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**Re: Complaint and Claims for Damages under the Federal Tort Claims Act for
Jose Pineda**

Dear Counsel:

Lawyers for Civil Rights (“LCR”) respectfully submits this complaint under the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 1346, 2671-2680, on behalf of Jose Pineda (D.O.B. 03/28/1964) (hereinafter “Mr. Pineda”), seeking damages arising from the illegal and tortious actions of the U.S. Government and U.S. Immigration and Customs Enforcement (“ICE”) officers involved in Mr. Pineda’s unlawful arrest and detention. The incident requiring damages began on the morning of May 27, 2025, in Weymouth, Massachusetts, where Mr. Pineda was illegally stopped, detained, and arrested. He was subsequently subjected to unjustified confinement until the evening of May 28, 2025. The traumatic and unjustifiable incident described herein resulted in physical, emotional, and psychological harm to Mr. Pineda, stemming directly from the unlawful actions of federal officers acting within the scope of their official duties.¹

STATEMENT OF FACTS

Mr. Pineda is a 60-year-old father and husband. Mr. Pineda, his wife, and his twelve-year-old daughter live in East Boston, Massachusetts. Mr. Pineda was born in El Salvador. He was forced to flee from El Salvador to escape the aftermath of the civil war. He traveled to the United States to seek refuge and safety. Mr. Pineda holds lawful humanitarian status under federal

¹ Mr. Pineda is submitting these claims without the benefit of formal discovery. Mr. Pineda hereby reserves the right to amend or supplement the factual recitation and legal claims.

immigration law, granting him the right to live and work in the United States. Mr. Pineda has deep roots in the United States. He met and married his wife in the United States. Their daughter was born in the United States. Mr. Pineda contributes to his community and works full-time as a landscaper. His work ethic and dedication have allowed him to be the primary wage earner for his family.

On the morning of May 27, 2025, Mr. Pineda followed his usual morning routine. He left his home and drove to work. Mr. Pineda arrived at work at approximately 6:30 AM. After clocking in, Mr. Pineda and two of his co-workers got into the company vehicle to travel to their first work site of the day in Weymouth, Massachusetts. Mr. Pineda was driving the vehicle, which was registered in the company's name. The only distinguishing characteristic of the vehicle appears to be that all three passengers were Latino.

At approximately 7:00 AM, while stopped at a traffic light in Weymouth, three unmarked vehicles activated their lights and sirens and surrounded the company vehicle. Five armed officers dressed in plain clothes and wearing ICE vests immediately surrounded the vehicle on foot. Two officers approached the driver's window, and three other officers approached the passenger's window. Since Mr. Pineda was surrounded, he had no means of leaving the scene.

One of the officers who approached the driver's side window demanded to see Mr. Pineda's identification. Mr. Pineda provided the officer with his valid driver's license. The same officer then interrogated Mr. Pineda about his national origin and place of birth. Mr. Pineda responded that he was from El Salvador. He further explained that he was legally authorized to be in the United States. The same officer then disrespectfully and incorrectly insulted Mr. Pineda in both English and Spanish, saying that if someone was not born in the United States, they do not have any rights. This statement is evidence of animus and demonstrates the ICE officer's ignorance of—and disregard for—the laws they are sworn to uphold.

Mr. Pineda was about to provide the ICE officer with additional documentation confirming his lawful humanitarian status, including his government-issued employment authorization document and Social Security card. However, he was unable to do so, as the officer, without any justification or legal basis, ordered him to exit the vehicle immediately. Fearing that the ICE encounter could result in violence—like other interactions between ICE and community members he had seen on the news—and coupled with the fact that he was surrounded without the ability to leave, Mr. Pineda respectfully complied with the ICE officer's requests. Throughout the encounter, Mr. Pineda's hands were empty and visible. The same ICE officer then forcibly pulled Mr. Pineda's arms behind his back and locked him in handcuffs with excessive force. The handcuffs were so painfully tight that Mr. Pineda began to lose sensation in his hands, a clear indication of compromised circulation and physical injury.

Mr. Pineda pleaded with the ICE officers to allow him to call his employer to retrieve the company vehicle so it would not be left unattended on the street, posing risks of theft, traffic obstruction, and broader public safety concerns. Nevertheless, the ICE officers denied his request.

Without consent or justification, the ICE officers then conducted an unlawful search of Mr. Pineda. During the unlawful search, the officers seized Mr. Pineda's wallet and proceeded to

search through its contents without a warrant, consent, or legal justification. The unlawful search resulted in the ICE officers confiscating Mr. Pineda's driver's license, Social Security card, employment authorization card, credit card, and \$600 in cash. The officers searched and inspected the contents of his wallet—including his federally issued documents—removed and separated the items, and placed Mr. Pineda's belongings into bags. The ICE officers also took Mr. Pineda's hat and belt and placed them in a separate bag.

Despite having both verbal confirmation and documentary proof that Mr. Pineda has lawful humanitarian status in the United States, the ICE officers nonetheless forced him into an unmarked vehicle without justification. The ICE officers transported Mr. Pineda for ten to fifteen minutes to an undisclosed location and transferred him to a van. It was only at this point that they loosened the original handcuffs, replacing them with front-facing restraints chaining his wrists and ankles. One other individual was already confined in the van. Mr. Pineda remained in the van for approximately 40 minutes without air conditioning. During this time, the van remained stationary as officers filled it with additional Latino and Spanish-speaking individuals. Once the van was full, the officers transported Mr. Pineda to ICE's Burlington field office. At no point did the ICE officers provide or obtain a warrant authorizing Mr. Pineda's arrest.

