

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent, and next friend “SUSAN;” and “MATTHEW,” by guardian, parent, and next friend “MARK;” on behalf of themselves and all those similarly situated,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, *et al.*,

Defendants.

Case No. 1:25-cv-244

**PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION
AND APPOINTMENT OF CLASS COUNSEL;
REQUEST FOR EXPEDITED TREATMENT, L.R. 7.1(f)**

The Proposed Class Plaintiffs move, on behalf of themselves and all those similarly situated, and for the reasons detailed in their complaint, the memorandum of law and affidavits accompanying this motion, and Plaintiffs’ motion for classwide preliminary injunctive relief and briefing incorporated therein by reference, to certify a class under Rule 23 of the Federal Rules of Civil Procedure. Pursuant to L.R. 7.1(h), and to facilitate likely appellate proceedings within the 30-day window, Plaintiffs respectfully request that Defendants be directed to respond by July 2 and that the Court issue a ruling by July 7. In the interest of time, Plaintiffs request that the Court forego oral argument, or schedule a remote argument for July 7. In support of this motion, Plaintiffs state:

1. This motion seeks certification of a class of all current and future children who are or will be denied United States citizenship by Executive Order No. 14,160, entitled “Protecting the Meaning and Value of American Citizenship” (“the Order”), and their parents.

2. Flouting the Constitution's requirements, congressional direction, and longstanding Supreme Court precedent, Defendants are attempting to upend one of the most fundamental American constitutional values by denying citizenship to babies who lack a parent with permanent immigration status. For Plaintiffs and for families across the country, this Order seeks to strip away the precious duties and benefits of U.S. citizenship while threatening U.S.-born children with deportation to countries they have never seen. Joinder of all class members to this suit is impracticable and, therefore, class relief is appropriate to safeguard Plaintiffs' and putative class members' constitutional and statutory rights.

3. Plaintiffs' Counsel has considerable experience litigating civil rights and civil liberties class action cases and has the requisite skill and expertise to represent the class in this case. *See Declaration of Cody Wofsy, Esq., Ex. A; Declaration of Gilles Bissonnette, Esq., Ex. B; Declaration of Carol Garvan, Esq., Ex. C; Declaration of Adriana Lafaille, Esq., Ex. D; Declaration of Morenike Fajana, Esq., Ex. E; Declaration of Winifred Kao, Esq., Ex. F; Declaration of Tianna Mays, Esq., Ex. J.*

4. Plaintiffs rely on and incorporate fully the memorandum of law in support of the motion, and exhibits thereto, attached to this motion.

WHEREFORE, Plaintiffs respectfully request that this Court:

- A. Grant their motion for class certification;
- B. Appoint attorneys from the ACLU Foundation Immigrants' Rights Project, ACLU of New Hampshire, ACLU of Massachusetts, ACLU of Maine, Asian Law Caucus, the NAACP Legal Defense and Educational Fund, and the Democracy Defenders Fund as Co-Class Counsel; and
- C. Grant such other relief as may be reasonable and just.

Dated: June 27, 2025

Respectfully submitted,

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forthcoming*

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Supervised by a member of the D.C. Bar.*

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CERTIFICATE OF CONCURRENCE

Pursuant to Local Rule 7.1(c), undersigned counsel for Plaintiffs certify that Plaintiffs have made a good faith attempt to obtain concurrence in the relief sought. Plaintiffs sought concurrence on June 27, 2025, and Defendants have not yet provided a position at the time of filing.

/s/ Cody Wofsy
Cody Wofsy

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FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent, and next friend “SUSAN;” and “MATTHEW,” by guardian, parent, and next friend “MARK;” on behalf of themselves and all those similarly situated,

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DONALD J. TRUMP, President of the United States, in his official capacity, *et al.*,

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Case No. 1:25-cv-244

**MEMORANDUM IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASS CERTIFICATION
AND APPOINTMENT OF CLASS COUNSEL;
REQUEST FOR EXPEDITED TREATMENT, L.R. 7.1(f)**

INTRODUCTION

A class action lawsuit is appropriate to challenge Defendants' unlawful Executive Order No. 14,160 entitled "Protecting the Meaning and Value of American Citizenship" ("the Order") denying citizenship to babies who lack a parent with permanent immigration status. Plaintiffs seek to certify the following nationwide class under Federal Rules of Civil Procedure 23(a) and 23(b)(2):

All current and future persons who are born on or after February 20, 2025, where (1) that person's mother was unlawfully present in the United States and the person's father was not a United States citizen or lawful permanent resident at the time of said person's birth, or (2) that person's mother's presence in the United States was lawful but temporary, and the person's father was not a United States citizen or lawful permanent resident at the time of said person's birth, as well as the parents (including expectant parents) of those persons.

The proposed class satisfies the requirements of numerosity, commonality, typicality, and adequacy in Rule 23(a) and is readily ascertainable.

The proposed class already includes tens of thousands of babies—and counting—whose U.S. citizenship is targeted by the Order, as well as their parents, which is sufficient to satisfy numerosity. The class raises common legal questions that will generate common answers, including whether Defendants' challenged Executive Order violates the Citizenship Clause of the Fourteenth Amendment, 8 U.S.C. § 1401 *et seq.*, and the Administrative Procedure Act (APA). The class also raises common factual issues because proposed class representatives and class members are subject to the same Executive Order purporting to deny them or their children U.S. citizenship at birth. Proposed class representatives' constitutional and statutory claims are typical of those whom they seek to represent—that is, other children who are denied citizenship and their parents. Proposed class representatives are also adequately represented by a team of attorneys with significant experience in immigrants' rights issues and class action cases from the ACLU

Immigrants' Rights Project; the ACLUs of New Hampshire, Maine, and Massachusetts; the Asian Law Caucus; the NAACP Legal Defense and Educational Fund; and the Democracy Defenders Fund.

Plaintiffs' proposed class likewise satisfies Rule 23(b)(2) because Defendants have "acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Because the Defendants seek to enforce an executive order denying citizenship to the children Plaintiffs, they are operating in a manner that is common to all Plaintiffs. The class as a whole is therefore entitled to an injunction enjoining Defendants from enforcing the Executive Order.

Accordingly, this Court should grant class certification, appoint proposed class representatives as Class Representatives, and appoint their counsel as Class Counsel. Pursuant to L.R. 7.1(h), and to facilitate likely appellate proceedings within the 30-day window, Plaintiffs respectfully request that Defendants be directed to respond by July 2 and that the Court issue a ruling by July 7. In the interest of time, Plaintiffs request that the Court forego oral argument, or schedule a remote argument for July 7.

I. PROPOSED CLASS DEFINITION

All current and future persons who are born on or after February 20, 2025, where (1) that person's mother was unlawfully present in the United States and the person's father was not a United States citizen or lawful permanent resident at the time of said person's birth, or (2) that person's mother's presence in the United States was lawful but temporary, and the person's father was not a United States citizen or lawful permanent resident at the time of said person's birth, as well as the parents (including expectant parents) of those persons.

II. PROPOSED CLASS REPRESENTATIVES

1. Barbara

Plaintiff Barbara is a citizen of Honduras. Declaration of Barbara ¶ 2, Ex. G. She currently resides in New Hampshire with her husband and three minor children. *Id.* ¶¶ 2, 4. Barbara has an asylum application pending with USCIS and has resided in the United States since 2024. *Id.* ¶¶ 3, 5. Her husband, the father of her children, is not a U.S.-citizen or lawful permanent resident. *Id.* ¶ 5. She and her husband are expecting their fourth child in October 2025. *Id.* ¶ 7. Barbara fears that under the Order, her child will be denied U.S. citizenship at birth. *See id.* ¶ 9. She fears her child will be unjustly denied the security, rights, and opportunities that come with U.S. citizenship, leaving their future in doubt. *See id.* ¶ 10.

2. Susan

Plaintiff “Susan” is a citizen of Taiwan. Declaration of Susan ¶ 2, Ex. H. She currently resides in Utah. *Id.* She has lived in the U.S. for 12 years. *Id.* ¶¶ 3, 5. She is currently in immigration status on a student visa and is in the process of applying for lawful permanent resident status based on an approved employment-based immigrant visa. *Id.* ¶¶ 5, 6. Her husband, the father of her children, is not a U.S.-citizen or lawful permanent resident. *Id.* ¶ 9. Susan gave birth to her fourth child, “Sarah,” in Utah in April 2025. *Id.* ¶ 7. She has three other children, all of whom are U.S. citizens. *Id.* ¶ 4. After more than ten years of living in the U.S., she and her family have established strong ties to the community. *See id.* ¶ 6. She fears for the future of her child. She worries that her child will be subject to immigration enforcement. She is also fearful that her family may be separated, or that her three U.S.-citizen children will be

forced to move to a country to which they have never been and where they do not speak the language. *Id.* ¶ 10.

3. Mark

Plaintiff “Mark” is a citizen of Brazil. Declaration of Mark ¶ 2, Ex. I. Mark currently resides in Florida. *Id.* He has lived in the United States for the past five years. *Id.* ¶ 3. He is currently in the process of applying for lawful permanent status based on family ties. *Id.* ¶ 6. His wife gave birth to their first child, “Matthew,” in Florida in March 2025. *Id.* ¶ 7. His wife does not have lawful status in the United States. *Id.* ¶ 9. After five years of living in the United States, Mark has established strong ties to this country. *See id.* ¶ 6. He fears for the future of his child. He worries that his child will be subject to immigration enforcement. *Id.* ¶ 10.

ARGUMENT

“By its terms, [Rule 23] creates a categorical rule entitling a plaintiff whose suit meets the specified criteria to pursue his claim as a class action.” *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 398 (2010). Class certification is thus appropriate where the proposed class satisfies the four requirements of Rule 23(a)— numerosity, commonality, typicality, and adequacy of representation—and at least one of the categories of Rule 23(b). *See id.*

These criteria are met here where tens, if not hundreds of thousands of babies—and counting—will be denied U.S. citizenship at birth by one unlawful executive order created by Defendants, and those babies and their parents form the proposed class.

Civil rights actions such as this one are particularly amenable to class treatment. Rule 23(b)(2) was enacted to “facilitate the bringing of class actions in the civil-rights area.” 7A Wright & Miller, *Federal Practice & Procedure* § 1775 (3d ed. 2018). The arguments in favor of class certification are especially strong in this context where many individual class members are unlikely to be able to pursue their claims individually due to their financial circumstances, language ability,

and access to counsel. *See, e.g., Torrezani v. VIP Auto Detailing, Inc.*, 318 F.R.D. 548, 554 (D. Mass. 2017) (class certification is favored where “class members have limited financial resources and would find it difficult to pursue the claims themselves.”). Class certification is thus particularly appropriate here, and all the requisite elements of Rule 23 have been met.

I. The Proposed Class Meets the Requirements of Rule 23(a).

A. The proposed class easily satisfies the numerosity requirement.

Rule 23(a)(1) requires that a class be “so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a)(1). “Impracticability of joinder means only that it is difficult or inconvenient to join all class members, not that it is impossible to do so.” *Bond v. Fleet Bank (RI)*, N.A., No. CIV.A. 01-177 L, 2002 WL 31500393, at *4 (D.R.I. Oct. 10, 2002). The First Circuit has recognized that numerosity has a “low threshold.” *Garcia-Rubiera v. Calderon*, 570 F.3d 443, 460 (1st Cir. 2009). “Generally, classes over forty in size have been held to be sufficiently numerous.” *Ruiz v. NEI Gen. Contracting, Inc.*, 719 F. Supp. 3d 139, 149 (D. Mass. 2024).

