy upends Congress’s scheme for addressing asylum in the context of third countries and its scheme for protecting and—when appropriate—removing individuals who express a fear of persecution.

131. Applying the MPP to Ms. Vasquez, A.B., Ms. Martinez, Ms. Colaj, and J.C. is thus contrary to the INA and its regulations, in violation of the APA. See 5 U.S.C. § 706(2).

132. Further, to the extent challengeable in this proceeding, the government’s bar on asylum for Ms. Vasquez, A.B., Ms. Martinez, Ms. Colaj, and J.C. based on their failure to apply for asylum in Mexico, see 8 C.F.R. § 208.13(c)(4), violates 8 U.S.C. § 1158 and applicable regulations.

**Count 3**

**Violation of Defendants' Non-Refoulement Obligations  
(8 U.S.C. § 1231(b)(3); 5 U.S.C. § 706(2); international law)**

133. The foregoing allegations are realleged and incorporated herein.

134. The INA bars removing a noncitizen to a country where it is more likely than not that the noncitizen will face persecution or torture. 8 U.S.C. § 1231(b)(3); 8 C.F.R. § 208.16.

135. The duty of non-refoulement is also a *jus cogens*—that is, a universal, and obligatory norm of customary international law from which the United States cannot derogate, and which U.S. courts are bound to enforce.

136. Recognizing this duty, DHS and Department of Justice regulations ensure that noncitizens have the opportunity to see an immigration judge before being sent to a country in which they fear persecution or torture.

137. Ms. Vasquez, A.B., Ms. Martinez, Ms. Colaj, and J.C. did not receive non-refoulement procedures consistent with U.S. and international law. Each was unlawfully sent to Mexico despite the high likelihood of persecution and torture that they and other Central American migrants face there.

138. DHS failed to comply with non-refoulement procedures and plaintiffs' right not to be removed to a country where they face persecution. The United States thus violated its obligations under international law, the INA, its regulations, and the APA, see 5 U.S.C. § 706.

**Count 4**  
**Violation of the APA – Notice and Comment**  
**(5 U.S.C. § 553)**

139. The foregoing allegations are realleged and incorporated herein.

140. The APA renders invalid legislative rules that are adopted without notice and an opportunity for comment during a 30-day period. 5 U.S.C. § 553.

141. The MPP and its procedures for determining whether an individual is more likely than not to face persecution or torture in Mexico are legislative rules. The MPP has brought a sea-change in the processing of asylum claims at the border and created a new mandatory process for non-refoulement determinations that does not comply with the regulations for *any* existing process for assessing fear of return.

142. The government did not promulgate regulations or provide opportunity for public comment relating to the MPP, including non-refoulement procedures. Instead, DHS issued only vague guidance and has been making up the procedures governing the MPP as it goes. The MPP and its non-refoulement procedures are operating in violation of the notice-and-comment requirements of the APA.

**Count 5**  
**Violation of the APA – Arbitrary, Capricious, and Unlawful Agency Action**  
**(5 U.S.C. § 706)**

143. The foregoing allegations are realleged and incorporated herein.

144. The APA requires courts to “compel agency action unlawfully withheld.” 5 U.S.C. § 706(1).

145. DHS has unlawfully deprived Ms. Vasquez, A.B., Ms. Martinez, Ms. Colaj, and J.C. of procedures required by law before sending noncitizens to countries where they fear persecution. See 8 C.F.R. § 208.31.

146. Courts shall also “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” “contrary to constitutional right, power, privilege, or immunity,” “in excess of statutory jurisdiction, authority, or limitation, or short of statutory right” or “without observance of procedure required by law.” 5 U.S.C. § 706(2).

147. The MPP’s non-refoulement procedures are arbitrary and capricious, an abuse of discretion, unlawful, unconstitutional, and *ultra vires*. Through the MPP, DHS has unlawfully claimed authority to make unilateral determinations about whether migrants may be sent to Mexico notwithstanding their fear of persecution. The MPP is a drastic and unexplained departure from prior practice, including from all existing procedures for determining whether noncitizens may be sent to countries where they fear persecution.

148. This departure from prior non-refoulement procedures has occurred even though DHS is or should be aware that all or virtually all Central American migrants face a reasonable fear of persecution in Tamaulipas and Mexico, where they are targeted by violent criminal groups based on their identity as Central Americans and migrants.