The conditions at the Burlington field office were devastating and inhumane. Mr. Pineda was placed in a cell with more than 40 people. The overcrowding was extreme, and at times, the number of people grew to approximately 60. The room was so overcrowded that there was rarely an opportunity to sit or lie down, forcing Mr. Pineda to stand for most of his captivity. Due to the constant influx of people entering and exiting the cell, Mr. Pineda was rarely able to rest. The overwhelming presence of people, full of fear and desperation, combined with the overall conditions in the room, prevented Mr. Pineda from ever feeling safe or comfortable.

Mr. Pineda's holding cell had only a small sink and one toilet, which everyone had to share, leaving them with no privacy and a limited ability to use the bathroom. There was no soap for basic hygiene. Mr. Pineda was not provided with a toothbrush, clean clothes, or access to a shower for bathing. An intense, bright fluorescent light shone in the room at all times, day and night, preventing rest or sleep.

The temperature in the room was unbearable. During the day, the room was extremely hot. During the night, it was extremely cold. People asked for blankets, but these requests were denied. Without a blanket, Mr. Pineda relied on his sweater for warmth.

Mr. Pineda received two bottles of water each day. During his first day in unlawful confinement, Mr. Pineda was only offered a sour and inedible pudding to eat. During his second day of unlawful confinement, Mr. Pineda was fed a cup of oats and a small burrito. Mr. Pineda suffers from gastritis and could not eat the food he was provided.

On his first day of detainment, between 4 PM and 5 PM, Mr. Pineda requested to speak to his attorney and his wife. The officers limited his phone access. They only allowed him to make one phone call after he had been detained for approximately five hours. Mr. Pineda made a brief phone call to his wife, who then contacted his attorney. Mr. Pineda was not allowed to make a direct call to his attorney.

After being illegally held by ICE for two days and one night, Mr. Pineda was released on May 28, 2025, at approximately 7:00 PM. Upon his release, the officers failed to return the \$600 seized from his wallet.

HARMS

Mr. Pineda's unlawful arrest and inhumane detention have had profound and lasting effects on his physical, mental, and psychological health. The length of ICE's cruel detention and the confiscation of his hard-earned money have placed a devastating hardship on him and his family.

Mr. Pineda now feels less than human. Due to the abhorrent conditions of confinement, Mr. Pineda could not properly eat or sleep for days. To this day, he suffers from sleep disturbances and nightmares of his detention. He often wakes up from night terrors caused by ICE's incarceration. He is unable to sleep in the same bed as his wife out of fear that his violent movements during night terrors—including involuntary shouting, lashing, thrashing, and flailing—could inadvertently strike or harm her. Mr. Pineda now has persistent back pain caused by the cramped confinement conditions he endured during ICE transport and while incarcerated at the Burlington field office. Mr. Pineda has daily headaches due to the stress and anxiety from the traumatic encounter with ICE. His appetite has decreased significantly. The limited intake of mostly water during those days has worsened his gastritis. Lack of nourishment exacerbated his gastritis. The prolonged food deprivation intensified his gastric irritation and inflammation. These were physical and medical issues that he had not experienced before his ICE detention and confinement.

Since his ICE confinement, Mr. Pineda has developed anxiety and memory loss. Before his ICE detention, he had a sharp memory. Now, he regularly forgets things. For example, at work, he often has to make multiple trips back to the car for tools he would typically remember—something that was previously uncharacteristic of him.

One of the most challenging consequences has been seeing the impact on his daughter. Mr. Pineda is very close to his daughter and has been a primary caregiver and provider. He has been forced to witness each day how his confinement and unjustifiable absence have affected her deeply. She had never been separated from him in such an abrupt and violent manner before. To this day, she remains fearful whenever she sees the police. She becomes terrified, thinking they might be immigration officers who will stop, detain, handcuff, and lock up her father. Experiencing the fallout from his daughter's emotional state exacerbates Mr. Pineda's trauma; as a child, this should never have been a concern for her.

The financial toll on Mr. Pineda's family has been devastating. ICE confiscated the \$600 Mr. Pineda had set aside for rent—due just days after his release—leaving the family unable to pay and immediately in arrears. With no means to recover the seized funds and unable to work while detained, Mr. Pineda lost wages, further compounding the hardship and pushing his family into financial distress.

When Mr. Pineda was released from ICE confinement and returned to work, he no longer had the same lead position as foreman. His absence and unavailability due to ICE confinement led to his demotion, relegating him to an assistant role on another landscaping team. This demotion resulted in a reduction in work hours and, ultimately, a decrease in wages—a devastating outcome for an hourly-paid employee who depends on every shift and scheduled hour to meet basic household expenses.

Before his unlawful arrest and detention, Mr. Pineda worked more than 60 hours per week, earning between \$1,300 and \$1,500 per week. Now, he is only able to work approximately 40 hours, earning only \$800 to \$900 per week. The decrease in earnings has placed an unsustainable burden on the Pineda family’s ability to afford basic living expenses.

Mr. Pineda cannot afford healthcare to address the physical and emotional harm caused by the ICE officers. As an hourly wage worker already facing financial instability and rental debt, he lacks the resources to access the medical, emotional, and psychological support necessary to cope with the profound, life-altering trauma he has endured. This has left him carrying the weight of a lasting injury—both physical and psychological—without the care or treatment essential for healing.