Here, the estimated number of members already in the class (tens of thousands of babies) far exceeds this low threshold required for numerosity. *See Repealing Birthright Citizenship Would Significantly Increase the Size of the U.S. Unauthorized Population*, Migration Policy Inst. (May 2025), <https://www.migrationpolicy.org/news/birthright-citizenship-repeal-projections>; Emer. Mot. for Temp. Restraining Ord. at 4, *Washington v. Trump*, No. 2:25-cv-00127-JCC, ECF No. 10 (“[T]he Citizenship Stripping Order seeks to immediately deny these rights and benefits to more than 150,000 children born each year in the United States[.]”). Furthermore, where, as here, only declaratory and injunctive relief is sought for a class, plaintiffs are not required to identify the exact class members and number, and there is a relaxation of the requirement of a rigorous demonstration of numerosity. *See McCuin v. Sec'y of Health & Hum. Servs.*, 817 F.2d 161, 167

(1st Cir. 1987).

Moreover, more children affected by the Executive Order will be born each day. In other words, “an influx of future members will continue to populate the class at indeterminate points in the future.” *Gomes v. Acting Sec’y, U.S. Dep’t of Homeland Sec.*, 561 F. Supp. 3d 93, 99 (D.N.H. 2021) (internal citation omitted). This fact makes joinder “not merely impracticable but effectively impossible.” *Id.* (internal quotations omitted).

B. The proposed class representatives present issues of fact and law in common with the class.

Rule 23(a)(2) requires that “questions of law or fact” be “common to the class.” Fed. R. Civ. P. 23(a)(2). “[A] single question of law or fact common to the members of the class will satisfy the commonality requirement.” *Clough v. Revenue Frontier, LLC*, No. 17-CV-411-PB, 2019 WL 2527300, at *3 (D.N.H. June 19, 2019) (quoting *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 369 (2011)). All that is required is that the “claims must depend upon a common contention” that “is capable of classwide resolution.” *Dukes*, 564 U.S. at 350. Accordingly, courts in this Circuit have recognized that, like numerosity, the commonality requirement is a “low bar.” *See, e.g., Wright v. S. New Hampshire Univ.*, 565 F. Supp. 3d 193, 202 (D.N.H. 2021).

This case raises many legal questions common to the proposed class, any one of which alone satisfies the requirement of at least “a single common question” of law and fact shared by all members of the proposed class. All class members assert the same constitutional and statutory questions of whether the Executive Order violates the Fourteenth Amendment and 8 U.S.C. § 1401 *et seq.* because it denies citizenship to the children of noncitizens who are born in the United States and “subject to the jurisdiction” thereof. Additionally, all class members raise the same APA claims. A determination that Defendants’ conduct is unconstitutional or otherwise unlawful “will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Dukes*, 564

U.S. at 350.

Proposed class representatives and proposed class members also share a common core of facts: Each of these families have or will have a child whose citizenship is denied and threatened by the Order. As a result, if the Order is left in place, those children will face numerous obstacles to life in the United States, including stigma and potential statelessness; loss of their right to vote, serve on federal juries and in many elected offices, and work in various federal jobs; ineligibility for various federal programs; and potential arrest, detention, and deportation to countries they may have never even seen. Proposed class representatives and proposed class members thus will “have suffered the same injury”—denial of citizenship, and its concomitant rights and duties, by the Executive Order. *Dukes*, 564 U.S. at 350. And that common injury is clearly “capable of classwide resolution.” *Id.* Should the Court agree that Defendants’ Executive Order violates the Fourteenth Amendment, 8 U.S.C. § 1401 *et seq.*, and/or the APA, all who fall within the class will benefit from the requested relief: an injunction declaring the Executive Order unlawful and enjoining Defendants from enforcing it. Thus, a common answer as to the legality of the challenged policies and practices will “drive the resolution of the litigation.” *Dukes*, 564 U.S. at 350 (citation omitted).

Individual variation among Plaintiffs’ questions of law and fact does not defeat commonality. *See, e.g., Gomes*, 561 F. Supp. 3d at 100-01 (class certification granted despite individual differences among class members, where common issues pervade). Moreover, any factual differences that may exist among proposed class representatives and proposed class members in this case are immaterial to their claims, which challenge Defendants’ Executive Order as violating the Fourteenth Amendment, 8 U.S.C. § 1401 *et seq.*, and the APA.

C. The class representatives’ claims are typical of those of the class.

Where commonality looks to the relationship among class members generally, typicality under Rule 23(a)(3) “focuses on the relationship between the proposed class representative and the

rest of the class.” *See George v. Nat'l Water Main Cleaning Co.*, 286 F.R.D. 168, 176 (D. Mass. 2012) (citing 1 William B. Rubenstein, *Newberg on Class Actions* § 3:26 (5th ed. 2012)). In practice, however, the analysis of typicality and commonality “tend to merge.” *Levy v. Gutierrez*, 448 F. Supp. 3d 46, 68 (D.N.H. 2019) (citing *In re Credit Suisse-AOL*, 253 F.R.D. 17, 22 (D. Mass. 2008)). To satisfy Rule 23(a)(3), “a class representative must be part of the class and possess the same interest and suffer the same injury as the class members.” *George*, 286 F.R.D at 177 (quoting *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625-26 (1997)).

Typicality is established when the claims of the named plaintiffs and the class “involve the same conduct by the defendant . . . regardless of factual differences.” *Hawkins ex rel. Hawkins v. Comm'r of New Hampshire Dep't of Health & Human Servs.*, No. CIV. 99-143-JD, 2004 WL 166722, at *3 (D.N.H. Jan. 23, 2004) (quoting *Johnson v. HBO Film Mgt., Inc.*, 265 F.3d 178, 184 (3d Cir. 2001)). “For purposes of demonstrating typicality, ‘[a] sufficient nexus is established if the claims or defenses of the class and the class representative arise from the same event or pattern or practice and are based on the same legal theory.’” *In re Relafen Antitrust Litig.*, 231 F.R.D. 52, 69 (D. Mass. 2005) (quoting *In re Terazosin Hydrochloride Antitrust Litig.*, 220 F.R.D. 672, 686 (S.D. Fla. 2004)).

Here, the interests of the proposed class representatives and the proposed class members are aligned. The proposed class representatives are members of the class and have suffered the same injury as the proposed class members, namely that the Defendants’ Executive Order has denied them and their children citizenship and the rights and duties that come with citizenship. In such circumstances, the representative’s claims are “obviously typical of the claims . . . of the class” and satisfy Rule 23(a)(3). *Baggett v. Ashe*, No. 2013 WL 2302102, 2013 WL 2302102, at *1 (D. Mass. May 23, 2013).

D. The proposed class representatives and class counsel can adequately represent the class.

Finally, the named plaintiffs and their counsel will “fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). Two factors must be satisfied to fulfill this prerequisite: “(1) the absence of potential conflict between the named plaintiff and the class members and (2) that counsel chosen by the representative parties is qualified, experienced and able to vigorously conduct the proposed litigation.” *Adair v. Sorenson*, 134 F.R.D. 13, 18 (D. Mass. 1991) (internal quotations omitted).

Here, there is no conflict—much less anything close to a conflict fundamental to the suit that would prevent a plaintiff from meeting the adequacy requirement. *Cf. Matamoros v. Starbucks Corp.*, 699 F.3d 129, 138 (1st Cir. 2012). The proposed class representatives have alleged the same injuries, arising from the same Executive Order, and they seek the same injunctive and declaratory relief, which will apply equally to the benefit of all class members.

In addition, “counsel chosen by the representative party is qualified, experienced, and able to vigorously conduct the proposed litigation.” *Adair*, 134 F.R.D. at 18. The proposed class would be represented by pro bono counsel from the ACLU Immigrants’ Rights Project; the ACLUs of New Hampshire, Maine, and Massachusetts; the Asian Law Caucus; the NAACP Legal Defense and Educational Fund; and the Democracy Defenders Fund. Proposed class counsel have extensive experience litigating class action lawsuits and other complex cases in federal court. *See* Declaration of Cody Wofsy, Esq., Ex. A; Declaration of Gilles Bissonnette, Esq., Ex. B; Declaration of Carol Garvan, Esq., Ex. C; Declaration of Adriana Lafaille, Esq., Ex. D; Declaration of Morenike Fajana, Esq., Ex. E; Declaration of Winifred Kao, Esq., Ex. F; Declaration of Tianna Mays, Esq., Ex. J.

For the same reasons, counsel also satisfy the requirements of Rule 23(g) and should

be appointed as class counsel.

II. The Proposed Class Meets the Requirements of Rule 23(b)(2).

Finally, “[i]n addition to meeting the four requirements of Rule 23(a),” the plaintiffs “must show that the proposed class falls into one of the three defined categories of Rule 23(b).” *Reid v. Donelan*, 297 F.R.D. 185, 192 (D. Mass. 2014). Here, the relevant category is Rule 23(b)(2), which applies when “the party opposing the class has acted or refused to act on grounds generally applicable to the class, so that final injunctive relief or corresponding declaratory relief is appropriate with respect to the class as a whole.” *Id.*

The “prime examples” of Rule 23(b)(2) cases are civil rights cases like this one, where the claim asserts that the defendants have “engaged in unlawful behavior towards a defined group.” *Reid*, 297 F.R.D. at 193. The rule also applies to a case such as this one, where “a single injunction or declaratory judgment would provide relief to each member of the class.” *Dukes*, 564 U.S. at 360-61 (as opposed to cases in which each class member would need an individual injunction or declaration, or in which each class member would be entitled to an individualized award of money damages).

The claims asserted here satisfy these requirements. Defendants have engaged in unlawful behavior towards the entire class. And because every member of the class is entitled to relief from this unconstitutional and otherwise unlawful Executive Order, an appropriate injunction or declaration will provide relief on a classwide basis. “The key to the (b)(2) class is the indivisible nature of the injunctive or declaratory remedy warranted—the notion that the conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them.” *Dukes*, 564 U.S. at 360 (citation omitted).

CONCLUSION

Plaintiffs respectfully request that the Court grant this Motion and enter an order

certifying the proposed class under Rule 23(b)(2); appoint proposed class representatives as Class Representatives; and appoint their counsel from the ACLU Immigrants' Rights Project; the ACLUs of New Hampshire, Maine, and Massachusetts; the Asian Law Caucus; NAACP Legal Defense and Educational Fund; and the Democracy Defenders Fund as Class Counsel.

Dated: June 27, 2025

Respectfully submitted,

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**Application for admission pro hac
vice forthcoming*

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent, and next friend “SUSAN;” and “MATTHEW,” by guardian, parent, and next friend “MARK;” on behalf of themselves and all those similarly situated,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, *et al.*,

Defendants.

Case No. 1:25-cv-244

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

After careful consideration of the parties' submissions, the supporting declarations, the applicable law, and the filings and record in this case, the Court GRANTS Plaintiffs' Motion for Class Certification and Appointment of Class Counsel.