149. The MPP’s inadequate non-refoulement procedures are also evidence that the MPP as a whole is arbitrary, capricious, and unlawful. The MPP relies on



an unexplained change in DHS's interpretation of 8 U.S.C. § 1225(b)(2)(C) and 8 C.F.R. § 235.3(d); it represents a drastic departure from DHS's prior system for addressing asylum seekers at the border; and it is not minimally calculated to "protect" migrants with legitimate asylum claims. Instead, the MPP is *designed* to punish those fleeing violence with exposure to conditions DHS knows to be perilous and even fatal, in order to make it unbearable for asylum seekers to seek the protection of U.S. law.

150. The MPP and its non-refoulement procedures, including as applied to Ms. Vasquez, A.B., Ms. Martinez, Ms. Colaj, and J.C., are arbitrary and capricious and otherwise violate 5 U.S.C. § 706.

**Count 6**  
**Violation of Equal Protection**  
**(U.S. Constitution, amend. V)**

151. The foregoing allegations are realleged and incorporated herein.

152. Plaintiffs have a right under the Fifth Amendment to the U.S. Constitution to equal protection of the laws. The MPP and its inadequate non-refoulement process are motivated by racial animus and animus based on national origin and are unlawful. *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 265-66 (1977).

153. Through the application of the MPP, plaintiffs have been harmed by defendants' violation of equal protection.

**Count 7**  
**Violation of Due Process**  
**(U.S. Constitution, amend. V)**

154. The foregoing allegations are realleged and incorporated herein.

155. Due process safeguards noncitizens' liberty interest in the fair adjudication of applications for relief and benefits made available under the immigration laws. See *Arevalo v. Ashcroft*, 344 F.3d 1, 15 (1st Cir. 2003). Because immigration law protects plaintiffs from being sent to a country in which they are more likely than not to face persecution, due process entitles them to fair procedures to determine whether they should receive protection from being sent to Mexico. Yet plaintiffs were sent to Mexico and remained there for months without *any* procedure to determine whether they would face persecution or torture there. Although Ms. Martinez, Ms. Colaj, and J.C. did eventually received non-refoulement interviews, these interviews were not fair proceedings. Instead, they were conducted by DHS officials who, on information and belief, were carrying out DHS's policy not to permit migrants to escape the MPP.

156. In addition, the substantive protections of the Due Process Clause also protect individuals from government conduct that "shocks the conscience," including state action that places individuals at a substantial risk of serious harm. See *Irish v. Maine*, 849 F.3d 521, 526 (1st Cir. 2017); *Currier v. Doran*, 242 F.3d 905, 918 (10th Cir. 2001). Defendants deliberately abandoned procedures for protecting migrants who fear persecution and sent Ms. Vasquez, A.B., Ms. Martinez, Ms. Colaj, and J.C. to Tamaulipas—a state where defendants knew or should have known

Central American and other migrants could not be expected to live safely. Because of that action, the lives and wellbeing of Ms. Vasquez, A.B., Ms. Martinez, Ms. Colaj, and J.C. have been gravely imperiled, leaving them deeply traumatized. The government's actions sending these asylum-seekers into known danger shock the conscience and violate the substantive requirement of the Due Process Clause.

**PRAYER FOR RELIEF**

Plaintiffs ask that this court grant the following relief:

1. Declare that the MPP and its non-refoulement procedures are unlawful, and that Ms. Vasquez, A.B., Ms. Martinez, Ms. Colaj, and J.C.'s inclusion in the MPP was and is unlawful;
2. Enjoin defendants from applying the MPP to Ms. Vasquez, A.B., Ms. Martinez, Ms. Colaj, and J.C.;
3. Order that Ms. Vasquez, A.B., Ms. Martinez, Ms. Colaj, and J.C. be paroled into the United States and remain during the pendency of their 8 U.S.C. § 1229a removal proceedings and any appeals;
4. Alternatively, order that Ms. Vasquez, A.B., Ms. Martinez, Ms. Colaj, and J.C. be provided with a non-refoulement interview that is, at a minimum, consistent with the requirements and pre-existing practice for reasonable fear interviews under 8 C.F.R. § 208.31, including the opportunity for review by an immigration judge.
5. Award attorney's fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d) and 5 U.S.C. § 504, if applicable; and,

6. Order any further relief this court deems just and proper.

Respectfully submitted this 20th day of March, 2020.

/s/ Adriana Lafaille

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