ARGUMENTS AND CLAIMS

The FTCA permits individuals to bring claims against the United States for negligent or wrongful acts committed by federal employees acting within the scope of their official duties. 28 U.S.C. § 2674, *et seq.* Specifically, the FTCA waives the federal government’s sovereign immunity “under circumstances where local law would make a *private* person liable in tort.” *United States v. Olson*, 546 U.S. 43, 44 (2005) (quoting 28 U.S.C. § 1346(b)(1)) (internal citations omitted) (emphasis added in original). Claims asserting assault, battery, false imprisonment, false arrest, abuse of process, and malicious prosecution are explicitly allowed by the FTCA, but only against investigative or law enforcement officers of the federal government. 28 U.S.C. § 2680(h).

Each tort claim brought under the FTCA must be evaluated under the substantive law of the state in which the conduct occurred. *See, e.g., Gill v. United States*, 516 F. Supp. 3d 64, 79 (D. Mass. 2021) (allowing various FTCA claims to proceed and holding that “because the majority of the allegedly tortious conduct occurred in Massachusetts, its tort law governs”). In this case, since the underlying misconduct and offenses took place in Massachusetts, the tort claims are analyzed under Massachusetts state law.

I. False Imprisonment

ICE incarcerated Mr. Pineda at the Burlington field office without a legal basis and in violation of clearly established federal and state law. As a direct result of ICE’s extreme and outrageous conduct, Mr. Pineda was deprived of his protected liberty interest without any legally sufficient justification.

The circumstances surrounding Mr. Pineda’s unlawful detention are particularly egregious, as they illustrate a continuum of escalating misconduct by immigration enforcement officers. The

false imprisonment began the moment ICE unlawfully stopped Mr. Pineda, continued through his unwarranted handcuffing and transportation in ICE vehicles, and culminated in his confinement in a detention cell in Burlington. Each stage of this encounter reflects an increasingly severe deprivation of Mr. Pineda’s liberty, underscoring the gravity of the violation.

To establish a claim for false imprisonment, a plaintiff must show that the defendant imposed—“by force or threat”—an unlawful restraint on the freedom of movement. *Ortiz v. Hampden*, 16 Mass. App. Ct. 138, 140 (1983) (citation omitted). If a person is unjustifiably restrained of their liberty, that amounts to a false imprisonment. *Coblyn v. Kennedy’s, Inc.*, 359 Mass. 319, 320-321 (1971) (allowing tort action for false imprisonment); *see also Alianza Americas v. DeSantis*, 727 F. Supp. 3d 9, 64-65 (D. Mass. 2024) (allowing false imprisonment claims to proceed).

Here, at the beginning of the encounter, the immigration officers surrounded Mr. Pineda’s vehicle, from every side, with unmarked vehicles and armed officers on foot. *See* Statement of Facts, *supra*. The fear of the threat of violence and the actual physical restraints prohibited Mr. Pineda’s ability to have any free movement. The false imprisonment culminated in Mr. Pineda’s unlawful and inhumane detention in ICE’s Burlington field office.

At each stage, the ICE officers lacked any legal or justifiable reason for Mr. Pineda’s false imprisonment. Undisputably, Mr. Pineda was lawfully present in the United States. In fact, Mr. Pineda had official identification and immigration documentation in his possession confirming his lawful presence.

Any properly trained ICE officer could have quickly ascertained Mr. Pineda’s lawful status through myriad means—for example, by reviewing the category designation on his employment authorization document, which explicitly identifies the basis for issuance. This information was readily accessible and should have prompted the officers to recognize Mr. Pineda’s lawful humanitarian status. At that point, the officers should have withdrawn and disengaged without further intrusion. The inquiry should have ended there; instead, the ICE officers continued to violate Mr. Pineda’s rights and the law.

Furthermore, the ICE officers had no legitimate reason to believe that Mr. Pineda would flee before they could obtain a warrant for his arrest and detention, particularly given that armed officers and unmarked vehicles surrounded him. However, ICE officers failed to obtain a warrant before detaining and seizing Mr. Pineda. By restraining, confining, commanding, handcuffing, chaining, transporting, and subsequently locking up Mr. Pineda, the officers restrained his liberty and freedom of movement. The officers had no lawful reason to confine Mr. Pineda, using either threat of force or actual force.

II. False Arrest

The immigration officers falsely arrested Mr. Pineda. The false arrest commenced when ICE agents unlawfully surrounded and stopped Mr. Pineda’s vehicle without legal justification. It continued with the unjustified handcuffing of Mr. Pineda and his placement into ICE vehicles, all carried out in the absence of probable cause or a valid warrant.

Under Massachusetts law, in a false arrest claim where there is a warrantless arrest, it is the defendant's burden to prove there was probable cause for the arrest. *Gutierrez v. Massachusetts Bay Transp. Auth.*, 437 Mass. 396, 409 (2002). "Typically, the elements of *false arrest* are.... (1) the defendant intended to confine the plaintiff; (2) the plaintiff was conscious of the confinement; (3) the plaintiff did not consent to the confinement; and (4) the defendant had no privilege to cause the confinement." *Calero-Colon v. Betancourt-Lebron*, 68 F.3d 1, 3 n.6 (1st Cir. 1995) (citation omitted) (emphasis in original).

Notably, to conduct a warrantless arrest, ICE officers must have "*reason to believe* that the alien so arrested is in the United States in violation of any [immigration] law or regulation *and* is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. §1357(a)(2) (emphasis added); *see also Coblyn*, 359 Mass. at 325 ("reasonable grounds" and "probable cause" have "traditionally been accorded the same meaning").