The Court hereby finds that Plaintiffs have satisfied the requirements for class certification under Federal Rules of Civil Procedure 23(a) and (b)(2). Specifically, Plaintiffs have demonstrated that (1) members of the proposed class are so numerous that joinder is impracticable; (2) there are questions of law and fact common to the class; (3) the claims of the Plaintiffs are typical of the claims of the class members; and that (4) Plaintiffs and their counsel, as representatives of the class, will fairly and adequately protect the interests of the class. Additionally, this Court finds that Defendants have acted on grounds generally applicable to the class in its entirety, thereby making appropriate final injunctive and declaratory relief for all class members.

In light of the above, this Court orders that Plaintiffs' motion be granted and that the following class be certified: All current and future persons who are born on or after February 20, 2025, where (1) that person's mother was unlawfully present in the United States and the person's father was not a United States citizen or lawful permanent resident at the time of said person's birth, or (2) that person's mother's presence in the United States was lawful but temporary, and the person's father was not a United States citizen or lawful permanent resident at the time of said person's birth, as well as the parents (including expectant parents) of those persons.

It is so ordered.

Date

United States District Judge

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FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent, and next friend “SUSAN;” and “MATTHEW,” by guardian, parent, and next friend “MARK;” on behalf of themselves and all those similarly situated,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, et al.,

Defendants.

Case No. 1:25-cv-244

**DECLARATION OF CODY WOFSY IN SUPPORT OF
PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION**

I, Cody Wofsy, declare as follows:

1. I am a Deputy Director at the American Civil Liberties Union Foundation Immigrants’ Rights Project (“ACLU”), and am counsel for Plaintiffs in this case. I make this declaration to describe my qualifications and those of my colleagues to serve as counsel for the Proposed Class in this case. The following facts are based on my own personal knowledge and, if called as a witness, I could and would testify competently thereto.

Cody Wofsy

2. I am a member of the California bar, and am admitted to practice in the U.S. Supreme Court; the U.S. Courts of Appeals for the First, Second, Fourth, Fifth, Sixth, Ninth, Tenth, Eleventh, and District of Columbia Circuits; and the U.S. District Courts for the Northern, Southern, Central, and Eastern Districts of California, the District of Columbia, and the Western District of Texas. I graduated from Yale Law School in 2013 and served as a Law Clerk to the

Honorable Myron H. Thompson of the U.S. District Court for the Middle District of Alabama and the Honorable Marsha S. Berzon of the Ninth Circuit Court of Appeals.

3. I litigate complex immigration-related cases at all levels of the federal and state courts. *See, e.g., United States v. Texas*, 97 F.4th 268 (5th Cir. 2024) (denying stay of injunction against state immigration statute); *Grace v. Barr*, 965 F.3d 883 (D.C. Cir. 2020) (affirming in part injunction of policies limiting asylum within the expedited removal system); *East Bay Sanctuary Covenant v. Barr*, 964 F.3d 832 (9th Cir. 2020) (affirming injunction of bar on asylum for individuals who transit through third country), *amended* 994 F.3d 962 (9th Cir. 2000); *East Bay Sanctuary Covenant v. Trump*, 950 F.3d 1242 (9th Cir. 2020) (affirming injunction of ban of asylum for noncitizens entering between ports of entry); *East Bay Sanctuary Covenant v. Trump*, 932 F.3d 742 (9th Cir. 2018) (denying stay of same injunction), *stay denied*, No. 18A615, 2018 WL 6713079 (U.S. Dec. 21, 2018); *Trump v. Int'l Refugee Assistance Project*, 137 S. Ct. 2080 (2017) (denying stay in part of preliminary injunction of an Executive Order barring nationals of certain countries from entering the United States); *Morales v. Chadbourne*, 235 F. Supp. 3d 388 (D.R.I. 2017) (granting partial summary judgment in case challenging immigration arrest); *Ramon v. Short*, 2020 MT 69, 399 Mont. 254, 460 P.3d 867 (holding state officers lack authority to conduct civil immigration arrests); *People ex rel. Wells v. DeMarco*, 168 A.D.3d 31, 88 N.Y.S.3d 518 (N.Y. App. Div. 2018) (same).

4. I also represent amici in a number of cases involving the federal government's administration of the immigration laws. *See, e.g., United States v. Texas*, 599 U.S. 670 (2023) (rejecting state challenge to immigration enforcement priorities); *Guerrero-Lasprilla v. Barr*, 140 S. Ct. 1062 (2020) (rejecting government's interpretation of jurisdictional provision); *City of Chicago v. Barr*, 961 F.3d 882 (7th Cir. 2020) (rejecting government assertion of authority to

impose immigration related conditions on grant program); *City of Providence v. Barr*, 954 F.3d 23 (1st Cir. 2020) (same); *City of Philadelphia v. Attorney Gen. of United States*, 916 F.3d 276 (3d Cir. 2019), *reh'g denied* (June 24, 2019) (same); *United States v. California*, 921 F.3d 865 (9th Cir. 2019) (rejecting government efforts to enjoin California Values Act as preempted by immigration statutes), *cert. denied*, No. 19-532, 2020 WL 3146844 (U.S. June 15, 2020); *San Francisco v. Trump*, 897 F.3d 1225 (9th Cir. 2018) (affirming injunction of immigration-enforcement Executive Order); *see also Simon v. City of New York*, 893 F.3d 83 (2d Cir. 2018) (reversing dismissal of case challenging arrest on material witness warrant).

5. I am or was class counsel in various immigration-related suits, including *Trump v. J.G.G.*, No. 24A931, 2025 WL 1024097 (U.S. Apr. 7, 2025) (challenge to Alien Enemies Act removals); *Huishu-Huishu v. Mayorkas*, 27 F.4th 718 (D.C. Cir. 2022) (challenge to “Title 42” expulsion process); *P.J.E.S. v. Wolf*, 502 F. Supp. 3d 492, 501 (D.D.C. 2020) (same); *Idaho Org. of Res. Councils v. Labrador*, No. 1:25-CV-00178-AKB, 2025 WL 1237305, at *20 (D. Idaho Apr. 29, 2025) (provisionally certifying classes and enjoining state immigration statute); *Fla. Immigrant Coal. v. Uthmeier*, No. 1:25-cv-21524-KMW, ECF No. 67 (S.D. Fla. Apr. 29, 2025) (similar); *Padres Unidos de Tulsa v. Drummond*, No. CIV-24-511-J, ECF No. 80 (W.D. Okla. May 20, 2025) (similar).

Stephen B. Kang

6. Stephen Kang has worked at the ACLU since 2013. Mr. Kang graduated from New York University School of Law in 2011 and clerked for the Honorable Kermit V. Lipez of the First Circuit Court of Appeals, and the Honorable Margaret M. Morrow (ret.) of the U.S. District Court for the Central District of California. Mr. Kang is admitted to practice in California. Mr. Kang is admitted to the bars of the U.S. Supreme Court; the U.S. Courts of

Appeals for the Third, Fifth, Sixth, Ninth, and District of Columbia Circuits; and the U.S. District Courts for the Central, Northern, and Southern Districts of California and the District of Columbia.

7. Mr. Kang specializes in systemic litigation and advocacy involving particularly vulnerable populations in the removal system, such as detained children and asylum-seeking families. His cases in this area include: *Ms. L. v. ICE*, 310 F. Supp. 3d 1133 (S.D. Cal. 2018), *modified*, 330 F.R.D. 284 (S.D. Cal. 2019) (enjoining government practice of separating asylum-seeking parents from their children at border); *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (affirming preliminary injunction against unlawful arrest and detention of noncitizens based on flawed gang allegations); *Flores v. Sessions*, 862 F.3d 863 (9th Cir. 2017) (amicus counsel) (upholding rights of detained immigrant children to custody hearings); *Duchitanga v. Lloyd*, No. 18-CV-10332 (S.D.N.Y. filed Nov. 6, 2018) (challenging widespread and severe delays in release of children in government custody due to fingerprinting backlogs); *R.I.L-R v. Johnson*, 80 F. Supp. 3d 164 (D.D.C. 2015) (enjoining government's invocation of deterrence to detain asylum seeking families).

8. Mr. Kang has also served as counsel in a number of other cases concerning the due process rights of noncitizens in the removal process, including: *C.J.L.G. v. Barr*, 880 F.3d 1122 (9th Cir. 2018) (en banc) (reversing removal order of unrepresented child for failure to advise of relief eligibility); *J.E.F.M. v. Lynch*, 837 F.3d 1026 (9th Cir. 2016) (dismissing for lack of jurisdiction class action seeking appointed counsel for children); *Damus v. Nielsen*, 313 F. Supp. 3d 317 (D.D.C. 2018) (enjoining government's "no release policy" concerning asylum seekers); *Franco-Gonzalez v. Holder*, No. 10-CV-02211 DMG DTBX, 2014 WL 5475097 (C.D. Cal. Oct. 29, 2014) (detailed injunctive order concerning appointed counsel rights for noncitizens

with mental disabilities facing removal).

9. A number of the cases described above are complex class actions against the federal government on immigration issues. He is or was class counsel in *Ms. L. v. ICE, Huisha-Huisha, P.J.E.S., Saravia v. Sessions, Damus v. Nielsen, R.I.L-R v. Johnson, J.E.F.M. v. Lynch*, and *Franco-Gonzalez v. Holder* (described *supra*).

10. Mr. Kang has given CLE presentations to lawyers and advocates concerning the rights of detained noncitizens and immigrant children, and provide technical assistance to other practitioners litigating federal cases on these topics. He also speaks to nonlegal audiences.

Lee Gelernt

11. Lee Gelernt has been an attorney with the American Civil Liberties Union since 1992. He currently holds the positions of Deputy Director of the ACLU's National Immigrants' Rights Project. Mr. Gelernt graduated from Columbia Law School in 1988.

12. Mr. Gelernt is a member of the New York bar, and is admitted to practice in the U.S. Supreme Court; the U.S. Courts of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, and District of Columbia Circuits; and the U.S. District Courts for the District of Columbia, the Eastern District of New York, and the Eastern District of Michigan. He has argued dozens of notable immigrants' rights cases at all levels of the federal court system, including in the U.S. Supreme Court, the U.S. Courts of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Eighth, Ninth, and Eleventh Circuits, and in numerous district courts around the country.

13. Mr. Gelernt has served as lead counsel, or argued in, many class action immigration cases, including recently *Ms. L. v. ICE* (challenging the Trump administration's family separation practice, described *supra*), *Huisha-Huisha* and *P.J.E.S.* (challenging the Title

42 system, described *supra*), and in a series of cases involving classes of long-term U.S. residents subject to deportation to countries where they feared death, persecution, or other harms. *See Hamama v. Adducci*, 258 F. Supp. 3d 828, (E.D. Mich. 2017), vacated and remanded by 912 F.3d 869 (6th Cir. 2018); *Devitri v. Cronen*, 290 F. Supp. 3d 86 (D. Mass. 2017); *Ibrahim v. Acosta*, No. 17-CV-24574, 2018 WL 582520 (S.D. Fla. Jan. 26, 2018); *Nak Kim Chhoeun v. Marin*, No. 17-CV-01898, 2018 WL 571503 (C.D. Cal. Jan. 25, 2018).

14. Mr. Gelernt has also served as lead counsel in numerous systemic cases challenging the federal government's efforts to restrict noncitizens from accessing asylum. *See, e.g., East Bay Sanctuary Covenant v. Barr; Capital Area Immigrants' Rights Coal. v. Trump; East Bay Sanctuary Covenant v. Trump* (described *supra*).