Here, the immigration officers actively sought to confine—and succeeded in physically confining—Mr. Pineda as he was pulled over, handcuffed, transported, and detained. Mr. Pineda was fully aware of the confinement. He remains deeply affected by its traumatic impact. Mr. Pineda never consented to his arrest or detention. The ICE officers had no justifiable basis for confining Mr. Pineda, as they lacked probable cause to arrest him without a warrant.

The circumstances of Mr. Pineda's unlawful arrest violate §1357(a)(2). Mr. Pineda was not in violation of any immigration law. In fact, he has lawful humanitarian status. During the encounter, Mr. Pineda promptly provided a valid driver's license. The immigration officers confiscated his Social Security card and a federally issued employment authorization card, which confirm his lawful humanitarian status.

In this case, the warrantless arrest of Mr. Pineda was unjustified and unlawful. There were no exigent circumstances to suggest that he posed a flight risk or that obtaining a warrant was impracticable. On the contrary, Mr. Pineda was surrounded by multiple ICE vehicles and armed officers, leaving him with no opportunity to flee. Under these conditions, there was no legal basis to bypass the warrant requirement.

The officers lacked particularized suspicion to justify stopping Mr. Pineda. They were not specifically seeking him, had no warrant for his arrest, and the vehicle was registered to his employer. *See* Statement of Facts, *supra*. A routine license plate check would have confirmed this. The stop was clearly pretextual, lacking any individualized basis to suspect Mr. Pineda of wrongdoing. The only reason for the stop and arrest was Mr. Pineda's identity, race, and ethnicity—an impermissible basis for any law enforcement action. The unlawful and discriminatory nature of Mr. Pineda's arrest supports a claim for false arrest.

III. Abuse of Process

The immigration officers engaged in abuse of process by illegally arresting and detaining Mr. Pineda. Under Massachusetts law, the elements of abuse of process are: "(1) process was used; (2) for an ulterior or illegitimate purpose; (3) resulting in damage." *Datacomm Interface, Inc. v.*

Computerworld, Inc., 396 Mass. 760, 775-76 (1986) (internal quotations marks and citation omitted).

Immigration officials engaged in an abuse of process by arresting, detaining, and confining Mr. Pineda despite knowing that he was lawfully present in the United States. Rather than acknowledging their misconduct, the officials attempted to retroactively justify the unlawful arrest by issuing a legally improper Notice to Appear (“NTA”) on May 27, 2025. *See* Exhibit A. The NTA falsely alleged that Mr. Pineda was unlawfully present and improperly initiated removal proceedings, scheduling a hearing in immigration court on July 10, 2025, in Chelmsford, Massachusetts. These actions were not only baseless but also procedurally abusive, given that Mr. Pineda is not subject to removal due to his ongoing humanitarian protection. Ultimately, the immigration hearing was cancelled, confirming the pretextual and baseless nature of the proceedings.

Moreover, the paperwork issued by ICE in connection with Mr. Pineda’s arrest contains internally inconsistent and misleading assertions. For example, ICE documents allege that Mr. Pineda is “removable” based on “statements made voluntarily” or “other reliable evidence.” *See* Exhibit A. However, the evidence reflects the opposite. Mr. Pineda consistently informed the officers that he was not subject to removal, and his documentation confirmed his lawful presence. Nevertheless, ICE proceeded with enforcement actions maliciously.

Mr. Pineda’s federally issued employment authorization document reflects a lawful humanitarian category. This directly corroborates his consistent statement to the officers that he is not removable. Nevertheless, ICE proceeded to lock him up and assert removability without any factual or legal basis, evidencing bad faith and constituting a clear abuse of process. As a result of ICE’s illegitimate process, Mr. Pineda suffered physical, emotional, and financial damages.

IV. Assault

The immigration officers committed an assault on Mr. Pineda. Under Massachusetts law, the elements of assault are: (1) the defendant acts intending to cause a harmful or offensive contact with another, or an imminent apprehension of such a contact, and (2) apprehension is created and experienced by the other person. *Commonwealth v. Henson*, 357 Mass. 686, 692 (1970) (affirming judgment).

Without any justification, the immigration officers ordered Mr. Pineda out of his vehicle. They reached toward his body with the intent of harmfully and offensively contacting Mr. Pineda, causing him to immediately apprehend such conduct. An ICE officer disrespectfully and incorrectly insulted Mr. Pineda in both English and Spanish, saying that if someone was not born in the United States, they do not have any rights. Mr. Pineda was terrified about what the officers might do after they unlawfully ordered him out of the vehicle and falsely asserted that he had no rights. As a result of these circumstances, Mr. Pineda experienced a reasonable and immediate fear of physical harm at the hands of the ICE officers. *See* Statement of Facts, *supra*. The immigration officers placed Mr. Pineda in imminent apprehension of harmful contact.

V. Battery

The immigration officers committed a battery on Mr. Pineda. Under Massachusetts law, the elements of battery are: (1) the defendant acts intending to cause a harmful or offensive contact with another; and (2) the harmful or offensive contact with another person directly or indirectly results. *Waters v. Blackshear*, 412 Mass. 589, 590 (1992) (affirming judgment).

Out of fear for his safety, Mr. Pineda complied with the officers' unjustified order and exited the vehicle peacefully. Despite his lack of resistance, ICE officers forcibly pulled his arms behind his back and handcuffed him with excessive force. The cuffs were so tight that Mr. Pineda lost sensation in his hands, resulting in physical injury. See Statement of Facts, *supra*. The officers knew they lacked legal justification to restrain Mr. Pineda physically, but they proceeded anyway, applying the cuffs in a manner that caused unnecessary pain, injury, and harm. This amounts to a battery.

VI. Intentional Infliction of Emotional Distress

To establish an intentional infliction of emotional distress ("IIED") claim, the plaintiff must demonstrate "(1) that the actor intended to inflict emotional distress or that he knew or should have known that emotional distress was the likely result of his conduct ...; (2) that the conduct was 'extreme and outrageous,' was 'beyond all possible bounds of decency' and was 'utterly intolerable in a civilized community' ...; (3) that the actions of the defendant were the cause of the plaintiff's distress; and (4) that the emotional distress sustained by the plaintiff was 'severe.'" *Agis v. Howard Johnson Co.*, 371 Mass. 140, 144 (1976) (citations omitted) (allowing IIED claims to proceed); see also *Alianza Americas*, 727 F. Supp. 3d at 65 (same).

Conduct rises to the level of "extreme and outrageous" when it "go[es] beyond all possible bounds of decency, and [is] regarded as atrocious, and utterly intolerable in a civilized community." *Alianza Americas*, 727 F. Supp. 3d at 65 (citation omitted). When considering a claim for intentional infliction of emotional distress, the trier of fact is "entitled to put as harsh a face on the [defendant's actions] as the basic facts would reasonably allow." *Id.*

Here, the officers' misconduct meets and exceeds the legal threshold for an IIED claim in Massachusetts. The officers immediately knew—or should have known—that they had no justifiable reason to apprehend, handcuff, chain, or detain Mr. Pineda. Yet, the officers asserted their discriminatory intent when they told Mr. Pineda that he had no rights due to his place of birth, national origin, race, and identity. The officers' actions—undertaken after exhibiting clear animus—inflicted severe emotional distress on Mr. Pineda, harm he continues to carry and work to heal from to this day. Mr. Pineda had never before been placed in handcuffs and chains, yet the officers imposed this dehumanizing treatment without any legal justification. In fact, Mr. Pineda would not have been able to maintain his humanitarian status if he had a criminal record. His continued eligibility confirms that he is a law-abiding individual. Mr. Pineda has been vetted, deemed eligible, and found in good standing by federal immigration officials to maintain his humanitarian status. Nevertheless, Mr. Pineda was transported in chains to ICE's Burlington field office, where he endured significant humiliation and emotional distress as a result of the inhumane conditions to which ICE subjected him. See Statement of Facts, *supra*.

ICE’s misconduct constitutes “extreme and outrageous” behavior and is “beyond all possible bounds of decency.” *Alianza Americas*, 727 F. Supp. 3d at 65. The officers’ deliberate choices showed a reckless disregard for the physical and psychological harm their actions would inflict on Mr. Pineda. *See Harms, supra* (enumerating extensive harms). Any reasonable officer would understand that unlawfully arresting a law-abiding individual and confining them in a detention facility marked by inhumane conditions would cause profound and lasting emotional trauma. The cause of these harms is clear: the ICE officers’ deliberate choice to illegally arrest and detain Mr. Pineda.

Mr. Pineda and his family are still facing the emotional impact of his arrest and detention caused by the defendants. All these facts and others—*see Harms, supra*—amply satisfy each element of an IIED claim.

VII. Negligent Infliction of Emotional Distress

In Massachusetts: “To recover for negligently inflicted emotional distress (“NIED”), a plaintiff must prove “(1) negligence; (2) emotional distress; (3) causation; (4) physical harm manifested by objective symptomatology; and (5) that a reasonable person would have suffered emotional distress under the circumstances of the case.” *Lanier v. President & Fellows of Harvard Coll.*, 490 Mass. 37, 44 (2022) (citation omitted) (allowing NIED claims to proceed).

The physical harm component “must do more than allege mere upset, dismay, humiliation, grief, and anger.” *Sullivan v. Bos. Gas Co.*, 414 Mass. 129, 137 (1993) (internal quotation marks and citation omitted). In *Sullivan*, the Court provided victims who experienced “headaches, concentration problems, or sleeplessness ... a chance to have their day in court.” *Id.* at 140; *see also Bresnahan v. McAuliffe*, 47 Mass. App. Ct. 278, 282 (1999) (remanding in light of “uncontrollable crying spells, stomach pain, severe headaches, loss of concentration, depression, anger, anxiety, and the loss of [] sexual relationship” as well as “crying episodes, instances of stomach pain, nausea, body shakes, anxiety, depression, nightmares and periods of agonizing”).

Here, the ICE officers owe a duty to exercise reasonable care in conducting law enforcement operations. *See, e.g.*, 8 C.F.R. § 287.8 (Standards for Enforcement Activities). This duty of care was breached when, despite having actual knowledge that Mr. Pineda was lawfully present in the United States and did not pose a flight risk, the officers unlawfully arrested and detained him.

Moreover, the harms suffered by Mr. Pineda are “sufficiently particularized to qualify as physical manifestations of harm” satisfying the NIED standard. *Bresnahan*, 47 Mass. App. Ct. at 285. As noted above, Mr. Pineda experienced significant emotional trauma. Since the incident, he has exhibited ongoing, objectively verifiable symptoms consistent with those recognized in Massachusetts NIED case law—including recurring nightmares, increased emotional dysregulation, physical distress, exhaustion, and anxiety. *See Harms, supra; see also Rodriguez v. Cambridge Hous. Auth.*, 443 Mass. 697, 703 (2005) (allowing damages and recognizing NIED claim).