15. Mr. Gelernt has also testified as an expert before both the U.S. Senate and House of Representatives on immigration issues. He served as a law clerk to the Honorable Frank M. Coffin, formerly of the First Circuit Court of Appeals. In addition to his work at the ACLU, Mr. Gelernt is an adjunct professor at Columbia Law School, and for many years taught at Yale Law School as an adjunct.

Omar Jadwat

16. Omar Jadwat has been an attorney with the ACLU since 2002 and is the current Director. Mr. Jadwat graduated from New York University School of Law in 2001, then clerked for the Honorable John G. Koeltl of the U.S. District Court for the Southern District of New York.

17. Mr. Jadwat is a member of the New York bar, and is admitted to practice in the U.S. Supreme Court; the U.S. Courts of Appeals for the First, Second, Third, Fourth, Fifth, Eighth, Ninth, Tenth, Eleventh, and District of Columbia Circuits; and the U.S. District Courts

for the Southern and Eastern Districts of New York. He has argued notable immigrants' rights cases at all levels of the federal court system.

18. Mr. Jadwat has served as counsel in multiple class action or systemic immigration cases. His cases include: *Trump v. Int'l Refugee Assistance Project* (described *supra*); *Lozano v. City of Hazleton*, 724 F.3d 297, 300 (3d Cir. 2013) (argued) (affirming injunction against city provisions seeking to prohibit unauthorized noncitizens from working or renting housing); *Villas at Parkside Partners v. City of Farmers Branch, Tex.*, 726 F.3d 524, 528 (5th Cir. 2013) (affirming injunction against criminal and civil provisions seeking to prevent unauthorized noncitizens from renting housing in city); *Hisp. Int. Coal. of Alabama v. Governor of Alabama*, 691 F.3d 1236, 1240 (11th Cir. 2012) (remanding for entry of preliminary injunction against state statute seeking to bar public postsecondary education for unauthorized noncitizens).

19. In addition to his work at the ACLU, Mr. Jadwat has taught classes on immigration law and litigation at New York University School of Law and Cardozo School of Law.

Spencer Amdur

20. Spencer Amdur is a Senior Staff Attorney at the ACLU. He is a member of the bar of California, and is admitted to practice in the U.S. Courts of Appeals for the Second, Fourth, Fifth, Seventh, Ninth, Tenth, and District of Columbia Circuits; and the U.S. District Courts for the District of Columbia, Northern and Southern Districts of California, and the Western District of Texas. He graduated from Yale Law School in 2013 and clerked for the Honorable Judith W. Rogers of the U.S. Court of Appeals for the D.C. Circuit. Prior to his work at the ACLU, he was a Trial Attorney at the Federal Programs Branch of the Civil Division within the U.S. Department of Justice, as well as an Arthur Liman Public Interest Fellow at the

Lawyers' Committee for Civil Rights in San Francisco.

21. Mr. Amdur litigates complex immigration-related cases at all levels of the federal and state courts. *See, e.g., Gonzalez v. United States Immigr. & Customs Enf't*, 975 F.3d 788 (9th Cir. 2020); *Texas v. Travis Cnty., Texas*, 910 F.3d 809 (5th Cir. 2018) (affirming dismissal of lawsuit seeking declaration of state immigration law's constitutionality); *Trump v. Int'l Refugee Assistance Project* (described *supra*); *Roy v. County of Los Angeles*, No. 12-cv-9012, 2018 WL 914773 (C.D. Cal. Feb. 7, 2018) (granting summary judgment as to certain subclasses in class action challenge to federal and local immigration detention policies). He also represents amici in a number of cases involving the federal government's administration of the immigration laws. *See, e.g., City of Chicago v. Barr and City of Philadelphia v. Att'y Gen.* (described *supra*); *County of Santa Clara v. Trump*, No. 17- 17480 (9th Cir.) (reviewing injunction of immigration-enforcement Executive Order); *Idaho Org. of Res. Councils*, 2025 WL 1237305, at *20 (described *supra*); *Fla. Immigrant Coal.*, No. 1:25-cv-21524-KMW, ECF No. 67 (S.D. Fla. Apr. 29, 2025) (described *supra*); *Padres Unidos de Tulsa v. Drummond*, No. CIV-24-511-J, ECF No. 80 (W.D. Okla. May 20, 2025) (described *supra*).

Hannah Steinberg

22. Hannah Steinberg is a Staff Attorney at the ACLU. She is a member of the California bar and is admitted to practice before the U.S. District Court for the Northern District of California and the U.S. Courts of Appeals for the Second and Ninth Circuits. She is a 2019 graduate of Yale Law School. After graduation, she clerked for the Honorable Robert E. Bacharach of the U.S. Court of Appeals for the Tenth Circuit and for the Honorable Lucy H. Koh, then of the U.S. District Court for the Northern District of California (now of the U.S. Court of Appeals for the Ninth Circuit). Since coming to the ACLU in 2022, she has served as

counsel on major cases concerning the rights of noncitizens facing removal. *See, e.g., Idaho Org. of Res. Councils*, 2025 WL 1237305, at *20 (described *supra*); *Fla. Immigrant Coal.*, No. 1:25-cv-21524-KMW, ECF No. 67 (S.D. Fla. Apr. 29, 2025) (described *supra*) . Before joining the ACLU, she worked at Social Justice Legal Foundation. In law school, she worked on what would become a class action of all individuals who are or will be eligible for Deferred Action for Childhood Arrivals (“DACA”). *See Batalla Vidal, et al. v. Nielsen*, No. 16-CV-4756-NGG (E.D.N.Y. filed Aug. 25, 2016).

Noor Zafar

23. Noor Zafar is a Senior Staff Attorney at the ACLU. She is a member of the New York bar and is admitted to practice before the U.S. District Court for the Southern District of New York and the U.S. Courts of Appeals for the Second, Ninth, Tenth, and Eleventh Circuits. She is a 2016 graduate of Harvard Law School.

24. Since coming to the ACLU in 2018, she has served as counsel on several major immigration-related cases. *See, e.g., Padres Unidos v. Drummond*, 24-cv-526 (W.D. Okla. 2024) (described *supra*); *Am. C.L. Union Immigrants’ Rts. Project v. United States Immigr. & Customs Enf’t*, 58 F.4th 643, 646 (2d Cir. 2023) (FOIA obtaining disclosure of ICE records); *Sierra Club v. Trump*, 963 F.3d 874 (9th Cir. 2020) (injunction against diversion of military funds to construct border wall).

25. She has also served as counsel in *Samma v. U.S. Dep’t of Def.*, No. 20-cv-1104 (D.D.C. 2020), a class action on behalf of noncitizen service members that successfully challenged a policy denying them an expedited path to citizenship, and *Padres Unidos de Tulsa v. Drummond*, No. CIV-24-511-J, ECF No. 80 (W.D. Okla. May 20, 2025) (described *supra*).

26. Prior to joining the ACLU, she worked as a Bertha Justice fellow at the Center for

Constitutional Rights, where she represented detainees at Guantánamo Bay and engaged in litigation and advocacy relating to the laws of war, immigration, and religious profiling. *See, e.g.*, *Hassan v. City of New York*, 14-1688 (3d Cir. 2015); *al-Hajj v. Trump*, 9-cv-745 (D.D.C. 2018) (habeas action on behalf of law of war detainees at Guantánamo).

Grace Choi

27. Grace Choi is a fellow at the ACLU. She is a member of the New York bar and is admitted to practice before the U.S. District Courts for the Southern and Eastern Districts of New York. She is a 2022 graduate of Yale Law School. After graduation, she clerked for the Honorable John G. Koeltl of the U.S. District Court for the Southern District of New York and worked at the New York Legal Assistance Group in the Immigrant Protection Unit, where she represented children and families in immigration matters. In law school, she represented a class of all immigrants detained by ICE in the First Circuit for over six months pursuant to a mandatory detention statute, *Reid v. Donelan, et al.*, No. 13-CV-30125-MAP (D. Mass. filed July 1, 2013), and a class of immigrants detained by ICE at a detention facility in Massachusetts during the height of the COVID-19 pandemic, *Savino, et al., v. Hodgson, et al.*, No. 20-CV-10617-WGY (D. Mass. filed Mar. 27, 2020). Since coming to the ACLU in 2024, she has served as counsel on major cases concerning the rights of noncitizens facing removal. *See, e.g., Idaho Org. of Res. Councils*, 2025 WL 1237305, at *20 (described *supra*); *Fla. Immigrant Coal.*, No. 1:25-cv-21524-KMW, ECF No. 67 (S.D. Fla. Apr. 29, 2025) (described *supra*); *Padres Unidos de Tulsa v. Drummond*, No. CIV-24-511-J, ECF No. 80 (W.D. Okla. May 20, 2025) (described *supra*).

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

/s/ *Cody Wofsy*
Cody Wofsy

Executed on June 3, 2025.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent, and next friend “SUSAN;” and “MATTHEW,” by guardian, parent, and next friend “MARK;” on behalf of themselves and all those similarly situated,

Case No. 1:25-cv-244

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, et al.,

Defendants.

**DECLARATION OF GILLES BISSONNETTE IN SUPPORT OF
PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION**

I, Gilles Bissonnette, declare as follows:

1. I am the Legal Director for the American Civil Liberties Union of New Hampshire (“ACLU-NH”), and am counsel for Plaintiffs in the above-captioned matter. I make this declaration to describe my qualifications and the qualifications of ACLU-NH Senior Staff Attorney SangYeob Kim to serve as counsel for the Proposed Class in this case. The following facts are based on my own personal knowledge and, if called as a witness, I could and would testify competently thereto.

2. The ACLU-NH is a public interest organization dedicated to defending civil rights and civil liberties under the state and federal constitutions. It is committed to expending the resources necessary to fully represent the class in this important case involving the constitutional rights of children who are denied citizenship under the January 20, 2025 Executive Order entitled “Protecting the Meaning and Value of American Citizenship.”

Gilles Bissonnette

3. As Legal Director for the ACLU-NH, this Court has certified me as class counsel in two cases. *See Gomes¹, et al. v. U.S. Department of Homeland Security*, 561 F. Supp. 3d 93 (D.N.H. 2021) (class certification order in case addressing the constitutional rights of medically-vulnerable civil immigration detainees amid the COVID-19 pandemic); *Doe v. Commissioner*, No. 18-cv-1039-JD, 2020 U.S. Dist. LEXIS 78387 (D.N.H. May 4, 2020) (class certification order in case addressing the constitutional and statutory rights of individuals boarded in hospital emergency rooms).

4. I am a member of the New Hampshire bar. I am admitted to practice law in the state and federal courts in New Hampshire and Massachusetts, the First Circuit Court of Appeals, and the United States Supreme Court. I have been practicing law for over seventeen (17) years (since 2007). I became a member of the New Hampshire bar in 2013. Prior to 2013, I was a member of the Massachusetts bar beginning in 2007.

5. I joined the ACLU-NH in late August 2013 as Staff Attorney. I was promoted to Legal Director in March 2015. In my capacity as Legal Director (and earlier as Staff Attorney), I litigate civil rights and civil liberties cases across the State of New Hampshire, oversee the operation of the ACLU-NH's legal program, and provide counsel to the ACLU-NH on matters of constitutional law. I also supervise and manage three other attorneys who are on the staff of the ACLU-NH.