Further, the trauma was neither incidental nor unforeseeable—it was the natural and probable consequence of ICE officers’ chosen course of action. Finally, a reasonable person would undoubtedly suffer emotional distress after enduring an unprovoked arrest and unjustifiable detention in a makeshift location festured with inhumane conditions.

VIII. *Conversion*

The officers committed conversion by confiscating, seizing, and failing to return Mr. Pineda’s \$600 without legal justification. Under Massachusetts law, “[t]he elements of conversion may be established by a showing that one person exercised dominion over the personal property of another, without right, and thereby deprived the rightful owner of its use and enjoyment.” *In re Hilson*, 448 Mass. 603, 611 (2007) (citation omitted) (finding that “[m]oney may be subject of conversion”). Here, the officers confiscated Mr. Pineda’s wallet, which contained \$600 in cash. Mr. Pineda personally observed the officers take possession of the wallet. However, when his wallet was returned, the cash was missing. The officers’ failure to return the funds meets the legal standard for conversion.

IX. *Negligent Supervision*

The immigration officers’ use of violence to unlawfully arrest community members who are lawfully present in the United States amounts to a systemic custom, pattern, and practice. This pattern or practice, involving the use of force to violate clearly established rights under federal and state law, demonstrates supervisory liability. Under Massachusetts law, to establish a claim of negligent supervision, plaintiffs must establish:

- (1) that the persons whose actions form the basis of the claim were agents and/or employees of the defendant employer;
- (2) that the agents and employees came into contact with members of the public in the course of their employer's business;
- (3) that the employer failed to use reasonable care in the selection, supervision and retention of the agents and employees; and
- (4) that the failure to use such reasonable care was the proximate cause of harm to the plaintiffs.

Limone v. United States, 497 F. Supp. 2d 143, 233 (D. Mass. 2007) (citations omitted), *aff’d on other grounds*, 579 F.3d 79 (1st Cir. 2009). In this case, all agents are federal employees whose duties involve direct contact with the public in the course of conducting immigration enforcement activities.

The harm and unlawful arrest of Mr. Pineda were entirely foreseeable, given ICE’s established and escalating pattern of using excessive force against immigrants and detaining those who are lawfully present in the United States. Tactics such as illegally arresting individuals with legal status and inflicting unnecessary force during warrantless arrests are not isolated events,

especially in Massachusetts.² Rather, they reflect a systemic practice of unconstitutional conduct by ICE officers.

The frequency and consistency of these incidents strongly suggest that such actions are not merely tolerated but affirmatively sanctioned by ICE leadership. This reflects a deliberate strategy, with supervisors appearing to direct or encourage these tactics. Even if not explicitly ordered, the widespread publicity surrounding these incidents means ICE supervisory officials knew or should have known and yet failed to adequately supervise officers to ensure against legal violations. Under established legal standards, this constitutes negligent supervision and reflects deliberate indifference. Supervisors cannot ignore repeated constitutional violations by their subordinates without becoming complicit in those violations. “Total inaction cannot be reasonable care in the face of certain misconduct.” *Limone*, 497 F. Supp. 2d at 233 (condemning supervisors for doing “absolutely nothing”). In light of the brutality inflicted on Mr. Pineda and others, the failure to intervene renders supervisory liability both appropriate and necessary—to uphold accountability and prevent further abuse.

X. The Discretionary Function Exception

The immigration officers engaged in a flagrant violation of Mr. Pineda’s constitutional rights—conduct so egregious and unlawful that any defense of discretionary function is rendered entirely inapplicable and meritless. Discretionary function “does not immunize the government from liability for actions proscribed by federal statute or regulation. Nor does it shield conduct that transgresses the Constitution.” *Limone*, 579 F.3d at 101 (citations omitted) (affirming damage awards for intentional infliction of emotional distress against the federal government ranging from \$50,000 to \$28,000,000). “[F]ederal officials do not possess discretion to violate constitutional rights.” *Torres-Estrada v. Cases*, 88 F.4th 14, 21 (1st Cir. 2023) (internal quotation marks and citation omitted) (reversing dismissal of FTCA complaint). Here, the immigration officers’ actions violate the Constitution, statutory law, and federal regulations. Each is examined below.

A. Violation of the Fourth Amendment

Longstanding U.S. Supreme Court precedent establishes that “[t]he Fourth Amendment applies to all seizures of the person, including seizures that involve only a brief detention short of traditional arrest,” and those performed by immigration officials. *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975) (citation omitted). “[W]henver a police officer accosts an individual and restrains his freedom to walk away, he has ‘seized’ that person.” *Terry v. Ohio*, 392 U.S. 1, 16 (1968). “[T]he Fourth Amendment requires that the seizure be ‘reasonable.’” *Brignoni-Ponce*, 422 U.S. at 878. “[T]he reasonableness of such seizures depends on a balance between the public interest and the individual’s right to personal security free from arbitrary interference by law officers.” *Id.*

² See, e.g., *Worker Arrested by ICE in Lynn, Later Released, Says Agents Beat Him in Cemetery*, NBC (June 6, 2025), available at <https://www.nbcboston.com/news/local/worker-arrested-by-ice-in-lynn-released-a-day-later-says-he-was-beaten-in-custody/3733701/> (ICE officers inflict violence during a warrantless arrest of immigrant with lawful status in Massachusetts).