¹ This case was later recaptioned with a new plaintiff, Marcus Vinicius Giotto.

6. I regularly litigate civil rights cases on behalf of plaintiffs in federal and state courts in New Hampshire. In addition to the above-captioned matter, these cases have included the following:

- *Drewniak/Fuentes v. U.S. Customs and Border Protection*, No. 1:20-cv-852-LM (D.N.H.) (settled lawsuit challenging CBP's use of interior immigration checkpoints in New Hampshire).
- *Guerra-Castaneda v. United States of America*, 656 F. Supp. 3d 356 (D. Mass. 2023) (allowing wrongful deportation claim to proceed where ICE deported a man in September 2019 despite two federal court orders stating that he should remain in the U.S. while his asylum case is pending).
- *Local 8027, Mejia, Philibotte, et al. v. Edelblut*, No. 21-cv-1077-PB, 2024 U.S. Dist. LEXIS 94052 (D.N.H. May 28, 2024) (holding that the prohibitions in New Hampshire's law "against teaching banned concepts are unconstitutionally vague," and that the law's provisions that discourage public school teachers from teaching and talking about race, gender, and sexual orientation contains "viewpoint-based restrictions on speech that do not provide either fair warning to educators of what they prohibit or sufficient standards for law enforcement to prevent arbitrary and discriminatory enforcement") (on appeal).
- *Tirrell v. Edelblut, et al.*, No. 1:24-cv-00251-LM, 2024 U.S. Dist. LEXIS 162185, ___ F. Supp. 3d ___ (D.N.H. Sept. 10, 2024) (in a pending challenge to New Hampshire's transgender sports ban, granting plaintiffs' motion for a preliminary injunction allowing them to play sports; as counsel in coalition led by GLBTQ Legal Advocates & Defenders).
- *Doe v. Commissioner*, No. 18-cv-1039-JD, 2020 U.S. Dist. LEXIS 75759 (D.N.H. Apr. 30, 2020) (ruling that State is obligated to provide due process to those suspected of experiencing a mental health crisis within three days of their detention in a hospital emergency room).
- *Doe v. Commissioner*, 174 N.H. 239 (2021) (holding that the State "has a duty mandated by statute to provide for probable cause hearings within three days of when an involuntary emergency certificate is completed"; as amicus on behalf of federal class).
- *Stone v. City of Claremont*, 2024 N.H. 11 (2024) (ordering disclosure of disciplinary records concerning former Claremont police officer where the operative agreement did not prohibit disclosure of the requested records).
- *Provenza v. Town of Canaan*, 175 N.H. 121 (2022) (holding that an internal report commissioned by a police department investigating an allegation of excessive force should be released to the public, in part, because "[t]he public has a substantial interest in

information about what its government is up to, as well as in knowing whether a government investigation is comprehensive and accurate”).

- *ACLU-NH v. N.H. Div. of State Police*, 176 N.H. 302 (2023) (holding that, in response to a Right-to-Know request, police misconduct personnel files cannot be categorically withheld from the public under a different and separate criminal discovery statute -- RSA 105:13-b).
- *Union Leader Corp. and ACLU-NH v. Town of Salem*, 173 N.H. 345 (2020) (overruling 1993 *Fenniman* decision in holding that the public’s interest in disclosure must be balanced in determining whether the “internal personnel practices” exemption applies to requested records).
- *Seacoast Newspapers, Inc. v. City of Portsmouth*, 173 N.H. 325 (2020) (overruling 1993 *Fenniman* decision in holding that the “internal personnel practices” exemption only narrowly covers “records pertaining to the internal rules and practices governing an agency’s operations and employee relations, not information concerning the performance of a particular employee”).
- *New Hampshire Center for Public Interest Journalism, et al./ACLU-NH v. N.H. Department of Justice*, 173 N.H. 648 (2020) (holding that a list of over 275 New Hampshire police officers who have allegedly engaged in misconduct that reflects negatively on their credibility or trustworthiness is not exempt from disclosure under RSA 105:13-b or the “internal personnel practices” and “personnel file” exemptions; remanding for application of public interest balancing test).
- *Saucedo v. State of New Hampshire*, 335 F. Supp. 3d 202 (D.N.H. 2018) (striking down, on procedural due process grounds, a New Hampshire law that invalidated the absentee ballots of hundreds of voters, many of whom are disabled, based on signature comparisons without notice or an opportunity to cure).
- *Rideout v. State of New Hampshire*, 123 F. Supp. 3d 218 (D.N.H. 2015), *aff’d*, 838 F.3d 65 (1st Cir. 2016), *cert denied*, 137 S. Ct. 1435 (2017) (striking down New Hampshire law banning online “ballot selfies” on grounds that it violates the First Amendment).
- *Petrello v. City of Manchester*, No. 16-cv-008-LM, 2017 U.S. Dist. LEXIS 144793 (D.N.H. Sep. 7, 2017) (striking down, on First Amendment grounds, Manchester’s anti-panhandling ordinance, as well as permanently enjoining Manchester’s anti-panhandling police practices).
- *Guare, et al. v. New Hampshire*, 167 N.H. 658 (2015) (striking down voter registration form language that would impose a chilling effect on the right to vote of those domiciled in New Hampshire).

- *Doe v. New Hampshire*, 167 N.H. 382 (2015) (holding that New Hampshire’s retroactive, lifetime registration requirements for certain offenders are “punitive in effect” and therefore unconstitutional as applied to ACLU-NH client under New Hampshire Constitution’s bar on retrospective laws).

7. I am a registered lobbyist in the State of New Hampshire, and have provided analysis to elected officials in State and local government to ensure protection of civil rights and civil liberties, including in the areas of immigration and criminal justice.

8. I have published over 30 articles on constitutional law in publications throughout New Hampshire. I am the 2022 recipient of the New Hampshire Bar Association’s Distinguished Service to the Public Award. I am a member of the Hearings Committee of the Attorney Discipline System, as well as the Federal Court Advisory Committee. I was a trustee of the New Hampshire Supreme Court Society (2018-2024). I also served as an adjunct professor at the University of New Hampshire Franklin Pierce School of Law where I taught the course “Human Rights and Social Justice” during the Fall of 2023. My complete biography can be found here: <http://aclu-nh.org/about/staff/>

9. Prior to my work at the ACLU-NH, I worked as a civil litigator for approximately five (5) years where I represented commercial and individual clients in all aspects of litigation and in a variety of areas of law. I worked at the national law firm of Cooley LLP (formerly Cooley Godward Kronish LLP) out of its Boston office as an associate from January 2012 to August 2013. Prior to my work at Cooley LLP, I worked for the Boston-based law firm Todd & Weld, LLP as an associate from September 2009 to January 2012. I also worked for the Boston-based law firm of Choate, Hall & Stewart LLP from September 2007 to August 2008. In these positions, I litigated complex civil cases throughout the United States.

10. I graduated from UCLA School of Law in 2007. While at UCLA School of Law, I was the Chief Comments Editor of the *UCLA Law Review*. I clerked for the late Judge Thomas

M. Golden of the United States District Court for the Eastern District of Pennsylvania from August 2008 to August 2009. I received a Bachelor of Arts degree and a Master of Arts degree in History from Washington University in St. Louis in December 2003.

SangYeob Kim

11. Mr. Kim is a Senior Staff Attorney at the ACLU-NH and co-counsel for Class Plaintiffs in the above-captioned matter.

12. Mr. Kim is an active member of the New Hampshire bar. He is admitted to practice law in the state and federal courts in New Hampshire, New Jersey, and New York, the First Circuit Court of Appeals, and the United States Supreme Court. He has been practicing law for more than 8 years. He became a member of the New Hampshire Bar in 2015.

13. Mr. Kim joined the ACLU-NH in July 2018 as an Immigration Legal Fellow. He was promoted to Staff Attorney in June 2019 and Senior Staff Attorney in April 2023. In his capacity as Senior Staff Attorney (and earlier as Immigration Legal Fellow and Staff Attorney), he litigates immigration law related cases across the State of New Hampshire and the First Circuit and provides counsel to the ACLU-NH on matters of immigration law.

14. He regularly litigates immigration cases on behalf of plaintiffs and petitioners before this Court and the First Circuit. These cases include *Giotto v. U.S. Department of Homeland Security*, 20-cv-453-LM, which is a now-settled class action that challenged the federal government's management of immigration detainees' safety from the COVID-19 pandemic at the Strafford County Department of Correction in Dover, New Hampshire. In addition to this case, Mr. Kim has litigated the following cases:

- *Akinsanya v. Garland*, 125 F.4th 287 (1st Cir. 2025) (meaning of the Convention Against Torture ("CAT") acquiescence).
- *Morgan v. Garland*, 120 F.4th 913 (1st Cir. 2024) (meaning of the CAT acquiescence).

- *Escobar Larin v. Garland*, 122 F.4th 465 (1st Cir. 2024) (the legal interpretation of changed circumstances exception to the one year asylum deadline and standards under the CAT).
- *Paye v. Garland*, 109 F.4th 1 (1st Cir. 2024) (legal interpretation of withholding of removal standard).
- *Ferreira v. Garland*, 97 F.4th 36 (1st Cir. 2024) (vacating the agency's withholding of removal denial because the agency misunderstood the protection basis the noncitizen presented to the agency).
- *Bazile v. Garland*, 76 F.4th 5 (1st Cir. 2023) (judicial venue for immigration appeals).
- *G.P. v. Garland*, No. 21-2002, 2023 U.S. App. LEXIS 17828 (1st Cir. July 13, 2023) (addressing agency's assessment of country conditions expert witness evidence in removal proceedings) (unpublished).
- *Chavez v. Garland*, 51 F.4th 424 (1st Cir. 2022) (rejecting the agency's precedential decision, *Matter of E-A-G-*, 24 I. & N. Dec. 591 (BIA 2008), because it categorically forecloses incorrectly perceived gang members as a basis for asylum and withholding of removal).
- *H.H. v. Garland*, 52 F.4th 8 (1st Cir. 2022) (meaning of CAT acquiescence standard).
- *Rivera-Medrano v. Garland*, 47 F.4th 29 (1st Cir. 2022) (the agency's assessment of the psychologist's expert opinion in addressing the noncitizen's credibility).
- *Adeyanju v. Garland*, 27 F.4th 25 (1st Cir. 2022) (meaning and application of the appellate agency's clear error review over the immigration judge's factual findings).
- *Barros v. Garland*, 31 F.4th 51 (1st Cir. 2022) (meaning of statutory and administrative exhaustion requirements for judicial review).
- *Perez-Trujillo v. Garland*, 3 F.4th 10 (1st Cir. 2021) (application of the doctrine of the agency's departure from its settled course of adjudication).
- *Hernandez Lara v. Barr*, 962 F.3d 45 (1st Cir. 2020) (statutory right to lawyer in removal proceedings).
- *Hernandez-Lara v. Immigration & Customs Enf't*, 560 F. Supp. 3d 531 (D.N.H. 2019) (constitutional burden of proof in immigration detention hearing), *affirmed in part by Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021).

- *Rocha v. Barr*, 422 F. Supp.3d 472 (D.N.H. 2019) (constitutional challenge to mandatory immigration detention).
- *Compere v. Nielsen*, 358 F. Supp. 3d 170 (D.N.H. 2019) (constitutional and statutory challenge to premature deportation during the pendency of statutory motion to reopen).
- *Guerra-Castaneda v. United States*, 656 F. Supp. 3d 356 (D. Mass. 2023) (allowing wrongful deportation claim to proceed where ICE deported a man in September 2019 despite two federal court orders stating that he should remain in the U.S. while his asylum case is pending).
- *Rivera-Medrano v. Wolf*, 2020 DNH 055, 2020 U.S. Dist. LEXIS 59609 (D.N.H. Apr. 4, 2020) (constitutional challenge to prolonged discretionary detention without a bond hearing).

15. Mr. Kim graduated from the University of Iowa College of Law and obtained a Juris Doctor in 2014. He also obtained a Master of Arts in International Relations and War from King's College London Department of War Studies (2024) and a Bachelor of Arts in International Affairs from The George Washington University (2007).

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

/s/ Gilles R. Bissonnette
Gilles Bissonnette

Executed on March 14, 2025.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent, and next friend “SUSAN;” and “MATTHEW,” by guardian, parent, and next friend “MARK;” on behalf of themselves and all those similarly situated,

Case No. 1:25-cv-244

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, et al.,

Defendants.

**DECLARATION OF CAROL GARVAN IN SUPPORT OF
PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION**

I, Carol Garvan, declare as follows:

1. I am the Legal Director at the American Civil Liberties Union of Maine (“ACLU of Maine”), and am counsel for Plaintiffs in the above-captioned matter. I make this declaration to describe my qualifications and those of my colleague to serve as counsel for the Proposed Class in this case. The following facts are based on my own personal knowledge and, if called as a witness, I could and would testify competently thereto.

2. The attorneys at the ACLU of Maine described herein, including myself, have represented plaintiffs in multiple federal immigration-related cases. *See Drewniak v. U.S. Customs and Border Protection*, No. 1:20-CV-852-LM (D.N.H. filed August 11, 2020); *American Civil Liberties Union of Maine v. U.S. Citizenship and Immigration Services*, No. 2:20-CV-00422-JAW (D. Me. filed November 12, 2020); *Immigration Legal Advocacy Project et al. v. U.S. Immigration and Customs Enforcement*, No. 2:21-CV-00066-JAW (D. Me. filed March 3, 2021).

Carol Garvan

3. I have worked at the ACLU of Maine since 2022. I graduated from UC Berkeley School of Law in 2007. Following law school, I clerked for the Honorable Judge Kermit V. Lipez of the First Circuit Court of Appeals and the Honorable Justice Mark B. Simons of the California Court of Appeal. I am admitted to practice in Maine and New Hampshire. I am admitted to the bars of the State of Maine (2009); the Court of Appeals for the First Circuit (2012); the State of New Hampshire (2014); and the Court of Appeals for the Second Circuit (2021). Before joining the ACLU of Maine, I worked at Johnson & Webbert, LLP, where I spent over a decade litigating civil rights and employment cases in Maine.

4. I specialize in civil rights and addressing systemic constitutional violations through complex litigation. My cases in this area include: *Robbins v. Maine Com'n on Indigent Legal Services*, No. KENSC-CV-22-54, 2022 WL 17348139 (Me. Super. Ct. June 2, 2022) (representing statewide class of indigent criminal defendants challenging state's systemic denial of counsel under Sixth Amendment); *Sparks v. Mills*, 626 F.Supp.3d 131 (D. Me. 2022) (representing class of incarcerated individuals on due process claims, resulting in court approval of classwide settlement); *O'Connor v. Oakhurst*, 851 F.3d 69 (1st Cir. 2017) (representing class of delivery drivers on wage theft claims, resulting in First Circuit decision interpreting Maine wage law exemption in workers' favor as matter of first impression); *Scamman v. Shaw's Supermarkets*, 2017 ME 41 (representing class of older workers alleging systemic disparate impact age discrimination claims, resulting in state supreme court decision broadly interpreting Maine disparate impact age discrimination law in workers' favor as matter of first impression).

5. All of the cases described above are complex class actions. I am or was class counsel in *Maine Com'n on Indigent Legal Services*, *Sparks v. Mills*, *O'Connor v. Oakhurst*, and *Scamman v. Shaw's Supermarkets*.

6. I have given CLE presentations to lawyers concerning constitutional law and civil rights; presented at the Maine State Bar Association Annual Employment Law Update; guest lectured on implicit bias and the law at Maine Law School; presented for the national AARP legal conference; and presented at the bi-annual Federal District Court Conference. I also speak to nonlegal audiences regarding their constitutional rights.

Zachary Heiden

7. Zachary Heiden has worked at the ACLU of Maine since 2004. He graduated from Boston College Law School in 2002 and subsequently clerked for the Honorable Susan W. Calkins of the Maine Supreme Judicial Court. He is admitted to practice in Maine, and is admitted to the bars of Commonwealth of Massachusetts (2002, retired); the State of Maine (2003); the U.S. District Court, the District of Maine (2004); the U.S. Court of Appeals for the First Circuit (2005); and the U.S. Supreme Court (2006).

8. Mr. Heiden specializes in civil rights litigation. Some of his cases in this area include *Robbins v. Maine Com'n on Indigent Legal Services*, No. KENSC-CV-22-54, 2022 WL 17348139 (Me. Super. Ct. June 2, 2022) (representing statewide class of indigent criminal defendants challenging state's systemic denial of counsel under Sixth Amendment); *Sparks v. Mills*, 626 F.Supp.3d 131 (D. Me. 2022) (representing class of incarcerated individuals on due process claims, resulting in court approval of classwide settlement); *Smith v. Aroostook County*, 376 F.Supp.3d 146 (D. Me. 2019) (representing a soon-to-be-incarcerated individual who used Medication-Assisted Treatment ("MAT"), resulting in a federal appeals court decision ordering the Aroostook County Jail to provide access to MAT).

9. Mr. Heiden is currently serving or has served as a member of the Advisory Committee on the Maine Rules of Appellate Procedure, the Maine Judicial Branch Indigent Legal

Services Commission, the Judicial Branch Taskforce on Electronic Court Records Access, the Judicial Branch Advisory Committee on Fees, and on the Executive Committee of Mainers United for Marriage, the statewide campaign to win marriage equality. He also serves as an adjunct professor at the University of Maine School of Law, where he teaches constitutional law.

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

/s/ Carol Garvan

Carol Garvan

Executed on March 14, 2025.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent, and next friend “SUSAN;” and “MATTHEW,” by guardian, parent, and next friend “MARK;” on behalf of themselves and all those similarly situated,

Case No. 1:25-cv-244

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, et al.,

Defendants.

**DECLARATION OF ADRIANA LAFAILLE IN SUPPORT OF
PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION**

I, Adriana Lafaille, declare as follows:

1. I am a Managing Attorney at the American Civil Liberties Union Foundation of Massachusetts, Inc., and am counsel for Plaintiffs in the above-captioned matter. I make this declaration to describe my qualifications to serve as counsel for the Proposed Class in this case. The following facts are based on my own personal knowledge and, if called as a witness, I could and would testify competently thereto.

2. I have litigated cases relating to the rights of noncitizens since 2013. I graduated from Harvard Law School in 2010 and clerked for the Honorable Ralph D. Gants of the Supreme Judicial Court of Massachusetts, and then for the Honorable Mark L. Wolf of the United States District Court for the District of Massachusetts. I am admitted to practice in Massachusetts and New York and am admitted to the bars of the United States District Court for the District of Massachusetts and the United States Court of Appeals for the First Circuit.

3. I specialize in federal litigation on issues relating to noncitizens, including the rights

of noncitizens under the U.S. Constitution and the Immigration and Nationality Act. My cases in this area include: *Gordon v. Napolitano*, D. Mass. 3:13-cv-30146-PBS (involving application of certain immigration detention provisions); *Calderon v. Nielsen*, D. Mass. 1:18-cv-10225-MLW (involving the rights of U.S. citizens and their noncitizen spouses); *Pereira Brito v. Barr*, D. Mass. 1:19-cv-11314-PBS (involving constitutional rights of detained noncitizens); *Bollat v. Mayorkas*; D. Mass. 1:20-cv-10566-IT (involving noncitizens expelled from the United States under “Migrant Protection Protocols”); and *Greater Boston Legal Services v. Department of Homeland Security*, 1:21-cv-10083-DJC (involving policy of not disclosing documents to noncitizens and their counsel).

4. I was class counsel in three of these cases, *Gordon v. Napolitano*, *Calderon v. Nielsen*, and *Pereira Brito v. Barr*.

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

/s/ Adriana Lafaille
Adriana Lafaille

Executed on March 14, 2025.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent, and next friend “SUSAN;” and “MATTHEW,” by guardian, parent, and next friend “MARK;” on behalf of themselves and all those similarly situated,

Case No. 1:25-cv-244

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, et al.,

Defendants.

**DECLARATION OF MORENIKE FAJANA IN SUPPORT OF
PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION**

I, Morenike Fajana, declare as follows:

1. I am a Senior Counsel at the NAACP Legal Defense and Educational Fund, Inc. (“NAACP LDF”), and am counsel for Plaintiffs in the above-captioned matter. I make this declaration to describe my qualifications and those of my colleagues to serve as counsel for the Proposed Class in this case. The following facts are based on my own personal knowledge and, if called as a witness, I could and would testify competently thereto.

2. NAACP LDF is the nation’s first and foremost civil rights law organization. Through litigation, advocacy, and public outreach, NAACP LDF strives to secure equal justice under the law for all Americans and to break down barriers that prevent Black Americans from realizing their basic civil and human rights. For over eighty years, NAACP LDF has represented parties in litigation before the U.S. Supreme Court and lower federal courts on important cases involving civil rights and constitutional law. *See, e.g., Dream Defenders, et al. v. Governor of the State of Florida, et al.*, No. 21-13489 (11th Cir. 2023) (upholding the District Court’s grant of a preliminary injunction of enforcement of key provisions of an anti-protest law, which redefined the crime of “riot” in a manner

that chilled the exercise of First Amendment rights); *Allen v. Milligan*, 599 U.S. 1 (2023) (affirming the District Court’s order striking down Alabama’s 2021-enacted congressional map for violating the Voting Rights Act of 1965 for diluting Black political power, and holding that applying the § 2 of the Voting Rights Act of 1965 to redistricting did not violate the Fifteenth Amendment); *League of Women Voters of Fla., Inc. v. Fla. Sec'y of State*, 66 F.4th 905 (11th Cir. 2023) (affirming the District Court’s permanent injunction striking down the solicitation provision of a voting law, S.B. 90, as unconstitutionally vague).