Here, Mr. Pineda was stopped by immigration officers while he was driving a company-owned, visibly branded landscaping business vehicle. As outlined above, Mr. Pineda remained stopped and surrounded. ICE officers encircled and immobilized Mr. Pineda's vehicle with multiple unmarked cars. Multiple armed officers on foot surrounded the vehicle from both the driver and passenger sides. Mr. Pineda had no means of leaving the scene. *See* Statement of Facts, *supra*. He was detained and seized. The officers violated Mr. Pineda's Fourth Amendment rights because the stop and seizure lacked probable cause and were unreasonable. Additionally, during the unlawful seizure, officers disregarded their standards of enforcement. Each of these elements, individually and collectively, constitutes a violation of Mr. Pineda's Fourth Amendment rights.

The authority of federal immigration officers is set forth, in relevant part, in 8 U.S.C. §1357. Under this statutory authority, immigration officers may only make a warrantless arrest if they have “*reason to believe* that the alien so arrested is in the United States in violation of any [immigration] law or regulation *and* is likely to escape before a warrant can be obtained for his arrest.” 8 U.S.C. §1357(a)(2) (emphasis added). “Courts have consistently held that the ‘*reason to believe*’ phrase in § 1357 must be read in light of constitutional standards, so that ‘*reason to believe*’ must be considered the equivalent of probable cause.” *Morales v. Chadbourne*, 793 F.3d 208, 216 (1st Cir. 2015) (emphasis added) (citation omitted) (affirming denial of qualified immunity against ICE agent).

Here, Mr. Pineda did not violate any immigration law. He was lawfully present in the United States. While driving to a job site, he was racially profiled and unlawfully stopped by ICE officers. Mr. Pineda's humanitarian status has never been revoked, and he informed the officers of his lawful presence in the United States.

Additionally, the officers confiscated Mr. Pineda's government-issued employment authorization card—clearly reflecting his humanitarian status—along with his driver's license and Social Security card. The officers were in possession of conclusive evidence confirming his lawful presence and compliance with immigration laws. A simple database check would have further verified this status. Accordingly, there was no reasonable basis or probable cause to believe that Mr. Pineda had violated any immigration law or regulation.

Mr. Pineda presented no risk of flight, as evidenced by his substantial and longstanding ties to the community, including his employment, and his deep-rooted family responsibilities. *See* Statement of Facts, *supra*. These stable and verifiable obligations underscore his overwhelming incentive to stay in the jurisdiction and disqualify any notion that he is a flight risk.

The position of the immigration officers' vehicles blocking all egress, coupled with the intimidating stance of the armed officers surrounding the vehicle, prohibited Mr. Pineda from fleeing or feeling free to leave the officers' custody. *See, e.g., Commonwealth v. Helme*, 399 Mass. 298, 300 (1987) (affirming Fourth Amendment violation when officers “parked the police cruiser so as to block the [victim's] automobile and prevent it from leaving...”); *see also Commonwealth v. Lyles*, 453 Mass. 811, 817 (2009) (affirming Fourth Amendment violation). Federal officials positioned multiple vehicles—and armed officers—with the intention and effect of blocking Mr. Pineda's vehicle and preventing him from leaving. Mr. Pineda had his hands empty and visible the

entire time. He was calm and made no furtive movements. There was no danger to the armed officers who outnumbered Mr. Pineda.

Under the circumstances, any properly trained officer would have recognized that Mr. Pineda posed no threat of violence or risk of flight. As such, there were no articulable facts to establish probable cause that Mr. Pineda would flee apprehension before federal officials could obtain a judicial warrant. The arresting officers lacked probable cause to seize Mr. Pineda and to arrest him without a judicial warrant, resulting in a violation of the Fourth Amendment.

In this case, key elements of abuse of authority are present: the officers unlawfully stopped a vehicle, activated their lights and sirens, deliberately blocked and impeded Mr. Pineda's movement and egress, surrounded the vehicle while armed, maliciously proclaimed that Mr. Pineda had no rights, and illegally searched, arrested, and detained him. The unlawful stop, the illegal arrest, and the unlawful detention of Mr. Pineda, individually and collectively, each constitute Fourth Amendment violations. Under the totality of the circumstances, the seizure and arrest violated clearly established Massachusetts law and the Fourth Amendment.

B. Violation of the Fifth Amendment (Substantive Due Process)

Government actors may not “deprive any person of life, liberty, or property, without due process of law.” U.S. Const., amend XIV. The Due Process Clause “centrally concerns the fundamental fairness of governmental activity.” *N.C. Dep’t of Revenue v. Kimberley Rice Kaestner 1992 Fam. Tr.*, 588 U.S. 262, 268 (2019) (citations omitted). It is intended to prevent government officials from abusing their power. *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 840 (1998). “[T]he touchstone of due process is protection of the individual against arbitrary action of government” and “the exercise of power without any reasonable justification in the service of a legitimate governmental objective.” *Id.* at 845-46 (citations omitted); *see also Schneider v. Rusk*, 377 U.S. 163, 168 (1964) (rejecting federal attempts to relegate individuals to second-class status).

Among other protections, the Due Process Clause safeguards liberty in its most literal sense—shielding individuals from unjustified government intrusions on their freedom of movement. “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *see also Ingraham v. Wright*, 430 U.S. 651, 673 (1977) (“Among the historic liberties so protected was a right to be free from, and to obtain judicial relief for, unjustified intrusions on personal security.”). As the U.S. Supreme Court held over a century ago: “No right is held more sacred, or is more carefully guarded by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law.” *Union Pac. R. Co. v. Botsford*, 141 U.S. 250, 251 (1891) (affirming the fundamental “right ... to be let alone”). *Cf. Obergefell v. Hodges*, 576 U.S. 644, 663 (2015) (affirming the centrality of protecting “individual dignity and autonomy”).