3. NAACP LDF has focused a significant amount of its work on class actions in order to secure systemic change. For example, in recent years, NAACP LDF has served as class counsel in the following certified class actions, among others: *Pickett v. Cleveland*, 1:19-CV-2911 (N.D. Ohio Sept. 30, 23) (certifying classes of hundreds of residents subjected to erroneous water billing charges, water service shutoffs without adequate notice, and the discriminatory use of liens for unpaid water bills); *Henderson v. Vision Property Management*, No. 20-CV-12649 (E.D. Mich. Nov. 27, 2024) (preliminarily certifying settlement classes of hundreds of homeseekers who entered into allegedly predatory and discriminatory home purchase contracts in Michigan); *Grottano v. The City of New York*, 15-CV-9242, 2021 WL 5563990 (S.D.N.Y. Nov. 29, 2021) (certifying a settlement class pursuant to a Settlement Agreement enjoining improper searches of visitors to Department of Corrections facilities and establishing a \$12.5 million settlement fund); *Fortune Society v. Macy's*, 19 Civ. 5961, ECF No. 116 (S.D.N.Y. Dec. 14, 2020) (certifying a settlement class in challenge to criminal history screening policies and practices); *Boudreax v. Sch. Bd. of St. Mary Par.*, No. 6:65-CV- 11351, 2020 WL 5367088 (W.D. La. Sept. 8, 2020) (certifying a class of thousands of Black students, currently, formerly or to be enrolled in schools operated by St. Mary Parish School Board and their legal guardians and describing NAACP LDF as “highly qualified” class counsel, with a “corporate reputation for expertness” in civil rights litigation that extends back decades) (internal

citations omitted); *Times v. Target Corp.*, No. 18 Civ. 2993, 2019 WL 5616867 (S.D.N.Y. Oct. 29, 2019) (certifying a settlement class of thousands of job applicants in an employment discrimination case, involving criminal background checks); *Little v. Wash. Metro. Area Transit Auth.*, 249 F. Supp. 3d 394 (D.D.C. 2017) (certifying classes of thousands of applicants for employment with the Washington Area Metropolitan Authority alleging denial of employment on the basis of a policy which disproportionately affected Black applicants); *Davis v. City of New York*, 296 F.R.D. 158 (S.D.N.Y. 2013) (certifying classes of Black and Latinx public housing residents and their guests in New York City, who have been unlawfully stopped and arrested on suspicion of trespass by police officers without the requisite level of suspicion and in a racially discriminatory manner); *Wright v. Stern*, 553 F. Supp. 2d 337, 347 (S.D.N.Y. 2008) (commending “depth of commitment” and “the quality of the representation provided by class counsel[,]” including LDF); *Lewis v. City of Chicago*, Case No. 98C5596 (N.D. Ill. Mar. 20, 2007) (representing a class of approximately 6,000 applicants for alleging denial of employment on the basis of discriminatory hiring practices which disproportionately affected Black applicants).

4. NAACP LDF is committed to continuing to expend substantial time and resources to zealously represent the Proposed Class.

Morenike Fajana

5. I graduated *cum laude* from Columbia Law School in 2013. I am barred in the state of New York, and admitted to practice in the United States District Courts for the Southern and Eastern Districts of New York, the United States Courts of Appeals for the Eighth and Eleventh Circuits, and the Supreme Court of the United States. After law school, I practiced international human rights law and worked as a legal services attorney for nearly four years, representing nearly a hundred clients a year in New York state courts. Beginning in 2019, I served as Special Counsel at the New York State Office of the Attorney General where I led complex civil litigation in federal court. I have argued

multiple cases before district courts, led litigation in the Eighth and Eleventh Circuits, and co-authored multiple briefs filed with the Supreme Court. I co-teach the Racial Equities Strategies Clinic at the NYU School of Law.

Ashley Burrell

6. Ashley Burrell graduated from Columbia University School in 2013, and she is a Senior Counsel at LDF. She is barred in the state of New York and admitted in the United States District Court for the Eastern District of New York and the Supreme Court of the United States. Prior to joining NAACP LDF in 2022, Ms. Burrell worked over five years at the Bronx Defenders, and another three years as an Assistant Federal Defender at the Federal Defenders of New York. Ms. Burrell has argued multiple cases before district courts and co-authored multiple briefs filed with the Supreme Court. She also co-teaches the Racial Justice Externship at Columbia Law School.

Elizabeth Caldwell

7. Elizabeth Caldwell graduated *magna cum laude* from New York University School of Law in 2018. She is barred in the state of New York and is admitted to practice in the United States District Court for the Southern District of New York and United States Court of Appeals for the Tenth Circuit. After law school, Elizabeth clerked for the Hon. Berle Schiller (ret.) of the United States District Court for the Eastern District of Pennsylvania and for the Hon. Kermit V. Lipez of the First Circuit Court of Appeals. She litigated numerous criminal appeals during her time at the Center for Appellate Litigation, and she taught a course on federal courts and appellate practice as an Adjunct Professor of Law at New York University School of Law for two years.

Morgan Humphrey

8. Morgan Humphrey graduated from Rutgers Law School in 2021 and afterwards, clerked in the New Jersey Superior Court, Appellate Division for the Hon. Thomas J. Sumners. She is admitted to practice in New Jersey. Prior to joining NAACP LDF as its Civil Rights Fellow, Ms.

Humphrey was an associate and Civil Rights Fellow at Fried, Frank, Harris, Shriver & Jacobson LLP for two years.

Mide Odunsi

9. Mide Odunsi graduated from Stanford Law School in 2023. After law school, Ms. Odunsi clerked for the Hon. Matthew F. Kennelly of the United States District Court for the Northern District of Illinois. She is barred in the state of Illinois. Ms. Odunsi is an Equal Justice Works Fellow at NAACP LDF.

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

/s/ Morenike Fajana
Morenike Fajana

Executed on March 14, 2025.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent, and next friend “SUSAN;” and “MATTHEW,” by guardian, parent, and next friend “MARK;” on behalf of themselves and all those similarly situated,

Case No. 1:25-cv-244

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, et al.,

Defendants.

**DECLARATION OF WINIFRED KAO IN SUPPORT OF
PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION**

I, Winifred Kao, declare as follows:

1. I am Senior Counsel at the Asian Law Caucus (ALC) and counsel for Plaintiffs in this case. I make this declaration to describe my qualifications and those of my colleagues to serve as counsel for the Proposed Class.

Winifred Kao

2. I graduated from the University of Michigan Law School in 2000. I am a member of the California bar and admitted to practice in the U.S. Supreme Court, the U.S. Court of Appeals for the Fourth, Sixth, and Ninth Circuits, as well as the U.S. District Courts for the Northern, Central, Eastern and Southern Districts of California.

3. I have served as Senior Counsel for ALC’s impact litigation since 2021. I was also ALC’s Litigation Director from 2011 – 2020 and ALC’s Workers’ Rights Program Director from 2011 – 2024. Prior to joining ALC, I worked at a union-side labor and employment law firm where I represented immigrant workers and unions in a wide variety of labor, employment,

constitutional, and class-action cases. Before that, I was a trial attorney for the United States Department of Justice Civil Rights Division where I litigated housing and public accommodation discrimination cases, and served on detail as a Special Assistant United States Attorney in the Sex Offense and Domestic Violence Section of the U.S. Attorney's Office in Washington, D.C.

4. As ALC's Senior Counsel and Litigation Director, I have staffed and supervised ALC's impact litigation cases. Those cases have included immigrant rights litigation for which I have personally served as class counsel and/or supervised ALC's role as class counsel, including: *Chhoeun v. Marin*, 442 F.Supp.3d 1233 (C.D. Cal. 2020) (class action habeas case on behalf of Cambodians with final removal orders who were subsequently released from ICE custody, requiring pre-detention notice to allow class members a chance to reopen their immigration cases and challenge their removal orders); *Trinh v. Homan*, 466 F.Supp.3d 1077 (C.D. Cal. 2020) (class action habeas case challenging the government's practice of subjecting Vietnamese immigrants/refugees to detention despite the remote possibility of their removal to Vietnam); *Navarette v. Burma Superstar* (Alameda Superior Court Case No. RG16830336) (wage and hour class action on behalf of restaurant workers); *Tran v. Natalie Salon* (San Mateo Superior Court Case No. 508343) (wage and hour class action on behalf of nail salon workers); *Chang v. Club One Casino* (Fresno Superior Court Case No. 11CECG01177) (class action race and national origin discrimination case on behalf of Hmong and Cambodian poker dealers).

Christopher M. Lapinig

5. Christopher M. Lapinig is a Senior Staff Attorney at ALC, where he has worked since 2024. Mr. Lapinig is a 2013 graduate of Yale Law School. He is a member of the California and New York bars and is admitted to practice in the U.S. Court of Appeals for the Second and Ninth Circuits, and the U.S. District Court for the Southern District of New York.

6. Prior to Mr. Lapinig's work at ALC, Mr. Lapinig worked as Legal Counsel at Campaign Legal Center, where he litigated voting rights lawsuits primarily in federal court, including three matters that went to trial; as Deputy Attorney General at the California Department of Justice, where he litigated consumer protection lawsuits primarily in federal court; and as an Associate Attorney at Larson O'Brien LLP (now Larson LLP), where he engaged in commercial litigation and criminal defense work. Immediately after graduating from law school, Mr. Lapinig clerked for the Hon. Denny Chin in the United States Court of Appeals for the Second Circuit and then for the Hon. Lorna G. Schofield in the United States District Court for the Southern District of New York. He then spent four years, first as a Skadden Fellow and then as a Staff Attorney, at Asian Americans Advancing Justice – Los Angeles (AAAJ-LA), where he litigated labor trafficking and other civil rights cases on behalf of immigrant clients.

7. During his tenure at AAAJ-LA, Mr. Lapinig served as class counsel in *Chhoeun v. Marin*, 442 F.Supp.3d 1233 (C.D. Cal. 2020) (class action habeas case on behalf of Cambodian detainees) and *Trinh v. Homan*, 466 F.Supp.3d 1077 (C.D. Cal. 2020) (class action habeas case on behalf of Vietnamese detainees).

Kimberly W. Leung

8. Kimberly W. Leung is a Staff Attorney at ALC, where she has worked since 2022. Ms. Leung is a 2014 graduate of the University of Wisconsin-Madison Law School. She is a member of the Illinois bar, and admitted to practice in the U.S. District Court for the Northern and Central Districts of Illinois.

9. Prior to Ms. Leung's work at ALC, Ms. Leung worked as an Assistant Attorney General at the Illinois Attorney General's Office, where she handled Section 1983 and

Americans with Disabilities Act discrimination cases in federal court.

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

A handwritten signature in black ink, appearing to read "Winifred Kao".

Winifred Kao

Executed on March 14, 2025.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent, and next friend “SUSAN;” and “MATTHEW,” by guardian, parent, and next friend “MARK;” on behalf of themselves and all those similarly situated,

Case No. 1:25-cv-244

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, et al.,

Defendants.

DECLARATION OF BARBARA

I, Barbara, pursuant to 28 U.S.C. § 1746, declare as follows:

1. My name is Barbara. I am over the age of 18 and am competent to testify regarding the matters described below. I am a putative class member in this case.

2. I am a citizen of Honduras. I currently live in New Hampshire.

3. I have lived in the United States for the past year, since 2024.

4. I live with my husband and three children under the age of 14. All three of my children were born in Honduras.

5. In 2024, my husband, three children, and I came to the United States because we feared for our life. We were being targeted by the Mara 18 gang. We were given parole at the border. We have asylum applications pending.

6. Our family has built a life here. We attend a local church. My children go to school here. We have a lot of family close by, like my father, cousin, and cousin’s family.

7. We learned in or around February 2025 that I was pregnant with our fourth child.

My due date is in October 2025.