Due process also forbids governmental conduct that “shocks the conscience.” *Rochin v. California*, 342 U.S. 165, 172 (1952) (discussing police “conduct that shocks the conscience”). Abusive government actions “are, in and of themselves, antithetical to fundamental notions of due process.” *Parratt v. Taylor*, 451 U.S. 527, 545 (1981) (Blackmun, J., concurring) (citations

omitted); *see also* *Fernandez v. Leonard*, 784 F.2d 1209, 1215-16 (1st Cir. 1986) (noting importance of preventing “abusive government conduct”) (internal quotation marks and citations omitted). Courts have described this forbidden conduct as “offensive to human dignity,” *Rochin*, 342 U.S. at 174—an unjustified exercise of power lacking any legitimate governmental purpose.

Here, the unlawful arrest and detention, particularly because it was based solely on Mr. Pineda’s identity, race, and national origin, is the very conduct the U.S. Supreme Court has condemned as unconstitutional. Mr. Pineda’s detention and arrest violated the Fifth Amendment, as these actions served no legitimate, let alone a compelling, governmental purpose.

C. Violation of the Eighth Amendment

Immigration officers transported Mr. Pineda in handcuffs and chains to ICE’s Burlington field office without any lawful justification. Once there, he was detained under conditions that were makeshift, primitive, punitive, degrading, and inhumane. Constitutional jurisprudence is unequivocal: “In its prohibition of ‘cruel and unusual punishments,’ the Eighth Amendment places restraints on prison officials.” *Farmer v. Brennan*, 511 U.S. 825, 832 (1994) (holding that officials “may be held liable under the Eighth Amendment for denying humane conditions of confinement”).

“It is undisputed that the treatment a prisoner receives in prison and the conditions under which he is confined are subject to scrutiny under the Eighth Amendment.” *Helling v. McKinney*, 509 U.S. 25, 31 (1993). When a government actor through “affirmative exercise of its power so restrains an individual’s liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs—*e.g.*, food, clothing, shelter, medical care, and reasonable safety—it transgresses the substantive limits on state action set by the Eighth Amendment....” *Id.* (citation omitted).

While confined, Mr. Pineda was denied access to basic necessities, including adequate food, water, clothing, hygiene, and shelter. These deprivations amounted to conditions of confinement that fell below the minimal standards of human decency and violated Mr. Pineda’s constitutional rights. *Id.* (noting “[c]ontemporary standards of decency”).

D. Violation of the Standards for Enforcement Activities

The standards for immigration officer enforcement activities are codified, in relevant part, in 8 C.F.R. § 287.8 (Standards for Enforcement Activities). During the immigration officers’ interactions with Mr. Pineda, they exceeded their authority to make detentions, seizures, and arrests. The regulations were violated as follows:

1) Warrantless Arrest

The immigration officers failed to obtain a judicial warrant and lacked the requisite articulable facts to act without one. Thus, the immigration officers violated 8 C.F.R. § 287.8(c)(2)(ii), which states:

A warrant of arrest shall be obtained except when the designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained.

Under this regulation, an immigration officer must obtain a warrant unless they have probable cause to believe that the person is likely to escape. *See, e.g., Morales*, 793 F.3d at 216 (analyzing “reason to believe” language in immigration statute and affirming denial of qualified immunity against ICE agent); *see also Coblyn*, 359 Mass. at 325 (“reasonable grounds” and “probable cause” have “traditionally been accorded the same meaning”). For the reasons outlined above, there was no probable cause to believe Mr. Pineda was likely to—or even could have—escaped under the circumstances preceding his unlawful arrest. The warrantless seizure, detention, and arrest were illegal.

Altogether, these circumstances constitute serious violations of the standards for immigration officer enforcement activities as codified in 8 C.F.R. § 287.8.

2) *Illegal Use of Force*

As courts and law enforcement agencies alike have recognized, the use of force by law enforcement must never serve as a tool of intimidation or terror against the community. Under 8 C.F.R. § 287.8(a)(iii):

A designated immigration officer shall *always* use the *minimum* non-deadly force necessary to accomplish the officer’s mission and shall escalate to a higher level of non-deadly force *only* when such higher level of force is warranted by the actions, apparent intentions, and apparent capabilities of the suspect, prisoner, or assailant.

Id. (emphasis added).

As ICE’s own regulations reflect, the use of force is a grave measure that must be reserved exclusively for the most exigent and exceptional circumstances, where it is necessary, proportionate, and clearly justified under the law. Anything less undermines public trust, endangers lives, and violates the fundamental constitutional protections that shield individuals from state-sanctioned violence.

In the instant case, the ICE officers involved in Mr. Pineda’s illegal arrest and detention abused their power and unwarrantedly unleashed force. Without justification, the officers ordered Mr. Pineda out of the vehicle and forcibly placed him in handcuffs so tight that he lost sensation in his hands. He was released from the cuffs only to be forced into chains. *See* Statement of Facts, *supra*. The officers had no legal justification for forcibly placing Mr. Pineda into handcuffs and chains.

Altogether, these circumstances constitute violations of the standards for immigration officer enforcement activities as codified in 8 C.F.R. § 287.8.

DAMAGES AND REQUESTED RELIEF

For the reasons outlined above, Claimant requests:

- 1) Damages in the amount of \$1,000,000.00;
- 2) Attorneys' fees and costs as permitted by law;
- 3) Such other and further relief as may be just, proper, and equitable.

CONCLUSION

For the reasons outlined above, Claimant brings this action under the FTCA, seeking compensation for the extraordinary harms he suffered at the hands of the federal government.

Respectfully submitted,



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