8. I heard about the president's executive order regarding birthright citizenship in or around February 2025.

9. I understand that, because neither my husband nor I am a citizen or lawful permanent resident (LPR) of the United States, the government will not recognize my child's U.S. citizenship by birthright.

10. I am fearful for my child's future in light of this executive order. My baby has the right to citizenship and a future in the United States. I want my baby to have access to opportunities, such as access to education and permission to work legally, in order to make a life for themselves. I also want my child to be safe. I do not want my child to live in fear and hiding. I do not want my child to be a target for immigration enforcement. I am not sure how my child would be added to my asylum application. This would affect the future of us as a family. I fear our family could be at risk of separation. I also do not want my child to have to move to Honduras.

11. I want to be a named plaintiff in this case. I understand that, if the Court grants the motion for class certification, I would represent a large number of people who: (a) do not have permanent status or citizenship; and (b) are expecting a child who will likely be born after the executive order goes into effect.

12. I understand that, as a class representative, it would be my responsibility to represent the interests of all the class members in this lawsuit, and not just my own personal interests. I also understand the need to stay informed about what is happening in the case.

13. I understand that I am agreeing to represent many other families like ours. I believe it is important to help families like ours.

14. I am scared about my identity and participation in this lawsuit being made public

because I fear for my and my family's safety. I fear that certain individuals would retaliate against us because of my participation in the lawsuit. I have heard about the current Administration or supporters retaliating against people who sue or speak out against the Administration.

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

/s/ Barbara
Barbara

Executed on April 30, 2025.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent, and next friend “SUSAN;” and “MATTHEW,” by guardian, parent, and next friend “MARK;” on behalf of themselves and all those similarly situated,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, et al.,

Defendants.

Case No. 1:25-cv-244

DECLARATION OF SUSAN

I, Susan, pursuant to 28 U.S.C. § 1746, declare as follows:

1. My name is Susan. I am over the age of 18 and am competent to testify regarding the matters described below. I am a putative class member in this case.
2. I am a citizen of Taiwan. I currently live in Utah.
3. I have lived in the United States for the past 12 years, since 2013.
4. I live with my husband and my four children under the age of 11. All four of my children were born in the United States.
5. In 2013, my husband and I came to the United States with student visas so that we could attend school.
6. My husband and I ended up building a life here. I am currently in the process of applying for lawful permanent status. My husband and I have maintained lawful status the entire time we have been in the United States.
7. We learned in or around August 2024 that I was pregnant with our fourth child

unexpectedly. I gave birth to our fourth child in April 2025 in Utah.

8. I heard about the president's executive order regarding birthright citizenship on or around January 20, 2025.

9. I understand that, because neither my husband nor I am a citizen or lawful permanent resident (LPR) of the United States, the government will not recognize my child's U.S. citizenship by birthright.

10. I am fearful for my fourth child's future in light of this executive order. My baby has the right to citizenship and a future in the United States. I want my baby to have access to opportunities, such as access to education and permission to work legally, in order to make a life for themselves. I also want my child to be safe. I do not want my child to live in fear and hiding. I do not want my child to be a target for immigration enforcement. This would affect the future of us as a family. All four of my children were born in the United States. I fear our family could be at risk of separation. I also do not want my children to have to move to Taiwan, a country to which they have no connection and do not speak the language.

11. I want to be a named plaintiff in this case. I understand that, if the Court grants the motion for class certification, I would represent a large number of people who: (a) do not have permanent status or citizenship; and (b) are expecting a child who will likely be born after the executive order goes into effect.

12. I understand that, as a class representative, it would be my responsibility to represent the interests of all the class members in this lawsuit, and not just my own personal interests. I also understand the need to stay informed about what is happening in the case.

13. I understand that I am agreeing to represent many other families like ours. I believe it is important to help families like ours.

14. I am scared about my identity and participation in this lawsuit being made public because I fear for my and my family's safety. I fear that certain individuals would retaliate against us because of my participation in the lawsuit. I have heard about the current Administration or supporters retaliating against people who sue or speak out against the Administration.

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

/s/ Susan
Susan

Executed on April 21, 2025.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent, and next friend “SUSAN;” and “MATTHEW,” by guardian, parent, and next friend “MARK;” on behalf of themselves and all those similarly situated,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, et al.,

Defendants.

Case No. 1:25-cv-244

DECLARATION OF MARK

I, Mark, pursuant to 28 U.S.C. § 1746, declare as follows:

1. My name is Mark. I am over the age of 18 and am competent to testify regarding the matters described below. I am a putative class member in this case.
2. I am a citizen of Brazil. I currently live in Florida.
3. I have lived in the United States for the past 5 years, since 2020.
4. I live with my wife.
5. In 2020, my wife and I came to Florida so that she could spend time with her family, including her father. Her father is a U.S. citizen who left Brazil almost twenty years ago.
6. My wife and I ended up building a life here. We have family and a community. My wife’s father has filed a family-based petition for us that is currently pending.
7. We learned in or around June 2024 that my wife was pregnant with our first child. My wife gave birth in March 2025 in Florida.
8. I heard about the president’s executive order regarding birthright citizenship on or

around January 20, 2025.

9. I understand that, because neither my wife nor I am a citizen or lawful permanent resident (LPR) of the United States, the government will not recognize my child's U.S. citizenship by birthright.

10. I am fearful for my child's future in light of this executive order. My baby has the right to citizenship and a future in the United States. I want my baby to have access to opportunities, such as access to education and permission to work legally, in order to make a life for themselves. I also want my child to be safe. I do not want my child to live in fear and hiding. I do not want my child to be a target for immigration enforcement. This would affect the future of us as a family.

11. I want to be a named plaintiff in this case. I understand that, if the Court grants the motion for class certification, I would represent a large number of people who: (a) do not have permanent status or citizenship; and (b) are expecting a child who will likely be born after the executive order goes into effect.

12. I understand that, as a class representative, it would be my responsibility to represent the interests of all the class members in this lawsuit, and not just my own personal interests. I also understand the need to stay informed about what is happening in the case.

13. I understand that I am agreeing to represent many other families like ours. I believe it is important to help families like ours.

14. I am scared about my identity and participation in this lawsuit being made public because I fear for my and my family's safety. I fear that certain individuals would retaliate against us because of my participation in the lawsuit. I have heard about the current Administration or

supporters retaliating against people who sue or speak out against the Administration.

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

/s/ Mark
Mark

Executed on April 16, 2025.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent, and next friend “SUSAN;” and “MATTHEW,” by guardian, parent, and next friend “MARK;” on behalf of themselves and all those similarly situated,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, et al.,

Defendants.

Case No. 1:25-cv-244

**DECLARATION OF TIANNA MAYS IN SUPPORT OF
PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION**

I, Tianna Mays, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am counsel for Plaintiffs in this case and make this declaration to describe my qualifications and those of my colleague to serve as counsel for the Proposed Class in this case.

Tianna Mays

2. I specialize in litigation and am a seasoned litigator with extensive experience in litigation, policy, and advocacy, including a distinguished tenure as a public defender, where I passionately defended the rights of marginalized communities and upheld the principles of justice and fairness.

3. I have served as the Legal Director of Democracy Defenders Fund since July 2024. I graduated from West Virginia University College of Law in 2011 and am admitted to practice in Maryland, New Jersey, and the District of Columbia. I am additionally admitted to the bars of the U.S. District Court for the District of Maryland.

4. I have vast expertise in constitutional law and in class action litigation. *See J. Does*

I-26 v. Elon Musk, No. 25-cv-00462-TDC (D. MD. filed February 13, 2025), *Kimiesha Hill et al., v. Town of Valley Brook*, No. 5:21-cv-00097-PRW (D. Okla. Filed June 15, 2023), *Cottman et al., v. Baltimore Police Department*, 21-00837 (SAG) (D. MD. filed April 1, 2024), and *Joseph Allen et al., v. John Bel Edwards et al.*, No. 655079 (E. D. La. Filed Feb. 7, 2017).

5. Since August 2022 I have serve as an adjunct professor at Howard University School of Law and currently teach a civil right seminar. My classes facilitate interactive discussions on current civil rights events and help train and prepare the next generation of civil rights litigators.

6. While serving as the Managing Attorney at the Maryland Coalition Against Sexual Assault: Sexual Assault Legal Institute, I supervised a team of over fifteen attorneys and legal advocates in the provision of regional legal services to survivors of sexual assault in areas of immigration law, housing law, education law, employment law, protective and peace orders, family law, and criminal law. I litigated complex civil and criminal legal matters throughout the State of Maryland.

7. I worked as a leader of the Criminal Justice Project of the Lawyers' Committee for Civil Rights Under Law where I participated in the organization's management and served as lead counsel in litigation challenging the Patriot Front in Richmond and North Dakota to hold members of the white nationalist group accountable for acts of vandalism in Black and immigrant communities; challenging judges and other government entities to challenge the incarceration of indigent people who are unable to pay court-ordered fines and fees; challenging the improper administration of the provision of indigent defense services; challenging the excessive use of force; and the illegal search, seizure, and retention of crime victims' property.

Norman Eisen

1. Norman Eisen has served as the Co-Founder and Chair of Democracy Defenders Fund since 2023. This organization fights against election sabotage and autocracy: going on the offense against democracy deniers who break the law, including through its innovative program of outside public support for criminal prosecutions; working with national, state and local allies across the country to defend in real-time the foundation of our democracy, free and fair elections; and helping to shape the long-term strategy to defeat autocracy in 2025 and beyond.

2. Mr. Eisen graduated from Harvard Law School in 1991. He is admitted to practice in the District of Columbia and Maryland, in addition to being admitted to the bars of the U.S. Supreme Court, U.S. District Court of the District of Columbia, U.S. Circuit Court of Appeals for the District of Columbia, U.S. District Court for the District of Maryland, and U.S. Court of Appeals for the Second Circuit.

3. Mr. Eisen most recently served as Senior Fellow for Governance Studies at the Brookings Institution where he authored of *Trying Trump: A Guide to His First Election Interference Criminal Trial* (SDDF Books 2024); *States United: A Survival Guide for Our Democracy* (Cornell University Press 2022); *Overcoming Trumpery: How to Restore Ethics, the Rule of Law, and Democracy* (Brookings Institution Press 2022); *A Case for the American People: The United States v. Donald J. Trump* (Crown 2020); *The Last Palace: Europe's Turbulent Century in Five Lives and One Legendary House* (Crown 2018); *Democracy's Defenders: U.S. Embassy Prague, the Fall of Communism in Czechoslovakia, and its Aftermath* (Brookings Institution Press 2020); and numerous reports and other writings.

4. Mr. Eisen served as Special Counsel for the Committee on the Judiciary of the House of Representatives. As Counsel, he oversaw policy issues within the Committee's jurisdiction, including the investigation, impeachment and trial of President Donald Trump.

5. Mr. Eisen previously served on the Office of the White House Counsel as Special Assistant to the President and Special Counsel to the President for Ethics and Government Reform where he led the Obama administration's landmark initiatives on government ethics, lobbying regulation and transparency. Mr. Eisen represented White House Counsel's Office on the interagency group that produced the administration's blueprint for the Dodd-Frank financial regulatory reform and provided legal advice within White House on other aspects of 2009 economic recovery package, including the stimulus and the rescues of the auto and finance industries.

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

/s/ Tianna Mays

Tianna Mays

Executed on June 27, 2025.